

# The Special Education Ombudsman: *A Valuable Tool for Early Dispute Resolution*



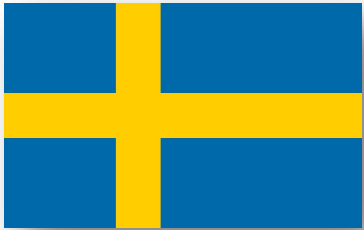
**CADRE Symposium**  
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**Kimberly Schulist, JD, LLM**  
**Esther Salinas, EdD**  
**Timothy Hedeem, PhD**

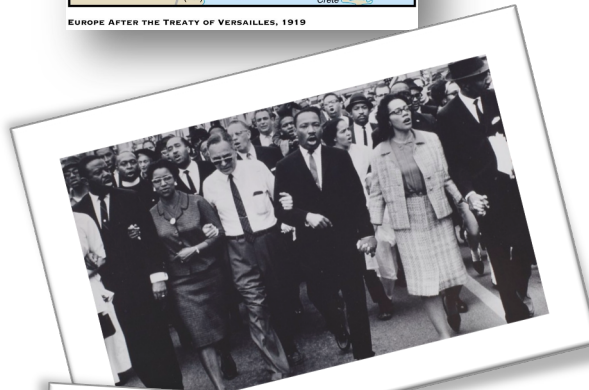
# Our Agenda

- **Welcome and Introductions**
- **Overview of Ombuds**
- **Ombuds in Education, Special Education**
- **Special Education Ombuds Implementation**
- **Questions, Discussion, and Resources**

# A Brief History



EUROPE AFTER THE TREATY OF VERSAILLES, 1919



Organizational  
Classical  
Advocate



K-12 Special  
Education

# Functions of *Organizational Ombuds*

- **Build a reputation for being safe, fair, accessible and credible** by delivering respect, listening, providing and explaining information, “getting information where it needs to go”
- **Help people help themselves** by referring them to relevant offices or supports, assisting their preparations, connecting them to networks
- **Offer informal interventions** such as shuttle diplomacy, “looking into” an issue, using a “generic approach”
- **Support the mission of the organization** and its conflict management system by identifying patterns or trends in emerging issues, coordinating connections

# Ethics of *Organizational Ombuds*

*Guiding principles (per IOA):*

- **Independence:** reports to top, distinct from compliance, retains sole discretion
- **Neutrality & Impartiality:** advocates fair and equitable processes, unaligned
- **Confidentiality:** permits candor, facilitates trust, fosters broad options to be considered
- **Informality:** not on record or notice, does not conduct investigations or render decisions

# Relationship to other processes

CADRE Continuum of Dispute Resolution Processes & Practices																		
Stages of Conflict	Stage I			Stage II		Stage III			Stage IV		Stage V							
Levels of Intervention	Prevention			Disagreement		Conflict			Procedural Safeguards		Legal Review							
Assistance/ Intervention Options	Family Engagement	Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent to Parent Assistance	Case Manager	Telephone Intermediary	Facilitation	Mediation Models	Ombudsperson	Third Party Opinion/Consultation	Resolution Meeting	Mediation Under IDEA	Written State Complaints	Due Process Hearing	Hearing Appeal (Two-Tier Systems)	Litigation	Legislation
Dimensions that help clarify placement of the options along the Continuum	Third-Party Assistance						Third-Party Intervention											
	Decision Making by Parties						Decision Making by Third-Party											
	Interest-Based						Rights-Based											
	Informal & Flexible						Formal & Fixed											

# Formal Processes in Response to Conflict

- State compliance complaints
- Due Process Hearings



- Often **outside the control** of the complainant
- More **limited confidentiality**
- More **adversarial** due in part to formality and legal overlay

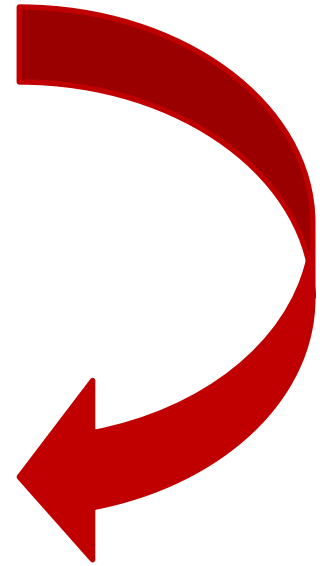
# Costs of Conflict in Special Education

- Damaging long-term relationships and trust between school staff and families
- Lost opportunities for identifying interests of both parties instead of focusing on positions
- Stress and anxiety for families and school staff
- Time for district staff preparing for due process hearings instead of teaching students
- Monetary consequences for school districts and families engaging in legal proceeding



# Use of Special Education Ombuds In Response to Conflict

- Voluntary
- Minimize Adversarial Posturing due to use of Alternative Dispute Resolution (ADR) strategies
- Visitors are **In Control** of the process and agree to follow-up



