The Results of State Level Investigations of IDEA Complaints in Virginia

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ABSTRACT

In recent years, Americans have seen a plethora of litigation surrounding disputes parents have with school districts involving a wide range of special education issues. The ability to challenge the decisions made by school personnel regarding identification, evaluation, placement, and the provision of free appropriate public education is a cornerstone of the Individuals with Disabilities Act (Opuda, 1997). IDEA requires that states guarantee parents the right to bring complaints to the State Education Agency regarding any of these matters (34 C.F.R. 300.507). The federal government and state legislatures have toiled to develop strategies to work through these challenges by utilizing alternative dispute resolution procedures.

Under IDEA, parents are afforded the opportunity to participate in meetings concerning their child or request mediation. If they feel the child has not been provided a free appropriate public education, they can challenge the local education agency, or state education agency. Consistent with federal regulations, all states must have a system to monitor and enforce special education compliance issues. If parents believe there is sufficient proof that their child has not been served in accordance with state and federal guidelines, they may file complaint resolution procedures with their state education agency (20 U.S.C. §1400, et. seq.).

This study used a quantitative approach to examine the number of cases where parents filed complaint resolution procedures with the Virginia Department of Education

regarding special education compliance issues as well as analyze the frequencies of the complaint resolution procedures over a four year period. The examination of these cases focused on whether or not the effects of the division size, locale (rural, suburban, or city), geographical region, socioeconomic status of the family, and the category of the issue influenced the outcome of the complaint.

Dedication

This dissertation is dedicated to my husband, Kevin R. Hoyle, Sr. (Big Daddy) and my two children, Jessica A. and Kevin, II, who I love very much and without you I would not have been able to get through these last 2 years. You all gave me the strength and encouragement to "stay the course" and not give up when times were looking grim.

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CHAPTER 1: INTRODUCTION

Introduction

In recent years, Americans have witnessed an explosion of litigation affecting education. Courts have become much more actively involved in aspects of education stemming from a wide range of special education issues that had previously been left up to the discretion of school administrators and school boards. The Individuals with Disabilities Education Act (IDEA) and its predecessor, Education for All Handicapped Children Act (EAHCA), clearly promulgated the rights of parents and students, which administrators need to know as they provide services for students with disabilities (Alexander & Alexander, 2005). In an effort to stem the rising tide of litigation while also ensuring that students with disabilities are served appropriately, the federal government and state legislatures have worked to develop procedures to work through these challenges by utilizing alternative dispute resolution programs. These procedures do not seek to circumvent or avoid the consequences of noncompliance, but rather to produce mutual agreement solutions that both serve the disabled child and avoid the escalating cost of formal administrative proceedings and litigation in the courts. In this era of increased accountability, the focus on serving students with disabilities is important. The inclusion of students with disabilities as a subgroup under No Child Left Behind (NCLB) forced schools and school districts to increase funding and search for more effective strategies to help these students learn and achieve (Norlin, 2007a).

Serving students with disabilities had a slow start in the United States. Since its enactment in 1975, the EAHCA has been amended several times. It was amended in 1978 and reauthorized in 1990, 1997, and 2004 as IDEA enactments. This law was renamed

IDEA in 1990 and is now also recognized as the Individuals with Disabilities Education Improvement Act (IDEA, 2004). For the purpose of this paper, the term IDEA will be used. The current enactment calls for more accountability at the state and local levels, as more data on outcomes is required. Another notable change involves school districts providing adequate instruction and intervention for students to help keep them out of special education (Norlin, 2007a, 2007b).

Age also is a determinant in establishing and maintaining eligibility under IDEA. It is important to note that IDEA-eligible children and youth generally ages 3-21 may receive special education and related services under IDEA Part B [20 U.S.C. (United States Code) §1411-1430]. IDEA requires monitoring and enforcement. The state(s) must (a) monitor the implementation of Part B; (b) enforce Part B in accordance with the provisions at 34 Code of Federal Regulation (C.F.R.) 300.604(a)(1), and (a)(3), (b)(2)(i) and (b)(2(v), and (c)(2); and annually report on performance under Part B.

Part of these provisions is the state(s)' exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services, the latter of which is defined in 20 U.S.C. §1401 (34) and 34 C.F.R. 300.43. The state(s) must also provide a free appropriate public education (FAPE) in the least restrictive environment (LRE) [20 U.S.C. §1412 (a)(1) and (5)].

Parents' rights are enforced under IDEA. For example, they must be afforded the opportunity to participate in meetings concerning their child (20 U.S.C. §1415(b)(1) or request mediation (20 U.S.C. §1415 (e). If they feel the child has not been provided FAPE, they may challenge the school or local education agency (LEA) by filing a due

process complaint or by filing a complaint with the state education agency (SEA) [20 U.S.C. §1415 (f)] and (34 C.F.R. 300. 151 – 153).

There are three methods of ensuring states' compliance under IDEA: (a) due process procedures (DPP), (b) complaint resolution procedures (CRP), and (c) monitoring by the state. First, if parents believe there is sufficient proof that their child has not been served in accordance with state and federal guidelines, they may file a due process request with the LEA. Once a parent files a due process request and before the hearing is convened, "the [LEA] shall convene a meeting with the parents and the relevant member or members of the Team who have specific knowledge of the facts identified in the complaint" [20 U.S.C. §1415 (f)(1)(B)]. This step is taken to ensure that all parties involved have an understanding of what the parent believes is the issue(s) surrounding noncompliance as well as what the LEA contends has been its efforts to comply with state and federal guidelines. The meeting must be convened unless it is mutually agreed upon by both parties to waive the meeting.

Second, according to 20 United States Code 1232(c), states must have a plan in writing for complaint resolution procedures with their state education agency (SEA). A complaint may be filed by anyone, including an organization or someone from another state. The complaint must state why the complainant feels that a violation has occurred; include the child's name and any supporting details for the alleged violation. Once a complaint has been filed, the state has 60 calendar days to complete an investigation and decide if there has been a violation of IDEA or its implementing regulations. If there has been a violation, the state will "[i]ssue a written decision to the complainant that

addresses each allegation in the complaint and contains… findings of fact and conclusions; and … the reasons for the SEA's final decision" (34 C.F.R. 300.152).

The third method of ensuring compliance is monitoring by the SEA following an investigation of formal complaint. Once an LEA has been found to be noncompliant, the SEA becomes responsible for ensuring that the LEA does not commit subsequent violations. An LEA may have 10 allegations in a complaint filed against them. If nine of the allegations are unfounded and one is found to be noncompliant, the LEA is noncompliant. The state will then monitor the LEA by gathering data such as written reports, on-site visits, providing training and assistance to the LEA in developing, reviewing, and implementing the individual education programs, and using parent questionnaires. The SEA must carry out activities to ensure the LEA develops, reviews, and revises individual education programs (IEPs), as well as assist in planning and implementing necessary corrective action which the LEA has one year to complete from the time the SEA provides written decision of the noncompliance (34 C.F.R. 300.153).

For the Commonwealth of Virginia, in accordance with regulations implementing IDEA, parents and organizations have a right to file formal written complaints with the SEA to resolve conflicts between the districts and themselves. In Virginia, the procedures for filing formal written complaints are outlined in the State Performance Plan under indicator 15. Indicator 15 is the general supervision system. The general supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification [State Performance Plan, 2008, 20 U.S.C. §1416(a)(3)(B)]. The Virginia Department of Education (VDOE) has the responsibility of monitoring each LEA.

Statement of the Problem

Consistent with federal regulations, all states must have a system to monitor and enforce special education compliance issues. In this study, there are three types of dispute resolutions that are identified: (a) complaint resolution procedure, (b) due process procedure, and (c) mediation; however, this study examines special education compliance issues pertaining to complaint resolution procedures in Virginia. The focus of this study is the number of formal written complaints under the complaint resolution procedure (CRP) that were filed with the SEA during a 4-year period, from the 2005-2006 school year through the 2008-2009 school year and the number of decisions that were found to be compliant or non-compliant. These years were selected because they are the years that immediately follow the passing of IDEA 2004. The 2009 – 2010 school year will not be used since data from this year are not yet available. The researcher has established the following research questions to guide this study:

1. What are the frequencies of state complaint procedures filed against all school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes?
2. What is the relationship, if any, between division size, location, geographical region or socioeconomic status and the actual number of complaint resolution procedures filed against the division?
3. What is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed?
4. What is the relationship, if any, between the types of issues filed in the complaint resolution procedures and the outcome of the complaint that is filed?

This study is important because even though Part B of IDEA (2004) sets forth requirements for SEAs and LEAs in providing special education and related services to children with disabilities, ages 3 through 21, it is equally important to ensure that these same states are adequately monitoring and enforcing compliance of IDEA and its regulations. Part B emphasizes the importance of including parents in decisions regarding the education of their children because parents' perceptions and feelings toward the school, LEA, and the SEA are critical when it comes to filing dispute resolution procedures against the LEA. It is also essential for the LEA and parent to establish a relationship based upon mutual respect and cooperation so that issues are always addressed first at the school level.

When parents feel that this type of relationship does not exist, they may justify their beliefs by first asserting that the school has violated their rights and the rights of their child. If the parents feel that the school has not provided FAPE to their child, they have the right to file a formal written complaint. To avoid this situation, it is much more expedient and efficient for administrators to ensure that their school remains in compliance with all special education policies and procedures, and avoid the time-consuming and costly task of providing evidence of compliance and possibly defending themselves during litigation. Code of Federal Regulations, 34 C.F.R. 300.149, mandates that states must have in effect policies and procedures to ensure that they comply with the monitoring and enforcement requirements in Sections 300.600 through 300.602 and Sections 300.606 through 300.608.

Purpose of the Study

More than 6.6 million children, about 13.5 percent of the total student population,

receive special education services annually in public school systems in the United States (Shaul, 2003). These services are provided under IDEA. Under IDEA, states that receive financial assistance under the Act must comply with its requirements (34 C.F.R. 300.700). At IDEA's core is the individualized education program (IEP), which furnishes an instructional roadmap and services protocol for schools to follow, for each student with a disability (Office of Special Education Programs, 2007).

IDEA requires that states guarantee parents the right to bring complaints about any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to such a child (34 C.F.R 300.507). IDEA provides two formal avenues for parents to obtain administrative relief: the due process hearing and the state complaint procedure (Norlin, 2007a). In addition, where both parties agree, IDEA affords the opportunity to participate in mediation (Norlin, 2007a).

IDEA requires that after a due process hearing has been requested, the parties must attend a resolution meeting unless they agree to waive this step in an attempt to put the dispute to rest (34 C.F.R. 300.510). Under the Act, States may employ a one-tier or two-tier administrative review mechanism for the due process complaint (20 U.S.C. §1415(d)(2)(J). Virginia employs the one-tier administrative review [Regulations Governing Students Special Education Programs for Children with Disabilities in Virginia, (2002)]. Generally, parties to IDEA disputes have to exhaust the state due process procedures before bringing an IDEA or IDEA related claim in court (20 U.S.C. §1415(i).

The more informal state complaint alternative was promulgated by the U.S.

Department of Education (DOE) pursuant to its general rulemaking authority requiring each recipient of federal funds, including funds provided through IDEA, to put such procedures in place (Norlin, 2007a). DOE regulations require each State Educational Agency (SEA) to adopt written procedures for resolving any state level complaint regarding the education of a child with a disability (U.S. Department of Education, 2006). The regulations permit a complaint to be filed under both the state complaint and the IDEA due process hearing systems, in which case the state complaint must await the due process hearing's resolution of overlapping issues (U.S. Department of Education, 2006).

The purpose of this study is to examine state investigations where parents have filed state complaint procedures against an LEA in Virginia alleging a violation of their student's IDEA rights. This study will use a quantitative approach to examine the number of cases where parents or organizations filed formal written complaints with the VDOE regarding special education compliance issues as well as analyze the frequencies of the complaints over a 4-year period. Specifically, the examination of these cases will compare the frequencies and outcomes of such formal written complaints and provide a detailed look into general trends that may be occurring based on division size, geographical location, and the types of issues involved in the CRP.

As a result of this study, school administrators should be better informed of the frequencies of the subject dispute technique throughout the Commonwealth of Virginia. If there are significant issues identified, this study alerts them to develop new or improve existing monitoring and compliance procedures in their buildings, districts, and regions to address these issues before they become a challenge.

Significance of the Study

There have been many empirical studies conducted on special education issues, especially on inclusion of students with disabilities and placement in the least restrictive environment (Altieri, 2001; Burdette, 1999). There have also been a number of studies from different states (Howard, 1991; Webb, 1994; Opuda, 1997), which addressed parents filing due process complaints against an LEA. Several studies deal with parent perceptions (Kreb, 2001; Luseno, 2001), due process procedures (Webb, 1994; Opuda, 1997), and alternative methods to due process procedures (Falsetto, 2002; Edwards. 2007). The longitudinal research on the volume or frequency of special education case law is relatively low for both the administrative and judicial levels (Zirkel & D'Angelo, 2002). This study analyzes data addressing each of the core principles Congress established in the amended statutes, as well as the mandatory processes established for filing dispute resolutions.

