

Melody Musgrove – Question and Answer

CADRE's Fifth National Symposium on Dispute Resolution in Special Education

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MELODY MUSGROVE: Yes?

AUDIENCE MEMBER: I think we all share with you your vision of CADRE. They've been phenomenal in stressing the importance of dispute resolution [inaudible]. Again, it has to do with different options available for parents and schools to resolve disputes. The resolution process has been another such option given the IDEA in 2004, but the lack of confidentiality resulted in a chilling effect in its roots. So we all hope that in the next cycle, that element of confidentiality will be added to the resolution process.

MELODY MUSGROVE: Thank you, that's very helpful. Those kinds of suggestions are things that I'd really like to hear or any other suggestions or questions. You're the guys that are doing this, you know, every day, so I want to hear from you. Yes?

AUDIENCE MEMBER: You mentioned the rescission of funds. I'm really interested in your thoughts. What kind of interaction does your office have with the folks on Capitol Hill, the legislature where a lot of our issues and problems are emanating from in terms of resources and in terms of voices that help speak for our children?

MELODY MUSGROVE: Now I'll be completely -- we have a good relationship in general with the leadership on Capitol Hill and the education committees, but I'll be totally honest, no one saw this coming. The rescission that was in the continuing resolution, no one at the Department of Education, and we had had no inkling of understanding that that was a possibility. As far as I know, it's the first time ever that that has happened. I mean, this is money -- you know, the IDEA Part B money, Title I money was also affected, is sent out in two installments basically. A part of it goes out at the beginning of July and then the other, for Part B, goes out the beginning of October. So this is money that was already committed. This is obligated money that states had already committed to use, so never in our history have we had a rescission in that midyear money like that. So that's the reason it really has such a profound effect. There's been a lot of pushback and, fortunately, the advocacy organizations as well as the Department of Education have continued to stress to Congress the importance of making sure that the funds are available for states to meet the needs of the children that they serve. Also, like I said, the Maintenance of Effort issues that we never experienced before are really critical in terms of --

and that's why we're worried about what we're going to see. It's hard to think how states and districts can continue to provide the services that they've been providing with such decreases in funding that are coming often from the state and local level because of tax revenues that are down, so forth, the issues that you all understand. I will say that -- of course, I don't think there's any bigger champion of disability causes than Tom Harkin. And of course he is very supportive of continued -- actually, increases in Part B funding as well as Chairman Kline in the House has expressed an interest in full funding, although his perspective on dealing with it is a little bit different, but he has been an advocate for increased funding for Part B. We, while we remain cautiously optimistic, it's hard to think that we will be spared for much longer. I mean, everyone is getting cut and, fortunately, IDEA has been spared major cuts thus far. There have been major cuts in RSA, the Rehab Services Administration, and NIDRR, the Disability Research -- Disability and Rehab Research arm of OSERS. So it's really hard to think that we won't -- you know, that we will be spared unless something happens with the economy, so, but we are working very hard to stress to them the importance of ensuring that states have the resources that they need to be able to meet the unique needs of children that they serve. And you know, we've been asked the question, "Well, we're seeing a decline in the numbers in special education, so why isn't that the money wouldn't decline" Well, I mean, there are a couple of obvious things I think. Number one, we're getting -- as we're seeing an increase in students who are eligible under 504 and who are eligible under Part C, so we're catching them earlier which would mean, you know, less need for services possibly later on. Also, we're getting the students who have the more severe needs. So again, as we focus on good basic classroom instruction and increase the effectiveness of the services that are provided under like Title I and so forth, you know, we believe that we are getting -- that the students who were sort of marginal in terms of their need for special education are being served in the general ed population, so we're getting the students who really have the more intensive needs, which certainly does not indicate a need for reduction in resources. So we have had opportunities to provide technical assistance to the communities in Congress to share with them why things are as they are and the need for continued support for special education. And we appreciate the partnership that we've had with organizations like CEC and other advocacy organizations that stress to Congress the need for continued support. And we -- and so far they've been responsive. Thank you. Yes?

