



Education Dispute Resolution Working Group

Education Dispute Resolution Working Group Meeting Minutes

August 22, 2019 at 1:00PM EST

Indiana Government Center South, Conference Rooms 1 & 2
302 W. Washington Street, Indianapolis, IN 46204

EDR Members Present: Dr. Balsley; Mr. Boehner; Mr. Crishon; Ms. Dodson; Dr. Ernest; Ms. Long; Mr. Mapes; Ms. Tanselle; Dr. Taylor; Mr. Rhodes; and Ms. Wetherald.

EDR Members Absent: none

I. Call to Order

A. EDR members recited the Pledge of Allegiance.

II. Approval of the Agenda

A. The agenda was approved by a voice vote
i. Moved by Ms. Tanselle, seconded by Dr. Taylor.

III. Approval of Minutes

A. The EDR Working Group Meeting minutes were approved by a voice vote
i. Moved by Dr. Balsley, seconded by Mr. Rhodes.

V. EDR Working Group Chair & Member Comments

A. Dr. Ernest briefly noted that he appreciated the information being presented to the group and the intention to cancel the September 5th meeting to allow the group time to review the information and respond.

VI. Public Comment (3 minutes per individual—total 30 minutes)

- A. Andrew Manna—discussed the possibility of having attorneys that represent school corporations in dispute resolution matters present to the working group in a future meeting.
- B. Erin Moon-Walker—offered a summary of her experiences as a parent of a child with special needs that had difficulty ensuring the student received the proper and necessary resources from the school corporation.
- C. Pat Howey—discussed the history of the “resolution meeting” process as well as a possible “strike” system allowing parties to strike hearing officers. Also addressed issues surrounding attorney fees.
- D. Cheryl Clemens—represents Decoding Dyslexia Indiana, the organization receives significant parent feedback regarding issues concerning special needs services/resources, including 1) school corporations resisting requests to test students for certain disabilities, 2) school corporations failing to accept outside testing results, 3) delaying making resources available to students, and 4) failure to comply with IEPs.



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VII. Discussion Items

- A. Recap Recommendations from Prior EDR Working Group Meetings
- B. Training Hearing Officers and Related Topics—Kevin McDowell
 - i. As agreed by the working group members, this item was moved up and immediately followed Dr. Ernest’s Chair comments.
 - ii. Mr. McDowell discussed a number of court cases and other sources (summarized in his memo to the working group), which addressed a number of topics that hearing officers may encounter:
 - a. Defining Free Appropriate Public Education/ Appropriateness of a Student’s IEP: Congressional purpose of providing access to a FAPE is the requirement that the education be sufficient to confer some educational benefit upon the child. An eligible student’s IEP must be reasonably calculated to enable the child to receive educational benefits;
 - b. Some Recent Post-*Andrew F.* Cases: FAPE is reliant on each child’s unique circumstances. IEP should be calculated to provide a student with the opportunity to make appropriate progress in light of student’s circumstances.
 - c. Bullying as Denial of FAPE: Bullying of a student with a disability that results in the student not receiving meaningful benefit constitutes a denial of FAPE under the IDEA that must be remedied.
 - d. Other issues of particular interest to the special education adjudicator: delay; the unrepresented (Pro Se) party; discovery (depositions, protective orders, interrogatories, request for admissions); relevant fact-finding; sanctions; “stay-put” placement; opportunities for hearing officers to gather to discuss common issues/ideas; facilitated case conference committees; referenced Pennsylvania’s information system (PaTTAN) to provide information to parents and practitioners.
- C. The Parent/Family Perspective—Brandi Wetherald
 - i. Ms. Wetherald provided a detailed summary of her experiences as a parent of a special needs student that experienced numerous difficulties to ensure her child received the proper and necessary resources from school corporations.
 - ii. Ms. Wetherald endured negative and positive experiences with administrative/teaching staff.
 - iii. Ms. Wetherald ultimately decided to take out a personal loan to test her child, although the school corporation did not accept the testing data.
 - iv. Ms. Wetherald eventually hired an attorney and was able to obtain an IEP for her child.
 - v. Ms. Wetherald discussed the difficulties in learning what resources should be provided by school corporations.
 - vi. Ms. Wetherald discussed the toll the process took on both herself and her child.



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D. Recap and Summarize Specific Recommendations Based on Goals Discussion

- i. Dr. Ernest recapped some of the discussion items, such as information clearing house, facilitated case conference committees, and the ability to strike hearing officers.
- ii. The group then discussed the possibility of having other groups present to the group, specifically attorneys that represent school corporations and parents in dispute resolution matters and independent hearing officers.

VIII. Next Steps

- A. Group agreed to cancel September 5, 2019 EDR Working Group Meeting to allow time to review legislative summary chart and provide feedback.
- B. Added an October 22nd meeting date.

IX. Adjournment