By looking at the frequencies of formal written complaints filed with the SEAs, this study has added information by showing general trends occurring among the school districts and the regions. This information will guide school leaders on how they can better prepare educators to deal with issues before they arise. The implications of this study can have a direct impact on school leaders and what they do on a daily basis with students with disabilities in their schools. By providing knowledge of the most frequent noncompliance issues, administrators, LEAs, and SEA will be able to prioritize staff development to include training to avoid areas of noncompliance.

Definition of Terms

For the purpose of this study, the following definitions and terms will be used:

Due process complainant. Either party (parent or school) or the attorney representing a party, who provides due process complaint notice [in accordance with subsection (c)(2) (which shall remain confidential)] to the other party, in the complaint filed under paragraph (b)(6), and forwards a copy of such notice to the SEA [20 U.S.C. § 1415(b)(7)(A)(i)]. This procedure leads to an impartial due process hearing as described at 20 U.S.C.§1415(f). It is the only complaint procedure that includes a "resolution session" [20 U.S.C. §1415(f)(1)(B)].

Due process hearing. An administrative procedure conducted by an impartial hearing officer to resolve disagreements regarding the identification, evaluation, educational placement and services, and the provision of a free appropriate public education that arise between a parent or parents and a local educational agency. A due process hearing involves the appointment of an impartial hearing officer who conducts the hearing, reviews evidence and determines what is educationally appropriate for the child with a disability. 34 C.F.R.300.507(a)

Formal written complaint (Complaint Resolution Procedure). Required to be established to resolve complaints concerning the education of children with disabilities as defined at 34 C.F.R. 300.151(a). Each SEA must adopt written procedures for resolving any complaint, including a complaint filed by an organization or individual from another state that meets requirements of 34 C.F.R. 300.153 by providing for the filing of a complaint with the SEA. The SEA will provide for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies,

independent living centers, and other appropriate entities, the state procedures under 34 C.F.R. 300.151 through 34 C.F.R. 300.153. This procedure does not lead to an impartial hearing (as defined below).

Free appropriate public education (FAPE). This term refers to the entitlement of every child with a disability under both the IDEA and Section 504 of the Rehabilitation Act of 1973. 2. It is defined, as a term of art, in the IDEA at 20 U.S.C. §1401(9) as "special education and related services that (a) have been provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the SEA; (c) include an appropriate preschool, elementary, or secondary school education in the state involved; and (d) are provided in conformity with the IEP required under [20 U.S.C. §1414(d)]".

Individualized education program (IEP). This is the cornerstone of the IDEA, a written document, ideally developed and reviewed in a collaborative and cooperative effort between parents and school personnel, that describes the disabled child's abilities and needs and prescribes the placement and services designed to meet the child's unique needs. The following are the eight components that must be included in the student's IEP: (a) a statement of the child's present levels of academic achievement and functional performance; (b) a statement of measurable annual goals, including academic and functional goals; (c) A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided; (d) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child,

and a statement of the program modifications or supports for school personnel that will be provided for the child; (e) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the activities described above; (f) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments; (g) the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications; and (h) a statement of transition services and postsecondary goals beginning not later than the first IEP to be in effect when the child is 16 and updated annually thereafter [20 U.S.C. §1401(14)] and [20 U.S.C. §1414(d)(1)(A)(i)].

Individuals with Disabilities Act (IDEA). Federal legislation that requires states to provide all children with disabilities with a free appropriate public education; enacted in 1975 to address the failure of state education systems to meet the educational needs of children with disabilities; formerly known as the Education for All Handicapped Children Act (EAHCA) and codified at 20 U.S.C. § 1400 , et seq. Most recently reauthorized and amended in 2004.

Least restrictive environment. This term specifies that "[e]ach public agency must ensure that … [t]o the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and … [s]pecial classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of

supplementary aids and services cannot be achieved satisfactorily" [34 C.F.R. 300.114(a)(2)(i-ii)].

Local education agency (LEA). This term refers to the "public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school districts, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools" [20 U.S.C. §1401(19)(A)].

Mediation. This term refers to an informal process in which parents and school districts resolve differences about the identification, programming or placement for a student with a disability without conducting a due process hearing. States must offer mediation as an option and implement procedures to allow parties to resolve disputes through mediation [34 C.F.R. 300.506(a)], but they cannot compel mediation [34 C.F.R. 300.506(b)(1)(i)]. In mediation, "the procedures shall ensure that the mediation process is voluntary on the part of the parties; is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this subchapter; and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques" [20 U.S.C. §1415(e)(2)(A)(i-iii)].

Related services. Generally, this term refers to services required to assist a child with a disability to benefit from special education. It is defined as "transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical

and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children" [20 U.S.C. §1401(26)].

Special education. Generally, this term refers to public education for a student with a disability consisting of other than the regular curriculum, although regular education placement and materials may qualify as being special education if it meets the individual needs of the child. It is defined as "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including (a) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (b) instruction in physical education"[20 U.S.C. §1401(29)].

State education agency (SEA). This term refers to the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law [20 U.S.C. §1401(32)].

Limitations of the Study

Although a research study may be thorough for the topic being presented, there are limitations to the study that the researcher often cannot control. At times there may be a settlement of the case. When settlements are reached, the outcomes of the case are not

reported to the public; therefore, the public will never know what was wrong or why the case was filed. Parents sometimes withdraw the case before resolution takes place. When these types of actions take place, there may not be an admission or finding of wrongdoing on the part of the parent or the school districts. The nature of the underlying violation will never be exposed. Additionally, because the total number of state complaints within the school districts that will be examined is small, the ensuing analysis will be limited in its broader implications. Nevertheless, this study may point the way toward more districts and regional awareness, which will lead to higher levels of IDEA compliance or to further research which will enhance IDEA compliance.

Theoretical Framework

Because limitations are inevitable, finding the appropriate theoretical base for a study is important in accurately conveying the meaning the researcher intends to convey. The theoretical framework, for this study, was the foundation behind IDEA and how the policies governing students with disabilities were handed down from the federal government, to the states, to the localities, and ultimately to the schools (see Appendix A). This study used a quantitative approach to identify frequencies of formal written complaints that were filed with Virginia Department of Education. Data were collected over a four year period from the 2005-2006 school year to the 2008-2009 school year. The data to be collected for each year included the number of complaints filed, the nature of the complaints, and the outcome of the complaints. The researcher analyzed violations found as to how they correspond to IDEA and regulatory sections, the findings by the SEA as to the violations alleged, the compliance orders issued from the SEA, and the final determinations if the LEA was found in violation.

The data analysis method provided the results and outcomes of the study. The data were disaggregated over the four year period by identifying total outcomes favorable to LEAs and total outcomes favorable to parents, the percent of the total number of complaints by year and across the years, the trends across the years, and the frequency of the violations of IDEA and statutory and/or regulatory sections categorized in order of frequency. Data were also put into bar graphs and tables.

Organization

For the purpose of providing clarity to the readers of this study, the study was organized in a typical pattern with five chapters. The five chapters have been divided as follows:

1. Chapter 1 – Introduction (Development of the Problem)
2. Chapter 2 – Review of Literature
3. Chapter 3 – Methodology
4. Chapter 4 – Results of the Study
5. Chapter 5 – Discussion, Conclusions, and Recommendations

Chapter 2 provides a description of how special education evolved in the United States as well as provides an overview of the legislation and litigation that made it possible for students with disabilities to receive a fair and equitable education. The chapter also discusses the rights parents have to participate in the decision making of their child's education and what avenues for relief they have if they feel the child is not being given an appropriate education by the district.

CHAPTER 2: REVIEW OF THE LITERATURE

Introduction

In 1975, a new federal law, the Education for All Handicapped Children's Act (EAHCA), now called IDEA, established a federal commitment to identify children with disabilities and provide them with special education and related services. In his 2003 report for the U.S. Government Accounting Office, Shaul (2003) states that the cornerstone principle of IDEA is the right of children with disabilities to have a free appropriate public education. A free appropriate public education is commonly referred to as FAPE. There has been a significant amount of litigation over the implementation of this legislation, as federal and state agencies seek to reconcile with parents exactly what the role of the LEA and SEA should be in providing a FAPE to children whose physical or mental disabilities may require special education and related services. It is often a contentious and spirited debate that has led to alternative dispute resolution strategies in an effort to reduce the cost of civil court proceedings and achieve the purpose of IDEA.

This chapter explains the legal and historical development of IDEA. This chapter also provides a description of certain federal laws regarding the education of special education students as well as procedures the Commonwealth of Virginia has codified into statutes. Lastly, the researcher discusses in detail the policies and procedures governing special education in Virginia.

According to the *Annual Report of Dispute Resolution Systems and Administrative Services* (2007), Virginia has three methods of dispute resolution procedures that parents may use when they feel their child has not been provided a FAPE.

They are due process hearing, mediation, and formal state complaints. Each of these methods is discussed further in this chapter.

History of Special Education

Special education services were slow to develop in the public schools (Martin, 1996). The historical background of special education services reveals the significance of legislation and litigation in special education development. It was not until the nineteenth century that special education programs achieved prominence in the United States (Alexander & Alexander, 2005).

Many of the early programs for children with disabilities were private and residential with the earliest known school for students with disabilities established in Hartford, Connecticut, in 1817 by Thomas Gallaudet (Alexander & Alexander, 2005). Gallaudet founded the American Asylum for the Education of the Deaf and Dumb, followed by others in New York in 1818, Pennsylvania in 1820, and Kentucky, Ohio, and Virginia from 1823 to 1844 (Martin, 1996). In 1830 a state hospital was founded in Worchester, MA, after the efforts of Horace Mann, who is best known for his labors in establishing free compulsory public education for all children (Alexander & Alexander, 2005). According to Alexander and Alexander (2005), New York established a school for blind students in 1832; and by 1852, New York, Pennsylvania, and Massachusetts all had appropriated money for programs for the education of mentally retarded children. However, none of these institutions were federally funded (Alexander & Alexander, 2005). The 1967 amendments to the Elementary and Secondary Education Act changed special education programs to direct funds for students in the local schools (Retrieved January 23, 2009, from http://www.lbjlib.utexas.edu/johnson/lbjforkids).

Although efforts to improve the education of students with disabilities have been made, the bulk of services for educating our nation's children were not made until 1965 with the enactment of the Elementary and Secondary Education Act (ESEA, 1965). These efforts continued to transform and evolve through new legislative developments. In 1970, Congress passed the Education of the Handicapped Act, which was renamed the Education for all Handicapped Children Act in 1975 and later amended and renamed the Individuals with Disabilities Act in 1990. In its current enactment in 2004, this law was renamed the Individuals with Disabilities Education Improvement Act. This section will begin with an overview of the legislation Congress passed in 1965.

Federal Legislation

ESEA

The ESEA is the main federal education law, describing federal requirements for the nation's public schools, most of which receive some form of aid under the statute, Public Law (PL) 107-110 (Retrieved from http://www.nea.org/esea/eseabasics.html). ESEA was first enacted in 1965 with the premise to provide a comprehensive plan for addressing the inequality of educational opportunity for economically underprivileged children; much of the inequality had been established by the Supreme Court decision in *Brown v. Board of Education (1954*). The Supreme Court found that African-American children had the right to equal educational opportunities and that segregated schools "have no place in the field of public education" (Wright & Wright, 2007). After the decision in *Brown*, many parents of children with disabilities began bringing lawsuits against their schools and school districts on the basis that, just as the students in *Brown* were being discriminated against because of race, their children were being discriminated

against because of their disabilities. ESEA became the statutory basis upon which further special education legislation was drafted, with one of the components targeting programs for children and youth with disabilities (Retrieved from http://www.nea.org/esea/eseabasics.html).

In 1966, Congress expanded the ESEA to include the education of children and youth with disabilities at the local school level, stating that there would be a grant program established to assist states in the "initiation, expansion, and improvement of programs and projects … for the education of handicapped children" (Wright & Wright, 2007). The ESEA established the Bureau of Education of the Handicapped (BEH) and the National Advisory Council (now called the National Council on Disability), which shifted the focus from merely launching Federal programs and getting money out to the states to identifying national goals for American education by encouraging states and local districts to coordinate their resources to help solve the problems they were having in educating handicapped students. The ESEA also addressed issues associated with the education of bilingual students by establishing programs for non-English-speaking students. These programs were to further supplement and support more funds for the expansion and improvement of special education services for the nation's students with disabilities (Retrieved January 23, 2009, from http://www.lbjlib.utexas.edu/johnson/lbjforkids).

The ESEA continues to be prominent in the education of our nation's youth, currently being revised every five to seven years with its goal to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards

and assessments (ESEA). According to Section 6301(2) of the ESEA, this purpose is accomplished by many means, the most important of which for purposes of this study is to meet the educational needs of low-achieving children in our nation's highest poverty schools, children with limited English proficiency, migrant children, and children with disabilities.

