

# How an Impartial Education Liaison Service Helps Education Leaders Effectively Manage Special Education-Related Conflict

By Rhea Settles, Ed.D., M.NCRP and Odilla Sidime, J.D.

## Abstract

This article presents some conflict-related issues that school leaders encounter in resolving disagreements and misunderstandings between parents of students with disabilities and school representatives. Two examples of special education service disagreements are employed to illustrate how a trained and impartial education liaison representative can facilitate conflict resolution.

## Introduction

It's mid-week at ABC Elementary and the school's refrigerators go on the blink, jeopardizing the lunchtime food provisions. Would the school principal rush into the kitchen, toolbox in hand, and attempt to repair the fridge? Unlikely. What if the school district's internet fails and administrators, staff and students are without internet access? Can you envision a special education coordinator watching a YouTube video about troubleshooting internet issues and then accessing the mainframe to fix the problem? Not a chance. How about when there is no bus driver to take students home from school? Despite that the school principal knows how to drive and has observed school bus operations numerous times, would he/she get behind the steering wheel, load up the bus and take off? Of course not! It follows that even if an education leader has some basic knowledge of special education and conflict resolution, leaving specialized services to professionals is always the best practice to accomplish appropriate and desired outcome.

We believe that education leaders should consult and engage neutral third-party conflict resolution professionals when any of the following eight factors that contribute to family-school conflict in special education is involved: (a) family's views about a student's needs differ from school agents; (b) IEP team members have insufficient knowledge of problem-solving or effective communication skills; (c) school has limited service delivery options to meet student's needs; (d) IEP team members fight for power; (e) IEP team members have constraints on time, finances or people resources; (f) one party puts less value on another's input; (g) communication is lacking, misunderstood, misleading or withheld; or, (h) broken trust or loss of faith exists amongst the IEP team (Lake & Billingsley, 2000, pp. 240-251).

In addition, when a case involves recurring issues, escalating conflict, refusal to sign the IEP or other documents, or a request for intervention has been made, a neutral third-party conflict resolution professional is warranted.

## How does policy support the need for neutral third-party conflict resolution professionals?

Conflict in special education is not new. There has been a consistent rise in the number of special education due process complaints over the years and the recent Covid-19 pandemic has caused an exponential increase in complaints. In 2000, schools spent "\$146 million to resolve special education disputes" (Mueller, Singer, & Draper, 2008, p.191). Due process litigation can cost "\$60,000 to \$100,000" when a decision is appealed (Mueller, 2009a, p.4). Alternatively, a Michigan Department of Education (2010) study showed that the average cost for a facilitated IEP meeting and mediation averages \$1,500 per session. Since schools started utilizing neutral third-party conflict resolution professionals to provide Alternative Dispute Resolution (ADR) services such as facilitated IEP meetings, mediation, and third-party consulting; written complaints have declined by 19%, due process complaints are down by 10% and due process hearings have decreased by 63% (Burkhart & Theis, 2017; Mueller, 2009a; Michigan Department of Education, 2000; CADRE, 2000; Henderson, 2008).

In addition to mandating that ADR services be made available to address conflict in special education cases, the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA) endorses the objective third-party guidance of "an impartial mediator" or "appropriate alternative dispute resolution entity" (IDEA, 2004, 34 C.F.R. §300.506(b)(2)). IDEA (2004) reveals that employees or affiliates of a school district, Local Education Agency (LEA) or Special Education Local Plan Area (SELPA) cannot be considered a third-party; and, individuals having a personal or professional interest in the outcome of the ADR process cannot be considered impartial. These rules and principles disqualify school agents and families, and their affiliates, advocates or allies, from conducting ADR sessions to prevent intentional or unintentional influence over the ADR process and outcome.