AUDIENCE MEMBER: [Inaudible] I hope I'm not out of line to say so, but I don't want to miss the opportunity to speak about something that I think is critically important in terms of conflict around

special education [inaudible]. And I really believe that there is a theme in conflict that can only be resolved on the legislative level, and that is putting some controls on parent advocates in terms of training and accountability and putting limits on attorneys in terms of fees. And I think that there is so much evidence to indicate that it is the opportunity to make a tremendous amount of money off parents-school conflict that fuels these flames. So I wanted to just have the opportunity to put -- because I think it's got to start in Congress to give states then the opportunity to take action more locally. But it has to start there, so thank you.

MELODY MUSGROVE: No, thank you for saying that. And I actually agree with you. I come from a state, Mississippi, where there -- I mean, it is extremely difficult for parents to find anyone to represent them. There's a -- and I've got to be careful what I say here, but when you say putting caps on what attorneys can collect, are you talking about representing parents or school districts or? I just want to better understand.

AUDIENCE MEMBER: The details have yet to be worked out, but what I do know is parent advocates make tremendous amount of money in certain communities. I've been quoted \$200-300 an hour in some communities with no training, no accountability, no particular ethical guidelines that they go by. And I think this is a very serious problem that a lot of communities, especially those that have high complaint to due process [inaudible]. In terms of attorneys, and I could spend a lot of time with it, but I won't now, it's just enough to say that the opportunity to make a lot of money usually through out of hearing settlements, which the school district will pay for, is fueling a tremendous amount of parent agitation rather than parent true advocacy and for the best interest of children. And I believe that that can only change at the legislative level. I don't know the details, but my understanding is that D.C. has locally put caps on the amount that an attorney can collect. I've heard this figure \$4,000. Somebody correct me if I'm wrong. But some effort to put some controls over the fee structures that are involved. What that would look like in practice I don't know, but it has to begin with discussions about the questions.

MELODY MUSGROVE: Yeah, no, I really appreciate that. And this, like I said, you know, my home state has some real issues in this area where parents really don't have an option once it gets past mediation. There's no one to represent them, so the case is essentially over because the parents have no one to represent them, so they just don't show up. So I definitely -- and yet school districts, and look, I'm an educator, I've told you, so please don't think that I'm trying to take one side or the other here in this,

but it's about having a balanced system that keeps it all fair. And you know, districts can, you know, if they have the resources to just continue to appeal, appeal, appeal until it just sort of ends when the parents don't have the resources to pursue it anymore. So you know, I want to make sure that we have a fair system that is balanced and represents people in the best way possible. So I've asked Hilary to take notes and make sure when we get back that there's some issues that we might want to pay attention to, and this is certainly one of them, and I appreciate that. And if anyone has another perspective on that, I'd certainly like to hear it. My husband was a school board attorney for 14 years before he was elected to the state senate, so -- well, even after he was elected to the state senate, so I certainly understand the position of those of you who work with school districts as well. Yes?

AUDIENCE MEMBER: So I work for a parent training and information center. I am an attorney. We don't represent families. I think the reason -- there are a couple of things that I think are important. One is my experience with school district attorneys is that most of them don't know very much about special education law. They do other kinds of -- they do a lot of personnel human resources work for districts also. So I think the need for education around special education law is important not just for advocates who represent parents, but also for school districts. One of the things that we did in New Jersey in our early intervention system is that if a parent doesn't bring an attorney to a due process hearing in our early intervention system, the system doesn't bring one either. And that means that almost nobody ever has to pay an attorney to do a due process hearing in our early intervention system. And I know PPIs and parents would support the idea that if parents don't bring their attorney, districts won't. But in my state, in New Jersey, even if a parent doesn't have an attorney, the district has an attorney. So in our state, if there's a big cost around attorneys, it's because districts always have one. So I mean, the whole idea of impartial hearings was to have a less adversarial process. I think the fact that we have a system in the schooling system where we don't make that same kind of decision in Early Intervention [inaudible] in ourstate where the parent doesn't come with attorney, system doesn't have attorney, that really saves a lot of money. That makes things less adversarial. In terms of one other issue that I'd like to raise is I want to just bring everybody's attention to the fact that CADRE and a group of superintendents and school administrators and teachers and related service providers and parent centers put together a wonderful collection called the Creating Agreement Collection, which is really for parents and professionals trying to provide a different way of creating agreement from the ground up and finding shared -- you know, shared interests instead of positions and looking at ways to address conflict in a more productive way. And I really encourage everybody here. That