EHA

According to Wright and Wright (2007), in 1970 the 91st Congress enacted the Education of the Handicapped Act [EHA (P.L. 91-230)], in an effort to encourage states to develop educational programs for individuals with disabilities. The EHA established a federal core grant program for local education agencies. This act intended to ensure a free, appropriate public education in the least restrictive environment and contained procedural safeguards for students and parents. Even though the EHA had been passed, many children with disabilities were still not being served in all states (Martin, 1996). During the 1960s and early 1970s, no state served all its children with disabilities and until the mid-1970s, laws in most states allowed school districts to refuse to enroll any student they considered "uneducable" (Martin, 1996).

It is important to note that there were two landmark setting court cases in the 1970s that paved the way for legislation for children with disabilities: *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (PARC) 343 F. Supp. 279 (E.D.Pa.1972)* and *Mills v. Board of Education of District of Columbia* (*Mills*) *348 F. Supp. 866(D.C.C.1972).* The *PARC* case required the non-exclusion of students found by school psychologists to be uneducable while *Mills* disallowed excluding students with disabilities from school without affording them due process of law. It was

not until 1990 that a First Circuit Court of Appeals (*Timothy W. v Rochester, New Hampshire School Division*, 875 F.2d 954 [1st Cir. 1989], cert. denied, 493 U.S. 983, would set precedent in the First Circuit, but would be very "persuasive" in other Circuits) mandated the zero reject policy, where virtually no child is excluded from coverage under the IDEA, no matter how severely disabled the student is.

PARC

In 1971, the Pennsylvania Association for Retarded Children (PARC) brought a class action suit against the Commonwealth of Pennsylvania seeking a declaratory judgment that four statutes with the effect of excluding retarded children from programs of education and training in public schools were unconstitutional. The suit contended that due process required a hearing before a retarded child could be denied public education and since the state of Pennsylvania had undertaken to provide public education to some children; it could not deny public education to retarded children. Thirteen parents of mentally retarded students in Pennsylvania alleged that local school districts and intermediate units across the Commonwealth of Pennsylvania were excluding their children based on four state statutes.

The exclusion of retarded children that the plaintiffs complained of were 24 Pennsylvania's Statutes Section (24 P.S. Sec.) 13-1375 which relieved the State Board of Education from any obligation to educate a child that a public school psychologist certifies as uneducable; 24 P.S. Sec. 13-1304 which allowed an indefinite postponement of admission to public school of any child who had not attained a mental age of five years; 24 P.S. 13-1330 which appeared to excuse any child from compulsory school attendance whom a psychologist found unable to profit from public school, and 24 P.S.

13-1326 which defined compulsory school age as 8 to 17 years but had been used in practice to postpone admissions of retarded children until eight or to eliminate them from public school at age 17 (*PARC, 1972*). Parents of mentally retarded children in Pennsylvania contended that these state statutes violated their 14th amendment rights of due process and equal protection (*PARC, 1972*).

The plaintiffs alleged that the statutes lacked any provision for notice and a hearing before a retarded person was either excluded from a public education or a change was made in their educational assignment within the public school system. This action was contrary to due process procedures. They also asserted that the state statutes violated equal protection because, since the state had undertaken to provide a public education to some children, mentally retarded children had a fundamental right to the same provision. The final allegation was that their due process rights were further violated because the constitution and laws of Pennsylvania that guaranteed an education were arbitrarily and capriciously denied to them. Parents of mentally retarded children were being asked to pay additional monies to secure an education for their child on top of the money they were already paying in taxes for public education. Injunction was granted for the plaintiffs and the court further ordered immediate relief to children with disabilities under the age of 21, providing (a) that each mentally retarded child shall be accorded access to a program of education and training, and (b) that notice and an opportunity for a hearing shall be accorded before any change in the educational assignment of mentally retarded children. The following year, litigation was brought against the District of Columbia with allegations of the district's practices of excluding, suspending, or expelling students with disabilities from school (*PARC, 1972*).

Mills v. Board of Education of District of Columbia

In *Mills v. Board of Education of District of Columbia* (1972), the district court provided for all school age children with disabilities in the District of Columbia what *PARC* achieved for mentally retarded students in Pennsylvania. A class action suit was brought on behalf of seven school age students who were labeled as behavioral problems, mentally retarded, emotionally disturbed or hyperactive. The suit contended that the District of Columbia failed to provide publicly supported specialized education to these students and this failure violated controlling statutes and the District of Columbia's Board of Education's own regulations and denied due process. It is important to note that since the District of Columbia is not a state, the violation of due process falls under the fifth amendment of the United States Constitution. The 14th amendment applies to persons residing in the jurisdiction of particular states.

The *Mills* (1972) case points out that due process of law requires hearings for children who (a) have been labeled as having behavioral problems; (b) are classified as mentally retarded, emotionally disturbed, or hyperactive; (c) have been suspended or expelled from regular schooling in publicly supported schools; or (d) have been reassigned for specialized instruction. In this case, each minor plaintiff qualified as a child without financial means to obtain private instruction. The plaintiffs sought to obtain publicly supported education and certain of them were assured by school authorities that they would be placed in programs of publicly supported education and certain others would be recommended for special tuition grants at private schools. Two plaintiffs were considered behavior problems and were recommended by school authorities for suspension or expulsion without a full hearing. Plaintiffs estimated that

there were 22,000 retarded, emotionally disturbed, blind, deaf, and speech or learning disabled children, and perhaps as many as 18,000 of these children were not being furnished with programs of specialized education.

The District of Columbia Board of Education admitted to not providing the plaintiffs publicly supported education suited to each child's needs, including special education and tuition grants, or a constitutionally adequate prior hearing and periodic review (Mills,1972). The board contended that its inadequacies were due to lack of funding. The court ruled that insufficient funding or administrative inefficiency could not be permitted to bear more heavily on the "exceptional" or handicapped child than on the normal child. The court issued summary judgment in favor of the plaintiffs and adopted a comprehensive plan that had been formulated by the District of Columbia Board of Education. The comprehensive plan included provisions for (a) a free appropriate education (FAPE), (b) an individualized education program (IEP), and (c) due process procedures (Alexander & Alexander, 2005).

Together, the *PARC* and *Mills* cases were catalysts for future federal legislation assuring rights of education for children with disabilities (Alexander & Alexander, 2005). Components such as non-exclusion of students with disabilities, parent participation, free appropriate education, an IEP, and due process procedures taken out of the *PARC* and *Mills* cases established the basis of the Education of All Handicapped Children's Act of 1975.

Congress passed the Vocational Rehabilitation Act of 1973, focusing two of the major aspects on anti-discrimination and FAPE. According to Ruesch (2004), the purpose of this act was to protect otherwise qualified individuals from being discriminated against

by recipients of federal financial assistance and to afford disabled individuals the opportunity to participate in programs and activities. Section 504 of this Act was basically concerned with discrimination against handicapped individuals in the workplace, but also addressed the educational settings of disabled students (Ruesch, 2004).

For school-aged children, Section 504 lays out detailed criteria for finding a student eligible to receive services. Regulation 34 C.F.R. 300.104.3(j) states that an individual is disabled if he or she has, or has a record of having, or is regarded as having, a physical or mental impairment that significantly interferes with one of life's major activities. Major life activities are "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." [34 C.F.R. 300.104(j)(2)(iii)]. Students with temporary disabilities may be eligible under Section 504 depending on the severity and duration of the temporary disability or impairment (Norlin, 2007a). The second law that was passed in 1974, the Family Education Rights and Privacy Act (FERPA), gave parents and students over the age of 18 the right to examine records kept in the student's personal file.

These two legislative acts, Vocational Rehabilitation Act of 1973 and FERPA, along with litigation from the two catalyst cases, *PARC and Mills*, were the momentum for the amendments to the EHA, which became known as the Education for All Handicapped Children Act of 1975.

1975

In 1975, Congress passed the Education for All Handicapped Children Act (EAHCA), which mandated a free appropriate public education (FAPE) for all children

with disabilities, specified due process rights, mandated Individualized Education Programs (IEP) and Least Restrictive Environment (LRE). It is the main source of federal funding for special education.

The regulations of the EAHCA state that all students with disabilities are mandated to receive a FAPE, which is defined as the entitlement of every child with a disability under both the IDEA and Section 504 (although FAPE under Section 504 is less well defined). The second mandate was for due process rights. Due process is defined as an action that protects a person's rights. In special education, due process applies to parents' right to receive of notice in accordance with 34 C.F.R. 300.504 and their right to invoke procedures specified for the purpose of protecting their disabled child (20 U.S.C. §1415; 34 C.F.R. 300.500, et. seq.). Thirdly, students with disabilities were required to have an IEP, which represents the cornerstone of the IDEA. It is a written document, ideally developed in a collaborative and cooperative effort between parents and school personnel that describes the disabled child's abilities and needs, and prescribes the placement and services designed to meet the child's unique needs (34 C.F.R. 300 324).

Finally, services must be provided in the LRE, which is generally defined as the appropriate placement for a child with a disability that most closely approximates where the child, if nondisabled, would be educated; not necessarily the regular education classroom and not synonymous with inclusion or mainstreaming. Disciplinary removal falls under placement (34 C.F.R 300. 114). The Code of Federal Regulations 300.114, states that any removal of students with disabilities from the regular educational environment occurs only if the nature and severity of the disability is such that education

in the regular classes with supplementary aids and services cannot be achieved satisfactorily.

Before the enactment of the EAHCA, the educational needs of millions of children with disabilities were not being met because either (a) the children did not receive appropriate educational services, (b) the children were excluded entirely from the public school systems and from being educated with their peers, (c) undiagnosed disabilities prevented the children from having a successful educational experience, or (d) there were a lack of adequate resources within the public school system which forced families to find services outside the public school setting (20 U.S.C. §1400).

To ensure children with disabilities basic educational rights, there were six core principles incorporated in the EAHCA. Each of these core principles will be discussed in further detail in subsequent sections of the paper. These core principles are: (a) a free and appropriate public education (FAPE), (b) an individualized education program (IEP), (c) special education services, (d) related services, (e) due process procedures, and (f) the least restrictive environment (LRE) in which to learn (20 U.S.C. §1400).

1986

The Education of the Handicapped Act Amendments of 1983 reauthorized the discretionary programs (which were programs that were available for states to use as needed), established services to facilitate school to work transition through research and demonstration projects, established parent training and information centers, and provided funding for demonstration projects and research in early intervention and early childhood special education (20 U.S.C. §1400). In 1986, the Education of the Handicapped Act Amendments mandated services for preschoolers and established the Part H program to

assist states in the development of a comprehensive, multidisciplinary, and statewide system of early intervention services for infants (20 U.S.C. §1400).

1990

The Education of the Handicapped Act Amendments of 1990, renamed the law the Individuals with Disabilities Education Act (IDEA). It reauthorized and expanded the discretionary programs, mandated transition services, and defined assistive technology devices and services (20 U.S.C. §1400). Under IDEA, students may be eligible to receive services if they have specific disabling conditions as identified under 20 U.S.C. §1401(3)(A)(i) as a child "with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities". Deaf-blindness and multiple disabilities are also included in the Code of Federation Regulations [34 C.F.R. 300.8(a)]. The main objective behind IDEA is that no child be discriminated against or excluded from public schools. This premise behind IDEA will be discussed in further detail in subsequent sections relating to the zero reject principle of the 2004 IDEA.

1997

In 1997, the reauthorization of IDEA was viewed as an opportunity to review, strengthen, and improve IDEA to better educate children with disabilities and enable them to achieve a quality education (Ruesch, 2004). Congress sought to achieve this by: (a) strengthening the role of parents; (b) ensuring access to the general curriculum and reforms; (c) focusing on teaching and learning while reducing unnecessary paper work

requirements; (d) assisting educational agencies in addressing the costs of improving special education and related services to children with disabilities; (e) giving increased attention to racial, ethnic, and linguistic diversity to prevent inappropriate identification and mislabeling; (f) ensuring schools are safe and conducive to learning; and (g) encouraging parents and educators to work out their differences by using non adversarial means (20 U.S.C. §1400).

2004

The most recent amendment to IDEA occurred in 2004. The most significant changes call for more accountability on state and local levels, and school districts providing adequate instruction and intervention to help keep children out of special education. According to Norlin (2007b), keeping up with the changes made in the 2004 IDEA, schools are the process of scientific, research-based intervention, Response to Intervention (RTI) to determine if students suspected of having a specific learning disability will qualify for special education services. RTI is a model for early intervening services that consists of tiered levels of instruction and strategies to address specific needs of struggling students (North Carolina State Board of Education, 2007). In the conference program, *Believe in One, Believe in All*, the North Carolina State Board of Education (2007) says that before determining that a child has a specific learning disability, the evaluation team should consider the data that demonstrate that prior to, or as part of the referral process, the child received appropriate instruction in the regular education settings.