Hereafter, we introduce the innovative concept of the "Impartial Education Liaison", an essential human resource with an integrated knowledge of conflict resolution and special education policies and practices. Underlying IDEA (2004) are basic tenets of fairness and due process which create the need for the Impartial Education Liaison, a specialist who has a unique combination of education and experience that can be of significant benefit to education leaders and school district in preventing, minimizing and resolving special education-related conflict. An Impartial Education Liaison has:

- Third-Party Status-no connection to any party
- Impartiality-no interest in the outcome
- Subject Matter Expertise-knowledge of the education system, federal and state education codes and special education principles and practices
- Professional Expertise- experience and knowledge of conflict resolution principles and practices (IDEA, 2004; Mueller, 2009b).

Literature and empirical data about the use of ADR services to address special education-related conflict is clear (Pudelski, 2016; Mueller, 2009a). First, compulsory schooling has always given rise to conflict over what constitutes an adequate and equitable education for students with disabilities. Second, it is untenable to expect education leaders to take on the additional responsibility of having more than a general knowledge of special education let alone expert skills in conflict resolution (Singh, 2015). Third, education leaders should engage neutral third-party conflict resolution professionals when special education-related conflict arises. In these cases, an Impartial Education Liaison is a critical resource that helps create conditions for students with disabilities to succeed and receive a Free and Appropriate Public Education (FAPE); and families and school agents to collaborate and maintain healthy relationships (IDEA, 2004; Michigan Department of Education 2010; CADRE, 2000; Henderson, 2008; Mueller, 2009a).

### **How prepared are education leaders to handle special education-related conflict?**

Preparation for education leaders require the completion of a program in general education leadership theory and practice (Young, Mountford, & Crow, 2005; Lashley, 2007). Most education leadership positions, including school principal, vice principal, instructional or program coordinator or director require a certificate from a state-approved program offered at a 4-year college or alternative education agency (Boscardin, M. L., (2007). In most states, the course content is derived from the National Professional Standards for Educational Leaders (PSEL) which includes six core areas: Shared Vision; Management and Learning Environment; Ethics and Integrity; Instructional Leadership; Family and

Community Engagement; and External Context and Policy (DeMatthews, Kotok, & Serafini, 2020; California Department of Education, CPSEL, 2010). Each of these core areas include sub-topics about supporting teaching and learning in general education with a cursory overview of special education (DeMatthews, et al, 2020).

In 2001, the 1965 Elementary and Secondary Education Act (ESEA) was reauthorized as No Child Left Behind (NCLB), 2002 integrating procedural safeguards requiring school agents and families to have equal input in the IEP process (Smith, Robb, West, & Tyler, 2010). However, the expectation that an education leader maintain control over school-wide and/or district-wide outcomes is counter-intuitive to the "equal input" mandate of education regulations and often causes power struggles and distrust between families and schools (DeMatthews, et al, 2020; Lake & Billingsley, 2000; Sirotnik & Kimball, 1994).

The ever-changing and complex educational landscape makes the role and responsibilities of education leaders quite demanding. Most practicing education attorneys have only a rudimentary understanding of special education law and procedure; so, it is unreasonable to expect education leaders to have such specialized knowledge (Singh, 2015). In fact, the majority of education leaders learn about their critical role in special education "on the job"; while others never develop that knowledge and simply refer special education issues to the district's special education department (DeMatthews, et al, 2020, p.313). Both scenarios can cause conflict that leads to a fiscal nightmare and weakens the essential relationship between school agents and families.

For example, in one case, a school principal and general education teacher were unaware that IDEA required a Manifestation Determination before suspending a student with an IEP. The student was a Black male who had been suspended multiple times so the mother believed implicit bias, inequity and racial discrimination were motivating the school agents to repeatedly suspend her son. As the conflict escalated, discrimination became the focus and the student's learning needs became secondary. This situation shows how limited knowledge of special education policies and procedures, power struggles, lack of cultural competency and trust issues can derail the efforts of an IEP team (Lake & Billingsley, 2000). When the school principal reached out to an Impartial Education Liaison, the family and school agents were repeatedly reminded to keep the focus on the student, shown how to engage collaboratively and guided in IDEA compliance (Mueller, 2009b; Mayes, 2019).