collection is available on the IDEA Partnership website. Is it also on the CADRE website? And the CADRE website. I'm an attorney and yet we have integrated much of that information into all of our workshops, our IEP workshops, our discipline workshop, our transition workshops, because we think it's a really valuable way to have more productive parent-professional collaboration.

MELODY MUSGROVE: Right, thank you. And please note that the same thing I'm saying to you is the same thing I say everywhere I go. I'm saying this to educators. When I was a state director, you know, sometimes local superintendents or local special ed directors would call and say, "Okay, this parent wants this. And I want to know what is it exactly that I have to do?" And I would always say, "The question is not what's the least you can do to get by with," because that seemed to be sort of what they really wanted to know was what's the least we can do and still be in compliance with the law. I mean, what's in the best interest of the child? And if you've got a six-year-old child, I would say, "Okay, you have to do -- here's what the law says you must do, but you're going to have this kid for a really long time. Are you sure you want to be fighting with this parent, you know, 12 years from now? Because it's going to be a really long relationship if that's -- you know, I'm not saying give in to the parent, but just, you know, step back and think about how reasonable is this and what your requirements are and what's really in the best interest of the child." So I'm saying the same thing everywhere I go. Someone else had a hand, I believe? Yes, Jim?

AUDIENCE MEMBER: I know this is a bad time to ask for money.

MELODY MUSGROVE: There's never a bad time to ask for money.

AUDIENCE MEMBER: These CADRE conferences are invaluable and I know that the CADRE staff had to work very hard to put this one together for those of us here, who we refer to as the usual suspects, appreciate it and find this type of conference invaluable. So if OSEP could find its way to fund another conference maybe in a couple of years by CADRE, I think everyone would probably appreciate it.

MELODY MUSGROVE: Point well taken. Oh, I think we have maybe time for maybe one more question?

AUDIENCE MEMBER: Now I want to just real quickly kind of respond to the comment that [inaudible] made. I really -- I appreciate the concern about the potential misabuses that result from some parents having the ability to access very expensive supports. I have a concern that I've touched on earlier about concerning my belief that really we have in this nation a whole undercurrent of people who really aren't able to adequately understand the process, don't really -- aren't able to really

well round expectations for their children, and people without the kind of support that come from the nation's parent training information centers that come from folks who buddy up and partner to support those families and help them understand that those kids will simply not have the same kinds of education opportunities and outcomes that their well-heeled, affluent peers will have. So ideally, as we think about access to advocacy supports, really I think trying to figure out if our goal is to close the achievement gap, and I think for many of us it would be the opportunity gap, we need to really figure out how we give voice, power, clarity to parents so that they can speak out effectively, participate effectively in the design of roadmaps for their kids. So I think it's a maybe a counterbalance to the point that Nick's making.

MELODY MUSGROVE: Yeah, I completely agree with you. And as I said, you know, disclosing the fact that I come from a rural area where basically the PTI is the only help that parents in that state have, the PNA is so overwhelmed with -- you know, the needs are great and the resources are so small, so the PNA is not able to help as much as they would like to be able to. And that's why, in all the discussions that we've had I would just tell you around the budget negotiations and so forth, there's never been one mention of cutting funds to the PTIs because we just said, yeah, they're already funded on a shoestring, so I just want you to know that we -- that it's something that we're absolutely committed to because it is critical that we continue to train and support the parent training information centers and the other parent centers that we have. So I couldn't agree with you more. I think that's awfully important.