



IN THIS ISSUE...

Mediation: Fixing a Failure to Communicate

In disagreements involving assistive technology acquisition and related special education issues, parents of children with disabilities, their teachers and school district administrators often find themselves at odds. Disagreements can devolve into mutual intransigence that may well be resolved in adversarial due process hearings before judges who possibly will have little or no expertise in either AT or special education. The result is frequently unsatisfactory to both sides in the disagreement, with children's interests obscured in a struggle for absolute victory in a total war in which there are no victors.

The root cause of the problem, in the words of actor Paul Newman in the Oscar-winning movie *Cool Hand Luke*, can be attributed to "a failure to communicate." Mediation, in the hands of professional practitioners, is a desirable and beneficial alternative to due process hearings and other forms of litigation. It helps shift the potential for adversarial legal warfare to a civilized discussion between parties who ultimately come to understand and appreciate the needs of those sitting on the opposite side of the table. The result, happily, are decisions that are forged and agreed upon by all parties, instead of verdicts imposed by judicial fiat. This issue examines mediation and the resources currently available to facilitate it.

Marshall Peter Speaks

"It's not a model for kids to see their parents and teachers fighting; it produces enormous stress," declares Marshall Peter. Marshall is the Executive Director of Direction Service, a multi-program support agency in Eugene, Oregon and Director of the Consortium for Appropriate Dispute Resolution in Special Education (CADRE), which is funded by the U.S. Department of Education's Office of Special Education Programs (OSEP). CADRE uses advanced technology as well as traditional means to provide assistance to state departments of education on implementation of the mediation requirements under IDEA. Marshall became director of Direction Service in 1976 soon after earning an M.S. in special education from the University of Oregon.

Several years ago, Mr. Peter and his wife elected to take a dispute involving his daughter [now deceased], who had multiple disabilities, and his daughter's school to due process. That decision he recalls, resulted "in one of the most painful periods of our life. It was very, very stressful and upsetting." The couple "viewed our inability to work our issues out as being a personal failure." The dispute never went to hearing. Says, Marshall, "The issues were resolved to our satisfaction several days before our hearing, but even getting close to the hearing was difficult and upsetting." He was exposed to the benefits of mediation soon after his brush with a due process hearing and became an active adherent and practitioner. "I believe that the world is a better place and that kids are much better served when there are people [mediators]

who are helping the adults in children's lives work better together," he says.

Peter has provided case coordination and advocacy services to more than 500 families. His early work as an aggressive advocate evolved into an interest in developing methods for facilitating home-school partnerships that are respectful, considerate and yield positive results for children. That interest was further informed by training and experience using the team conciliation model developed by the San Francisco Community Boards.

From 1992-1996, Peter directed the successful Ombudsperson Project funded by OSEP that field-tested a conciliation model aimed at addressing the cultural barriers that interfere with the effective utilization of special education services. His work in the area of conflict resolution has included presentations, training and consultation in Oregon, California, Wisconsin, Nevada, Florida, Alaska, Ohio, Washington D.C. and a number of other states. He has also delivered consultation and training on wraparound services for children with emotional/behavioral disorders.

Peter served on the City of Eugene Human Rights Commission for fourteen years and also on the Oregon State Advisory Council for Special Education. Peter's work in the areas of advocacy and human rights has resulted in him receiving the Lisl Waechter Award from the ARC, the Exemplary Service Award from COPE (Oregon's Parent Training and Information Center), the Distinguished Service Award from the Oregon Disabilities Commission and the Barrier Awareness Day Award from the City of Eugene. He was recently designated a "Hometown Hero" at the 50th Anniversary Celebration of the United Nations International Declaration on Human Rights.

We support our interview with Mr. Peter by featuring members of our Knowledge Network. The members spotlighted this month's focus on various aspects of

mediation. We invite you to contact these members for further information.

Please share this newsletter with other organizations, families and professionals who may benefit from it. We invite you to contact us at <http://www.fctd.info>. We welcome feedback, new members and all who contribute to our growing knowledge base.



In Mediation There's No Loser

An Interview with Marshall Peter, Director, Direction Service and CADRE



In mediation, declares Marshall Peter, children are the clear winners – and there are no losers.

Conflict resolution via mediation of disputes between parents of children with disabilities and school districts, is a collaborative endeavor in which decisions must be constructed and agreed upon by all parties. The achieved result, says Marshall Peter, is often the opposite from that achieved by due process hearings, where a judge or hearing officer hears evidence and renders a decision. In due process hearings, explains Mr. Peter, there are winners and losers. In conflicts resolved by mediation, however, "there are no losers, only winners, especially the children."

The two organizations Mr. Peter represents, Direction Service and CADRE, seek to create mediation processes that benefit all participants, including school districts. Direction Service, he explains, works with families, helping them to cut through bureaucratic red tape. "It's a local advocacy program to which we added a mental health center around 15 years ago that began with a focus on mental health

issues related to children and youth with disabilities and their families, particularly kids with very significant developmental disabilities." The organization's mental health center, he adds, now provides outpatient mental health services from birth to death. "In addition to working on issues related to developmental disabilities, we do behavioral programming for Head Start, a project with elders and a project with alienated teenage girls."