Many changes and amendments have been made to this law from the inception of EAHCA in 1975 to its current state (IDEA 2004), all making attempts to give students

with disabilities a fair and equitable chance to be educated in United States' schools. In its current state, the IDEA no longer has discretionary programs as with the ESEA, but mandates that states receiving federal funds provide equal educational opportunities for students with disabilities. States can decide not to accept funds from the federal government for the education of students with disabilities under IDEA but; nevertheless, they have an obligation to not discriminate against handicapped children and to guarantee their protection under the American with Disabilities Act (ADA) and, generally, under state law. The ADA states that Congress intends to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" which recognizes that physical and mental disabilities should not diminish a person's right to fully participate in all aspects of society [42 U.S.C. §12100(a)(1)]. This protection also applies to students with physical or mental impairments that impede their learning as referenced in Section 504 of the Rehabilitation Act of 1973.

Financial Responsibility for IDEA

The federal government provides funding under IDEA to assist states with costs incurred in providing special education and related services to eligible students with disabilities (Norlin, 2007a). Congress funds IDEA through annual grant appropriations and sends the money to the states (Norlin, 2007a). Any state seeking to obtain funds pursuant to IDEA must submit a state plan to the U.S. Secretary of Education assuring that it will provide FAPE to IDEA-eligible students (Norlin, 2007a). The state must establish a goal of providing a full educational opportunity to all children with disabilities and a detailed timeline for accomplishing these goals [20 U.S.C. §1412(2)]. The plan

must include "Child Find," which establishes a policy for identifying, locating, and evaluating all children with disabilities residing in the state [20 U.S.C. §1412(3)(a)].

Local agencies providing education for eligible students with disabilities must submit a plan to the state that includes policies, procedures, and programs consistent with the state's plan [20 U.S.C. §1413(a)]. States are responsible for distributing the money to the local school districts, which can set aside up to 10% for specific functions, including monitoring, enforcement and complaint investigations and establishing and implementing the mediation process, including paying the cost of mediators and support personnel (Norlin, 2007a). There are many permissible uses of IDEA funds for LEAs and, of course, there are limitations (20 U.S.C. §1413).

IDEA, like the 1975 EAHCA, has six core principles that align with the No Child Left Behind Act (Turnbull, Huerta, & Stowe, 2006). According to Turnbull et al., (2006), NCLB was enacted to improve the education of all students, including those with disabilities, in all public schools in the nation. The six core principles of IDEA are: (a) Zero Reject; (b) Nondiscriminatory Evaluation; (c) Appropriate Education; (d) Least Restrictive Environment; (e) Procedural Due Process; and (f) Parent Participation (Turnbull et al., 2006).

Zero Reject

The first of the six principles is zero reject. The IDEA covers students ages 3 through 21 and includes all students with disabilities. A free appropriate public education is available to all students residing in the state between those ages, including those who have been suspended or expelled [Section 1412 (a)(1)(A)]. As laws for students with

disabilities were passed, there were students with disabilities still being excluded from public education, particularly students considered to be "uneducable" (Martin, 1996).

By 1990, the First Circuit Court of Appeals had established the zero reject policy, where virtually no child is excluded from coverage under the IDEA, no matter how severely disabled he is. The premise of the IDEA is that all children with disabilities, no matter how severely affected, can benefit from education and are entitled to receive it. According to Norlin (2007a), a leading case illustrating this principle is *Timothy W. v. Rochester, New Hampshire School Division*, 1st Circuit, *1988*. Timothy W. was a child who had profound mental retardation and severe spasticity, cerebral palsy, brain damage, joint contracture, cortical blindness and paraplegia. He was found to be eligible under IDEA and entitled to FAPE. Because he was aware of his surroundings, attempted to make purposeful movements and responded in limited ways to his environment, he was entitled to receive therapy designed to enhance his awareness and responsiveness to the extent possible (Norlin, 2007a).

In their book, *The Individuals with Disabilities Education Act as Amended in 2004*, Turnbull et al., (2006) state that Congress never intended to exclude any student even if a student seems to be so impaired that he or she seems unable to learn; the student still has the right to receive services from the SEA or LEA. The 2004 amendments at Section 1412(a)(2) reflect the zero reject foundation relied on by *Timothy W.* by continuing to require states to provide full educational opportunities to all children with disabilities between the ages of 3 and 21.

Nondiscriminatory Evaluations

Turnbull et al. (2006) and Norlin (2007a) noted that an evaluation is the initial step in the provision of special education to a student with a disability; hence, the importance of an accurate and thorough evaluation cannot be overstated. The evaluation is the key to detecting the existence of a student's disability or disabilities, and it sets the parameters for the course of special education and related services that will follow if the student is determined to be eligible (Norlin, 2007a). Further, requirements in 20 U.S.C. §1414(b)(3)(A-D) state that each local educational agency shall ensure that assessments and other evaluation materials used to assess a child under this section are (a) selected and administered so as not to be discriminatory on a racial or cultural basis; (b) provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; (c) used for purposes for which the assessments or measures; (d) valid and reliable; (e) administered by trained and knowledgeable personnel; and (f) administered in accordance with any instructions provided by the producer of such assessments.

An evaluation is the procedure used to determine if a student has a disability and, if so, the nature and extent of his resulting need for special education and related services (34 C.F.R. 300.15). The IDEA distinguishes between initial evaluations and reevaluations of students who are already receiving special education and related services (Norlin, 2007a). An initial evaluation is used to determine whether or not the student has a disability. The reevaluation is mandated to determine if the student continues to have a disability and what the student's educational needs are (Turnbull et al., 2007). When a student is suspected of having a disability, the parent or the LEA initiates proceedings for

an initial evaluation. Norlin (2007a) notes that IDEA requires every state to put policies and procedures in place to ensure that every child suspected of having a disability in the state, regardless of whether they are homeless or a ward of the state [34 C.F.R. 300.45(a)] be "identified, located, and evaluated" for special education services no matter how severe their disability is. The state's child find process must include children if they are suspected of having a disability and in need of special education services even if they are advancing from grade to grade [34 C.F.R. 300.111(c)(1)].

Local school districts ordinarily are responsible for conducting the child find activities for children residing within their districts [34 C.F.R 300.131(a)]. The child find requirement applies to all children in the entire specified age range residing in the state, regardless of any of the following: (a) the severity of the disability, (b) whether a child is in the custody or under the jurisdiction of any public or private agency or institution, (c) whether a child has never attended or will never attend public school, or (d) whether the state serves infants and toddlers under Part C or preschool children under Part B (as cited in Norlin, 2007a).

Most importantly, Norlin (2007a) pointed out that because the child find obligation is an affirmative one, a parent is not required to request that a school district identify and evaluate a child. A parent's failure to request an evaluation for their child does not relieve the school district of its obligation to find the child who is in need of special education services and evaluate the child. Failure to do so on the part of the school district may result in the deprivation of FAPE for that child.

Initial Evaluations

The regulations that outline whether a school or school district conducts initial evaluations of students for special services are quite specific but do offer some latitude to the district. Contrary to popular belief, a district can refuse to conduct an initial evaluation if it believes it has sufficient evidence to prove at an impartial due process hearing that the student does not qualify or is not eligible for the proposed services. A district has to conduct an initial evaluation when it suspects that the student has a disability and needs special education and related services as a result (Norlin, 2007a). This is normally based upon a combination of assessments, observations, and recommendations from educational personnel who have direct knowledge of the student's academic performance or behavior in the school setting (Norlin, 2007a).

This collaborative approach ensures that there is sufficient relevant data to make an informed decision that is in the educational interest of the student. Although parents can request an evaluation at any time, their request does not automatically trigger the right to an evaluation (Norlin, 2007a). Likewise, a parent can refuse to provide consent for a district to conduct an initial evaluation of their child. In the event that there is a disagreement on whether there should or should not be an initial evaluation of the child, the two parties can choose to meet and discuss the rationale for the decision.

Once the district's decision is made to complete the initial evaluation, the district provides the parents with appropriate notice and makes "reasonable efforts" to obtain their informed consent before proceeding [34 C.F.R. 300.300(a)(1); (LRP, 2:7)]. In most cases, the district and the parent are in agreement that the initial evaluation is necessary and the process to schedule it is completed with very little effort. In some cases, circumstances prevent prompt completion and the district is required by law to take

specific steps to demonstrate its efforts to complete in a timely manner, including documenting its attempts to obtain consent through detailed records of telephone calls, copies of correspondences sent and responses received, and records of visits made to parents' home or place of employment [34 U.S.C. 300.300(s)(5)]. Once the district has made reasonable efforts to acquire parental consent, if the parent refuses to provide consent, under IDEA, the district has the option but not the obligation to pursue the evaluation by using due process or mediation procedures (20 U.S.C. §1414 (a)(1)(D); 34 CFR 300.507-300.516). State law determines if the district must pursue due process in order to evaluate a child (Norlin, 2007a).

The only instance under IDEA in which a district has to evaluate a child when it could not obtain parental permission is if the child is a ward of the state and is not residing with the parent [20 U.S.C. §1414(a)(1)(D)(iii)(II)]. The district does not have to obtain consent if (a) it cannot discover the whereabouts of the parent, (b) the rights of the parent have been terminated in accordance with state law, or (c) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child [34 CFR 300.300(a)(2)].

IDEA requires the initial evaluation to take place within 60 days of receiving parent consent for the evaluation, or, if the state establishes a timeframe within which the evaluation can be conducted, the initial evaluation has taken place within the State's timeframe [34 C.F.R. 300.301(c)(1)]. The 60-day restriction does not apply if (a) the parent repeatedly fails or refuses to produce the child for the evaluation or (b) the child enrolls in another district after the 60-day period has begun and prior to a determination

by the previous district as to whether the child is a child with a disability. This exception applies only if the district where the child is currently enrolled is making sufficient progress to ensure a prompt completion of the evaluation and the parent and the new district agree to a specific time when the evaluation will be completed [Norlin, 2007 a; 34 CFR 300.301(e)].

Upon completion of an evaluation, a group of qualified professionals and the student's parent determine whether the student has a specific disability (34 C.F.R. 300.306). There are a number of steps that serve to assess accurately the depth and severity of the disability as well as prescribe an educational plan to assist the child. IDEA itself lists ten categories of disability at 20 U.S.C. §1401(3), not counting multiply disabled and another category states may employ for children ages 3-9.

If a student is suspected of having a possible learning disability, for example, the 2004 IDEA mandates specific criteria. Prior to IDEA 2004, the LEA was required to measure the student's academic performance on three items in order to apply the learning disabled category:

1. Does the student achieve commensurate with his peers in terms of age or ability?

2. Does the student achieve on a level commensurate with their intellectual ability in one or more of the seven specified areas or is there a "severe discrepancy" between their achievement and ability?

3. If there is a "severe discrepancy" between achievement and ability, is it primarily the result of (a) visual, hearing, or motor impairment; (b) mental retardation; (c)

emotional disturbance; or (d) environmental, cultural or economic disadvantage? (Norlin, 2007a)

If the evaluation team answered the three questions *yes*, *yes*, and *no*, respectively, then the student met the criteria for eligibility as having a Specific Learning Disability (SLD); (Norlin, 2007a). When determining whether a child has a specific learning disability, as currently defined under IDEA, a local educational agency is not required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning [20 U.S.C. §1414(b)(6)(A)]. Although schools may continue to use the discrepancy model, current IDEA legislation encourages schools to offer services that are based upon an unbiased set of criteria. With the 2006 regulations, an LEA may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures when determining whether a child has a specific learning disability[20 U.S.C. §1414(b)(6)(B); 34 CFR 300.307(a)(2)].

Schools are required to use effective methods and instructional strategies that are grounded in scientifically based research. This research involves the "application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to the education activities and program" (Norlin, 2007a). "Response to intervention" or RTI models, vary widely, but typically call for a system of increasingly intense levels of service delivery, when a student's academic progress does not meet the predetermined standards. The RTI model is not used solely for students with disabilities. As the student fails to show progress at one level, he or she is moved to the next level of

intensity. Ultimately, a lack of progress can lead to eligibility as a student with an SLD. The primary goal of these regular assessments is to ensure that students are given services that aid them in the successful development of academic skills.

To meet these goals, regardless of the specific classification, IDEA mandates that a full and individual initial evaluation be conducted prior to initial placement in a program of special education [20 U.S.C. §1414(a)(1)(A); 34 CFR 300.301(a)]. The initial evaluation uses a variety of assessment tools and strategies to gather relevant functional and developmental information that may assist in determining (a) if the child is a child with a disability and (b) the child's educational needs [34 CFR 300.301(c)(2)].

In accordance with Section 1414(b)(3) of the IDEA, listed "Additional Requirements," the assessments for the initial evaluation are required to ensure the following:

1. Must be selected and administered so as not to be discriminatory on a racial or cultural basis.

2. Must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to do so.

3. Must be used for the purposes for which they are valid and reliable.

4. Must be administered by trained and knowledgeable personnel and

5. Must be administered in accordance with any instructions provided by the producer of the assessment.

Reevaluations

Once a student has been found eligible under IDEA as a student with a disability, a reevaluation has to be conducted to determine if the child is to continue to be designated as having a disability, if the current plan meets the child's educational needs, the child's present levels of academic achievement and related developmental needs, and whether the child continues to need special education and related services (Norlin, 2007a). A reevaluation is often a comprehensive evaluation analogous to an initial evaluation, designed for students who have already undergone evaluations and are receiving services. A student's reevaluation does not have to be identical to the initial evaluation. It is important to note that district, state, and federal regulations may require a change in the student's plan then the annual reevaluation is an opportunity to address those issues (Norlin, 2007a).

