

**Time for an “IDEA ADR OS Upgrade”?**

In 1997 Mediation was added to the IDEA as a forum in which parents and LEA’s might resolve conflicts related to the implementation of this law. The objective was to reduce the cost of litigating and investigating these issues (Due Process Hearings and Compliance Complaints), to offer a resource that would facilitate a more collaborative approach to problem solving, and to support the maintenance of healthy relationships for educators and families in support of students. A few years later many states began offering IEP Facilitation as an additional resource in support of effective family and educator collaboration. While not mandated under the IDEA, many SEA’s have implemented versions of this resource.

These strategies,

* Due Process Hearings,
* Resolution Sessions,
* Citizen’s Complaint,
* Mediation, and
* IEP Facilitation,

offered primarily through SEA’s and/or regional offices, have served as the primary mechanisms for resolving conflict in this context. As the field of Alternative Dispute Resolution (ADR) has continued to develop and expand, we believe it is time to build on this foundation and implement a more robust, nuanced, and systemic framework of resources in support of the healthy engagement of conflict within the IDEA.

As our thinking about the potential for increasing capacity coalesced, we adopted a computer operating system as a metaphor for our design. Using this metaphor, what has been described above we refer to as the IDEA DR OS 1.5. It is a system grounded in Dispute Resolution and Alternative Dispute Resolution. There are a number of applications that have been designed to run on this system including Hearings, Resolutions Sessions, a Complaint Process, and Mediation. Many have chosen to add an optional application, IEP Facilitation.

We are proposing an OS upgrade to IDEA CE OS 2.1. So, what are the key characteristics and benefits of this upgrade?

* The first improvement offered by our proposed upgrade is in the core assumption driving the operating system. Our current OS is designed primarily as a Dispute Resolution system. We are proposing an OS built on the notion of Conflict Engagement (CE) as introduced by Dr. Bernard Mayer in this book, *Staying with Conflict: A Strategic Approach to Ongoing Disputes*. In this book Mayer introduces the notion of enduring conflict and states:

*Enduring conflict is that aspect of a dispute that is embedded in structures, systems, values, or identity and will therefore not be resolved through short-term, resolution-oriented conflict interventions. Enduring conflict is long lasting because of its nature, not because of ineffective or inappropriate efforts to resolve it. Until the roots of the conflict change, the system evolves, or the identity or values-based element are profoundly transformed, the conflict will remain, although how it is manifested may vary over time.*

Conflict experienced in the implementation of the IDEA is often of an *enduring nature*. It is differentiated from other types of conflict by being fundamentally non-resolvable. By highlighting awareness of the context of enduring conflict, Mayer identifies the importance of dispute resolution capacity, but also the capacity for being with, and effectively engaging and navigating enduring conflict over time. We believe that our proposed upgraded OS supports us to individually and collectively shift our relationship to conflict from one of management and resolution to one of learning to engage conflict effectively over time. Our goal becomes reaching agreements that support our ability to work together for mutual purpose.

* A second benefit of our proposed OS is the capacity to better support the nature of the complex work required under the IDEA. Ronald Heifetz of the Kennedy School of Government and author of, *Leadership Without Easy Answers* (1994), differentiates between “technical work” and “adaptive work”. When we are engaged in technical work or solving technical problems, we are able to apply existing learning and/or existing solutions to our challenge. New learning is not required. Accessing existing learning is required.

Adaptive work, by contrast, requires new learning. In this context we are faced with a challenge for which our current learning, both individually and collectively, is insufficient. This does not simply mean the creation of new knowledge. It requires the ability to engage diversity of opinion, perspective, and interpretation of what is, and what should be. It requires a commitment and ability to stay engaged with the *inevitable* conflict we will experience.

Implementation of the IDEA requires both technical and adaptive work. However, at the core we are engaged in adaptive work. The determination of Specially Designed Instruction (SDI), Free and Appropriate Education (FAPE), and Least Restrictive Environment (LRE), all require a group of people to come together and engage in innovative and creative thinking.

*In great teams, conflict becomes productive. The free flow of conflicting ideas is critical for creative thinking, for discovering new solutions no one individual would have come to on his own.*

Peter Senge

* The third benefit of the proposed upgrade is the number and scope of applications that can be run. We are proposing a framework for organizing these applications so as to significantly increase the capacity of those working to implement the IDEA to collaborate in service of children and youth.

*“One incontrovertible finding emerges from my career spent working in and around schools: The nature of relationships among the adults within a school has a greater influence on the character and quality of that school* ***and on student accomplishments*** *than anything else.”*

Roland Barth

We propose implementing a tiered system of conflict engagement resources built on an MTSS framework designed to build and support capacity at the SEA, regional, and LEA levels. This framework is designed to increase both individual and collective capacity. The following is brief description of applications across three tiers.

* + Tier 1: In this context the system is designed to support individuals to increase their personal and professional capacity for engaging conflict. This includes opportunities for educators, service providers, and families to become more effective in engaging challenging conversations in the context of collaboration under the IDEA.
  + Tier 2: In this context the system is designed to support individuals to develop skills for supporting others to engage and navigate conflict. Applications include facilitators (not limited to IEP facilitators), conflict coaches, parent partners/parent navigators, and teachers.
  + Tier 3: Applications at this tier include those mandated under the IDEA. For example, we propose that multiple models of mediation be considered so as to be more responsive to the complexity of these cases and to address the cultural and linguistic factors impacting the effective use of mediation.

(additional more detailed information is available describing this MTSSCE framework)

We believe that this OS upgrade will significantly increase the capacity of those tasked with implementation of the IDEA to respond effectively to the challenges of collaboration in support of student success.