

50 Ways to Leave Your Impasse:
The Resolution Facilitation Process in Iowa

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AEA Resolution Facilitator Iowa Statewide System

Question #1. What does having a statewide Resolution Facilitator system mean?

The Resolution Facilitation process is a statewide mediation process available through each of Iowa's 12 intermediate agencies (area education agencies). The person acting as the mediator is called the Resolution Facilitator.

Each AEA has a designated person or persons known as the AEA Resolution Facilitator Contact/s.

Each AEA has designated a cadre of people who assist with resolving differences (either informally or formally). The Resolution Facilitators are educators or other adults employed by either districts or AEAs, such as Parent Coordinators from the Parent-Educator Connection. Conceivably other adults employed by outside agencies involved with the educational community could be used.

Question #2. What type of training have the Resolution Facilitators received?

This cadre is made up of people who have received a minimum of four days of introductory mediation training. Most of the training has been provided by the Conflict Resolution Center of Iowa (formerly known as the Iowa Peace Institute) but this does not preclude the use of others who have received formalized mediation training through other agencies.

Question #3. What happens if a party considering using the Resolution Facilitator process does not perceive the designated Resolution Facilitators to be impartial ?

The party indicates to the AEA contact person that he/she would participate in the process if the Resolution Facilitator/s came from another AEA. In addition, the contact person could also review other mediation options if the issue involves special education, such as the preappeal conference.

Question #4: How are costs handled for exchanged programs, using the Resolution Facilitator process?

The service is exchanged without cost, although the agency using the service may reimburse the sending AEA expenses such as mileage, meals, and motel. If the exchange becomes one-sided, then the actual costs for the Resolution Facilitator may be factored in, left to the discretion of the sending agency whether seeking reimbursement.

Question #5. When can the Resolution Facilitator process be used?

The issues can involve general education (including Section 504), special education, Early Access, or other issues involving the AEA or district (e.g., addressing concerns raised by other staff, including non-certificated personnel).

Question 6: How do people know the process is available?

The Iowa Department of Education (DE) devised a model pamphlet and poster for each AEA to individualize for its AEA. The Resolution Facilitator process information is on the DE Conflict Resolution website:

<http://www.state.ia.us/educate/ecese/cfcs/conres/index.html>

The DE prints and disseminates pamphlets and posters to the requesting AEA. One recent development is having districts include information in their parent and student handbooks. Each AEA is responsible for promoting the process and disseminating information about the Resolution Facilitator process. Some are discussing including the information on district and AEA websites.

Question 7: Since this process is used by the entire AEA and not just for special education issues, how do other AEA divisions promote it?

Each AEA Special Education Director has spoken before his/her administrative group. Somebody from the AEA may also want to speak at one of the monthly superintendent meetings that each AEA has. Other ways to promote could include: (1) through school counselor contacts, (2) through AEA newsletters and publications (3) through information specialists at the AEA and (4) at the principal meetings.

Question 8: What training does the Iowa Department of Education provide at no cost to the districts or AEAs to assist the state with the Resolution Facilitator process?

- **Introductory Mediation** (4 days)
- **Advanced Mediation** (4 days)
- **Advanced Mediation, Part II** (2 days)
- **Refresher courses** for those who have completed any of the above (One day, typically, but could be longer)
- **Recent Offering: RESPECT in the IEP Process:** Recognizing Everyone's Strengths by Peacebuilding, Empathizing, Communicating and Trustbuilding. The goals of the course are to teach IEP team members how to honor and resolve differences that arise among families and educators and how to think and act like facilitators/coaches in IEP meetings even though that may not be their formal role.
(4 days spread out over 9 - 12 weeks so as to allow participants to practice new skills and concepts between training sessions).
- **Creating Solutions: Skills to Effectively Resolve Disputes between Parents and Educators** To give parents some of the same core skills that are addressed in trainings for educators. (One day)

	Resolution Facilitator Process	Preappeal Conference	Complaint*	Due Process Hearing
Who provides?	AEA	Iowa DE	Iowa DE	Iowa DE
What is it?	A mediation	Mediation without requesting a hearing.	Allegation of violation involving special education	A hearing before special education ALJ
When can it be used?	Differences occur in: general education, special education, section 504, other school related situations	Differences occur involving special education situation	Believe AEA/LEA has violated special education rules	Differences or alleged violations involving special education
Who can request?	<ul style="list-style-type: none"> • Parents • AEA or LEA staff • Others involved in school setting 	<ul style="list-style-type: none"> • Parent • LEA • AEA 	<ul style="list-style-type: none"> • An individual • Organization 	<ul style="list-style-type: none"> • Parent • AEA • LEA
If one party requests, does the process have to be provided, regardless?	No. The process is voluntary.	No. The process is voluntary.	Yes, the Department must investigate and all parties must cooperate.	Yes. This is a mandatory process once a party initiates action correctly.
Is there a required timeline for requesting?	No.	No.	Yes. Not more than one year prior to the date that the complaint is received.	Yes. Within two years of the date the parent or agency knew or should have known.
When a party requests the process, who is supposed to receive notice?	The AEA Resolution Facilitator Contact	The Department of Education AND all other parties named in the preappeal.	The Department of Education AND all other parties named in the complaint.	The Department of Education AND all other parties named in the hearing.
If an agreement between parties is reached is it considered to be “legally binding?”	No.	Yes.	Not applicable.	For the due process hearing, if a decision is rendered, it is final and must be implemented until appealed to civil court. If an agreement is reached in a Resolution Session or mediation it is legally binding.

