

## BECOMING PART OF THE SOLUTION - EXPLORING ALTERNATIVE METHODS OF CONFLICT RESOLUTION:

Adapted from an Article written by Connie B. Fanselow for ASK in 2008

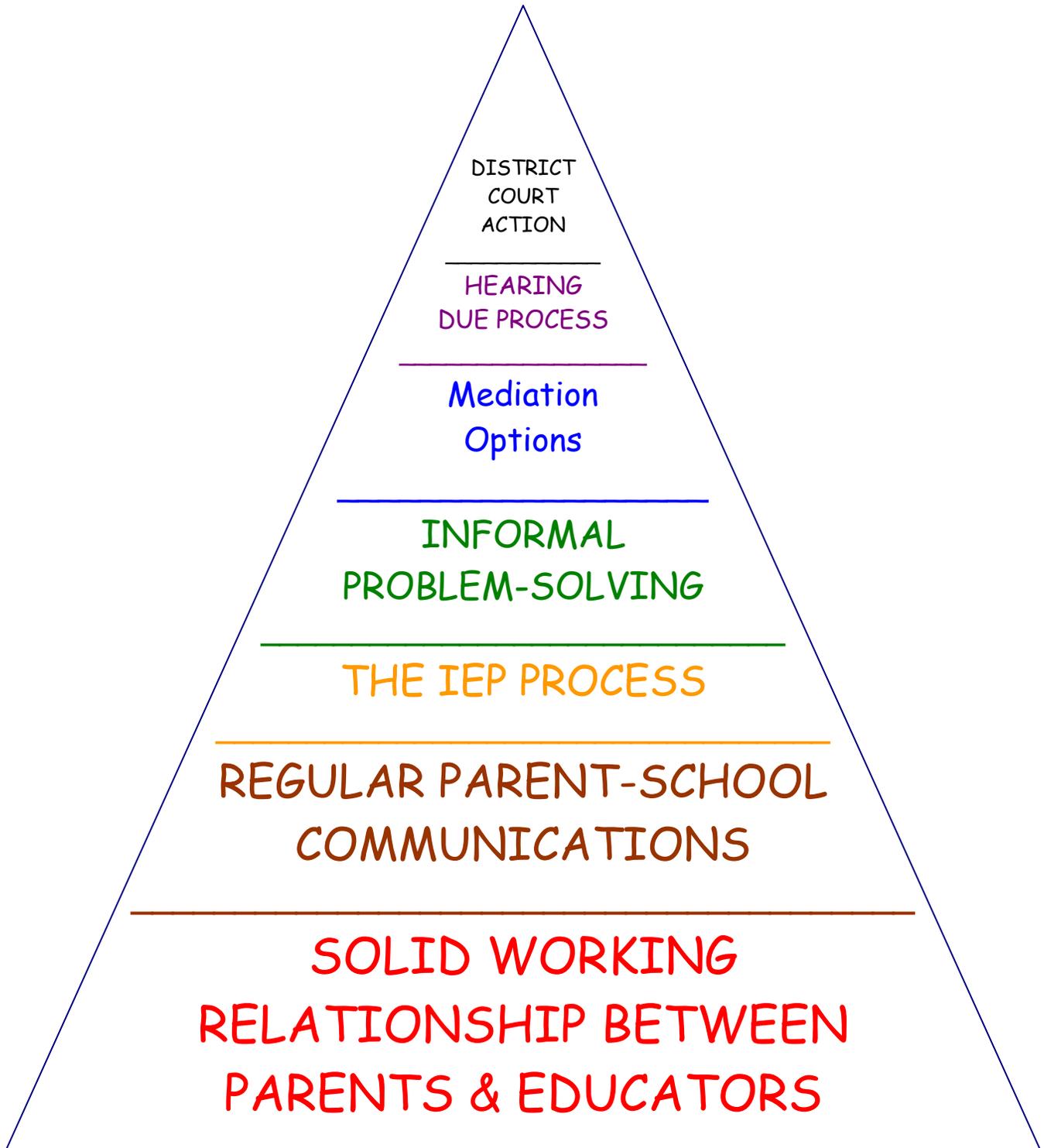
### **BUILDING SOLUTIONS**

When faced with a conflict in a special educational setting, remember that there are a variety of options available to come to a solution that works best for everyone involved, and, most importantly, for your child. It might help to think about conflict resolution as a series of activities that start with a solid foundation and build—like a pyramid—to a peak. To be most successful, everyone should be working to resolve differences at each level. Many conflicts can be resolved easily with efforts to communicate better, some go to the next level, fewer still on to the next, and so on. Most conflicts never need to reach the upper levels of the pyramid because they can be settled informally. If this model is followed, those disagreements that go through each step and still remain unresolved at the top will be few and far between.

Investing energy in this type of “grassroots” problem solving helps make everyone a winner. It helps build and maintain good relationships between parents, teachers, and school administrators. It keeps expensive, adversarial processes to a minimum, and it maintains the focus on the needs of the student, not the disagreements of others.

This article describes the pyramid of conflict resolution and the different options available to help resolve conflict. Take a look...