# **% of Special Education Issues for Education Ombuds**

- Overwhelming amount of special education issues that Education Ombuds Offices encounter
- DC Office of Ombuds (2016-17), 30% of the complaints received were about special education issues
- Washington State Governor's Office of Education Ombuds (2019-20), 28% of education concerns pertained to special education

# The Special Education Ombuds (SEO)

Helps employees, students, families, volunteers, and other constituents:

- 
- Express concerns
  - Resolve disputes
  - Manage conflicts
  - Learn more productive ways of communicating & collaborating

# What is an SEO?

- An informal resource to help families and school staff/administrators with questions, concerns
- Someone who is a neutral party
- Someone who works closely with members of senior administrators
- Someone who has access to documents (including student's IEPs and assessments) and information
- Someone who uses their conflict resolution skills to influence people on both sides of an issue

# The SEO Office...

A confidential place to voluntarily share a concern, evaluate the situation and plan next steps

An alternative dispute resolution resource

Seeks to ensure fairness for all

Promotes respect for all stakeholders

Assists visitors in achieving fair, equitable outcomes consistent with district policies & statutory regulations

Provides feedback to support systemic changes

# How are ethics fulfilled by an SEO?

- **Independence:** separate physical location from school district; not hold another district position that could be in conflict (e.g., Title IX/Equity Officer)
- **Neutrality & Impartiality:** facilitate discussion between staff and parent (with visitor permission), assist visitor in developing options
- **Confidentiality:** emphasize will maintain confidences, resist any requests to share; operate outside of formal reporting, investigation structures
- **Informality:** review student's IEP, engage parent as to options/possible next steps with district; explain that these actions are not part of formal processes

# Confidentiality – Best Practices

- SEO materials should state that confidentiality will be maintained to the greatest extent possible, except when disclosure is permitted by the visitor, required by state or federal law, or in the case of abuse or imminent harm.
- SEOs should be generally familiar with the laws that may require disclosure so that they can inform visitors when information may need to be disclosed.
- SEOs should not maintain personally identifiable documents/records

# Mandatory Reporting

- In K-12 institutions, SEOs are likely mandatory child abuse reporters. Check your state law.
- SEOs should report when there is an imminent risk of serious bodily harm to self or others. (per IOA standards)