The most effective education leaders focus their knowledge and limited time resources on instructional leadership, school culture and climate, student behavior and achievement, and managing operations related to fiscal and human resources. So, to address special education-related conflict, some purposefully engage an Impartial Education Liaison (Pazey & Cole, 2012).

## Methodology

This article is derived from qualitative research grounded in a participatory advocacy approach and illuminates the undeniable benefit of using an Impartial Education Liaison to address special education-related conflict (Creswell, 2015). The following illustrates the positive and significant impact an Impartial Education Liaison had on two long-standing, intractable special education-related conflicts between families and school agents.

### Case Study: DJ

#### *Before Impartial Education Liaison Engaged as a Facilitator and Third-Party Consultant*

DJ was a musically gifted 11-year-old Latino male with autism and some physical limitations. His mother, Ms. E believed in his potential and continually advocated for her son's educational entitlements. In this instance, Ms. E requested that DJ be retained in the same 5th class so he could achieve specific learning goals, improve his executive functioning and self-advocacy skills. However, the School Principal Ms. N believed DJ would never meet grade-level standards or earn a diploma; so, she decided to promote DJ to middle school with his peers. Ms. E appealed the principal's decision to the assistant superintendent only to be disappointed when he sided with Ms. N. In response, Ms. E filed a due process complaint but the district refused to budge on the issue of retention. Eventually, Ms. E gave in and DJ was promoted.

Unfortunately, conflict between Ms. E and school agents reoccurred during DJ's first year in middle school. Ms. E used her health insurance to fund bathroom support services at no cost to the district; then asked Special Education Supervisor Mr. L to permit the service provider to work with DJ at the school site. Although Mr. L professed to care about the students, he expressed a preference for limiting services. So, without discussing the issue with Ms. E and at the advice of the district's legal department, Mr. L denied the request. Upset by the denial, Ms. E gave Mr. L a piece of her mind. In response and despite being the assigned special education supervisor, Mr. L ceased interaction with Ms. E because he "felt bullied" and did not wish to have any further contact with her.

Because she had been on IEP teams that had success with Impartial Education Liaisons, another special education supervisor suggested the IEP team consult an Impartial Education Liaison. Ms. E, Mr. L and the other IEP team members decided to give it a try.

#### *After Impartial Education Liaison Engaged as a Facilitator and Third-Party Conflict Consultant*

The Impartial Education Liaison unpacked and mapped the conflict, identified communication gaps including cultural competency issues and perceived threats that

were impeding collaboration between Ms. E and school agents. The Impartial Education Liaison also furnished communication coaching to help Ms. E see how her word-choice was often unclear and tone could be considered offensive which caused the school agents to reject her message. The Impartial Education Liaison helped Mr. L understand how failing to effectively communicate with parents or involve them in decision-making could be perceived as arbitrary and inconsiderate. In addition, the Impartial Education Liaison helped the IEP team develop a partnership plan for future engagements about DJ's IEP. Because the conflict had built up over multiple years, trust was eroded and communication was significantly impaired, the IEP team agreed to use an Impartial Education Liaison to consult on DJ's IEP process and facilitate future IEP meetings.

### Case Study: Student H

#### *Before Impartial Education Liaison Engaged as a Mediator*

Student H was a middle-school-aged Black girl with developmental delays and a seizure disorder that impacted her ability to access learning. She was placed in a mild-moderate special education day class. Conflict between H's family and school agents started when she was in the 5th grade and resulted in the filing of two due process complaints. After over two years in litigation and tens-of-thousands of dollars spent, the parties finally settled. However, the damaged relationship between H's family and school agents continued to be plagued by ineffective communication, lack of faith and different views about the value of other's input.