According to Section 1414 (a)(2), a reevaluation cannot occur more than once a year, unless the parent and LEA agree otherwise; and can occur at least once every 3 years, unless the parent and LEA agree that a reevaluation is unnecessary. There can be times when a parent or teacher would request a reevaluation of a child. In this instance, the IDEA requires that the LEA conduct a reevaluation.

In conducting reevaluations (and in initial evaluations as appropriate), the LEA reviews existing evaluation data on the child, including (a) evaluations and information provided by the parents of the child, (b) current classroom-based, local, or State assessments, and classroom-based observations; and (c) observations by teachers and related services providers [20 U.S.C. §1414(c)(1)(A)(i-iii)].

Additional data can be required in conducting a reevaluation. The evaluation team has to consider whether any additions or modifications to the special education and

related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum [20 U.S.C. §1414(c)(1)(B)].

Appropriate Education

Since the passage of EAHCA, there has been substantial litigation over what is a free appropriate public education (FAPE). To qualify for federal funds under IDEA, a state has to adopt a policy that assures all handicapped children the right to a FAPE (20 U.S.C. §1412(a). The EAHCA (now IDEA) requirement of free appropriate public education is satisfied when the state provides personalized instruction with sufficient support services to permit the students with disabilities to benefit educationally from that instruction [*Board of Education of Hendrick Hudson Central School Division v. Rowley*, 458 U. S. 176 (1982)]. IDEA and the accompanying federal regulations include, among other things, LRE, IEP, and related services as subcomponents of appropriate education [20 U.S.C. §1412(a)].

These regulations made it clear that a child's IEP is not an educational contract guaranteeing that the student will achieve a certain amount of academic proficiency. All that is required of a school district is that it makes a "good faith effort" to assist the child to achieve his or her IEP goals (Norlin, 2007a). IDEA and NCLB work together to provide for students with disabilities (Norlin, 2007a).

Special education and related services have to be provided to children with disabilities "at public expense" meaning no cost to the parents (34 CFR 300.17(a). A public education for a student with disabilities is a preschool, elementary or secondary school education that meets state standards established by the state educational agency,

including standards relating to compliance with the IDEA (34 CFR 300.17). Disagreements over providing public education have caused litigation in the courts.

In 1982, with the decision in the *Board of Education of Hendrick Hudson Central School Division v. Rowley, 458 U. S. 176,* the Supreme Court attempted to clarify what Congress meant by FAPE. In that case, Amy Rowley was a deaf student with minimal residual hearing and an excellent lip reader in the Hudson Hendrick Central School Division in Peekskill, New York. She was receiving substantial special education and related services, which included an FM hearing aid to amplify words spoken into a wireless receiver by the teacher or fellow students during classroom activities, one hour per day of a tutor for the deaf, and three hours each week of speech therapist services (*Rowley*, 1982). Prior to Amy arriving to Furnace Woods School, several members of the school administration took a course in sign language interpretation, and a teletype machine was installed in the principal's office to facilitate communication with her parents who are also deaf (*Rowley*, 1982). She had a successful year as a kindergarten student and would return to the district as a first grade student the next year. At the annual meeting, her parents requested that she receive additional services of an interpreter; the district denied this request (*Rowley*, 1982).

When their request was denied, the Rowleys demanded and received a hearing before an independent examiner. Amy had been successful in the general education classroom, although she had missed some instruction because she did not have an interpreter. No one doubted that her performance would have been even more successful had she been able to hear the classroom instruction (Norlin, 2007b). The hearing officer agreed with the administrators' determination that an interpreter was not necessary

because "Amy was achieving educationally, academically, and socially" without such assistance (*Rowley*, 1982, p. 185). The Rowleys then brought suit in the U.S. District Court for the Southern District of New York, again claiming that denial of the sign language interpreter was a denial of FAPE as guaranteed by the Act (*Rowley*, 1982). The interpretation of the District Court was different from that of the independent examiner. The District Court concluded that although Amy was a "remarkably well-adjusted child who performs better than the average child in her class, is easily advancing from grade to grade, she understands considerably less of what goes on in class than she would if she were not deaf." (*Rowley*, 1982, p. 185). This court ruled that there was a disparity in Amy's achievement and potential; that she was not learning as much or performing as well academically, as she would without her handicap (*Rowley*, 1982). For Amy, such an opportunity required an interpreter, allowing her to hear everything that the other children in the class could hear and to achieve academically at the high level one would expect of her, but for her disability (Norlin, 2007b). With this interpretation, the District Court ruled that Amy was not being provided FAPE. The Rowley court interpreted FAPE to mean "an opportunity to achieve full potential commensurate with the opportunity provided to other children" (*Rowley*, 1982, p. 186).

The school district appealed the decision to the U.S. Court of Appeals for the Second Circuit. The Second Circuit affirmed the decision of the lower court. The Supreme Court granted certiorari to review the lower courts' interpretation. The Supreme Court considered two questions: What was meant by the Act's requirement of a "free appropriate public education"? and What was the role of state and federal courts in exercising the review granted by 20 U.S.C. § 1415 (*Rowley*, 1982)?

In response to the first question, the Supreme Court determined the definition of free appropriate public education is to provide the "basic floor of opportunity" consistent with equal protection as found earlier in the judicial proceedings of *PARC* and *Mills* (*Rowley*, 1982). It was not intended to maximize the potential of the handicapped student but to provide "meaningful" education so the student will receive *some* benefit from the special education and related services (*Rowley*, 1982). In response to the second question, the Supreme Court cautioned against too much judicial interference in the substance of a child's education (*Rowley*, 1982). The Supreme Court stated that a reviewing court should base its decision on the preponderance of the evidence and the ruling by no means an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities (*Rowley*, 1982). The Court used the two-part analysis test here to make its determination. First, had the State complied with the procedures set forth in the IDEA? And second, was the IEP developed through the IDEA's procedures reasonably calculated to enable the child to receive educational benefits? In the Rowley decision, the court noted that once it was determined that the procedural requirements of the Act to FAPE have been met; it was up to the State to lay out the methodology of providing instruction (*Rowley*, 1982). The Supreme Court reversed and remanded the decision to the lower courts.

The Rowley court emphasized it was not trying to establish any one test for determining the adequacy of the educational benefits conferred upon all children covered by the Act (*Rowley*, 1982). This was evident in a subsequent case in Pennsylvania in 1988, which was the leading case interpreting *Rowley's* requirement that educational programs must be designed to provide "some benefit" to mean that they must offer more

than *de minimus* benefit (Norlin J. , 2007 at p. 23, See also *Polk v. Central Susquehanna Intermediate Unit 16*, 853 F.2d 171, 1988). In *Polk*, the Third Circuit Court of Appeals focused on what districts had to provide for a student to make the education meaningful. The *Polk* court held that IDEA "called for more than a trivial educational benefit" and requires an IEP to provide "significant learning" and confer "meaningful benefit (Norlin, 2007b, p. 23)."

Christopher Polk was a severely developmentally disabled and mentally retarded student who contracted encephalopathy at the age of 7 months (Norlin, 2007b; *Polk*, 1988). At the age of 14, he had the mental capacity of a toddler and received special education and related services (*Polk*, 1988). He received services in a class for the mentally handicapped, had a full time aide, and worked on learning basic life skills (*Polk*, 1988). His parents asked that he receive direct physical therapy from a licensed physical therapist in order to meet his individual needs as prescribed by a doctor at the Shriner's Hospital in Philadelphia (*Polk*, 1988). The doctor prescribed one hour per week of direct physical therapy and the defendant school district was unwilling to provide direct physical therapy *(Polk*, 1988). The defendant school district provided for consultative therapy; a model in which, the licensed physical therapist trained the teacher to integrate physical therapy into the students' education but did not provide hands-on physical therapy instruction to the students by a licensed physical therapist (*Polk*, 1988).

Christopher's parents challenged the decision of the school administrators. The challenge came because the district had stopped direct physical therapy for students and was providing the classroom teacher with consult twice a month about integrating physical therapy into the classroom program. There was a full-time classroom aide who

was working with Christopher on basic life skills such as feeding and standing. The Polks' argument was that Christopher needed direct physical therapy from a licensed therapist in order to benefit from the education he was receiving in school (*Polk*, 1988). The first challenge went before the Commonwealth of Pennsylvania Department of Education Hearing officer, who used the decision of the *Rowley* court as a premise (*Polk*, 1988). The hearing officer found that Christopher was "benefiting from the special program of education being provided for him by the district and that he was progressing toward the goals and objectives set forth in his IEP (*Polk*, 1988, p. 175)."

After exhausting administrative remedies, the Polks brought suit in the federal district court for Middle District of Pennsylvania (*Polk*, 1988). In the district court, the Polks were allowed to conduct discovery about whether any of the 65 students in the five-county intermediate unit who's IEPs called for some sort of physical therapy had received hands-on physical therapy (*Polk*, 1988). Summary judgment was granted for the defendant school district before all information was presented, relying on the *Rowley* court for interpretation that the provisions of EAHCA (now IDEA) were met because Christopher had received *some* benefit from his education (*Polk*, 1988).

The Polks then appealed to the U.S. Court of Appeals for the Third Circuit alleging that (a) defendants violated EAHCA procedural requirements because Christopher's program was not truly individualized and (b) Christopher's education was inadequate to meet his unique needs (*Polk*, 1988). They asserted that the decision of the district was based on a consultative model for all students. The parents alleged that their son's program was not truly individualized because the district failed to provide direct physical therapy to any intermediate unit student. They claimed that the failure

demonstrated an inflexible rule prohibiting such therapy for individual students who needed it. The Court of Appeals discussed this case in the context of *Rowley*. The *Polk* court stated that the lower court misapplied *Rowley* to the child's circumstances in this case. Under the District Court's incorrect reading of *Rowley*, a child receiving any benefit, no matter how small, was receiving an appropriate education. "From that interpretation, one would shun to say that the student in this case would be entitled to no physical therapy because his occupational therapy offered him some benefit (Norlin, 2007b, p. 23)." The Court of Appeals reversed and remanded the decisions to the lower court stating that the benefit conferred by EAHCA as interpreted by Rowley must be more than *de minimus* (Norlin, 2007b).

The purpose of the EAHCA is to provide "*full* educational opportunity to all handicapped children" [(20 U.S.C.§ 1412 (a)(2)]. Although Congress did not intend to provide optimal benefit, the Act's use of the phrase full educational opportunity indicated intent to afford more than a trivial amount of educational benefit (Norlin, 2007b). The *Rowley* court described the education provided under EAHCA as having to be meaningful, but since the severity of Christopher's disabilities and their qualitative difference from those of Amy Rowley, the *Polk* court determined the same standards would be hard to apply (Norlin, 2007b).

Narrowly applying to the Rowley decision would only allow for *de minimus* benefit to Christopher (Norlin, 2007b). The *Polk* court determined that, when applying the two-part analysis test from the *Rowley* case, courts had to make the decision based on an individual case-by-case basis. A significant number of parents have brought action against school districts based on perceptions of their child not being provided FAPE. The

manner in which children receive FAPE is outlined in the child's individualized education program.

Individualized Education Program

The IEP governs what services a student with disabilities will receive in the educational setting. It is the written document that is developed collaboratively with the parents and school personnel (20 U.S.C. §1414). It is the responsibility of the school district to ensure that at each IEP meeting the parents have the opportunity to participate; which means providing them with advance notification of the meeting and scheduling the meeting at a mutually agreed upon time (20 U.S.C. §1414). The IEP describes the student's disabilities and needs, and prescribes the placement and services designed to meet the child's unique needs. It is ultimately the child's complete educational plan that has to be reviewed annually, has measurable goals and objectives, provides specific educational programs and services, and contains evaluation procedures necessary to monitor the child's progress [20 U.S.C. §1414(d)]. There are eight components that must be included in an eligible student's IEP [20 U.S.C. §1414(d0(1)(A)].

Although Congress specified that the education provided to the child has to be appropriate to the child's needs, interpreting the standard has proven to be difficult, among other reasons, because of the diversity of the special education population. According to Martin (1996), various courts have concluded that the school district is obligated to consider more than just the narrowly defined educational needs of the child. Socialization and mental health are legitimate and, in some cases, require goals to include in the IEP (Martin, 1996). In a 1978 case in Texas, the court determined that the behavior of a child should have been examined with a more prudent eye since emotional upheaval

was the precipitating factor that led to the student's hospitalization and necessitated his enrollment at the Brown School, which was a private school in Austin, Texas. (*Howard S. v. Friendship Independent School Division 454 F. Supp. 634* (1978). In that case, *Howard S. v. Friendship Independent School Division 454 F. Supp. 634 (1978),* Douglas was a child diagnosed with minimal brain damage, a definite learning disability, and at least temporarily, a severe emotional disturbance. He was placed in special education at the age of 5 and had a successful experience through junior high school with the assistance of his IEP. However, when Douglas enrolled in high school, he developed behavior problems that the assistant principal attributed to discipline and did not notify the special education department of Douglas' inability to adjust to high school (*Howard*, 1978).

