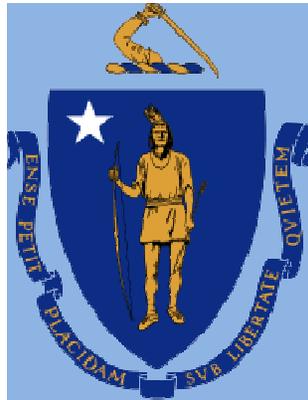


# **Bureau of Special Education Appeals (BSEA)**



## **Introduction to Special Education Mediation**

# Bureau of Special Education Appeals

- State Agency (DALA – not DESE)
- Exists to satisfy federal and state regulations
- Provides Due Process for Special Education



Director



Coordinator of  
Mediation/Facilitation



Hearing  
Officers



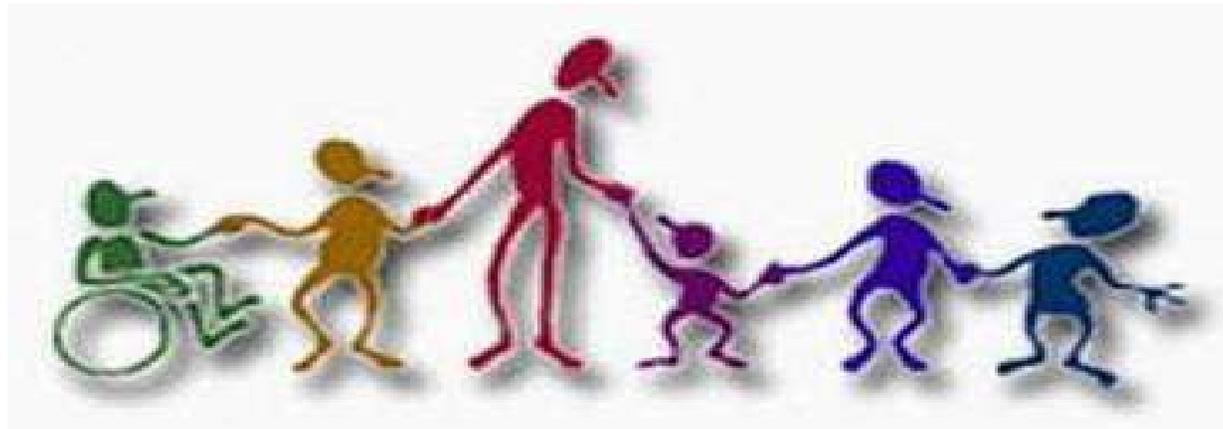
Mediators



Administrative  
Support

# Due Process

- Access to a dispute resolution process
- For Special Education (IEP/504):
  - **Bureau of Special Education Appeals (BSEA/DALA)**
  - Program Quality Assurance (PQA/DESE)
  - Office of Civil Rights (OCR/USDOE)