CADRE also helps support parents, educators and administrators, so they can benefit from the full continuum of dispute resolution options. These options, he says, can prevent and resolve conflict and ultimately lead to informed partnerships that focus on results for children.

Mediation is Effective in AT Disagreements

He cautions that the mediation and collaborative problem solving performed by both organizations is not AT specific. However, he says, "We believe processes such as mediation and collaborative problem-solving are a far more appropriate approach [than due process hearings] when families and schools or families and service providers have a disagreement about technology, and that disagreement is much more likely to be satisfactorily resolved."

His personal experience with due process remains seared in his consciousness. Due process hearings, he says, "are terribly distressing events." Parents, he observes, "do not want to go to war with their children's schools, not only because the process of preparing for and going to hearing is expensive and emotionally and physically distressing, but also because parents know that when the war is done they are going to have to sit back down with the very people they've been fighting with and then try to figure out how they're going to work together in the future."

Participants in due process hearings, he declares, agree that regardless of whether they win or lose in a due process hearing, "they've been through a very unsatisfactory experience and are contemptuous of that process." Nevertheless, he adds, for all its flaws, "there are situations when it's appropriate to go to hearing and the right to that hearing ought to be protected."

They're not Listening

According to Mr. Peter, most parents agree that significant AT-related disagreements between them and schools are caused by the perception that "the school district is not listening, that the district is not respecting them and that the district has never taken the time to fully understand what parents are trying to communicate about the need for particular technology or a particular device."

Ironically, he adds, schools often level the same accusation at parents. "They say that parents are not paying attention, that parents are not listening and that the district doesn't feel as if the parents have ever fully understood what it was that the district was trying to communicate related to technology."

One of a mediator's prime objectives, he notes, "is to create an environment in which parents will believe that school district personnel do, at least, understand what it is that parents have been trying to say, and the school districts will come to believe that parents now fully understand what the districts have been trying to communicate." He cautions that creation of mutual understanding does not ensure agreement, "but it does increase the likelihood that the process will go forward without rancor."

Mutual understanding, he stresses, rarely occurs in due process hearings, which are adversarial by nature. Due process hearings, he points out, often hinge on issues related to procedure. People emerge from due process hearings believing that

critical matters of substance – in terms of technology, for example – were decided without full consideration of the advantages and disadvantages of different types of technology, and whether or not those technologies are suited to a particular child.”

Those decisions, he asserts, may be made based on whether or not there has been timely notification of the meeting and who is in attendance. “Really getting to the heart of what a particular child needs may not necessarily occur to the parties’ satisfaction in a due process hearing.”

Reserving the Right to Make a Decision

Another important part of the mediation process, he notes, “is that parties reserve the right to make a decision themselves.” No one, he explains, is required to agree to anything in mediation.

According to Mr. Peter, “A worst case scenario in mediation is when the parties depart unable to reach an agreement but still have a better understanding of each other’s position.” Parents and schools, he says, “are together in a much better position to reach appropriate agreements than an outside party -- a judge or hearings officer -- who was brought in and exposed to information over a short period of time and then asked to render an opinion which may not be based on the body of knowledge that parents and schools have accumulated.”

Neither a due process judge or hearings officer, nor most mediators, for that matter, come equipped with expertise particular to AT, Mr. Peter claims. The difference between a mediator and a judge or a hearing officer, he notes, “is that it’s the mediator’s job to assist the parents and the schools to do the best possible job of presenting their case and their perspective and then assisting them to find areas of agreement around which they might build an understanding.”

The task of hearings officers or judges, Mr. Peter continues, “is to take in the information with which they are provided and then render an opinion.” Those decisions, he adds, may be overturned, “not necessarily because the decisions were good or bad but instead because someone simply has a different opinion.” However, “informed parents and school officials who can exchange information and move into a consensual process to try to find areas of agreement do not have to assign their fate to an outside entity whose information base may be inadequate.”

Trust, Not Crushing an Opponent, Is the Key

It is one thing to say that the mediation process is collaborative, Mr. Peter says. Yet it is another to actually forge a spirit of collaboration among parties who are clearly in an adversarial posture. Trust, Mr. Peter insists, is the key to unlocking the positive potential of mediation among parties who frequently come to the process mistrustful of each other. How does a mediator engender the requisite trust in a toxic environment? Two major ingredients, he says, are timing and mutual understanding.

To some extent, says Mr. Peter, success is based on where in the evolution of the disagreement external assistance is sought. “If you look at mediation that occurs following a request for a due process hearing, the parties are well into a very adversarial encounter.” Often in those situations, he explains, “the argument becomes less and less about the child and what the child needs and more about being right and crushing the opponent.”

There’s a building national trend, he notes, toward timely dispute resolution by making mediation or other external facilitation available early on. Those early interventions, he observes, “may occur at a time when the parties are not yet stuck in their respective positions and are open to

considering alternative possibilities for resolution.”

Once included in the process in a timely fashion, a mediator can directly influence the building of mutual understanding. According to Mr. Peter, “A good mediator takes time to be sure that people really understand each other.”

In his experience, most parents and school officials, who are under continued pressure in other areas of their life, are unaccustomed to the presence of a facilitator who’s working to be sure that they understand and are understood.”