Despite attempts by the parents to receive additional services, the school administration continued to ignore Douglas' emotional problems and characterized his behavior solely as disciplinary problems. Douglas was being seen by a psychiatrist and eventually made a suicide attempt. The court was persuaded by testimony that, without appropriate behavioral programming, Douglas would probably develop a worsening behavioral pattern, likely ending in incarceration (Martin, 1996). The court ordered the school district to provide a comprehensive evaluation of Douglas and immediately after the evaluation, provide an IEP with behavioral programming to meet his needs. Further, the court ordered the school district to pay for Douglas' private school placement and cost of a therapeutic program (Martin, 1996).

School districts, especially school administrators, could not allow ignorance to govern their decisions when providing FAPE to students with disabilities. They have to provide appropriate special education services to their students with disabilities.

Least Restrictive Environment

Provisions in the IDEA allow for children with disabilities to be educated to the maximum extent appropriate in classrooms with their non-disabled peers in order to give them the opportunity to socialize and interact with other typically developing children and reduce the possibility of being stigmatized (Alexander & Alexander, 2005). In a 1991 study of due process hearings in Georgia (Howard, 1991), the researcher points out that stigma has played a central role in the evolution of due process for children with disabilities. Providing children with disabilities with the opportunity to receive their education in a setting that is as close to the regular education setting as possible would reduce the possibility of handicapped children receiving a negative label in their environments. The requirement of the IEP team is to determine the least restrictive environment for the child, which could range on a continuum from a public school setting in a regular classroom for the majority of the day to being hospitalized (34 C.F.R. 300.39(a), 300.114, 300.115). Webb (1994) also found that the restrictiveness of the placement is significant in determining the outcome of the hearing, when a student's placement is more restrictive at the time of the hearing.

A placement decision is a determination of where a student's IEP has to be implemented. Placement decisions for children with disabilities have to be made consistently with 20 U.S.C. §1412(a)(5) and 34 C.F.R. 300.114 – 34 C.F.R. 300.116 of

the 2006 IDEA regulations. There are three major requirements for the placement decision, which are as follows:

1. A group of persons, including the parents, make the placement decision.

2. The least restrictive environment mandate governs selection of the appropriate placement.

3. Unless the IEP necessitates other placement, the child has to be educated in the school he or she would attend if he or she were not disabled, or, in any event, the child should be educated as close to home as possible. A placement decision is not and does not need to be a determination of the specific classroom within the designated school or other facility or specific teachers (Norlin, 2007a).

When a school district considers a placement decision, the 2006 IDEA regulations at 34 C.F.R. 300.116 clarify the factors that a placement team has to consider. First, what is pertinent for the child will vary based upon the identity of the child whose placement is under consideration. These decisions have to be individualized and not focused on the overall convenience of the school. Second, placement teams have to identify the placement that will allow the child to be educated with nondisabled children to the maximum extent appropriate. To that end, the placement team has to consider if the provision of supplementary aids and services will permit placement of a child with a disability in the regular education environment, rather than a more restrictive environment in which the child would otherwise be placed (Norlin, 2007a). Supplementary aids and services defined in 20 U.S.C. §1401(33) are supports that are provided in regular education classes, other educational-related settings, and in extracurricular, and nonacademic settings, to enable children with disabilities to be

educated with non-disabled children to the maximum extent appropriate in accordance with 34 C.F.R. 300.114 through 34 C.F.R. 300.116.2. Common examples of supplementary aids and services include a 1:1 aide, curriculum adaptations, and assistive technology devices (Norlin, Kline, & Slater, 2007). In determining the most suitable placement, school districts have the discretion to consider factors such as the following:

1. Whether the proposed program, at the proposed location, is reasonably calculated to provide an educational benefit and would afford the student the amount and kind of interaction appropriate to the student's needs.

2. Whether the location is within the district and within a reasonable distance from the student's home.

3. Whether the proposed location offers benefits or advantages for the student that the neighborhood school does not.

4. What costs would be involved in making the neighborhood school an equally suitable location for the student (Norlin, 2007a).

When students are in their neighborhood or zoned schools, they are included in the general education classroom with their nondisabled peers to the maximum extent appropriate. Notwithstanding the presumption in favor of inclusion, districts generally are not required to mainstream a student with a disability who:

1. Does not receive a sufficient educational benefit in a regular classroom, even with the provision of supplementary aids and services [*Daniel R. R. v. State Board of Education, 874 F. Supp. 1036,* (1989); See 34 C.F.R. 300.114(a)(2)(ii)].

2. Requires so much of the teacher's time and attention that he/she substantially interferes with the learning of others in the classroom [*Greer by Greer v. Rome City School Division* 950 F.2d 688 (1991)].

3. Threatens the safety of other students or poses a danger to himself if placed in the regular classroom [*Clyde K ex rel. Ryan K. v Puyallap School Division*, 21 IDELR 664, 9th Circuit, 1994, cited in Norlin, 2007a)].

4. Engages in significantly disruptive behavior, even with the use of behavioral intervention, which interferes with the education of classmates [*Hartmann by Hartmann v. Loudoun County Board of Education,* 118 F.3d 996 (1997)]**.**

5. Will require so much modification in the curriculum that the regular program has to be altered beyond recognition [*Lachman v. Illinois State Board of Education,* 852 F.2d 290 (1988)].

Daniel R. R. v. State Board of Education, 874 F. Supp. 1036, (1989) afforded courts a two-part test to apply if a child should be placed in a more restrictive setting. Daniel was an elementary school child with Down syndrome whose parents requested an IEP meeting to see if he would benefit from being placed in the mainstream. The school convened an IEP meeting and wrote mainstreaming services for Daniel into his IEP. Shortly after school began, the teacher realized that Daniel was not able to benefit from the mainstream and in order to accommodate Daniel's needs she would have to modify her curriculum beyond recognition. The school decided to change Daniel's placement to a more restrictive environment where he would only be with his non-disabled peers at recess and in the cafeteria three days a week if his mother was there to supervise. Mr. and Mrs. R. did not agree with the decision. In the District Court, the school district

successfully demonstrated that it was unable to educate the 6-year old with Down Syndrome and speech impairment in a general education pre-kindergarten class. Its proposed placement in a special education program and interaction with nondisabled students during lunch and recess mainstreamed the student to the maximum extent possible. The parents filed an appeal with the 5th Circuit Court of Appeals, which upheld the decision and established a two-part test (Norlin, 2007b).

The two-part test established by that court became known as the *Daniel R.R.* approach (Norlin, 2007b). In the first part, the school has to determine if the placement in the regular setting, with supplementary services can be achieved satisfactorily.

The Fifth Circuit Court first addressed the question of whether the district could educate the child satisfactorily in the general education classroom and concluded it could not. In this case, the district made a sufficient effort to accommodate the student in general education by taking steps to modify the child's prekindergarten program and by providing supplementary aids and services. It also noted that the child received little benefit from the inclusive program, as he was not yet ready to learn the developmental skills offered, did not participate in class activities and could not master most or all of the lessons taught in the class. If it could not educate the child satisfactorily in the general education classroom and the decision was made to remove the child from the general classroom setting, the second part of the test would be considered. In the second part, the school has to ask whether the child has been mainstreamed (spending some time in the general classroom) to the maximum extent possible (Norlin, 2007b).

Looking at the specific facts of *Daniel R.R.*, it was not suitable to find a placement that would allocate the child's time equally between general and special

education. Instead the school took the intermediate step of mainstreaming him for lunch and recess. The court determined that although the opportunity for association with nondisabled students was not as extensive as the parents would like, it was, however, an appropriate step that might help to prepare the student for general education in the future (Norlin, 2007b).

Other courts have used different tests to determine the least restrictive environment, such as the case of *Sacramento City Unified School Division, Board of Education v. Rachel H.*, (1994). In that court case, Rachel had spent half days in a special education setting and half days in a regular education setting. She was an 11-year old child with moderate mental retardation and making progress on her IEP goals. At the end of the year, Rachel's parents requested that she be put in regular education full time and the district denied the request. The district contended Rachel was too severely disabled to benefit from full-time placement in regular education. The parents challenged the decision and requested due process in which they prevailed. The parents also prevailed in the District Court, and on appeal by the district, the Ninth Circuit adopted the four-factor balancing test applied by the District Court for determining the school district's compliance with IDEA's preference for educating children with disabilities in the general education classrooms to the maximum extent appropriate. The four factors are: (a) the educational benefits available to the child in the regular classroom with supplementary aids and services, (b) the nonacademic benefits of interaction with children who are not disabled, (c) the effect of the disabled child's presence on the teacher and other children in the classroom, and (d) the cost of mainstreaming [*Sacramento City Unified School Division, Board of Education v. Rachel H.,* (1994)].

In the *Rachel H*. case, the courts determined the student was entitled to a full-time placement in a general education classroom. The parents had compelling evidence of the student's success in the general education placement and there was no indication she had a negative impact on other students. The district claimed that placing the student in a full inclusion setting would be cost prohibitive, but failed to support its claim on the cost during the hearing [Norlin J., 2007 at p. 43; See also *Sacramento Unified School Division, Board of Education v. Rachel H* , 14 F.3d 1398, 1994)]. In addressing the cost issue, the district claimed that it would lose almost $200,000 in state special education funding if the child were not enrolled in a special education class at least 51% of the day. The Ninth Circuit found the district unconvincing on the issue of cost, pointing out that it had not sought a waiver pursuant to the state education code (*Rachel, H.*, 1994).

Another issue that came up in the *Rachel H.* hearing was that of weighing the cost of educating the child in the general education classroom versus a self-contained classroom. With this issue, the district failed to balance the costs of providing supplemental aids and services in the general education classroom against the monies saved by not educating the student in a self-contained environment (Norlin, 2007b).

Both inclusion and mainstreaming refer to placement of students with disabilities in the regular education classroom environment (Norlin, 2007a). Inclusion is commonly understood to mean that a student with disabilities receives at least portions of his education in the general education classroom. Full inclusion means the placement of a student in his home school in a general education classroom with age- and grade-appropriate peers (Norlin, 2007a). The ability of a student with a disability who is included in the general education classroom to participate in the general curriculum is

largely a function of the severity of his disability. In the course of an inclusive program, a student with a disability receives his own special education, a modified and adapted version of the general classroom activity that is taking place concurrently (Norlin, 2007a).

To clear up any misconception, mainstreaming is not a formal term but common jargon in the educational community typically accepted as meaning the placement of a child with a disability alongside nondisabled children in a regular environment (Norlin, et al., 2007). For the most part, mainstreaming and inclusion have been used interchangeably, but inclusion is the preferred term (Norlin, et al., 2007). The term *inclusion* is not found in the Act. Although parents remain enthusiastic about inclusion, there are reports that inclusive programs vary greatly from school to school and that some attempts at inclusion do not offer specific, individually designed, educational approaches to students with disabilities (*Rachel, H.,* 1994).

Inclusion, mainstreaming, resource classes, self-contained classes, homebound, private placement, and hospitalization are all on the continuum of the LRE [34 C.F.R 300.115(b)(1)]. The answer to what constitutes the LRE continues to be uncertain and litigation continues to proliferate [34 C.F.R 300.115(b)(1)]. A student's IEP contains a placement clause that should be made for that student and that student alone. Categorical decisions clearly violate the IDEA's requirement for individualized education planning. Similarly, administrative convenience or economic considerations cannot play a role in a decision to place a student with a disability in a more restrictive setting (Norlin, 2007a). Parents are seeking fairness in the education of their children with disabilities. When

fairness is not perceived, parents often take advantage of their due process rights and initiate due process procedures or file formal written complaints with the SEA.

Discipline and LRE

Finally, when dealing with placement, a change to a more restrictive environment or an alternative setting may become necessary when discussing the discipline of a child with disabilities. IDEA prohibits students with disabilities from being suspended for more than 10 days except under specified circumstances [20 U.S.C. §1415(k)(1)(B) and (C)]. The 2006 regulations address discipline of students with disabilities under 34 C.F.R 300.556 as follows:

1. For purposes of removing a child with a disability from the child's current educational placement, a change of placement occurs if (a) the removal is for more than 10 consecutive school days; or (b) the child has been subjected to a series of removals that constitute a pattern because (i) the series of removals total more than 10 school days in a school year; (ii) the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removals; and (iii) because of such additional factors as the length or each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

2. The local education agency determines on a case-by-case basis whether a pattern of removals constitutes a change in placement.

3. This determination is subject to review through due process and judicial proceedings.

Students with disabilities can be suspended if they are disrupting the educational environment, but their placement may not change to the point that their services are

terminated [20 U.S.C. §1415(k)(1)(D)]. In situations where the disciplinary infraction is not a manifestation of the student's disability, schools can suspend the student with disabilities as they would a student without disabilities. If the student is temporarily removed from the current school placement, services have to be provided so that the student can make progress in the general curriculum and on the IEP goals [20 U.S.C. §1415(k)(1)(D)].

