

Office for Dispute Resolution



Who Are We?

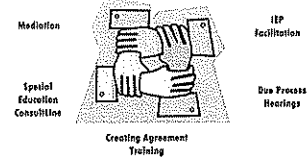
- Funded by the Department of Education
- Meets federal requirement of having due process and mediation available to parents and local education agencies (LEAs)
- Also handles alternative dispute resolution activities/training
- Fiscal Agent is IU 16
- Administrative office

Who Aren't We?

- Not PDE
- Not "THE STATE"
- Not PATTAN
- No enforcement authority
- No compliance authority

ODR

- Administration of mandatory activities:
 - Mediation
 - Due Process Hearings
 - Appeals (cases prior to 7/1/08)



ODR

Optional activities NOT federally mandated:

- Special Education ConsultLine
- Call Resolution Process (CRP)
- IEP Facilitation
- Dispute Resolution Skills Training (DRST)
- Resolution Meeting preparation training
- Resolution Meeting Facilitation pilot project

Office for Dispute Resolution
ODR

ConsultLine



ConsultLine (800) 879-2301



Toll-free telephone line for parents/advocates.

Specialists provide information on:

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

ConsultLine (800) 879-2301



- Averages about 4,000 calls per year
- Callers leave message providing name, number, convenient time to call
- Specialists return calls in an equitable manner
- Calls returned typically within 24 hours

ConsultLine (800) 879-2301



- Specialist gathers information from caller to understand and analyze the situation
- Specialist provides information, options, materials relevant to caller's concern
- Specialists work with caller until their concerns are addressed
- Average length of calls (20 – 45 min+)

ConsultLine Specialists:

- ...are not attorneys, and therefore cannot provide legal advice
- ...are not advocates, and therefore will not provide opinions on a student's program or placement

ConsultLine Specialists

- ODR has 4 full-time Specialists on the ConsultLine
- Specialists have degrees in related fields and experience with families of and children with disabilities

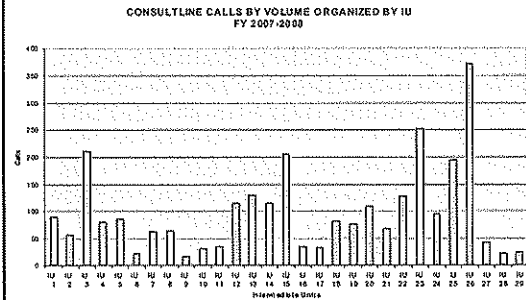
ConsultLine Specialists:

- One Specialist is bi-lingual (Spanish/English)
- Are able to assist non-English speaking callers with Language Line service
- Must be able to listen, analyze, research and remain balanced as they assist constituents

ConsultLine

- Provides relevant materials and information to further assist constituents with their concerns
- In the 2007–2008 school year 1,484 packets of information were sent to callers
- Types of information include: Parent guides, regulations, PDE and PaTTAN publications, State and Federal policy/guidance, dispute resolution info

ConsultLine Calls 2007-2008



ConsultLine Call Resolution Process (CRP)

- First level attempt to bring parent concerns to the attention of LEA
- When Specialist believes early intervention/notification could resolve the dispute early
- With parent permission, Specialist emails Director of Special Education and copies BSE Compliance Advisor



ConsultLine Call Resolution Process (CRP)



- Specialist provides to LEA specific information provided by parent
- Notification includes parent-proposed resolution
- BSE Compliance Advisor does follow-up with district
- BSE reports drop in formal complaints – trend since inception of CRP
- 201 CRPs conducted 2007-2008

ConsultLine Response Cards

- 231 responses gathered between July 1, 2007 and June 30, 2008
- Overwhelmingly positive responses



ConsultLine Response Cards

- When asked "Were you satisfied with your recent experience with the Special Education ConsultLine":
 - Yes 97.8%
 - No 1.8%
 - No response 4%

Mediation



Mediation



Used when all necessary parties in a special education conflict agree to obtain the assistance of an impartial mediator.