He adds, “I really think that remarkable things happen at the point where the parties understand each other. If a mediator can secure understanding, it can pop people open in a way that they may be more available to considering solutions or possibilities that they weren’t open to before.”

Information Sharing

Although most CADRE staff members have direct experience in mediation, he says, the organization currently is engaged in providing only training and technical assistance to the mediation process, not mediation services. “We share a lot of information about the process, about what the mediation process is, about its benefits, about how the parties can prepare properly to go to mediation and about the structure of the process.”

CADRE representatives, he notes, work with parent centers and state education departments. “We’ll go and in some cases provide training or other types of support to state mediators. We are collecting and distributing information about early forms of dispute resolution.” In partnership with the PACER Center, CADRE has recently produced a publication related to IEP facilitation. “We disseminate information and provide information related to IEP

facilitation, and we provide information, training and technical assistance that elevates the capacity of parent centers and state departments of education to assist families and schools to mediate.”

CADRE’s work varies by state. “In some cases, we’ll assist states to engage in self-examination of their dispute resolution system. We help states look at key components of their systems including oversight, resource allocation, outreach activities, training, and evaluation as pertains not only to mediation but also early dispute prevention and resolution activities. The goal of these analyses, he explains, is to aid states in building systems that use data to support strategic decision-making in order to secure desired outcomes.

“We’ve also had the chance to provide advanced skill training to state panels of mediators, working with them on priority issues they’ve identified,” Mr. Peter says. “We work with them on issues like impasse management, or issues related to involving the student in the mediation process or building durable agreements.” These efforts, he adds, are based on the knowledge and experience that we have, but also draw very heavily on the knowledge and experience of the mediators in the state we’re visiting. We work with very skilled individuals. We try to help the members of the network of mediators to support each other.”

Parents Should Think Through the Issues

Mr. Peter has suggestions for those who are entering the mediation process. “Parents should take time to carefully think through what their issues and concerns are. Most mediation processes will include a period of time where the parties have a chance to speak uninterrupted. It’s very important that parents, in preparing for mediation, think carefully about what their issues and concerns are so that they are able to do the best possible job in presenting those issues in a way that school officials will

understand.” Adds Mr. Peter, “It’s like going to the doctor: You don’t want to go to the doctor and leave the office with questions left unasked or issues unaddressed.”

It is a good idea, he says, “to speak with people who can provide assistance in clarifying thoughts.” Such conversations, he explains, “help parents to think through what they might be asking for.” Parents “should speak with individuals at their parent training and information centers to get advice about preparing for the process.”

Parents might also consult with an attorney in advance of the mediation process. In some mediations, he says, parents and school districts are represented by attorneys. In others, they may decide to go to mediation without legal representation.

Whether or not attorneys are present during the process varies from state to state. Some states, he explains, have barred attorneys from attending mediation sessions. In other states, parties learn in advance whether or not there is an expectation that the other party will be represented.

Says Mr. Peter, “If I’m a parent and I understand that the school district is going to be represented by an attorney, it’s important for me to stop and decide, if I’m not represented, whether I will be safe participating in the process. It may be that I’m uncomfortable participating in a mediation if I can’t afford to be represented by an attorney and the other party will be.”

Participation Is Voluntary

Participation in mediation is always voluntary, he notes. However, he warns, “If I went to a mediation without an attorney and the other party had an attorney, I probably wouldn’t want to enter into an agreement until I had an attorney review it to make sure I wasn’t making a serious mistake.”

He continues, “Many mediators would encourage the parties to have such an agreement reviewed but there is a lot of variability in terms of how mediators look at the process and their role in it.” Some mediators, he adds, “feel strongly that a mediator should never offer an opinion about whether or not something is appropriate, while other mediators may view their role as one in which they can offer suggestions, recommendations and opinions about what seems to be a potentially appropriate resolution of a disagreement.”

He admits that the two approaches are quite different and represent the variability that exists in terms of how mediators view their role and what they believe are the most important outcomes of the process.

“Some mediators feel that it’s absolutely critical that they reach an agreement and will do almost anything they can in moving the parties in the direction of an agreement.” Others, he explains, “may really believe that it’s far, far more important to try to look for opportunities to repair the relationship, with the reaching of an agreement being, while important, secondary to improving the relationship or empowering the parties.”

Mediators Can Do Whatever They Want

Mediators, he says, have wide latitude in their approach. In fact, he declares, “mediators can do whatever they want to forge an agreement, within reason.”

For example, if parents are unable to afford an attorney or choose not to use one, and the other party has an attorney, the mediator can urge the party with legal representation to consider not using an attorney in order to help assure a more level playing field, thereby increasing the chance of reaching an agreement.

Similarly, he adds, the mediator might contact the party that is not being represented and point out to that party the

potential disadvantage of non-representation.

Mediation, he notes, is a process that is more equitable to families that are unable to afford an attorney.

"If I'm a parent and I've got an issue or a concern and I can't afford to be represented, mediation is a better process to go to unrepresented than due process. I feel that it's terribly perilous to go to a due process hearing without an attorney when the other party is represented."

School districts, he notes, are very unlikely to go to a due process hearing without an attorney. A parent who goes to a due process hearing without an attorney, he warns, "will likely get squashed."