When the misconduct is a manifestation of the disability, the student has to remain in the educational placement indicated on the IEP, unless the parent and the LEA agree to a change of placement as part of the modification of the behavior intervention plan. It may be necessary to make changes in the student's behavior intervention plan and other services to help change the behavior [20 U.S.C. §1415(k)(1)(E)].

In a landmark case, *Honig v Doe, 108 S. Ct. 592 (1988),* handicapped students brought action against the school district and others to recover for alleged violation of EAHCA (now IDEA). The U.S. District Court for the Northern District of California entered summary judgment for handicapped students and issued a permanent injunction and appeal was taken. California law at the time empowered school principals to suspend students for no more than five consecutive school days, Cal. Educ. Code Ann. § 48903(a) (West 1978), but permitted school districts seeking to expel a suspended student to "extend the suspension until such time as [expulsion proceedings were completed]; provided, that [it] has determined that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process." § 48903(h) (*Honig v Doe, 108 S. Ct. 592 (1988).*

The State subsequently amended the law to permit school districts to impose longer initial periods of suspension.

In *Honig v Doe*, school officials had suspended two emotionally disturbed students for violent and disruptive conduct found to be related to their disabilities. The district wished to expel these students indefinitely. The lower courts approved suspensions of 20 or 30 days in duration (*Honig v Doe, 108 S. Ct. 592 (1988).* In this appeal, the court held that the lower courts erred because more than 10 consecutive days of suspensions constitutes a change in educational placement. In *Goss v Lopez, 419 U.S. 565 (1975)*, the court ruled that removal from school required due process and if a student was removed for more than 10 days, due process had to be more formal than removal for less than 10 days, which still would constitute minimum due process.

The *Honig* court ruled that during the pendency of any proceedings initiated under the Act, unless the state or local educational agency and the parents or guardian of a disabled child otherwise agree, "the child *shall* remain in the then current educational placement." (*Honig v Doe, 108 S. Ct. 592 (1988).* The exception to this "stay-put" provision is "dangerousness" (*Honig v Doe, 108 S. Ct. 592 (1988).* Whereas the courts ruled that schools could not unilaterally remove a disabled student from school, they did not leave the schools without options. The Department of Education observed the following:

While the child's placement may not be changed during any complaint proceeding, this did not preclude the agency from using its normal procedures for dealing with children who were endangering themselves or others. In cases where school officials need more than 10 days to reach a decision and where there was no evidence that mother

was provided with notice of her procedural rights under IDEA to appeal suspension, the mother's request for manifestation determination was not addressed, and suspension was treated as appeal pursuant to state statute without considering student's status under IDEA the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gave school officials an opportunity to invoke the aid of the courts under § 1415(e)(2), which empowered courts to grant any appropriate relief (*Honig v Doe, 108 S. Ct. 592 (1988)*.

Related Services

Under IDEA, related services are supportive services provided to students with disabilities to assist the student to benefit from special education. A new provision in IDEA 2004 and the accompanying 2006 final regulations specifically excludes from related services a medical device that is surgically implanted (including a cochlear implant), the optimization of the device's functioning (e.g. mapping), maintenance of the device, or its replacement (Norlin, 2007a). There are specific services that school districts are required to perform, but they are not required to provide therapeutic services that are personally performed by a physician. The services of licensed physicians for other purposes, specifically for treatment, are not considered a related service (Norlin, 2007a). On the other hand, health services or nurse services, which are services that can be performed by non-physicians, are services that must be provided if they are necessary for a child to receive FAPE (Norlin, 2007a). In a 1991 study by Howard, *Incidence, Outcomes, and Fairness: An Analysis of Special Education Due Process Hearings in Georgia*, the researcher concluded that parents prevailed more often in due process

hearings involving students with hearing impairments and when hearings involved issues of related services.

In *Irving Independent School Division v. Tatro, 468 U.S. 883,* (*1984*), the Supreme Court determined that catheterization falls within the definition of related services. According to IDEA, schools are required to provide services to the children that allow them to have access to the school. The issue in this case is whether the district had to administer clean intermittent catheterization (CIC) to Amy Tatro.

Amy was a child born with spina bifada. She suffered from orthopedic and speech impairments and a neurogenic bladder, which prevented her from emptying her bladder voluntarily. Consequently, she had to be catheterized every three or four hours to avoid injury to her kidneys [*Irving Independent School Division v. Tatro, 468 U.S. 883,* (*1984*)]. At the age of 3-1/2, she was identified by the Irving School Division as a child eligible to receive services under the EAHCA. The school agreed to provide services for Amy that would meet her needs and provide her access to the classroom except the one critical area of CIC, which was prescribed [*Irving Independent School Division v. Tatro, 468 U.S. 883,* (*1984*)].

The school district argued that CIC was a medical service; therefore, they would not be able to provide the service to Amy. The court determined that CIC was a service that could be provided by a qualified nurse, which would make it a related service, while a medical service would have to be performed by a licensed physician. Since CIC was a simple procedure that required someone to accompany Amy to the bathroom and insert a catheter into the urethra to drain the bladder, which any layperson could be trained to perform within an hour, the school district would be required to implement this as a

related service in the IEP [*Irving Independent School Division v. Tatro, 468 U.S. 883,* (*1984*)]. As a result of this case, the Supreme Court established the standard that when (a) a service is necessary or the student will otherwise be barred from receiving an appropriate education and (b) the service can be provided by someone with less training than a physician, then the school has to provide the service [*Irving Independent School Division v. Tatro, 468 U.S. 883,* (*1984*)].

Due Process Procedures

According to Turnbull, et al., (2006), in their book, *The Individuals with Disabilities Education Act as Amended in 2004,* fairness is the essence of due process. Parents, students, SEAs, and LEAs need to deal with each other fairly. IDEA sets out procedures for parents and districts to deal with each other in a fair manner. In 20 U.S.C. §1415, procedural safeguards are established in the Act to ensure that parents and students are guaranteed their rights with respect to a FAPE by local and state agencies. There are seven types of procedures noted as follows:

1. Parents have an opportunity to examine all records of their child with a disability, to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.

2. Procedures are in place to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State

educational agency, the local educational agency, or any other agency that is involved in the education or care of the child.

3. Prior written notice has to be given to the parent of the child before the LEA initiates, changes, or refuses to change the child's classification or special education services or placement.

4. Prior written notice has to be in the parent's native language to the fullest extent possible.

5. An opportunity for mediation has to be provided.

6. An opportunity for either party to present a complaint has to be afforded within a given time period.

7. Procedures are in place to require either party to provide due process complaint notice, which complaint is kept confidential [20 U.S.C. §1415 (b)]. Due process consists of the rights to protest certain actions or failure to act of the parents, the SEA, or the LEA through mediation, appeal to an impartial hearing officer, and appeal to the SEA, state, and federal courts [20 U.S.C. §1415 (b)].

Historically and now, an impartial due process hearing can be initiated to resolve any disagreements parents and school districts may have respecting the identification, evaluation, a placement of a child, or provision of FAPE (34 C.F.R. 300.507). The plaintiff party can be the school district or the parents and either party has a right to be represented by counsel. When the plaintiff party is a parent, the local school district is responsible for informing the parents of low cost legal services at the time the hearing is initiated. Although parents have to exhaust all administrative remedies in order to recoup attorney's fees incurred throughout a due process proceeding, if the parents prevail in a

special education impartial hearing, they can be awarded attorney's fees and costs by the court [20 U.S.C. §1415(i)(3)].

Parents have support when filing a due process complaint since the IDEA mandates that states develop their own model forms for filing a complaint (34 C.F.R. 300.509) to assist parents or other agencies in filing a complaint against the LEA. Disagreements in providing special education services, for example, may range from a minor miscommunication to significant conflicts that trigger the use of the procedural safeguards under IDEA (Henderson, 2008). Parents do have options when it comes to settling a disagreement, as IDEA requires that states put in place several possibilities for dispute resolutions, which include mediation or filing for a due process compliant. Either of these can lead to resolution, a due process hearing, or in the event that the losing party is not satisfied with the determination, an appeals process is in place that can lead to civil action.

Although a civil action is not usually the first option parents may invoke to voice their concerns about a disagreement with school districts, the IDEA specifically provides that any party who is "aggrieved" by a final administrative decision concerning a student with a disability has the right to initiate a civil action [20 U.S.C. §1415(i)(2)]. There are times when parents are allowed to go directly to a civil action, but these are rare. Under IDEA at 20 U.S.C. §1415(i)(2) exhaustion of administrative remedies generally requires a litigant to pursue administrative remedies (i.e., follow the due process procedures) before seeking relief in court. The IDEA's exhaustion requirement generally applies even if a parent or guardian is seeking relief under a different statute, such as Section 504, the Americans with Disabilities Act (ADA) or a U.S. Constitutional claim via §1983 (Norlin,

et al., 2007). The following are circumstances under which a parent is not be required to exhaust administrative remedies before filing a civil action under the IDEA:

1. The administrative decision-makers do not have the authority to award the requested relief.

2. Alleged class actions were widespread, systemic violations of the IDEA.

3. Allegations of deliberate deprivation of IDEA rights, like allegations of systemic violations.

4. Immediate access to courts is necessary to avoid serious injury that will result in irreparable harm.

5. Claims concerning issues of pure law, without any fact-based dispute, also are exempt from the exhaustion requirement (Norlin, 2007a).

Generally the parties file a complaint for due process leading to an administrative hearing before an impartial hearing officer. In these administrative proceedings, the question of who bears the burden of proof has arisen. In its decision of *Schaffer v. Weast* (543 U.S. 1145, 125 S. Ct. 1300, 2005), the Supreme Court decided that the burden of proof in challenging an IEP is properly placed on the party seeking relief. However, it is of significance to state that the decision in *Schaffer v. Weast* applies only to administrative hearings (Norlin, 2007a). The issue of which party bears the burden of proving their claim is crucial in all litigation contexts, including special education due process proceedings. Since it is typically the parents who are raising challenges to the district's IEP, the Supreme Court's decision in *Schaffer* was a setback to advocacy groups who argued the district should bear the burden due to its better ability to demonstrate that it has fulfilled its statutory obligation (Norlin, 2007b).

Conroy, Yell, and Katsiyannis (2008) wrote an article entitled *Schaffer v. Weast*. In their article article, Conroy, et. al. provided the rationale stating, if the court reasoned to place the burden on the school district, that would presume every challenged IEP was inadequate. Moreover, if the courts made this assumption, they would be going against the basic policy of the IDEA of relying on the professional expertise of local educators (Weast v. Schaffer, 2004).

Even though it is evident that parents need due process protections under the law, it is also important to note that districts are afforded equal protection. The courts have to balance the rights of the parent to seek redress evenly with the assertion that school districts utilize their professional expertise to offer appropriate services. One party's rights should not outweigh the other party's rights (Weast v. Schaffer, 2004).

Parent Participation

The final principle of the 2004 IDEA is parent participation. Section 1401(23) defines parent as a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by state law from serving as a parent); a guardian (but not the state if the child is a ward of the State); an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or assigned to be a surrogate parent.

The 1975 principles established the role of the parent in the participation of IEP meetings. The 2004 amendments add that the one way of making the education of children with disabilities more effective is by "strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to

participate in the education of their children at school and at home [20 U.S.C. § 1400(c)(5)(B); See also Turnbull, p. 100." Throughout this discussion of the six principles of IDEA, the rights of parents have been discussed. Parents have to be members of the IEP team and manifestation determination team. They have to give their consent for an evaluation, they can request an initial evaluation for their child, and they partner with the school in determining whether a reevaluation is deemed necessary (Turnbull, et al, 2006).

The procedural safeguards mandate parents' rights to receive notice of meetings that are held regarding their child. IDEA at 1415(b)(1) gives parents the right to examine student records. According to Turnbull, et. al., (2006) this principle calls for shared decision-making and parental partnership between the school and home, as well as offering parents, students, and educators the opportunity to be partners in making and carrying out decisions about the student's education. The principle of parent participation holds all the parties, not just the school district, accountable for the education of the child, therefore; when a party is not pleased with the results, that party has the right to dispute. Some states and localities are voluntarily choosing to offer alternative mechanisms to resolve disagreements over the provisions of special education services (Turnbull et. al., 2006).

Dispute Resolution Procedures

Due Process

There are a variety of formal and informal early resolution practices that are used to resolve disputes at the school or district level. Currently, IDEA [1415(b)] and 34 C.F.R. 300.151-153 include procedural safeguards that give parents an opportunity to file

complaints about any matter relating to the provision of free appropriate public education to an eligible child. There are specific methods provided in the procedural safeguards such as state complaint procedures, mediation, resolution sessions and due process hearings. The 2004 amendments to IDEA require resolution sessions to be held prior to a due process hearing [20 U. S. C. §1415 section 615 (f)(1)(B)]. Resolution meetings and resolution sessions are interchangeable and herein are termed resolution sessions.