# Special Education Process

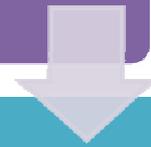
Referral/Evaluation

Eligibility/Three-Year Reevaluation

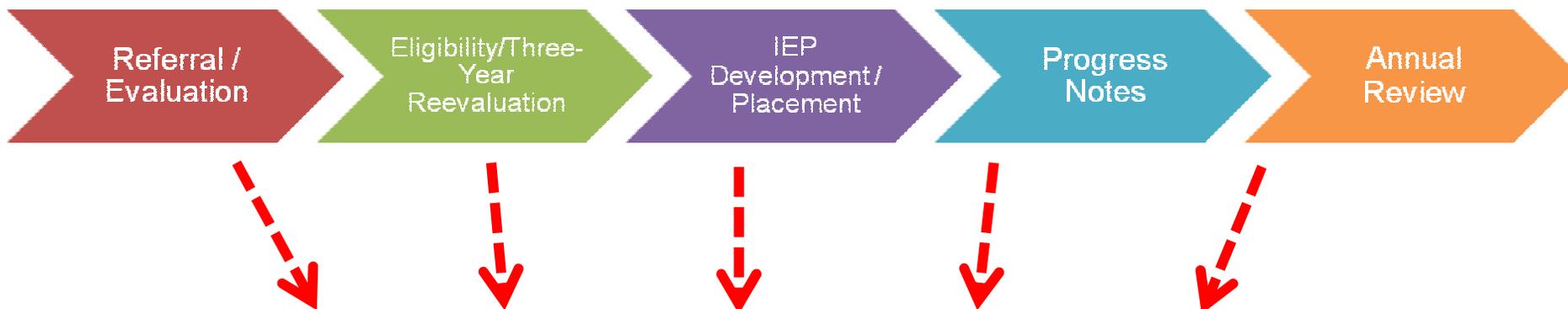
IEP Development/Placement

Progress Notes

Annual Review



# Special Education Process



BSEA:

Facilitated Team Meetings

**Mediation**

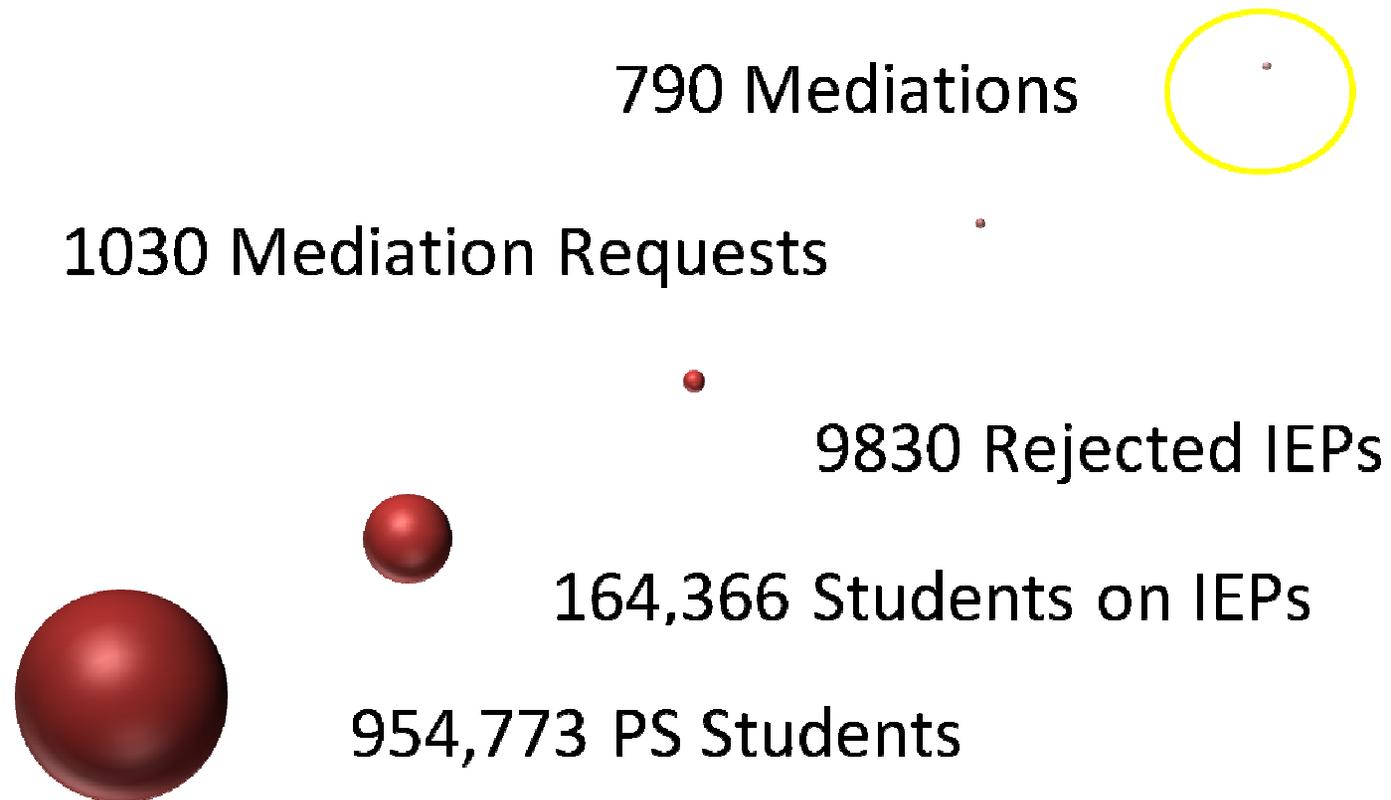
Hearing (Settlement Conference)

