



Improving Dispute Resolution Practices for Diverse Families of Children with Disabilities

By Tim Hedeem and Diana Cruz

Mrs. Garcia is an immigrant from Guatemala. She is the parent of a fourth grader, Jessica, who has an Individualized Educational Plan (IEP) for ADHD and autism. Mrs. Garcia values education and supports her daughter and her daughter's teachers, but communication with the school is challenging. Mrs. Garcia's first language is Spanish, and sometimes the school is unable to provide translation services. She relies on Jessica and her siblings to help her communicate with the school.

Last week, the special education teacher called Mrs. Garcia and asked her to come in for a meeting to discuss Jessica's progress and review her services. At the meeting, the school team recommended changing Jessica's placement to a self-contained classroom. Mrs. Garcia wants Jessica to continue in the regular class, but she was afraid to push back against the school team. She respects Jessica's teachers and did

not want to offend them. She was also not sure about her rights. After the meeting, she called her friend who also has a child with an IEP. Mrs. Garcia learned that she could use her dispute resolution options to try to resolve the situation.

Mrs. Garcia's experience illustrates some of the challenges to family and school collaboration in special education disputes. Public schools are required to provide appropriate supports to ensure that children of all abilities can learn as fully as possible. But sometimes, when students require specifically tailored services for learning, known as special education, their families disagree with how schools provide these services.

The Individuals with Disabilities Education Act (IDEA) requires a team of individuals with a variety of personal and professional experiences, including a student's parent or guardian, to convene at least



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annually to create an individualized educational program (IEP) that will meet the needs of the student with a disability. In many instances, team members bring differing views on the best ways to meet a student's learning needs, setting the stage for strong disagreements and unproductive disputes. Having an outside facilitator who coordinates the IEP meeting or conducts a mediation can help the team operate efficiently and create a plan that meets the student's needs.

To provide relief for families who disagree with their child's educational program, the IDEA provides three types of dispute resolution: mediation, written state complaints, and due process hearings. While these options support constructive conflict engagement, many families find these processes difficult to understand and navigate.¹ This is especially true for culturally and linguistically diverse (CLD) families of students with disabilities.²

The Dispute Resolution Landscape in Special Education

The National Center for Appropriate Dispute Resolution in Special Education (CADRE) designed a Continuum of Dispute Resolution Processes and Practices that arranges eighteen conflict engagement processes into five stages: prevention, disagreement, conflict, procedural safeguards, and legal review.³ These stages align with the river metaphor of dispute handling, in which disputes flow from *upstream* efforts to build relationships and capacity to *downstream* procedures to decide outcomes through adversarial processes.

The practice furthest upstream on the continuum is also the broadest: family engagement. Federal legislation, including the IDEA and the Every Student Succeeds Act (ESSA),⁴ centers family engagement as a requirement for compliance and ties engagement practices to funding. ESSA's requirements include mandatory engagement practices for all districts as a condition of accepting funding. Three required

engagement practices are annual parent-teacher conferences, collaboration and consultation in educational programming and procedures, and parent education and training.

In addition to the regulations impacting students and families through ESSA, the IDEA requires family engagement activities for families of students with disabilities. Specifically, the IDEA mandates meaningful parental participation in the evaluation, identification, and development of a student's IEP. It also requires schools to inform linguistically diverse parents of all special education decisions in their native languages.

All seventeen of the downstream family-school engagement processes are affected by the strengths (or weaknesses) of the relationships developed through engagement. When relationships are distressed by unresolved differences, families and educators have a variety of dispute resolution options they may access to work toward resolution. The IDEA provides three main options: mediation, written state complaints, and due process hearings. Each serves a distinct purpose within the dispute resolution continuum.

The due process hearing is complex, adversarial and legalistic, positioning parents and districts as opposing parties in a trial-like setting involving hearing officers, evidence, and witness testimony. The costs to families can be great, and there are few benefits. Research shows the vast majority of cases are filed by parents,⁵ yet parents prevail in only one out of three fully adjudicated hearings.⁶ State complaint procedures are less complex than due process procedures, but require families to make written allegations of violations of state and federal regulations, a complicated task for most parents.

Unlike state complaint procedures and due process hearings, which are formalized and rights based, mediation is a flexible option that allows for the collaborative resolution of both substantive issues and relationship ruptures. According to CADRE, mediation boasts the highest agreement rate of the

IDEA required options. Over the past eleven years, nearly sixty-eight percent of mediated cases reached agreement.⁷

Unique Needs of Culturally and Linguistically Diverse Families

For many families, participating in special education meetings can feel like traveling to a new country without a map. Special education has its own unique language full of acronyms and technical concepts and its own processes, procedures, and expectations. Many families report feeling stressed and overwhelmed when attempting to participate in meetings with school teams.⁸ Power imbalances and knowledge differences between families and educators create an environment where educators are given deference and families may not voice their opinions readily.⁹ Research conducted about parent perspectives on IEP meeting participation, for example, shows consistent and persistent themes of isolation, overwhelm, lack of understanding, and intimidation.¹⁰ For many CLD families of students with disabilities, the negative perceptions and experiences are even more evident.