# PYRAMID OF CONFLICT RESOLUTION



**Step One: RELATIONSHIPS. Build and maintain a solid foundation of day-to-day working relationships with your child’s teacher and other educators.**

The single most important way to prevent unnecessary conflict is to establish a solid working relationship between parents and educators—and do it *before* there are problems. Regular and open communication is extremely important to a good working relationship. That doesn’t mean you should be calling the school and asking to have a daily chat with your child’s teacher, but it does mean that you should take any opportunities available to get to introduce yourself to school personnel, and get to know them through parent-teacher groups, school or community activities, or taking time to volunteer in the classroom or chaperone a school trip.

You should certainly feel comfortable contacting the teacher, building principal, school nurse, or other staff member to share any concerns that you have about your child. If you have established a cordial relationship through routine contacts to talk about ordinary matters like homework assignments, field trips, or class parties, you have a firm basis for working together to tackle the more complex matters that may arise in your child’s education.

**Step 2: COMMUNICATION. Reinforce the relationship with open and regular exchanges of information.**

In the course of developing a working relationship with educators, you will establish a natural line of communication—just as you do when you get to know people in your community that you do business with. Use that opportunity to present and resolve any minor issues of concern that arise. Do your best to strike a good balance—don’t nit-pick or try to micro-manage, but on the other hand, don’t save up so many small problems that they turn into a big one. Remember to thank those you work with and recognize their strengths when things are going well. Doing so establishes a foundation of respect and regard that will allow you to have more difficult conversations, when needed, without creating defensiveness.

While we have lots of methods of communication available to us—email, telephone, home-school notes or notebooks, face-to-face meetings—we also have many things in our lives that seemingly demand constant attention. The method of communication you choose may have an impact on how your message is received, so choose your method of communication to match your message. Minor issues can easily be communicated with a brief phone conversation, an email, or a note, but don’t rely on that for important messages. We all find it easier to pick up the phone or send off an email than to sit down and write a letter, but if you are presenting a serious issue and you expect it to be given serious attention, put it in writing—and not just by email. Email is so over-used and cluttered by unimportant messages that your message can easily get lost, or at least lose its impact.

If it is a matter of importance to you, write a formal letter to the teacher, the administrator, or other educator, and if you expect a written reply, ask for it in your letter. Keep in mind that your time, and the time of educators, should always be respected. Don't overwhelm them with contacts or demand immediate responses. Weigh the relative importance of your concerns and think about how to keep the communications short and to the point, yet effective.

Be mindful about carbon copying ("cc") letters to others. If there is another person (or more than one person) who really needs to see the correspondence (such as a direct supervisor or close colleague), by all means "cc" that person and send a copy to his or her attention. But please don't carbon copy routine letters to senators, congressmen, federal or state officials, or people who are not involved in your situation for the sake of invoking the names of people with "clout." There are three reasons to be mindful of this: 1) It is alienating to the person you send the letter to and appears to assume that they can't be trusted to respond to your concerns without someone important looking over their shoulder. 2) If you are successful in getting the attention of any of these people, the person you wrote to will have to spend time replying to their inquiries that will take away from the time they have to address your concerns about your child. 3) If you deluge such busy people with issues that really do not require their attention, you lose credibility and distract them from other duties. There may come a time that such contacts are appropriate, but they are rare.

### **Step 3: THE IEP PROCESS**

Your child's IEP meetings may be the single best opportunity to resolve disagreements before they go any further. The IEP team should include all the people with a meaningful role in the student's education and they should all be focused on the strengths and needs of that particular student. The reality is that lots of other considerations (whether openly discussed or not) can enter into the decision making process, but focus on the student and a collaborative problem solving process should be the main goal for the IEP Team. Remember that educators sometimes feel burdened by the amount of time spent in planning and meetings, but it is time well-spent when you consider that the opportunity to present and discuss new ideas and exchange points of view serves to strengthen that important parent-educator relationship. Good IEP planning and documentation can make the whole school experience smoother and more successful for the student, the parents, and the educators.

Two points to add on the IEP process:

*To School Administrators, Teachers, Counselors, Therapists, and other educational professionals:* Remember that you may be a part of many IEP teams, but most parents are only a part of one. Every child and every parent deserves your time, attention, and respect in the context of their IEP meeting. The most important thing you can do for

them is to really listen to what they have to say and accept their expertise as parents, just as you want them to accept your expertise as professional educators.

*To Parents:* Remember that your singular dedication to your child will never be equaled by educators and other professionals, nor can you expect it to be. Respect the many demands on their time and their obligation to all students. Make the best use of the time you have with them to communicate the information and concerns that are of most importance to you.

#### **Step 4: INFORMAL PROBLEM-SOLVING**

When a problem or difference of opinion arises—either during the IEP process or in the course of day-to-day activities—parents can always request a problem-solving meeting. A short conference with the teacher may be sufficient, or it may be necessary to reconvene all or part of the IEP team to work things out.