Other:

Program Quality Assurance (DESE)

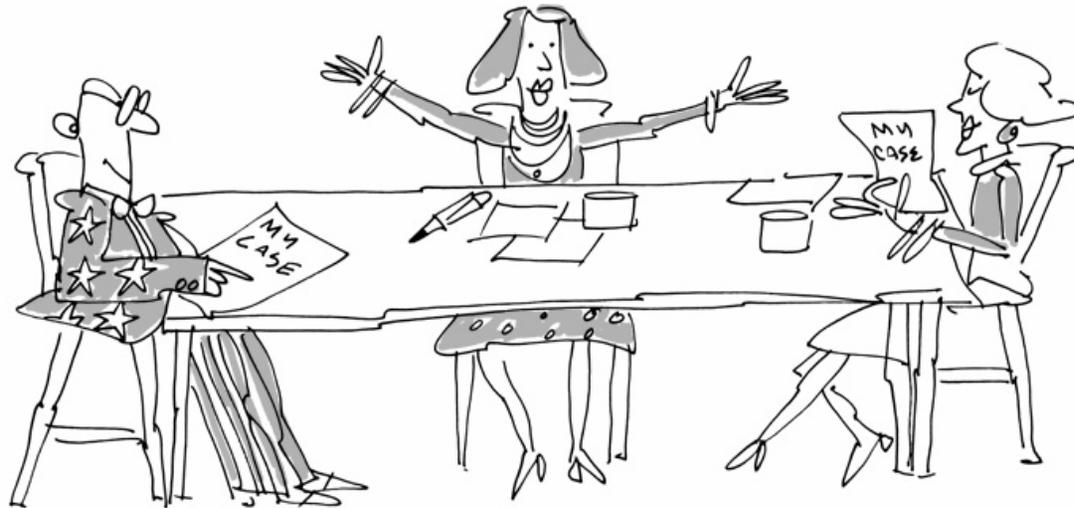
Office of Civil Rights (US DOE)

# FY2014 Statistics



# Mediation Nuts & Bolts

- Collaborative Problem-Solving Process
- Voluntary
- Confidential
- No cost to participants



# Benefits of Mediation

- Collaborative Problem-Solving
- Control of Process and Outcome
- Relationships
- 85% Settlement Rate
- Timeliness



# Mediation Myths

- Just for simple issues
- Parents need an attorney or advocate
- Only useful when there is a “bad” relationship
- A process of splitting the middle
- Getting the Mediator “on your side”
- Time to give the other side a “piece of your mind”



# Mediation is Not a Hearing

- No evidence
- No legal arguments
- No examining/cross examining witnesses
- No ruling issued



**Mediation and Hearing can happen concurrently**

# Role of Mediators

- Neutral
- No decision making authority
- Do not interpret laws
- Do not tell parties what to do, who is right or who is wrong