In mediation, however, "there's some hope that for unrepresented parents – particularly if the parents understand that they can't be forced into an agreement and if they hold off and get outside opinions prior to entering into an agreement -- mediation potentially is a safer process."

His advice to school districts is identical. "I'd say the same thing to both sides," he asserts. His hope is that school districts and families enter the mediation process genuinely open. "If you're going to come to the table, hopefully you come to the table with a commitment to listening, to sharing what you believe and what you are able to do – and to enter into agreements you fully intend to keep."

Are Mediation Agreements Enforceable?

According to Mr. Peter, individuals considering the feasibility of mediation often question whether agreements reached in mediation are enforceable. He explains, "If parties participate in the development of agreements, they are far more likely to keep them. I always hope that schools and parents come to the mediation session intending to bargain in good faith."

Once the parties reach an understanding, he says, it is the mediator's responsibility to be sure that any agreements are carefully tested during the mediation session.

A good mediator, he notes, will try to identify ways in which the agreement might not be kept: What happens if the principal isn't there; if the child refuses to comply; if the physical therapist goes out on maternity leave? "The mediator has to work through scenarios that might stand in the way of an agreement being kept, to make sure that the parties have carefully contemplated and understood what it is that they're agreeing to and have thought through – and in fact have detailed in the agreement – how it is they might respond to changing circumstances."

A good agreement, he notes, is specific, is easily understood and has been carefully tested to ensure there are not likely to be implementation problems. As part of the agreement, he adds, the parties may establish a mechanism for external monitoring of the agreement, or a mechanism for what will occur if some aspect of the agreement cannot be adhered to.

Mr. Peter adds, "There's variability from state to state and from practitioner to practitioner in terms of the extent to which a mediator may have some continuing involvement related to an agreement." It may be, he says, "that a mediator will check in with the parties three or six months out to see if they believe the agreement's being kept." Some states actually monitor agreements, he claims. "There's someone in those states whose job it is to check and make sure that mediation agreements are being implemented."

He continues, "The new IDEA reauthorization, which still needs to be specified in the regulations, sets the expectation that mediation agreements will be enforced." The assumption, he notes, is that agreements will be kept and,

“hopefully, we see that reflected in students making the kind of progress that parents and schools believe is appropriate.”
Ultimately, mediation agreements are enforceable in a court of law.

Ideal Outcomes

For Marshall Peter, mediation can produce ideal outcomes. “One ideal outcome occurs when parents and educators acquire practice at working well with each other.” His hope is that parents and educators are better equipped in the future to resolve disagreements and will not continue to need external assistance when they fail to see eye to eye.

Another ideal outcome, he says, “is when agreements are reached that maintain over time and that result in children being successful.”

In terms of their own self-assessment, mediators, he insists, “want to believe that they’ve been helpful, fair and impartial and that they have provided the appropriate amount of facilitation and support so that they’ve not been overly involved but that they’ve stepped in and provided assistance where it was needed.”

Mediators’ Biggest Challenge: Research and Evidence

For Mr. Peter, the paucity of research and evidence represents a major challenge for the mediation profession. At this point, he declares, “there’s precious little in the area of research related to what specifically works in the practice of mediation.”

Depending on the practice area, he adds, “there’s a bit of variability, but we’re typically seeing success rates in mediation where the parties reach an agreement around 80% of the time.”

However, he continues, “we don’t really know what it is about the process that’s

working well and what isn’t, and whether there are certain interventions that are particularly well-suited to certain types of problems. We don’t know what the appropriate amount of pre-mediation attention ought to be. We don’t know how long a mediation session should last, whether there are certain types of training that are particularly good and others that aren’t.”

To Mr. Peter, the biggest challenge facing the mediation profession is designing and conducting experimentally sound research that allows organizations like CADRE to speak authoritatively about the elements of the practice that are most effective.

Due Process Hearings Will always Be Necessary

Mr. Peter says he cannot envision a time when the due process hearing, despite its shortcomings, will no longer be necessary. “There will probably always be a need for due process hearings. I do think, however, that what we’re starting to see, and what we’ll continue to see, is a real interest in addressing problems as quickly as possible after they emerge.”

Under IDEA, he says, mediation currently occupies a place alongside due process hearings and complaints as a procedure that’s invoked when parties are intractable and set and angry with each other.

“We’re moving toward training educators and parents to be more effective problem solvers. I believe we’ll see more and more disagreements being prevented.” When disputes occur, he adds, “there will be people closer to those occurrences who will be capable of working through disputes quickly and early on so that the parties don’t have a chance to become angry and stuck.”

Enthusiastic About the Future

Marshall Peter is hopeful about the future saying, "I'm enthusiastic about the direction in which we are headed in terms of earlier dispute resolution. My sense is that parent advocates and school administrators are increasingly committed to trying to figure out how to work things out."

He worries, however, "that these are difficult times for schools and families and it may be a tough time in terms of our ability to do all the things we believe that we should be able to do for kids."

Nevertheless, he concludes, "I'm hopeful that we are becoming increasingly skilled at dealing with issues without resorting to litigation and other processes that cost lots of money and energy while producing relatively low levels of satisfaction."