Important things about mediation:



- It is a process that depends on the willingness of the parties to discuss their concerns openly and honestly
- The decision to use mediation is completely voluntary
- Mediation agreements are binding in court of law

Important things about mediation:



- All other rights and responsibilities under special education law, such as the right to a due process hearing, stay in place whether or not mediation is utilized
- Focuses on mutual-problem solving, is generally less stressful, less expensive, and usually less time-consuming to complete than a hearing

Participants in Mediation

- No attorneys
- Parents may invite 2 other participants
- LEAs may bring 3 participants – including someone who can commit resources
- Students may participate



Mediation



- ODR arranges time, date and place of the mediation, assigning mediator and paying all mediator fees and expenses
- No cost to parties except for payment of fees for any guests they invite to participate



Mediation: OCDEL Infants/Toddlers



- If parent requests mediation, the county program must attend
- Mediation must be scheduled and held within 10 days of receipt of request
- If mediation is successful, OCDEL receives a copy of signed agreement
- No established timelines for preschool

Mediation Process

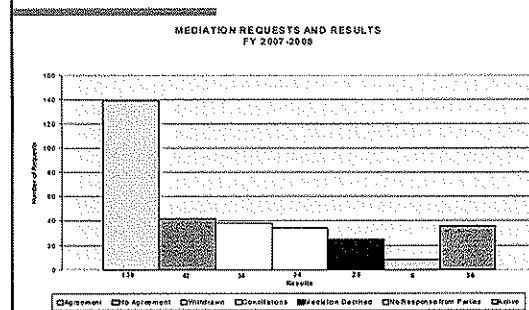
- Opening Statement
- Joint Session
- Caucus
- Joint Session
- Agreement Writing



Mediation Statistics 2007-2008

- 322 requests received
- 181 held
- 139 resulted in agreement

Mediation 2007-2008



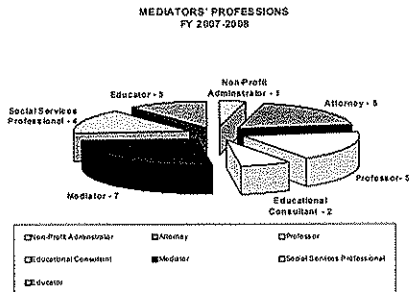
Mediation Statistics 2007-2008 EI Preschool

- 20 requests received
- 18 held
- 15 resulted in agreement

Mediation Statistics 2007-2008 EI Infant/Toddler

- 9 requests received
- 4 held
- 3 resulted in agreement

Mediators – Who Are They?



Due Process



Due Process



- Can be requested by either the parent or LEA
- For students who are or are thought to be student with disability, or
- Students who are or may be gifted

Due Process



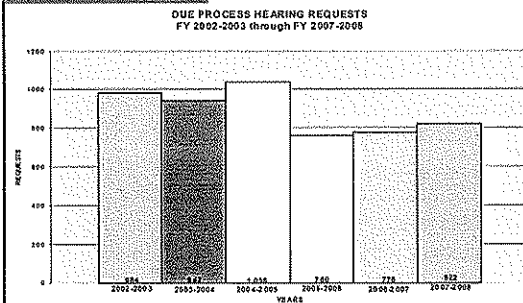
- Can be used to resolve disputes about alleged discrimination of otherwise qualified handicapped students because of the student's physical, mental, or health impairment (Ch. 15/504)

Due Process Hearing Issues

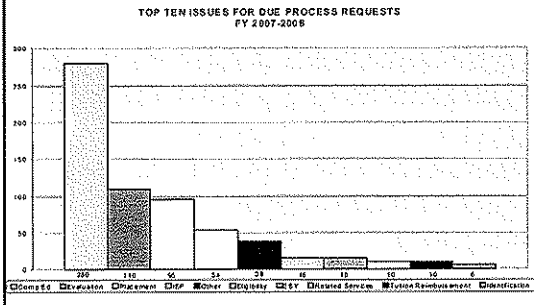
- identification,
- evaluation,
- educational placement, or
- provision of a free appropriate public education



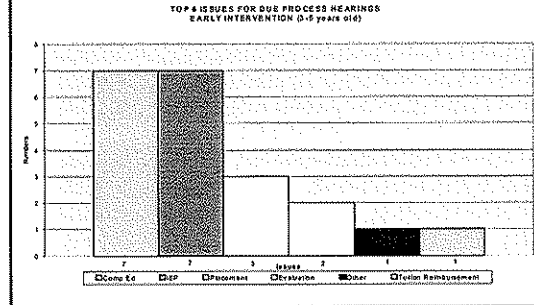
Due Process Comparison



ODR Requests – Issues 2007-2008



ODR Requests – Issues 2007-2008



ODR Case Managers

- Assign Hearing Officer
- Answer questions concerning due process procedures to parents, advocates, LEAs
- Document all aspects of case from beginning to end
- ODR has 3 due process and 1 mediation Case Manager



ODR Case Managers are not...

