



# INDIANA STATE BOARD OF EDUCATION

## Education Dispute Resolution Working Group Meeting Minutes July 25, 2019 at 1:00PM EST

Indiana Government Center South, Conference Room B  
302 W. Washington Street, Indianapolis, IN 46204

EDR Members Present: Dr. Balsley; Mr. Boehner; Mr. Crishon; Ms. Carlock (proxy for Ms. Dodson); Dr. Ernest; Ms. Long; Mr. Mapes; Ms. Tanselle; Dr. Taylor (joined at 1:15)

EDR Members Absent: None

### **III. Call to Order**

- A. EDR members recited the Pledge of Allegiance

### **IV. Approval of the Agenda**

- A. The agenda was approved by a voice vote
  - i. Moved by Mr. Mapes, seconded by Ms. Carlock

### **V. Approval of Minutes**

- A. First EDR Working Group Meeting—no prior meeting minutes for approval

### **IV. EDR Working Group Chair & Member Comments**

- A. Dr. Ernest welcomed the group and expressed appreciation for everyone participating.
- B. EDR member introduction:
  - i. Mr. Boehner: INSource representative;
  - ii. Dr. Balsley: executive director Earlywood Education Services, represents ICASE;
  - iii. Ms. Carlock: serving as proxy for Ms. Dodson, represents ARC;
  - iv. Dr. Ernest: EDR chair, State Board of Education representative;
  - v. Mr. Mapes: State Board of Education representative;
  - vi. Ms. Tanselle: Indiana School Boards Association (ISBA) representative;
  - vii. Ms. Long: Indiana Department of Education (IDOE) representative;
  - viii. Mr. Crishon: Indiana Disability Rights representative;
  - ix. Mr. Rhodes: parent representative;
  - x. Ms. Wetherald: parent representative.

### **VI. Public Comment (3 minutes per individual—total 30 minutes)**

- A. None.



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## VII. Nomination of Parent Candidates for EDR Working Group Membership

- A. ARC representative, Ms. Carlock, nominated Brandi Wetherald, which was seconded by Ms. Tanselle.
  - i. EDR members approved the nomination by a unanimous roll call vote (8-0; Dr. Taylor had not yet joined the meeting).
- B. Indiana Department of Education representative, Ms. Long, nominated Patrick Rhodes, which was seconded by Mr. Mapes.
  - ii. EDR members approved the nomination by a unanimous roll call vote (8-0; Dr. Taylor had not yet joined the meeting).

## VIII. Discussion Items

- A. EDR Working Group Meeting Conduct Expectations and Norms
  - i. Dr. Ernest introduced the “Expectation and Norms” document, outlining proper meeting conduct from the EDR members.
  - ii. Motion to approve made by Ms. Tanselle, seconded Ms. Carlock. Approved by voice vote.
- B. EDR Working Group Goals Discussion
  - i. Review the Requirements set forth in HEA 1629
  - ii. Additional Issues not Specifically Addressed in HEA 1629
  - iii. Board staff, Mr. Schultz, provided a brief summary of the legislation, explaining the overall goals of identifying areas for improvement and efficiency in the current dispute resolution process.
  - iv. Mr. Crishon and Mr. Boehner offered additional comments on the process and language set forth in the legislation.
- C. Indiana Department of Education: Cost of Educational Disputes Report (presented by IDOE representative)
  - i. Ms. Long presented the report on behalf of IDOE. Ms. Long provided a brief summary of the legislative requirement: Department shall prepare an initial report for the EDR working group's consideration at its first meeting of readily obtainable information related to the cost of educational disputes, including but not limited to the cost of hearing officers serving in the capacity of hearing officers or mediators pursuant to 511 IAC 7. The report highlighted the following topics:
    - a. Cost of Hearing Officers: Independent hearing officer (IHO) fees are the responsibility of the local educational agency (LEA) (public school corporation or charter school) involved in the hearing. IHOs are paid at the rate of \$90.00 per hour for professional services and \$50.00 per hour for time spent traveling. Additionally, they are reimbursed at the state rates for mileage, hotel, and per diem, as well as the actual cost of other expenses such as copying or postage.
    - b. Cost of Mediators: Mediators work under contract and are paid by IDOE. Mediators receive \$500.00 for each completed mediation and \$250.00 if the parties cancel the mediation session. Additionally, they are reimbursed



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at the state rates for mileage, hotel, and per diem, as well as the actual cost of other expenses such as parking fees or postage.

- c. LEA Costs: Although schools are not required by either federal or state regulations to have legal representation in dispute resolution, schools almost always are represented in due process hearings and are increasingly utilizing attorneys in the complaint and mediation processes as well. In due process hearings, federal and state law provide that parents who are prevailing parties may recover attorney fees from the schools. Even if the case doesn't proceed all the way to hearing, the payment of parent attorney fees is usually included in any settlement agreement between the school and parent. If a hearing is held, the school is also responsible to pay the court reporter, including the cost of preparing the hearing transcript. Schools may also incur costs for expert witnesses or substitutes required to cover classrooms while teachers are called to testify. Other costs that are not easily quantifiable include administrative and professional staff time required to respond to complaints, engage in mediation, and prepare for and participate in due process hearings.
- d. The report then provided information regarding the 9 topics set forth the HEA 1629 that the EDR working group is tasked with considering resulting in several outstanding questions/ideas for future discussion:
  - 1) Copies of surveys used by IDOE in preparing the report;
  - 2) Possibility of IDOE follow-up surveys of hearing participants;
  - 3) Settled case review—oversight;
  - 4) How are low cost advocacy resources publicized and/or made available to the public;
  - 5) Possibility of simplified procedural safeguards;
  - 6) Ideas for improvement of resolution sessions;
  - 7) Improved communication procedures among participating parties;
  - 8) Possible Department of Education training at ICASE roundtables;
  - 9) Value, public policy, and purpose of NDAs;
  - 10) Board of Special Education Appeals—was this an effective tool that should be reestablished;
  - 11) Pros and cons of an ombudsman position;

## **IX. Next Steps**

- A. Selection of Future Meeting Dates
- B. Future Agenda Items and Submission Procedure
- C. Other Matters
  - i. Board staff will prepare a chart for EDR Working Group members that outlines the legislative topics for EDR review and feedback.
  - ii. Board staff will begin contacting other entities with potential insight concerning dispute resolution.

## **X. Adjournment**