Process Supersedes Product: There's No Loser

According to Mr. Peter, the process of mediation is more significant than any agreement it produces.

"When families and schools enter into mediation, they're expressing some measure of confidence in each other that with some facilitative assistance they can work things out in a way that ultimately benefits the child," he declares.

That spirit of collaborative problem solving, he adds, "hopefully will maintain well beyond the mediation. Having this experience of sitting down and carefully understanding each other and trying to see if there's a way to reach a resolution often becomes learned behavior that can be practiced in the future without the need for external facilitation."

As a process, he continues, mediation is considerably less expensive than due process hearings "and it can happen, typically, much more quickly. Ultimately,

there are no decisions made that either party can't live with." In mediation, he declares, "there's no loser."

For more information on CADRE and special education dispute resolution visit the CADRE website at www.directionservice.org/cadre



RESOURCES

Articles

The [California] Department of Rehabilitation and Assistive Technology
Protection and Advocacy, Inc. (California)
2004

This two-part article published by Protection and Advocacy, Inc. of California describes the responsibility of the California Department of Rehabilitation (DR) to provide assistive technology and, in the second part, outlines the process for identifying consumer AT needs. The second part of the article also discusses how to challenge the Department's AT decisions.
<http://www.pai-ca.org/Tech/DRarticleI.htm>

Assistive Technology Public Funding: Early Intervention (EI)
TechAccess of Rhode Island 2004

Targeted at Rhode Island consumers, this comprehensive primer provides information on early intervention, mediation and access to public funding for AT acquisition. The article goes into detail about using the mediation process to appeal a denial of AT in the Early Intervention Program. It discusses how the mediation process can be an alternative to a formal due process hearing, but it also states that mediation may not be the solution to some problems and further actions may need to be taken.

<http://www.techaccess-ri.org/atfundei.htm>

We are Going to Mediation, Do We Need an Attorney?

Wrightslaw

This article maintains that having an attorney present is not necessary during the mediation process. Since there is no attorney, it is important that the parents are able to present their case in a way that will be to their advantage. The article provides parents with various strategies they can use to help with the mediation process.

http://www.wrightslaw.com/advoc/ltrs/faqs_mediation.htm

The Role of Attorneys in Special Education Mediation

CADRE: Edward Feinberg, Ph.D. and Jonathon Beyer J.D.

This paper examines the role of attorneys and advocates in special education mediation. Rather than using conventional analysis to answer the question of what role attorneys and advocates should play in special education mediation, the paper "mediates" the debate by adopting the structure of mediation. First, it examines the positions held by both proponents and opponents of permitting attorneys and advocates to participate in special education mediation. It then considers the interests and concerns shared by advocates of the two opposing views. The paper concludes with practical recommendations that attempt to satisfy these common interests.

<http://www.directionservice.org/cadre/articles/roase.htm>

Guides

Compliance with the Americans with Disabilities Act: A Self-Evaluation Guide for Public Elementary and Secondary Schools

Office for Civil Rights, U.S. Department of Education 2000

This guide is designed to help public school systems comply fully with the provisions of

Title II of the Americans with Disabilities Act of 1990 (ADA). Written primarily for designated ADA coordinators in straightforward, non-legalistic language, it presents a comprehensive process for planning procedures to ensure ADA compliance, conducting the self-evaluation and transition plan required under the ADA, and making modifications where needed. The guide uses examples throughout to demonstrate how regulations apply in specific instances. Worksheets outline a structured process for planning, evaluating, and documenting compliance activities.

<http://www.edlaw.net/service/guidcont.html>

Special Education Mediation: A Guide for Parents

By CADRE and the Technical Assistance Alliance for Parents 2002

This guide provides information about the mediation process in relation to special education and IDEA legislation. The guide addresses how to request mediation, and discusses the benefits of the process and potential concerns. It makes suggestions with respect to how to prepare for the process, and provides local contact information.

http://www.idonline.org/ld_indepth/special_education/mediation.pdf

Department of Justice: ADA Mediation Program

Department of Justice

The ADA Mediation Program is funded by the Key Bridge Foundation. This six-page publication provides an overview of the Department's Mediation Program and offers examples of successfully mediated cases.

<http://www.usdoj.gov/crt/ada/mediate.htm>

Fact Sheets

STAR (A System of Technology to Achieve Results)

This fact sheet is meant to inform the people of Minnesota about the educational rights of students with disabilities under

IDEA. The fact sheet includes information about how to request mediation through the Minnesota Special Education Mediation Services in order to get help in acquiring AT devices for a student to use within his or her IEP program.

<http://www.admin.state.mn.us/assistivetec hnology/atpub2.htm>

Protection and Advocacy for People with Disabilities, Inc.: Assistive Technology and Special Education Fact Sheet

Produced by Protection and Advocacy of South Carolina in 2003, the fact sheet defines AT, explains the requirements of IDEA, shows how an IEP must address AT needs, defines mediation and describes the mediation process.

<http://www.protectionandadvocacy-sc.org/Assistive%20Technology%20and%20Special%20Education.htm>

Fact Sheet #4: Assistive Technology and the IEP

Kentucky Assistive Technology Service Network (KATS)

Fact Sheet #4, compiled in 2001, explains the mediation process as stipulated by IDEA and as implemented by the state of Kentucky. Users should ask about any changes that made have occurred based on the new IDEA legislation.