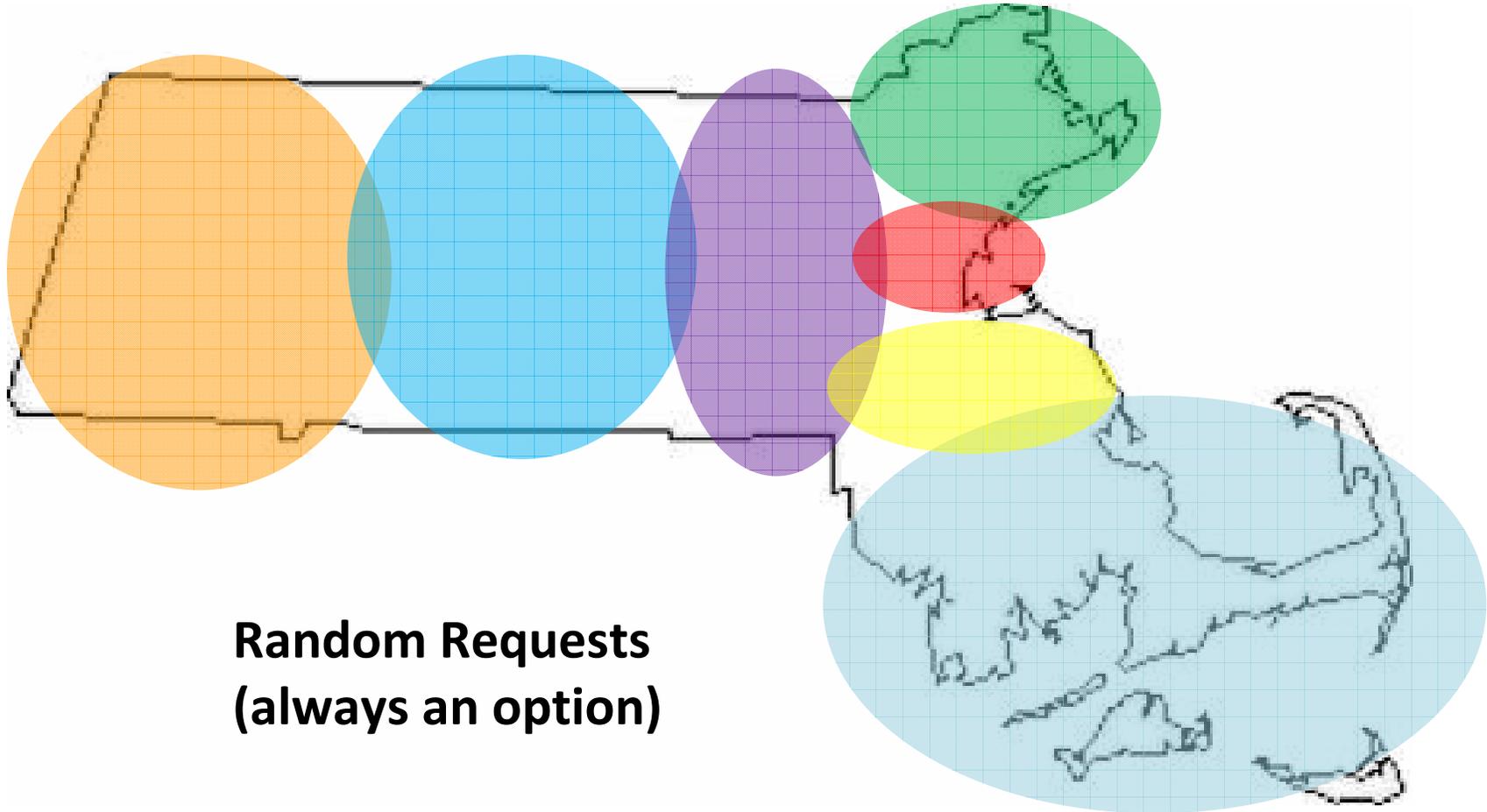


# **Things to Know About**

## **BSEA Mediation**

- Districts notify BSEA (no action, full or partial reject)
- BSEA sends form letters to Parents & Districts
- Parents/Districts make request directly to mediator via phone or email
- Parents/Districts can request mediation at any time (do not need the letter!)
- Mutually agreeable date, time, and location

