



FALL 2010

NEW DIRECTIONS

Ask ECDC

Early Childhood Direction Center

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ECDC is a regional clearinghouse that provides free information, referral, technical assistance and support to families, professionals, and community agencies concerned with children birth to five with suspected or diagnosed delays or disabilities.

We provide ongoing community training programs for both parents and professionals.

ECDC is funded by the New York State Education Department, hosted by Women and Children's Hospital and provided in-kind support from People Inc.

If you would like to be included on our list serve to receive the latest federal, state and local updates, please send an email to ecdc@kaleidahealth.org and indicate whether you are a parent or a professional.

Dear ECDC:

I am not in agreement with the recommendations that were given at my daughter's last CPSE (Committee on Preschool Special Education) meeting. What are my options? Karen

Vickie Rubin responds:

Thanks for writing – we are often asked this question. Families have the RIGHT to disagree with the school and there are options for resolving a disagreement. The most common issues about which families disagree with the CPSE are: their child's eligibility for services, the CPSE recommendation of service, their child's services are not implemented as stated in the IEP (Individualized Education Plan) and finally their child's challenging behaviors and the district's disciplinary actions. Your specific concerns are unclear in the note; therefore, I will give general guidelines for working with your CPSE and district.

First off, learn all you can about your rights so that you are more likely to have a successful CPSE meeting. ECDC and Parent Network provide workshops that walk you through the entire process. In addition, ECDC provides workshops on transition from EI (Early Intervention) to CPSE and CPSE to CSE (Committee on Special Education). We always suggest attending your CPSE meeting with another person who has specific knowledge about your child and/or can provide support for you; such as spouse, significant other, grandparent, friend etc.

If you are not in agreement with CPSE recommendations, the initial step is to clearly voice your concern and reasons for your concern. Start by discussing the issue with the person closest to the problem. In your case it would be the CPSE chairperson. Do you have an example of your issue? Do you have a suggestion for a solution? Does the committee need more information than is currently available? If more information is needed, you may want to reschedule your meeting until all relevant information is available for discussion.

Positive communication is an important tool when advocating for your child. Remember, your child is young and you may be working with your district for many years to come. How critical is the issue to you – can you live with the CPSE recommendations as a trial? For example, when my daughter, Jessica, was in school, I was concerned about the district's recommendation on the number of Occupational Therapy (OT) sessions she was to receive each week. Our solution was to try the district's recommendation and re-visit the issue in two months to check on Jessica's progress. We were able to move forward and the outcome was that my daughter did not need additional OT services. Some communication tips to keep in mind are listening to other CPSE member's ideas, remembering eye contact, using the word "we" to foster your partnership with the district, and keeping an open mind to other suggestions.

If you are unable to resolve your differences, you can contact your Regional Associate, part of the **VESID Special Education Quality Assurance Regional Offices (SEQA)**. If the school district is not in compliance with NYS regulations, your regional associate will contact the school district regarding your concerns.

If you are unable to resolve your agreements informally or with the regional associate, mediation is a good method to work out your differences with the district. (Information on mediation follows this article). There are steps after mediation such as impartial hearing and state review board. Please see NYS website links following this article for details.

New York State Education Department -<http://www.nysed.gov/home.html>

And

<http://www.emsc.nysed.gov/specialed/publications/policy/dueprocessbroch.htm>**Office of Vocational and Educational Services for Individuals with Disabilities (VESID) - Special Education -**<http://www.emsc.nysed.gov/specialed/>

Parts 200 and 201 of the Regulations of the Commissioner of Education -

<http://www.emsc.nysed.gov/specialed/lawsregs/part200.htm>**VESID Special Education Quality Assurance Regional Offices -**

General Information -

<http://www.emsc.nysed.gov/specialed/quality/home.html>

Location of Offices -

<http://www.emsc.nysed.gov/specialed/quality/qaoffices.htm>**MEDIATION**

Mediation is a great option for situations like Karen's from the "Ask ECDC" question.

Without limiting her rights under due process, the Special Education Mediation Program is available to resolve Karen's disagreement about her daughter's special education program. The program is funded by the New York State Education Department (NYSED), administered statewide by the New York State Dispute Resolution Association (NYSDRA) and Child & Family Services *Center for Resolution and Justice* handles all mediation services in the 8 counties throughout Western New York. *

If Karen chooses to mediate her disagreement over the recommendations made at her daughter's last CPSE meeting, the Center for Resolution and Justice makes it easy. During Karen's first phone call to the Center for Resolution and Justice, she will learn that:

- Mediation is free. Other than attorney fees, all mediation expenses are paid by NYSED.
- Mediation is voluntary. No one can be forced to mediate, but parents and schools alike should strongly consider mediation. In more than 80% of the cases mediated parties reach final and binding agreements and report that communication has been greatly improved by the process.
- Mediation is confidential. Only the written mediation agreement may be used as evidence in a hearing or other legal proceeding.



- Mediation is quick. In most cases, mediation is scheduled within weeks after the parent or school personnel contacts the Center.

After asking for some basic information over the phone and explaining the mediation process, mediation staff will complete a Request for Mediation and contact the school to advise them that Karen is interested in resolving the disagreement in mediation. In most cases, the school will also agree to mediate, and the matter is scheduled at a site mutually agreed upon by Karen and the school district.

At the mediation, an experienced, neutral third party (called a mediator) meets with the parent and a representative of the school district that has authority to make decisions about the issues in dispute. The mediator will make sure that both Karen and school personnel have an opportunity to talk about their concerns and ideas about how they would like the matter resolved. Mediation participants often report that despite having discussed the matter numerous times before, mediation was really the first time they felt heard or that they really understood where the other side was coming from. *Improved communication is one reason that agreements are reached in mediation.*

If an agreement is reached, it is drafted immediately and forwarded to the appropriate person[s] for incorporation into the child's IEP. If an agreement is not reached, the family can continue with other due process options, such as an impartial hearing, without delay.

Mediation is most always a better way to resolve disputes such as Karen's. When a child is deemed eligible for services at such a young age, it is likely that the parent and the school will be communicating about issues related to the special education program for years to come. Mediation not only helps resolve the current situation, it also enables parents to gain the experience, skills and ability to problem solve with teachers and school administrators. No one knows a child better than the parents, and when parents and schools are partners, the child reaps the benefits.

For more information, please contact:

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Child & Family Services
Center for Resolution and Justice
Phone: (716) 362-2323 – Email: mediate@cfsbny.org
www.cfsbny.org/programs/conflict

*For disputes involving early intervention services for children up to age 3, the Department of Health funds an Early Intervention Mediation Program. The process is as described above. Contact the Center for Resolution and Justice for more information.