<http://www.katsnet.org/fact4.html>

ADA Mediation Brochure

The U.S. Department of Justice Mediation Program issued this brochure to offer guidelines for people who are considering mediation. It provides a definition of mediation, as well as the advantages and disadvantages of using mediation to solve a problem. The brochure includes a list of alternative options to mediation, questions that should be asked of a mediator, common ADA disputes that can be mediated, and additional resources.

<http://www.usdoj.gov/crt/ada/medbroch.htm>

Assistive Technology in K-12 Schools

University of Washington Center for Technology and Disability Studies, 2004

This 2004 fact sheet serves as an AT primer which includes questions and answers regarding mediation, particularly in the state of Washington. It also offers additional resources for the people of Washington.

<http://uwctds.washington.edu/legal%20resources/faqsanswers.htm>

Web Sites

UWCTDS: Legal Advocacy

Maintained by the University of Washington Center for Technology and Disability (UWCTDS) Studies, the website features sections on AT funding, AT advocacy assistance and legislation updates.

<http://uwctds.washington.edu/legal.htm>

Bridges4Kids

This encyclopedic site, which includes many links, offers information on many aspects of special education and AT, including mediation.

<http://www.bridges4kids.org/IEP/Mediation.html>

WrightsLaw

This website offers a vast amount of information about mediation along with information about advocacy and disability laws. The website provides definitions, articles, tactics & strategies, legal resources, and book lists for various mediation topics.

<http://www.wrightslaw.com/info/mediation.index.htm>



KNOWLEDGE NETWORK MEMBERS



Oklahoma Disability Law Center (ODLC)

ODLC collaborates with federally funded Oklahoma AbleTech to provide protection and advocacy services for individuals needing assistance in accessing AT, and with Neighborhood Legal Services, Inc., which provides support services enabling advocates from ODLC to better serve individuals with disabilities.

ODLC also cooperates with the Oklahoma Parents Center, a statewide parent training and information organization whose services cover a full range of disabilities. In addition, ODLC utilizes the Alternative Dispute Resolution System affiliated with the Oklahoma Supreme Court through the Administrative Office of the Courts to provide individuals convenient access to conflict settlement proceedings over issues under IDEA as well as for issues associated with guardianships.

ODLC supplies the following legal services:

Individual Case Services, including legal and/or informational and referral services to eligible clients who believe they have experienced discrimination based on disability. ODLC also provides clients with forms enabling them to prepare complaints to appropriate federal agencies

Systems Advocacy, where ODLC works closely with consumer groups and disability rights organizations to advocate for changes in the systems that affect people with disabilities, such as health care, mental health, education and welfare

Community Legal Education, when ODLC staff speaks to groups of clients, their family members, advocates and others about the legal rights of people with disabilities

For additional information on ODLC, contact:

Oklahoma Disability Law Center
2915 Classen Blvd.

300 Cameron Building

Oklahoma City, OK 73106

Phone: (800) 880-7755 or (405) 525-7755
(toll free; voice/TDD)

<http://home.flash.net/~odlcok/>

National Association of Protection and Advocacy Systems, Inc. (NAPAS)

The NAPAS logo consists of the word "NAPAS" in white, uppercase, sans-serif font, centered within a solid teal rectangular background.

NAPAS is the voluntary national membership association of protection and advocacy systems and client assistance programs. The Protection and Advocacy (P&A) System and Client Assistance Program (CAP) comprise the nationwide network of congressionally mandated, legally based disability rights agencies.

P&A agencies have the authority to provide legal representation and other advocacy services, under federal and state laws, to all individuals with disabilities, based on a system of priorities for services.

All P&As monitor, investigate and attempt to remedy adverse conditions in facilities that care for people with disabilities. These agencies also help ensure full access to inclusive educational programs, financial entitlements, healthcare, accessible housing and productive employment opportunities. CAP agencies, many of which are housed within P&A offices, provide information and assistance to individuals seeking or receiving vocational rehabilitation services under the Rehabilitation Act, including assistance in pursuing administrative, legal and other appropriate remedies.

For more information on NAPAS, contact:
National Association of Protection and Advocacy Systems, Inc.
900 Second Street, NE, Suite 211

Washington, D.C. 20002
Phone: (202) 408-9514
Fax: (202) 408-9520
<http://www.napas.org/1-5/about%20napas%20home.htm>

Protection & Advocacy, Inc.

Protection and Advocacy, Inc. (PAI)

Founded in 1978, PAI protects the legal rights of Californians with disabilities. The organization provides services to individuals with disabilities under the aegis of five federal programs: the Developmentally Disabled Assistance and Bill of Rights (PADD) Act; the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act; the Protection and Advocacy of Individual Rights (PAIR) Act; the Protection and Advocacy for Beneficiaries of Social Security (PABSS) Act; and the Assistive Technology (AT) Act of 1998.