*The complaint process is not found in the IDEA 2004 statute. It is found in the implementing regulations. Presently the complaint requirements come from 281—41.105 IAC and the state’s procedures.

Shaded areas denote IDEA 2004 changes.

50 Ways to Leave Your Impasse or Revisiting the Bridge Over Troubled Waters

With apologies to Paul Simon, and without resorting to “getting out the back, Jack” or “getting on the bus, Gus”, there are at least 50 things a mediator can do to help parties get beyond impasse.

Impasse Defined

When people are stuck and are unable to engage in further dialogue, or they are unable or unwilling to negotiate further, they have reached impasse. When this happens, effective communication ceases, and parties often regress to their adversarial positions.

Of course, parties are at impasse when they walk in the door to the mediation room, otherwise they wouldn't have sought the help of a mediator. Seeking that help signals that they believe there is hope for a better future. It's the mediator's job to remind and encourage people about that hope, and help them build a bridge over the troubled waters of impasse.

So, what does a mediator do when people have been negotiating, but then they get stuck and he can't slip out the back Jack or get on the bus Gus?

50 Mediator Strategies

1. The Big Khuna. This is pretty much everything you learned in introductory mediation training.
2. The Gee Whiz. If the technique you've been using isn't working, try something else!
3. The Gandhi Be the Peace You Want to See in the Room-A. Remain poised and internally calm.
4. The Gandhi Be the Peace You Want to See in the Room-B. Change the tone of the conversation with verbal and nonverbal cues.
5. The Gandhi Be the Peace You Want to See in the Room-C. Model compassion and cooperation.
6. The Gandhi Be the Peace You Want to See in the Room-D. Have a mantra for what you know to be your weakness. For example, if impasse causes you to speed up then keep saying to your self: “slow down, stay calm”, or maybe “there is much to discuss Russ.”
7. The Gandhi Be the Peace You Want to See in the Room-E. Remember the Reinecke Principle: “Blessed are the flexible for they shall not be bent out of shape” and affirm the value of continuing to explore options.

8. The Gandhi Be the Peace You Want to See in the Room-F. Be positive. Acknowledge areas of agreement so as not to focus just on areas of disagreement.
9. The Gandhi Be the Peace You Want to See in the Room-G. Tell people in the room how you're feeling and ask for help.
10. The Gandhi Be the Peace You Want to See in the Room-H. Be realistic. Remind people that "perfect" is an unreachable goal and seeking it can block some good (thus, not perfect) solutions.
11. The Gandhi Be the Peace You Want to See in the Room-I. Offer encouragement pointing out that they were at impasse when they came in the room and still have made some progress.
12. The Gandhi Be the Peace You Want to See in the Room-J. Suggest a brief break so that people can seek guidance about the impasse. Maybe taking a walk, meditating or whatever would help them reach deep within themselves and ask, "Is there another way to see this"?
13. The Gandhi Be the Peace You Want to See in the Room-K. Ask people to sit quietly and reflect on these questions: "What is the obstacle to resolution here? Is there something I'm missing about what others are saying?"
14. The Focus on The Process-A. (AKA The Ubiquitous Summary) Summarize then start over from the beginning of the discussion of the issue people are stuck on.
15. The Focus on The Process-B. (AKA The GPS) Look at where you are in mediation process: Consult your map. Have you forgotten something? Would it be helpful to take a step or two back and begin again from that point?
16. The Focus on The Process-C. Help people focus on what they have accomplished so far in the conversation, summarizing areas of agreement, and reminding them that they have the power to change the situation.
17. The Focus on The Process-D. If the impasse is linked to strong feelings, anger for example, normalize or acknowledge the feeling of anger and get back to the process. You might say, "Yes, I can see that you're angry and it sounds like you don't understand how John came to believe that. Shall we ask him?"
18. The Focus on The Process-E. Reaffirm the ground rules: they are frequently overlooked at times of impasse.
19. The Focus on The Process-F. Identify the roadblocks and facilitate a conversation about them.
20. The Focus on The Process-G. Help the parties define what they need by developing criteria for an acceptable outcome rather than focusing on the outcome itself.
21. The Focus on The Process-H. Caucus and ask, "What would you be willing to offer to encourage the other to agree to your proposal?"