H's family, led by her grandmother, believed the school agents were not complying with H's IEP or the settlement agreement which included a safety plan that required H be supported by a medically trained paraprofessional, escorted to the bathroom, seated on the other side of the classroom from the male students who had harassed her previously and the family received weekly progress reports and timely notification about H's medical incidents.

H's Special Education Teacher/Case Manager Miss B stated she was doing her best to meet H's needs. Miss B recognized that as a first-year teacher she was still learning about special education rules and procedures. She admitted "still figuring out how to do everything in the IEP" and being unaware of the settlement agreement and safety plan. Miss B also reported feeling intimidated by the grandmother's impromptu classroom visits.

Due to prior heated engagements, the school principal refused to have any contact with H's family and assigned the newly hired Assistant Principal Ms. N to the case. Ms. N explained that her role was limited to supporting Miss B during IEP meetings or at her request; so, she did not "know the specifics" of H's IEP and did not know about the settlement agreement and safety plan until the family became vocal about certain violations.

The Special Education Supervisor Mr. L who had been an assistant principal the prior year and had no experience in special education, admitted he had never reviewed the settlement agreement or safety plan and had very little knowledge about the family-school conflict because he generally took a hands-off approach to school site issues. Nevertheless, Mr. L stated his belief that H's family was devaluing the efforts and commitment of the school staff and administrators.

#### *After Impartial Education Liaison Engaged as a Mediator*

After more than two years of escalating conflict, the IEP team contracted an Impartial Education Liaison to assist with addressing the ongoing conflict amongst them. During initial case development, the Impartial Education Liaison invested more than thirty hours interviewing family members, school agents and related service providers; reviewing documents and mapping out the conflict before convening the two mediated sessions. The relationship between the family and school agents was beleaguered by miscommunication, resource constraints, distrust, inadequate problem-solving skills and disparate opinions about H's education needs (Lake & Billingsley, 2000). But during just four hours mediated by an Impartial Education Liaison, the parties resolved all pending issues. Given a lack of faith due to past implementation problems and severe relationship damage, the IEP team agreed to have an Impartial Education Liaison continue to provide third party consultation to manage future conflict and IEP facilitation to effectively address escalating conflict.

#### **Where to go from here?**

The employment responsibilities of education leaders focus on six core areas which are exceedingly demanding and time-consuming; therefore, it is unfair to expect education leaders to take on the additional challenge of becoming an expert in conflict resolution and special education. Fortunately, the combined knowledge and experience of an Impartial Education Liaison can be beneficial to education leaders and school districts in several ways. First, engaging an Impartial Education Liaison allows education leaders to invest their time resources on meeting the responsibilities within their scope. Second, instead of wasting up to \$100,000 on due process litigation, an Impartial Education Liaison can resolve the same conflict for as little as \$1500. Third, an Impartial Education Liaison helps families and school agents repair and sustain healthy relationships, an outcome that does not usually happen with due process litigation.

Finally, Alternative Dispute Resolution services provided by Impartial Education Liaisons are a proactive, progressive and inclusive service used to manage conflict so those involved believe and feel like the outcome is fair. It is imperative that families and school agents sustain healthy collaborative relationships to support the shared goal of students achieving and learning in the school environment.

It is encouraged that education leaders include the use of Impartial Education Liaisons in district-wide strategic plans, to provide ADR services which can be funded through state ADR grants; and, at no cost to the families, school districts or students. To maximize the benefit of this resource, education leaders should also create awareness of this resource and establish protocols for when and how to utilize an Impartial Education Liaison.

It is our hope that the guidance offered in this article ultimately benefits students so they receive the dignified and inclusive education to which they are entitled.

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Rhea Settles, Ed.D., M.NCRP is clinical faculty at a California State University, School of Education, Department of Educational Leadership.

Odilla Sidime, J.D., is an attorney, and the founder of Resolve Conflict Management Services.

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