#### **Step 5: A RESOLUTION FACILITATOR**

If you have not been able to successfully resolve differences within the IEP process, and more structure is needed, your school district may have an internal plan for local conflict resolution, or they may utilize the resolution facilitator process. A “Resolution Facilitation Coordinator” or “RFC” is a person from one of the Area Education Agencies (either your AEA or one from outside your area) who is trained in mediation and considered to be neutral to the conflict. Using an RFC to resolve conflict can be a quick and meaningful way to move on to solutions. The agreement made during a “Resolution Facilitation” can be made “in good faith” or can be “legally binding” depending on what the parties in the process, including the parents, decide on.

#### **Step 6: MEDIATION CONFERENCE**

Mediation is a meeting between parents and school or AEA officials to try to work out areas of disagreement. The mediators are contractors of the Iowa Department of Education, and have taken extensive training on dispute resolution in educational settings as well as taking the general coursework in mediation. State mediators also know special education law very well. Mediation is a step that can be taken **before** requesting a formal due process hearing to resolve disputes at the early stages of disagreement. The mediation has proven to be very successful in reducing the number of due process hearings while empowering parents to voice their concerns and get changes made in their child’s educational programs. The goal is for all parties to come to an acceptable agreement. Such agreements are documented on a legally binding agreement form.

Another type of mediation facilitated at the state level is mediation when due process is requested. This process is available only after a request for a due process hearing has

been filed with the Iowa Department of Education. Similar to the previously mentioned processes, a State contracted mediator is provided to help encourage parents and educators to work together, to communicate better, and to find ways to resolve differences cooperatively. The mediator is trained in methods for resolving disputes and is a "neutral" party who listens to both sides, helps them communicate their points of view to each other, and tries to help them reach some agreement. A legally binding agreement is written if both parties come to consensus.

Parents can choose to be represented by an attorney at mediation meetings. Schools and AEAs may also choose to have legal representation present whether the parent does or not. Many parents go into the process feeling very skeptical about what can be accomplished, but, about 90% of the time, the issue or issues presented at the mediation are successfully resolved. Now, that doesn't mean other issues don't come up—sometimes very quickly, but it does mean that mediations are an extremely useful tool and an important step that can be taken to enforce parents' rights without creating an adversarial situation.

### **Step 7: DUE PROCESS HEARING**

A due process hearing is a legal proceeding in which both parents and school officials present their case to an administrative law judge (an ALJ) designated by the Iowa Department of Education. It is a much more formal process than the mediation conference, but it is still conducted at the administrative level. It does not involve going to a court of law, but it is a trial-like hearing governed by formal procedural rules. The parties of a due process hearing (the parents, the school district, and the AEA) are usually represented by their own attorneys. A court reporter attends and makes both and tape recorded and a written record of the proceedings. Witnesses give sworn testimony and can be cross-examined. Records and other evidence are formally introduced and parties can be compelled to produce documents and to share them at least five days prior to the hearing. The parties may present legal briefs to support their position regarding the facts or the legal interpretation questions at issue.

Parents who choose to be represented by an attorney for a due process action will bear the responsibility for the cost. There are provisions in the IDEA (the Individuals with Disabilities Education Act) that allow parents to recover their legal expenses from school districts and/or AEAs if the parents "prevail" or win their case. This kind of recovery is by no means automatic. If there are multiple issues in a case, the parents may prevail on some issues, and the school district may prevail on others. If so, the recovery of attorney fees would be limited to only those issues the parents "won." Administrative Law Judges in Iowa do not have the authority to award attorney fees to prevailing parties, so it may be necessary for parents who win their issues to accumulate

additional attorney fees by filing an action in district court for the purpose of collecting reimbursement for their fees.

In short, there are significant financial costs to a due process action. ***More importantly, there are significant unintended costs to the relationship between parents and educators.*** It has been said that a mediation process is like going to a marriage counselor and a due process is like going through a divorce. That's a good analogy. Mediation is designed to be a collaborative process that encourages the participants to openly discuss their differences and work them out with the help of a mediator. A due process, even under the best circumstances, is an adversarial proceeding that forces the parties to clarify, magnify, and defend their separate positions to the detriment of their relationship. For many parents who pursue due process actions, the parent-school relationship has already been seriously compromised, so it is important to consider the added consequences of further and more formalized action. There are certainly times when it is needed, and it has been known to solve issues in the long-run, but it should be thought through thoroughly.

### **Step 8: DISTRICT COURT ACTION**

The IDEA (Individuals with Disabilities Education Act), the federal law governing special education, allows actions in district court to enforce children's education rights, but it strongly encourages mediation and other means of conflict resolution and it requires that a due process hearing is held and a decision rendered before the case can go on to district court. If either parents or educators disagree with the due process decision of the administrative law judge, that decision can be appealed to district court. So be aware that even when you "win" at the first level, you may "lose" on appeal—and appeals don't happen quickly. Continuing the fight means investing more time and money into another appeal.

### **STAYING ON SOLID GROUND**

Next time you are feeling stressed-out and frustrated about your child's educational program, think about this discussion of conflict resolution options and consider whether the best way to solve the problem might be a step back to better communication and encouragement to work collaboratively, rather than a step up to a more contentious level of conflict. The better we all get at sharing concerns and resolving conflicts between parents and educators while they are minor, the better off everyone will be.

When parents and educators work together, **KIDS WIN.**