Research has shown that CLD families of students with disabilities face multiple barriers, including language challenges, bias and deficit views from educators, and a lack of social and capital resources when advocating for their children.¹¹ These barriers impede a family's ability to effectively advocate. While parent advocacy can take many forms, accessing the IDEA dispute resolution processes is one example. Because of the complex, bureaucratic nature of these processes, many CLD families do not feel empowered to pursue this form of advocacy.

Without parent advocacy, educators have fewer accountability measures in their implementation of the IDEA. When only certain families feel empowered to access the dispute resolution processes, student outcomes will continue to vary widely. This same body of research has also shown that CLD families benefit from education and training specific to disability and parental rights.

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Recommendations for Practitioners

CLD families experience a range of challenges to efficient and collaborative dispute resolution. Interview research with CLD families and educators provides important insights for practitioners. Dispute resolution practitioners can implement research-based strategies that support access to and use of the IDEA dispute resolution options.

1. Prepare Families for the Process

First, dispute resolution practitioners can support CLD family participation in dispute resolution processes by adequately preparing participants. Many CLD families benefit from explicit training about their rights and responsibilities as they prepare for special education processes, which increases empowerment and supports parents' advocacy efforts. Similarly, dispute resolution practitioners should offer clear explanations of the process, discuss expectations for parental engagement, and offer resources to help parents prepare for the process. CADRE's dispute resolution parent guides can support families' understanding and preparation for the process.¹²

Practitioners should also consider creating an agenda and reviewing expectations at the beginning of the meeting, leaving time for questions and discussion. This is especially important for parents who face some of the same challenges as their children. Parents may need extra time to process testing results, to consider recommendations, and to express their responses.

2. Use Accessible Language

Research on engagement with CLD families universally describes language access as a consistent barrier to CLD family engagement.¹³ Many CLD families must navigate both communicating in a

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non-native language and understanding professional, jargon-laden language without training or support. Practitioners can support language access by ensuring all participants use simple language, not the acronyms or technical terms commonly used by special education professionals. When technical terms are used, dispute resolution practitioners should educate the group or ask for clarification, thereby relieving the family of this burden.

Also, multilingual family participation frequently needs to be supported by an interpreter. Interpretation services may be difficult to find in certain areas. If services are not easily available, practitioners can consider collaborating with community organizations, universities or colleges, or even parent leaders in the community. Practitioners should avoid using family members as informal interpreters when possible, as too often there are issues with how and what information is shared.

Finally, practitioners should keep in mind that interpretation requires more time than monolingual sessions. Facilitators should ensure adequate time is scheduled to enable robust engagement in the process. If printed materials are used, they must be properly translated and accessible prior to the session. Materials should be checked for readability, and unnecessary jargon should be removed.

3. Combat Bias and Deficit Views

Educator bias and discrimination persists across cultural groups and exists at every level of education. This is often overlooked when considering how to support CLD families.¹⁴ Biased thinking impacts how families are treated in collaborative relationships. CLD families report that their concerns and experiences are often dismissed, with educators rushing them so they can attend to other responsibilities.¹⁵

For immigrant families, especially undocumented families, there is additional risk in being open and trusting with their children's schools. Undocumented families report fear of retaliation, including the threat of deportation, as barriers to collaborative relationships with educators.¹⁶

Dispute resolution practitioners can take steps to ensure inclusive practices that honor the experiences and insights of CLD families. Through intentional connection with CLD families and ongoing self-reflection, practitioners can mitigate their biases and create a space where every family feels valued and supported.

Building intentional relationships with CLD families can be challenging for someone who is not a member of the community. Practitioners should take the initiative to learn about the communities they serve. Consider visiting local community centers, churches, barbershops or other important community organizations that support CLD families. Build relationships with trusted community leaders as a means to learn about the specific community values, norms, and needs. Parent Training and Information Centers (PTIs) and Community Parent Resource Centers (CPRCs) are federally funded technical assistance centers charged with developing advocacy skills among parents of students with disabilities and educating families of students with disabilities about special education processes and procedures. With locations in every state, parent centers can serve as a resource for dispute resolution practitioners to connect with parent leaders and develop trusting relationships within communities.

Ongoing and consistent self-reflection is key to combating internalized racism and biased thinking. Individuals who look inward at their own cultural beliefs and values are more likely to recognize bias in their thinking. Practicing self-reflection can help remove the unfounded belief that personal cultural norms are superior to the cultural norms of others.¹⁷ Practitioners can work to identify where internal beliefs diverge from those of CLD families and approach the difference with curiosity rather than judgment.¹⁸ They can also examine assumptions about CLD families to determine if an assumption is grounded in fact or in unfounded generalizations.¹⁹

Conclusion

Dispute resolution providers across all three processes—mediation, written state complaints, and due process hearings—can better meet the needs of diverse families like Jessica Garcia’s through the efforts presented here. When families are supported through thoughtful preparation and accessible language, and providers are reflective and inclusive, the opportunities for constructive and effective resolution are at their best. ■

Endnotes

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3 See <https://www.cadeworks.org/cadre-continuum>.

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19 Rosetti, et al., *supra* note 8.