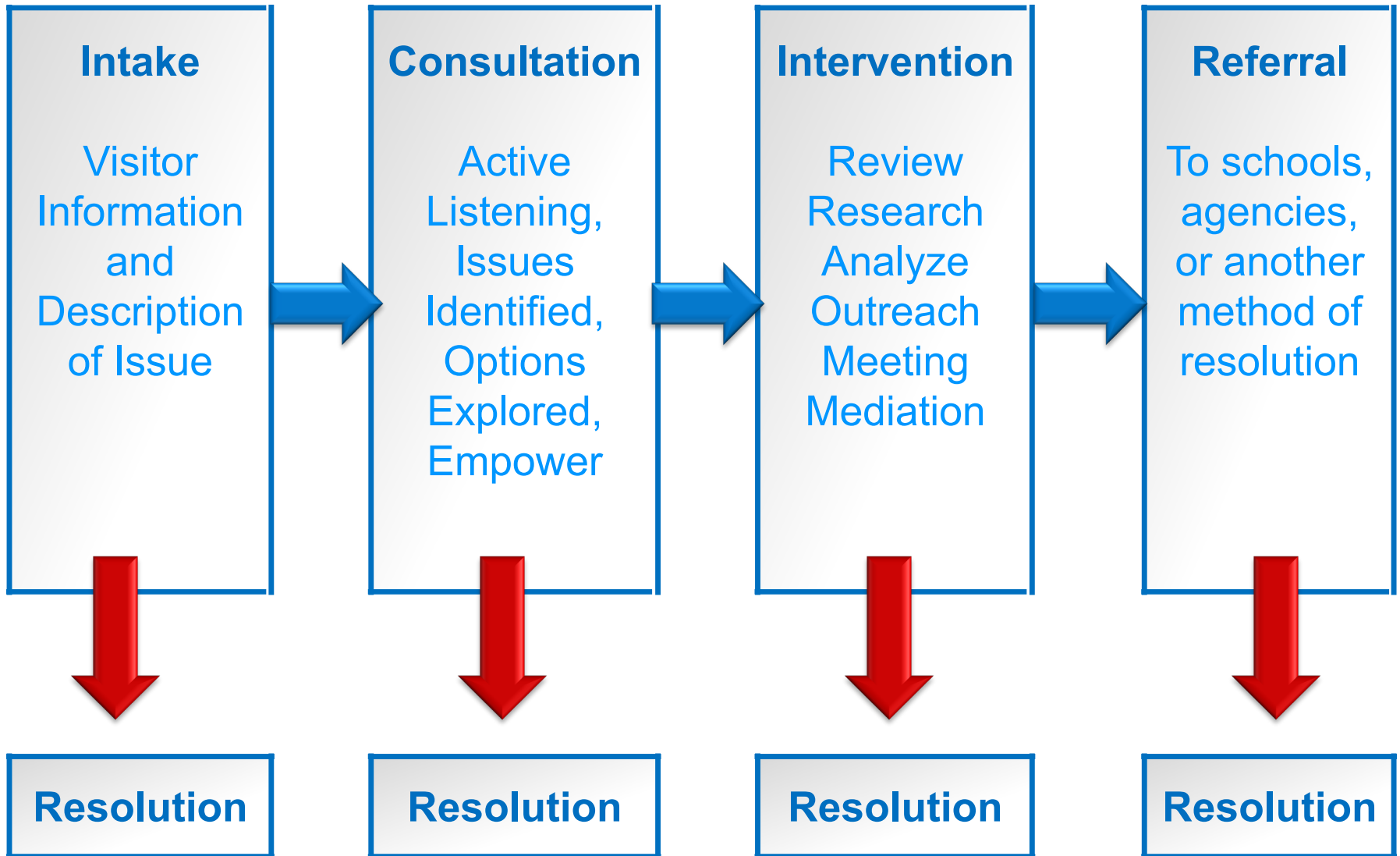
# What an SEO Does

- ✓ **Listen** to concerns
- ✓ Serve as a **resource** by providing information, helping locate the relevant assistance, clarifying processes, and developing options
- ✓ **Conflict coaching**
- ✓ **Explain district policies** and procedures
- ✓ **Track** trends
- ✓ Make **recommendations** to Superintendent for policy or practice changes

# What an SEO Does *NOT*

- X Participate in formal investigations** or formal issue resolution processes.
- X Serve in any other role that would compromise the neutrality** of the office.
- X Give legal advice** or act as an attorney.
- X Make decisions or mandate policies.**
- X Have the authority to direct a school, LEA or SELPA** to take a specific course of action.

# Ombuds Process



# Ombuds Strategies

Listen  
Attentively

Identify  
Issues

Facilitation

Informal  
Mediation

Coaching

Shuttle  
Diplomacy

Training

Refer to  
Appropriate  
Resources

Upward  
Feedback

# Who Can Access the SEO?

- Parents/Guardians
- Students
- Community Members
- District administrators and staff

[the ombuds term for each is 'constituencies']

# Common Special Education Issues

- Special education eligibility issues
- Assessment issues (district refusal/delay)
- Staff Interaction/Communication with families, administrators or with other staff
- IEP implementation and compliance
- Safety & health of students with 504/IEP
- Special Education discipline

# The Benefits

- They offer a **safe place** to discuss concerns **without fear** of retaliation or formal action
- They **facilitate communication** and resolution
- They help districts **identify undetected behaviors** that violate policies or the law
- They provide the ability to **address forms of insensitivity and unfairness** that do not rise to the level of a formal complaint
- They help **equip and empower** stakeholders

# The Benefits

- They help improve stakeholder satisfaction
- They provide feedback to appropriate leaders
- They provide an independent, impartial voice to foster consistency between values and actions
- They help improve organizational culture within special education departments
- They help strengthen collaboration and trust among families, administrators and IEP team members
- They help with long-term relationships between families and school staff



# SEO Implementation Considerations

- Who will access SEO services
- The role and responsibilities of your SEO
- Qualifications of your SEO
- The location of the SEO Office
- The management of confidential communication
- Your return on investment (ROI) from the SEO Office

# To Establish an SEO Office

- Engage stakeholders (faculty, administrators, parents, community partners, district legal and human resources)
- Consider district core values, mission and vision
- Develop the Ombuds Office Charter
- Develop annual budget priorities
- Select and ensure fundamental and continuing professional development for Ombuds
- Identify a neutral location and design the physical office

# It's Always a Good Time for Outreach

- Parents and Parent Groups
- District and School Site Administrators
- Administrative Assistants and Office Managers
- In-House Counsel
- School District Community (teachers, instructional assistants, principals, related services providers)
- School Liaisons
- Educational Foundations
- Community Partners

# SEO Skills and Training...

- Professional Ombuds
  - Practices to Standards of Practice and Code of Ethics
  - Has in-depth knowledge of organization/systems, strategies, policies, and processes and issue resolution options
  - Builds trust and rapport throughout organization/system
  - Builds respectful relationships with formal channels
  - Assists organization/system in identifying early issue trends
  - Provides issue trend reporting to answer questions for key stakeholders: What is the Ombuds hearing? Why should the organization care? What can the leader do about it?
  - Trained to work with High conflict personalities (HCP)

# Resources

- K-12 School Ombuds Toolkit

<https://www.ombudsassociation.org/k-12-school-ombuds-toolkit>

- International Ombudsman Association

<https://www.ombudsassociation.org>

- United States Ombudsman Association

<http://www.usombudsman.org>

- What Do Organizational Ombuds Do? And Not Do?

<https://mitsloan.mit.edu/shared/ods/documents?PublicationDocumentID=7572>

- The Organizational Ombudsman: Origins, Roles and Operations, A Legal Guide by Charles L. Howard

<https://shop.americanbar.org/ebus/store/productdetails.aspx?productid=213634>

**QUESTIONS ?**