

Mediation was turning point for student's progress

By Julie Holmquist

By the time Heather Duvall's son Douglas was in fourth grade, she and the staff at her son's school had reached a major impasse.

"We were defensive on both sides, and neither of us felt like we could work together," Duvall says. Duvall didn't see her son making educational progress, even though she and the school spent a large amount of time in meetings.

By February 2009, both the school and Duvall felt that mediation was required if Douglas was to meet the goals in his Individualized Education Program (IEP). Duvall had worked with PACER in the past, and she called PACER again for advice about mediation.

"At first I felt like I failed, because I thought going to mediation indicated a breakdown," Duvall says. PACER advocate Pat Anderson told Duvall she hadn't failed. "She said mediation was a good thing. Now I wish we would have done it sooner."

Mediation helped Duvall and school staff realize that miscommunication had occurred on both sides. That realization led to a new relationship, better communication, and the best result possible: Douglas, now in fifth grade, has "blown away his IEP goals," says his mother.

"The team is really looking at possibilities now, and he loves going to school. He dreaded going before, and now he's so excited to tell me something he did, and the staff is excited about what he did. He's doing amazingly well."



Douglas and Heather Duvall

Before mediation

Duvall says she realizes that school inclusion for her son is a challenge. He has multiple disabilities, including cerebral palsy, is medically fragile, can't walk, and is nonverbal.

Early on, she realized that school staff didn't have expertise to deal with some of his issues and believed staff training in augmentative communication would help. Her suggestions were not well received, and staff found her intimidating.

"I know I have a strong personality," she says. She also knew what her son's rights were and was not afraid to ask for services. Duvall had spent countless hours attending conferences and trainings, educating herself on her son's needs and the services that could help him, and she wanted to share that knowledge.

"But no matter what I would do, it seemed wrong," she says. "I felt blamed by the school staff, and they felt I didn't respect them as professionals. It was just like a marriage, breaking down to such a point that it

was seemingly irreparable," she says. "We wasted so much time on defensiveness."

During mediation

A cycle of miscommunication had developed between Duvall and the staff, but mediation broke that cycle. Duvall and the school met in mediation for a total of 21 hours over a period of three days, an unusually long time. "We spent half of that time talking about our frustrations," Duvall says. "Both sides felt they weren't being heard."

The mediator introduced reflexive listening, and that's when the breakthrough occurred. Before Duvall or school personnel could respond to a comment, they had to repeat what they heard, using the phrase: "What I hear you saying is...."

"I would say one thing, and they heard something completely different," Duvall says. "It opened our eyes to see we were really misunderstanding each other. It was a huge light bulb."

Anderson attended all three mediation meetings with Duvall. "Pat was very supportive and very realistic," she says. When Duvall became frustrated during the proceedings, Anderson helped her realize that she needed a break so she could calm down and refocus. As Duvall and the school worked out their disagreements about Douglas' IEP, Anderson helped Duvall keep her eye on the outcome. "She reminded me to think about what was the most important thing, and to make sure I was comfortable with the outcome. It was good to have

someone there who was emotionally detached.”

After mediation

Duvall and the school ended up compromising – and learning. Duvall now has more regularly scheduled and less-formal communication with the IEP team members, and com-

munication has improved as a result. School staff also report details about Douglas’ day so his mother feels informed.

Duvall advises other parents to not be afraid of mediation. “I’m spending a fraction of the time on Douglas’

school issues as I was before. I don’t dread school meetings. They’re really productive, and Douglas is learning.”

Learn more about mediation by downloading “Special Education Mediation: A Guide for Parents” at taalliance.org/publications/pdfs/semi.pdf.

How to resolve school disputes in a positive way

By Julie Holmquist

Helping your child with disabilities receive an appropriate education is one of the most important jobs you have as a parent. Working with your child’s Individualized Education Program (IEP) team is part of that job, but sometimes disputes and disagreements can occur.

“Parents can feel discouraged or frustrated when these disagreements take place, but they need to know that issues can usually be resolved if they keep calm and use the options available for resolving disagreements,” says PACER advocate Pat Anderson.

Managing disputes in a positive, productive way is possible if parents know their rights and the best method for resolving an issue. “First, parents need to know they have the right to

disagree with the school,” Anderson says, “and they need to know that there are several options for resolving a disagreement.”

To resolve disagreements, it’s usually best to start by discussing the issue with the professional closest to the problem at the school or district level.

For example, following an IEP meeting, a parent might receive the plan in writing and see that it doesn’t include an agreed-upon provision for special education transportation. Before reacting negatively, the parent should first check with the case manager to see if the omission was intentional or inadvertent.

“Many times school staff aren’t aware there’s a problem,” Anderson says. “That’s why we encourage parents to

express their concerns to the appropriate person.” Anderson advises parents to share their concerns in a letter and send it to the case manager and the director of special education.

If efforts to resolve the issue at the local or district level are not successful, more formal dispute resolution methods may be necessary. The chart below provides an overview of Minnesota’s due process options for resolving disputes within the state’s education system. Parents may wish to call a PACER advocate to discuss their options.

For more information on how to resolve educational disputes, call PACER at 952-838-9000 or visit PACER’s new dispute resolution Web page at PACER.org/disputeresolution.

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MINNESOTA DUE PROCESS OPTIONS

General Information only; please call PACER Center or the Minnesota Department of Education for further information

OPTIONS	Conciliation Required if parent requests	Mediation Voluntary for both parties	Facilitated Individualized Education Program Voluntary for both parties	State Complaint	Section 504 Complaint	Due Process Hearing Required if either party requests
ISSUES	Parent-school disagreement regarding identification, evaluation, placement, or services	Parent-school disagreement regarding identification, evaluation, placement, services, or other matters	Parent-school unable to develop an acceptable Individualized Education Program (IEP)	Claim that district is not following law or regulation	Claim of discrimination based on disability	Parent-school disagreement regarding identification, evaluation, placement, or services
WHO IS USUALLY INVOLVED	Director of special education, district staff, parent(s)	Mediator, district staff, parent(s), and others each may choose	IEP team and facilitator	Parent(s), organization or any citizen; Minnesota Department of Education, Division of Compliance and Assistance	Parent(s), organization, or any citizen; local 504 Officer, Office for Civil Rights (Region V Chicago)	Hearing officer, parent(s), district staff, expert witnesses, attorneys
DECISION MAKER(S)	Parent(s) and district	Parent(s) and district	IEP team with support from facilitator	Minnesota Department of Education, Division of Compliance and Assistance	Office for Civil Rights (Region V Chicago)	Hearing officer If appealed: hearing review officer
TIMELINE	From receipt of request: <ul style="list-style-type: none"> • set up within 10 calendar days, • memo five school days after final conference 	Must be scheduled in a timely manner	Must be scheduled in a timely manner	File within one year of violation; final decision 60 calendar days from filing in most cases	File within 180 calendar days of violation	File within two years of the alleged violation
COST: PARENT PAYS	None	None	None	None	None	Parent(s): attorney fees, expert witnesses (if needed) If parents prevail, they may recover attorney's fees.

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