# Mediator Regions



**Random Requests  
(always an option)**

# What can you Mediate?

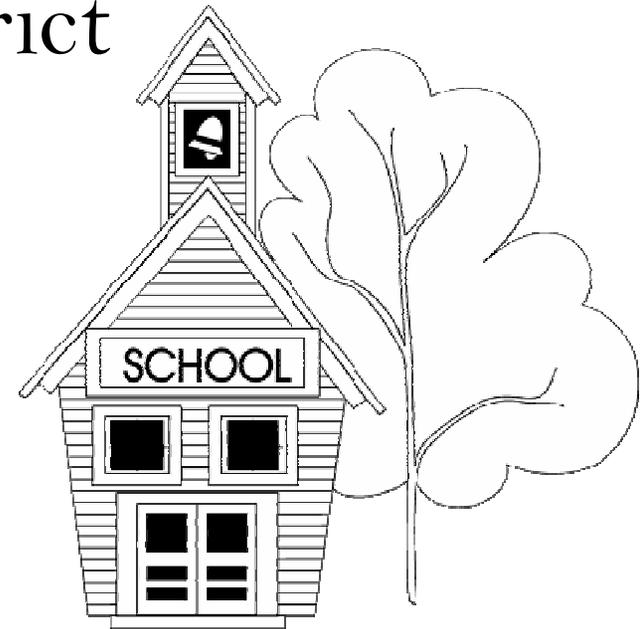
- Issues that can be mediated:
  - Eligibility
  - Level of Service
  - Placement
  - Compensatory services
  - Communication Issues
  - Others?

# Requesting Mediation

- Make sure that you have had all necessary IEP/TEAM Meetings
  - Review evaluations
  - Review proposed IEP
  - Attempt to resolve issues
- What do you want from Mediation? Be specific but not exhaustive
- Do not send Mediator any paperwork, etc.
- Email OR Phone Call
- Should be able to sum up in two minutes or less what you are looking for (i.e. placement, level of service, eligibility)

# Required Mediation Participants

- Parent/guardian
- Student 18+ if decision maker
- Decision-maker for District



# Optional Mediation Participants

- Student (14+)
- Advocates
- School Team Members
- Administrators
- Specialists
- Attorneys
- Supporters

*Each side chooses who they will*

# Mediation process

- Introduction
- Joint Session
- Private Session
- Resolution/

## Mediation Agreement



*Judith sensed that the mediation would take more time than the half-day that it had been scheduled for.*

c.07CharlesFincher09.03 Scribble-in-Law at LawComix.com

*Average of 2-4 hours*

*–Second Session*

*–Follow Up Session*

# Introduction & Joint Session

- Current Status
- Statement of Desired Outcome
- Remember: not a Hearing
- Listen Patiently (Body Language, etc.)
- Questions, Comments, Clarifications
- Room for Movement
- **WHAT CAN BE DONE TODAY TO MOVE FORWARD?**

# Private Sessions

- Optional
- Confidential
- Place for brainstorming/processing
- Share Background Information
- Opportunities to broaden options
  - Temporary/trial interventions
  - Specify time frame
  - Shared costs
  - Others?



# Resolution/Mediation Agreements

- Legal Language/Clauses in Mediated Agreements
- Confidentiality
- Signing the Agreement
  - Agreements are signed during the mediation
- Relationship between Mediated Agreement and IEP
- Duration of Agreement



# Relationship Building

## An Added Benefit

- Remember the LONG lasting relationship between parents and school districts
  - Create deeper understanding
  - Find Allies within the TEAM
- Create a vocabulary of resolution
  - Solve future problems
  - Make space for hope
- Develop Collaborative Relationships



# The Beauty of Mediation



*Margaret's skills as a peacemaker had exceeded expectations at the mediation.*

# Facilitated IEP Meetings...

- Support the Team Meeting from start to finish
- Ensure everyone listens, hears, and is respectful
- Keep the meeting moving forward
- Have time accountability
- May be quite active...or just a presence
- We do not run the meeting...the person who runs the meetings (typically Team Chair) still runs the meeting
- 3<sup>rd</sup> Party Neutral
- A Facilitated Team Meeting will not become a mediation

***Call the Marc Sevigny, Coordinator of Mediation & Facilitations to request a Facilitated Team Meeting.***

# Questions

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