Under a contract with California's Department of Mental Health, PAI operates the Office of Patients' Rights (OPR) to advocate for the rights of people who have a psychiatric disability or emotional impairment. PAI operates the Office of Clients' Rights Advocacy (OCRA) under a contract with California's Department of Developmental Services. OCRA provides clients' rights advocacy to individuals with developmental disabilities who are clients of California's 21 regional centers.

In supplying advocacy services for those with disabilities, PAI:

- Represents those with disabilities in administrative and judicial proceedings, upholding and enforce their legal, civil and service rights
 - Brings impact litigation and acts as amicus curiae – friend of the court -- when a case affects the rights of people with disabilities
- Investigates complaints of serious physical and sexual abuse and of neglect-related death in institutions
 - Informs individuals with disabilities about their legal, civil and service rights and about ways to enforce those rights
 - Refers people to other sources of help
 - Provides technical support and training for people with disabilities, their families and advocates
 - Provides training in peer/self-advocacy
 - Reach out to underserved communities
 - Provides patients' rights advocacy at the four state psychiatric hospitals.
 - Provides clients' rights advocacy for people with developmental disabilities who are regional center clients.
 - Provide advocacy for people who are eligible for SSI, SSDI, or continuation of Medicare or Medicaid (Medi-Cal) based on a disability

For further information about PAI, contact:
Protection and Advocacy, Inc. (PAI)
100 Howe Street, Suite 185-N
Sacramento, CA 95825
Phone: (800) 718-5798 (toll free); (916) 488-9955 (TTY)
<http://www.pai-ca.org/Index.htm>

University of Washington Center for Technology and Disability Studies (UWCTDS)



UWCTDS is an interdisciplinary program located in the Center for Human Development and Disability and is linked to the academic Department of Rehabilitation Medicine in the University of Washington's School of Medicine. The center provides integrated research, education and training, technical assistance and consultation, policy analysis, and legal advocacy related to disability and technology issues.

UWCTDS faculty members conduct programs of research in the areas of usability, accessible information technology, transition from school to work, technology and learning disabilities and applications of technology in the school and work place for people with disabilities. Faculty members are available to conduct research that addresses specific questions from funding organizations and individuals. The center provides education and training at the undergraduate, graduate, and continuing education level as well as basic and advanced skills training. Education and training activities include:

- Undergraduate focus on disability studies
- Interdisciplinary graduate coursework in AT
- Post graduate certificate in AT
- Continuing education in accessible information technology and AT for health, rehabilitation and social service providers, educators, information technology professionals.
- On campus courses
- Compressed courses and institutes
- Distance education courses

The center provides technical assistance for businesses, governments, libraries, educational institutions, and service providers in the following concentrations:

- Principles of universal design
- Accessible information systems and networking, web design, workstations, office machines, telecommunications and other technology
- Assistive Technology solutions

Specialized consultation is offered around the use of AT to address the functional limitations associated with learning, cognitive, sensory, and motor disabilities.

Policy analysis and legal advocacy activities include:

- Analysis of funding for AT

- Analysis of local, state, and national legal issues and legislative actions that promote or disrupt access to technology by people with disabilities
- Analysis of systems of service delivery
- Review and assistance with exemplary advocacy cases which may facilitate systems change
- Technical assistance and consultation on disability law and policy with respect to AT health care access, education, employment, and community

The center's electronic publications and discussion lists include:

- A quarterly bulletin covers legal issues relevant to the funding, acquisition or use of adaptive technology and provides legislative updates on disability issues
- Paying for the Assistive Technology You Need: A Consumer Guide to Funding Sources in Washington State provides a comprehensive overview of funding sources, tips, and strategies
- Assistive Technology Forum is an electronic discussion forum around AT issues and is a resource for learning about new and existing technology, networking, and discussing disability issues

For further information about the center, contact:

Center for Technology and Disabilities Studies

University of Washington (UWCTDS)

Box 357920

Seattle, WA 98195-7920

Phone: (800) 841-8345 (Voice/TTY; toll free within Washington State)

(206) 685-4181 (Voice/TTY)

(206) 616-1396 (TTY/TTY Message)

Fax: (206) 543-4779

Contact: Alan J. Knue, Program Manager

Email: uwctds@u.washington.edu

<http://uwctds.washington.edu/aboutus.htm>

Minnesota Special Education Mediation Services (MNSEMS)



Special Education
SPECIAL EDUCATION MEDIATION SERVICE
Working together to resolve conflict so students can be successful

MNSEMS provides conflict resolution assistance for students, schools, parents and agencies. Parents and school staff use mediation sessions or facilitated IEP/IIIP meetings to address issues of concern.

For more information on MNSEMS, contact:
Minnesota Special Education Mediation Services

1500 Highway 36 West
Roseville, MN 55113
Phone: (866) 466-7367 (toll free)
(651) 582-8222

Fax: (651) 582-8498
Contact: Patricia McGinnis, Coordinator
Email: patricia.mcginnis@state.mn.us
<http://www.mnsems.state.mn.us>



Pennsylvania Protection and Advocacy Inc. (PP&A)

PP&A is an independent, nonprofit agency mandated by the federal government to protect and advocate for the rights of people with disabilities. The agency provides options to all Pennsylvanians and provides case advocacy to individuals and groups if their issues are related to the agency's established priorities.