ODR case managers are not attorneys and cannot give legal advice!

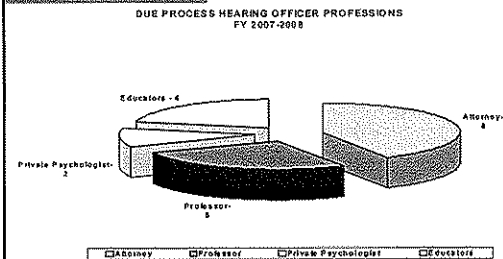


ODR Hearing Officers



- Impartial Hearing Officers are proficient in special education law.

Hearing Officers – Who Were They in 2007-08?



Hearing Officers – Who Are They Now?

- 4 Attorneys
- 1 Psychologist

Due Process Hearing Request



Although parents are entitled to be represented by legal counsel at a due process hearing, they may also represent themselves.

Due Process Hearing Evidence



- Exhibits (exchanged by the parties)
- Sworn Testimony (taken down by a court reporter)

Hearing Officer Decisions Based on...



- Evidence
- Findings of Fact
- Credibility determinations
- Conclusions of law

Implementation of decisions



The Bureau of Special Education monitors implementation of decisions that require districts to take some type of action.

Due Process Statistics for 2007-2008

- **822 Hearing requests received**
- **639 cancelled**
 - 299 reached agreement
 - 154 total resolution agreement
 - 138 withdrawn
 - 48 dismissed
- **84 decisions rendered**
- **99 still active as of 6/30/2008**

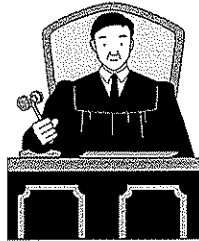
Due Process Statistics for 2007-2008 EI Preschool

- 21 hearing requests received
- 20 were cancelled
 - 15 reached agreement
 - 4 withdrawn
 - 1 dismissed
- 1 still active as of June 30, 2008

Due Process Statistics for 2007-08 Infant/Toddler

- 10 hearing requests received
- 9 were cancelled
 - 4 reached agreement
 - 4 withdrawn
 - 1 dismissed
- 1 decision rendered

Appeals



Appeals (School Age)



- Prior to 6/30/08:
Pennsylvania had a two-tier system in place for appeals. A decision of a hearing officer concerning a student with a disability or a gifted student was first appealed to a Special Education Appeals Panel.

Appeals Panel Decisions

- Prior to 6/30/08:
A final order of the Appeals Panel either affirming, modifying or reversing the hearing officer's decision is issued within 30 calendar days after ODR receives the appeal.



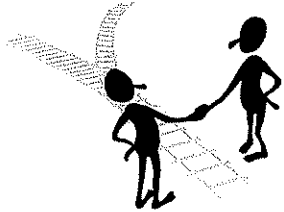
Appeals

- Effective 7/1/08

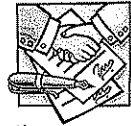
State Board of Education made changes to special education regulations (Chapter 14). A decision of a hearing officer must be filed directly with a court of competent jurisdiction – civil action to appropriate state or federal court. Chapter 16 regulations are still operating under a two tier system.



Dispute Resolution Activities



IEP/IFSP Facilitation



- Voluntary process for times when parties agree that presence of neutral person will assist them in discussing IEP issues
- Typically used when communication has been hampered or stalled
- IEP Facilitator helps to create atmosphere for fairness and successful drafting of IEP

IEP Facilitation is.....

- Completely voluntary
- Unless BOTH sides agree to a facilitator, IEP Facilitation will not take place

IEP Facilitation.....

- Does not usurp the role of the IEP team; the LEA continues to lead the meeting
- Does not result in the facilitator becoming a team member

IEP Facilitation.....

- Is FREE..... And..... Effective

Role of Facilitator

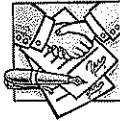
- Not a member of the team
- IEP team owns the IEP
- LEA runs the meeting
- Facilitator's role is only to enhance communication and to help sides address disagreements or conflict relating to IEP only
- Facilitator offers no technical assistance or input regarding content
- Facilitator sits in silence if parties are moving forward

Role of Facilitator



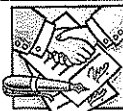
An IEP Facilitator is like a referee...
If the game is going well, there is not much need for interference. At other times, the referee's responsibility is to get more involved to ensure fair play and to keep the game moving.