22. The Friendly Inquisitor. Consider the types of questions and the questioning techniques you have been using. Maybe Lt. Columbo can help. (Also see the Gee Whiz)
23. The Last Resort-A. Suggest that you want to try just one more thing before calling it quits. Ask 'A' to state his or her position and the thinking behind it one more time. Ask 'B' to restate what the first said. Ask 'A' if 'B' has it right. Repeat for B. Look for opportunities to clarify.
24. The Last Resort-B. Try a role-reversal asking each person to assume the other's role and then react to the impasse.
25. The Last Resort-C. Ask one of the parties to step into the mediator's role and you assume his or her role.
26. The Make Them Do the Work. Carefully, and in an omni-partial way, make observations on the parties' communication styles, or the way they are relating to each other. Ask them if they think that's working.
27. The Make Them Do More Work. Ask people to define the impasse and to brainstorm 15 ways to change the situation.
28. The Make Them Do More Work Yet. Given a desire for change, and some brainstormed ideas, ask them what they'd like to do next and then say nothing for at least eight seconds.
29. The Make Them Do Still More Work. Ask people to discuss their best, worst, and most likely alternatives to a negotiated agreement.
30. The Dragnet. Regroup by asking some questions about just the facts.
31. The Reality Test-A. Ask people to describe what life will look like if they remain stuck.
32. The Reality Test-B. Ask people to describe the better future they will have *when* they get unstuck.
33. The Yeah But. Use the history of a good prior relationship and ask people how they got things done in the past when they disagreed.
34. The Really, Really Last Alternative. Remind people of why they came to mediation in the first place – they were committed to change – and ask them if they have changed their minds about that.
35. The Agreement in Principle. In a work group or a team say something like, "You each want to be able to work together in a relaxed friendly environment. How might you accomplish that?"
36. The Genie in the Bottle. Ask each person to write down their last best solution – the one they think the other will accept. Now exchange papers and discuss.
37. The Dot Org. Move on to another issue that is easier to deal with and build on the agreement reached there.

38. The Don't Bite Off Too Much. Maybe the focus is too broad. Narrow the issues.
39. The OK, So Don't Be in the Present Moment. Get out of the present and into the future. Ask what's this going to look like in 10 years?
40. The It's Always About Me. Get up and walk to the flip chart, just stand up, or move to another chair to cause the parties to shift their gaze from each other to you.
41. The Price is Wrong. Point out the costs and uncertainty of due process or litigation.
42. The Another Alternative. If you're stuck on just one issue, others having been resolved, ask if people would be willing to consider arbitration on the sticking point.
43. The Suggestion Slippery Slope-A. Suggest a trial period – a temporary agreement – and then a formal review of how it's working.
44. The Suggestion Slippery Slope-B. Offer a far out "what if". Maybe the parties' reactions will get them unstuck.
45. The Suggestion Slippery Slope-C. Offer a model of something you've seen other parties in this situation do.
46. The Suggestion Slippery Slope-D. Suggest seeking the advice of a substantive expert.
47. The Suggestion Slippery Slope-E. Suggest that some issues cannot be rationally decided, but must be decided anyway.
48. The Suggestion Slippery Slope-F. Suggest that fairness may never be reached, but a decision must be.
49. The Suggestion Slippery Slope-G. Suggest that sanity and peace of mind might be more important than winning the fight.
50. The Get On the Bus Gus AKA The Slip Out the Back Jack. (OK, so the time may come when you have to) Refer the parties to other professionals, attorneys, therapists or maybe other resolution facilitators or mediators who may be able to help them.

1. Material Issue: Hours of Therapy

Principal Mrs. Larsen, your son doesn't need 12 hours of therapy a week. He needs 4, and that's what we're going to provide.

Parent No that's not right! His doctors say he needs 12 hours and I won't accept anything less.

2. Interpersonal Dynamics Issue: Cutting off Communication

Principal I don't know what's happened to you Mrs. Larsen. You used to be fine to work with. Now you just don't seem to be able to do anything but get hysterical and irrational about everything. This doesn't help Tommy!

Parent How unprofessional is that! I'm through putting up with this stuff from her. All she wants to do is attack me and put me down. I'm out of here!

3. Identity Issue: Questioning One's Competence

Parent You people are just incompetent! Isn't there anyone on the IEP team who knows what they're doing?

Principal That's a good question. You're a member of the team aren't you!

4. Material Issue: One-on-one Aide

Principal For a variety of very good reasons Mrs. Larsen, we aren't going to be providing a one-on-one aide for Tommy any longer, but we will be providing adult assistance in the classroom. Tommy's IEP will reflect that.

Parent I really don't care about your reasons: and I expect they are all financial anyway. I know the law! If you even try to remove the aide from his IEP that will be a violation of IDEA and I'll see you at due process!

5. Interpersonal Dynamics Issue: "Power: I'm right. You're wrong!"

Parent You just have to have it your way don't you! You never listen to me.

Principal Actually, it's always "my way or the highway" with you and you never give me a chance to listen.