Assistance may be provided to consumers, families of consumers, professionals, local service providers, county and state agencies, and any others that contact the agency. PP&A provides information, referrals, and technical assistance to assist consumers with self-advocacy, in obtaining appropriate services and to promote the concept of total inclusion of consumers in the general public.

Case services include mediation, negotiation, investigation, and litigation. Although PP&A is consumer directed, the agency also provides assistance to the public-at-large for the benefit of persons with disabilities. Groups may request training/education regarding numerous issues including abuse, neglect, rights violation, and advocacy.

For further information on PP&A, contact:
Pennsylvania Protection and Advocacy, Inc.
1414 North Cameron Street, Suite C
Harrisburg, PA 17103
Phone: (717) 346-0293 (TTY)
(717) 236-8110
Fax: (717) 236-0192
Email: ppa@ppainc.org
<http://www.ppainc.org>



Western Law Center for Disability Rights

Founded in 1975 and located on the campus of Loyola University Law School, the center provides legal and related services to individuals with disabilities via the following programs that serve individuals with disabilities:

Civil Rights Litigation Project, which provides free legal representation to individuals with disabilities who encounter discrimination in violation of their civil rights

Disability Mediation Center, which offers expert mediation services in disputes involving disability issues are parties with disabilities, along with training for mediators about the special issues raised by disability disputes

Learning Rights Project, which provides special education training, workshops and individual advocacy to students with learning disabilities and their families

The center also provides training and education programs regarding rights and obligations under disability rights laws to people with disabilities, service providers, businesses and employers.

For further information on the center, contact:
Western Law Center for Disability Rights
919 South Albany Street
Los Angeles, CA 90015
Phone: (213) 736-8310 (TDD)
(213) 736-1031
Fax: (213) 736-1428
Contact: Karen Nobomotu, President,
California Bar Association
Email: wLCDR@lls.edu
<http://wLCDR.everybody.org>

Child Care Law Center (CCLC)



CCLC publishes materials for parents and providers explaining the Americans with Disabilities Act (ADA) and Individuals with Disabilities Education Act (IDEA) while offering training and serving as a technical resource on childcare and disabilities issues. CCLC is currently involved in a project in San Francisco that provides in-depth support to low income families with children with disabilities. Legal advocates, childcare specialists and family support agencies utilize a team approach to help ensure that these children have access to childcare that meets their special needs. In addition, CCLC is expanding its work with local childcare agencies and has current contracts with 13 California counties to provide in-depth training and technical assistance on the ADA and Unruh Civil Rights Act. For additional information about CCLC, contact:
Child Care Law Center
221 Pine Street, 3rd Floor
San Francisco, CA 94104
Phone: (415) 394-7144
Fax: (415) 394-7140

Contact: Nancy Strohl, Executive Director
Email: info@childcarelaw.org
http://www.childcarelaw.org/children_with_disabilities.cfm

ADA National Access for Public Schools Project



The project helps elementary and secondary schools nationwide to implement the Americans with disability Act (ADA). Project services include:

- Technical assistance, which demonstrates how ADA relates to Section 504 of the Rehabilitation Act or IDEA
- Training, for which the project offers a range of training options encompassed in half-day or two-day sessions appropriate for public school administrators, education service agencies, state departments of education, parent groups and disability organizations
- Fact sheets, for which questions and answers have been reviewed by the Office for Civil Rights at the U.S. Department of Education on topics that include general nondiscrimination and effective communication, employment, private schools, program accessibility and transportation
- A listserv, which addresses ADA and public school issues

For more information on the project, contact:
ADA National Access for Public Schools Project
Adaptive Environments Center, Inc.
374 Congress Street, Suite 301
Boston, MA 02210
Phone: (800) 893-1225 (V/TTY)
(617) 695-1225 (V/TTY)
Fax: (617) 482-8099
Email: adaptive@adaptenv.org
<http://www.adaptenv.org/schools/>

Protection and Advocacy for People with Disabilities, Inc. (P&A)



P&A advocates for and protects the rights of people with disabilities in South Carolina.

P&A services include:

Information and referral, which provides brief, written or oral information about callers' problems and suggests ways to resolve problems, including information about additional resources

Case representation, which is provided under P&A's annually established priorities;

callers become clients only if they meet selection criteria set yearly by P&A

Systems advocacy, which often result in changing laws, regulations, policies,

practices or organizational structures

Self-advocacy, training, education and

outreach, in which advocates conduct

consumer focus groups, make presentations

and meet with community leaders as

established in P&A annual priorities

For more information about P&A, contact:

Protection and Advocacy for People with Disabilities

3710 Landmark Drive, Suite 208

Columbia, SC 29204

Phone: (866) 275-7273 (for South Carolina residents)

(803) 782-0639 (for Columbia, SC residents or for those calling from out of state)

Email: info@protectionandadvocacy-sc.org

<http://www.protectionandadvocacy-sc.org>



Don't forget to check out our January online discussion of

Family and Cultural Issues in the Delivery of AT Services

Led by Dr. Phil Parette and Tom Nurse

<http://www.fctd.info>



Newsletter Editor: Thomas H. Allen

Electronic Formatting

and Distribution: Ana-Maria Gutierrez