IEP Facilitation Procedures



- IEP team sets date for meeting, and provides invitation to participate to parents
- If IEP Facilitation requested, form is signed and forwarded to other party to complete, sign, and forward to ODR
- Facilitator assigned only after both parties sign request form
- ODR oversees process, but ownership is local
- Except for extreme cases, facilitation will be limited to 1 IEP team meeting

Benefits of IEP Facilitation

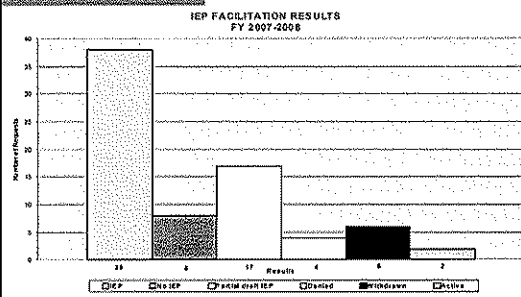


- Helps to improve relationships among IEP team members and between parent and school
- Opportunities to resolve conflicts as they arise
- Encourages parents and school to identify new options
- More cost-effective procedure than formal due process
- Less stressful than formal due process
- Allows all parties to participate fully in IEP process

IEP Facilitation 2007-2008

- For 2007-2008, 75 IEP Facilitations requests were received (87 for 2006-2007)
- 6 were withdrawn prior to the IEP meeting
- 4 declined by either parent or LEA
- 38 resulted in an agreed-upon IEP
- 17 resulted in partial agreement
- 8 did not result in IEP
- 2 still active as of June 30, 2008

IEP Facilitation 2007-2008



Dispute Resolution Skills Training (DRST)



- 3 or 6-hour training offered to parents and LEAs at no cost
- Designed after public forums where parents and LEAs expressed need for strategies to approach disputes in proactive manner
- Designed to enhance communication and problem-solving skills at local level
- Hands-on interactive training
- Available to groups on request to ODR
- Act 48 approved

Preparation for Resolution Meetings

- A two-hour presentation developed to assist parents and LEAs to prepare for and implement a successful Resolution Meeting
- Examines the legal mandates and describes positive activities and communication skills supportive of successful outcomes
- Developed collaboratively with PaTTAN, PEN and PEAL Center

Resolution Meeting Facilitation Pilot Project

- IDEA 2004 states that when parents initiate due process, the LEA must hold a meeting with the parent within 15 days unless both sides agree to waive the meeting or try mediation
- The LEA and parent may have trouble reaching agreement at the meeting because dispute already exists

Resolution Meeting Facilitation Pilot Project

- CADRE (funded by OSEP) is agency committed to alternate dispute resolution activities
- CADRE interested in states willing to provide facilitators at resolution meetings
- ODR has piloted this cutting-edge early dispute resolution tool

Resolution Meeting Facilitation Pilot Project

- May 2007: ODR surveyed IEP Facilitators to get input and interest in participating in pilot
- July 2007: ODR developed procedures, fact sheet, agreement and evaluation forms
- August 2007: ODR reviewed data to identify intermediate units to invite to participate, based on
 - Demographics
 - Geography
 - IEP Facilitation and mediation participation
 - Due process activity

Resolution Meeting Facilitation Pilot Project

- October 2007: sent invitation letter to select executive directors for participation
- January 2008: sent invitation letter to additional select executive directors for participation
- Participating IUs include IU 1, 3, 6, 12, 15, 16, 20, 23, 24, 26

Resolution Meeting Facilitation Pilot Project

- Pilot will run through June 2008
- Data collected throughout pilot will be reviewed to determine if pilot should be continued or expanded
- As of 6/30/2008, ODR has contacted LEAs 125 different times to offer a facilitator at resolution meeting

What's Next for ODR??

- Proactive effort to support and expand dispute resolution and agreement-reaching activities for parents and districts
- Collaborate with national IDEA Partnership and Consortium for Alternate Dispute Resolution Activities (CADRE)

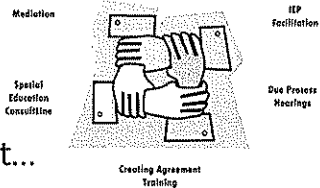
Special Education Dispute Resolution Manual



The Special Education Dispute Resolution Manual, which provides a detailed and thorough review of all the policies and procedures related to dispute resolution activities is available on ODR's web page.

ODR

Contact us at...



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