Parents and school districts sometimes disagree about special education services provided to children with disabilities. Although the 2004 Amendments to IDEA continue the prior protections as written, they also add expanded opportunities to resolve their disagreements in positive and constructive ways (Turnbull, et al., 2006). The resolution session is an example.

Early studies in dispute resolution reveal findings of the excessive amount of due process hearings that families initiated once they felt their child was not receiving a FAPE. Many studies analyzed the frequencies of the due process hearings in a particular state and examined the outcomes of the due process hearings; while other studies examined parent perception of the due process procedure. The issues over which most of the due process hearings were initiated involved identification, evaluation, IEP development and procedures, or placement (Howard, 1991; Webb, 1994; Kreb, 2001; & Shaul, 2003).

In the 1991 study by Howard, the researcher found that many due process hearings involved parents' demands for private, residential placement at public expense. Due process hearings were originally conceived to be low-cost and a quick means of dispute resolution concerning the educational programs of students with disabilities, but

proved to be a very costly although a reliable tool to effectively resist inappropriate demands by parents. (Howard, 1991; Kreb, 2001; Opuda, 1997). They are the most expensive form of dispute resolutions but were generally low in the number of cases filed for a 5-year period that ended in 2000, with hearings occurring in only a few locations (Shaul, 2003). More states were also emphasizing strategies for early resolutions of disagreements between the schools and parents (Shaul, 2003). The GAO report suggests that using mediation and early dispute resolution strategies may hold promise for reducing contentious and expensive forms of dispute resolution, such as due process hearings.

Under IDEA, a due process hearing is the principal vehicle for resolving disputes between parents of children with disabilities and school districts concerning identification, evaluation, placement, or provision of FAPE (Norlin, 2007a). The due process hearing provides the parties with an opportunity to have an impartial hearing with a qualified hearing officer [34 CFR 300.511(c)] who is at the minimum, not an employee of the SEA or the LEA, involved in the education of the child, has no personal or professional interest that conflicts with his or her objectivity in the hearing, possesses knowledge of IDEA provisions and legal interpretations by the state court, possesses knowledge and ability to conduct hearings according to standard legal practices, and has the ability to render and write decisions in accordance with appropriate, standard legal practices [34 CFR 300.511(c)].

The IDEA allows a parent or public agency to file a complaint in regards to identification, evaluation, educational placement, or provision of FAPE [34 CFR 300.507(a)(1)]. In the 2001 study by Kreb, the researcher concluded that parents initiated

the hearings the majority of the time and if counsel did not represent them at the time of the request, most obtained counsel before the hearing.

A student who has reached the age of majority (18-21 years) may file a complaint in his or her own name (34 C.F.R. 500.520). While less common than a parent initiated due process, the LEA also has the opportunity to initiate a due process when the parents refuse to consent to an action for which parental consent is required (Norlin, 2007a).

IDEA has a statute of limitations for requesting a due process hearing. A party has to request a hearing within two years of the date the requesting party knew or should have known about the alleged action that forms the basis of the complaint [34 CFR 300.511(e)]. Each state has the right to set its own limitations period, in which the IDEA defers to state law if the state sets explicit time limitations for requesting such a hearing [34 CFR 300.511(e)]. Once a parent has formally requested a due process hearing, the SEA does not have the right to deny the hearing to the parent (Norlin, 2007a).

In many instances, due process procedures are lengthy. While a case is in due process, the IDEA has a "stay-put" provision requiring maintenance of current placement [20 U.S.C. §1415(j)]. The stay-put provision acts as a preliminary injunction to prevent the district from unilaterally changing a student's program or placement pending the resolution of due process (20 U.S.C. §1415(j); 34 CFR 300.518). Assuming that the student is receiving services at the time of the due process hearing request, the student's stay-put placement is the "then-current educational placement" [20 U.S.C. §1415(j)]. The objective of the "stay-put" provision is to maintain stability and continuity of the student's program until the dispute between the two parties can be resolved. Norlin (2007b), states that the inherent benefit of the provision is clear when it turns out that the

stay-put placement is appropriate; however, "when the stay-put provision perpetuates an inappropriate placement or program, all parties – the student, parents, and the school district – lose (p. 8:4)."

Once a party has filed a request for due process, IDEA requires that a final hearing decision be reached no later than 45 calendar days after a resolution session has taken place (Ruesch, 2004). The 2006 IDEA regulations require that a resolution session take place between the filing of a due process complaint and the hearing [34 C.F.R. 300.510(b)]. This resolution session consists of the parents and relevant members of the IEP team who have specific knowledge of the facts identified in the complaint. According to 34 C.F.R. 300.510, the resolution session (a) has to take place within 15 days of the district's receiving notice of the parent's complaint, (b) has to include a representative from the district who has decision-making authority, (c) cannot include a district's attorney unless the parent is accompanied by an attorney, and (d) provides the parents with an opportunity to discuss their complaint and the facts that form the basis, and the district the opportunity to resolve it.

The district has 30 days from the receipt of the complaint to resolve the complaint or the due process hearing will occur. According to IDEA provisions, the 45-day timeline for the Impartial Hearing Officer's decision commences after the expiration of the 30-day resolution period. The resolution session may be waived but both parties have to agree to waiving the session and the agreement has to be put in writing [20 U.S.C. §1415(f)(1)(B)(i)(IV); 34 CFR 300.510(a)(3)].

The hearing officer's decision is final [See 20 U.S.C. §1415(i)(1)(a)]. The due process hearing officer can grant relief to the prevailing party provided that the relief is a

commonly recognized remedy in special education law. The most common forms of relief are orders for future conduct, reimbursement orders or awards of compensatory education (Norlin, 2007a). Hearing officers are authorized to (a) award tuition reimbursements and (b) order students to be placed in a particular school or other educational setting (Norlin, 2007a).

Under IDEA, only courts are specifically authorized to award attorney's fees to prevailing parties. Although state law can so empower hearing officers, generally states have not chosen that option; therefore, their state hearing officers lack jurisdiction to award fees (Norlin, 2007a). It is important to note that parents cannot recover attorney's fees relating to any meeting of the IEP team unless such meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the state, for mediation (Wright & Wright, 2007; Norlin, 2007a). Attorney's fees are also not recoverable for representation at resolution sessions (Norlin, 2007a). Norlin (2007a) reported that in instances when a settlement agreement is so-ordered by the IHO, parents who prevail are permitted to recover attorney's fees in court. Turnbull et al. (2006), Norlin (2007b), and Wright & Wright (2007) noted that although attorneys can be present during the resolution session, this session is not be considered a meeting convened as a result of an administrative hearing or judicial action so attorney's fees may not be awarded related to this session.

If the SEA or LEA is the prevailing party, reasonable attorney's fees may be granted against the parents' attorney who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or if the parent's attorney

continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation [20 U.S.C. §1415(i)(3)(B)(i)(II); 34 CFR 300.517(a)(1)(ii)].

Mediation

There are alternatives to the due process hearing procedure. Parents who find themselves in conflict with their child's school regarding special education need to be aware of the specifics of special education mediation. When successful, mediation proves to help avoid a due process hearing or more adversarial procedures (Corteilla, 2008). IDEA does not require parties to mediate to resolve disputes regarding identification, evaluation, educational placement, and provision of FAPE; however, states are required to offer mediation as an option (20 U.S.C. §1415(e); CFR 300.506).

The purpose of mediation is to provide the parties involved in a dispute with an opportunity to resolve the dispute without a due process hearing (20 U.S.C. §1415(e); CFR 300.506). Mediation involves the parent, LEA or SEA representative with decision-making authority, and a neutral third party to help facilitate the resolution of matters in dispute. The third party is a qualified and impartial mediator who is trained in effective mediation techniques [20 U.S.C. §1415(e)(2)(A)(iii); 34 CFR300.506 (b)(1)(iii)]. The impartial mediator is an individual who is not an employee of the SEA or the LEA involved in the education or care of the child and must not have a personal or professional interest that conflicts with their objectivity [34 CFR 300.506 (c)]. Each state is required to maintain a list of qualified mediators and the SEA selects mediators on a random, rotational, or other impartial basis [20 U.S.C. §1415(e)(2)(C); 34 CFR 300.506(b)(3)].

The 2006 regulations to IDEA give parents the right to bring an attorney to a due process hearing and an IEP meeting, however, there is no similar provision concerning required or permitted attendees at mediation (Norlin, 2007a). According to Norlin, 2007a, individual states set the regulations as to whether an attorney may be present during the mediation process.

If an agreement is reached during mediation, the parties must execute a binding agreement that sets forth such a resolution. The agreement (a) states that all discussions that occur during the mediation process will remain confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding, (b) is signed by both the parent and a representative of the district with appropriate authority to bind it to the terms of the agreement, and (c) is enforceable in state or federal court [20 U.S.C. §1415(e)(2)(F); 34 CFR 300.506 (b)(6)–(7)].

Likewise, parties opting to use mediation during a due process hearing need to pay particular attention to the timelines, as the established due process timelines are still in effect (Norlin, 2007a). Mediation is a less costly and more expeditious way to resolve disputes than due process (Norlin, 2007a). According to Shaul (2003) in his report to the U.S. Government Accountability Office entitled *Numbers of formal disputes are generally low and states are using mediation and other strategies to resolve conflicts*, mediation is more likely than due process to foster positive relationships between families and educators.

Mediation allows both parties to dispute the issues before filing the complaint. Mediation can also result in a written, legally binding agreement. This document sets forth that all discussions that occurred are to be confidential and cannot be used as

evidence in any subsequent due process hearing or civil proceeding [20 U.S.C. §1415 (e)(2)(G); 34 CFR 300.506(b)(8)].

State Complaint Procedures

Lastly, the 2006 IDEA regulations allow for parents or organizations to file a formal complaint with the SEA alleging a violation of IDEA Part B (34 CFR 300.153). Parents use this option to file a written complaint against the LEA. Filing a state complaint is an easily accessible way for parents to voice their concerns regarding alleged violations of IDEA. Once a state complaint is filed, the SEA has a time limit of 60 days to accomplish the following:

1. Carry out an independent on-site investigation if the SEA determines an investigation is necessary.

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

3. Provide the district with an opportunity to respond to the complaint, including at a minimum, a proposal to resolve the complaint and an opportunity for a parent to voluntarily engage in mediation.

4. Review all relevant information and make an independent determination as to whether the district is violating a requirement of the IDEA.

5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains findings of facts and conclusions, along with the reasons for the SEA's final decision [34 CFR 300.152(a)].

When filing a formal written state complaint, the parent or organization has to include a statement that the LEA violated a requirement of Part B of the Act, the facts on

which the statement is based, the signature and contact information for the complainant, and the alleged violations (34 CFR 300.153(b); Norlin, 2007a). The alleged violation must not have occurred prior to one year from the date that the complaint is received in accordance with 34 C.F.R. 300.153(c). Limiting a complaint to a violation that occurred not more than one year prior to the date that the complaint is received will help ensure that problems are raised and addressed promptly so that children will receive FAPE. States can choose to accept complaints outside the one-year time frame (Norlin, 2007a). Lastly, the party filing the complaint has to forward a copy to the LEA serving the child at the same time the party files the complaint with the SEA (34 CFR 300.153(d); See also Norlin, 2007a).

Parents have the option to file for due process, make a formal state complaint, or do both. When parents are not satisfied with the SEA's resolution of a state complaint, they can file for a due process hearing on the same issue. "On the other hand, once a parent receives an adverse due process determination; there is not much purpose in going forward with a state complaint about the same thing (Norlin, 2007a, p. 8:29)". SEAs can award any form of relief otherwise permitted under the IDEA when the decision maker is a court or administrative reviewer (Norlin, 2007a). If the SEA finds that the LEA has failed to provide appropriate services to an eligible child, it is the responsibility of the state to address (a) the failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (b) appropriate future provision for all children with disabilities (Alexander & Alexander, 2005).

States have the option of establishing a one-tier or two-tier dispute resolution system (U.S.C. 1415(d)(2)(J); 34 CFR 300.504(c)(11); See also Wasserman, 2006). In a one-tier system, a complaint is filed and the state conducts the due process hearing. If the losing parties are not satisfied with the results of the hearing, they can bring civil action in any state or U. S. district court. In a state that has established a two-tier system, the initial review is at the district level, then a party has to appeal that initial decision to the state education agency for a review by a review officer [20 U.S.C. §1415(g); 34 CFR 300.514(b)(1)]. After the review by the SEA, whichever party loses the case can bring a civil action in any state or U.S. district court without further state administrative review (20 U.S.C. §1415(i)(2); 34 CFR 300.516.; Norlin, 2007a). Absent a legally sufficient excuse, the parent has to exhaust the state administrative procedures, available under IDEA 2004, before seeking relief in court. (20 U.S.C. §1415(l); Wasserman, 2006).

Dispute Resolutions in Virginia

The Individuals with Disabilities Education Act is a federal law that impacts children with special needs and their families. IDEA can be found in Title 20 of the United States Code Chapter 33, Section 1400 et seq.; which is the Education section of the United States Code. Once it is authorized, it is handed over to the U. S. Department of Education (ED) to create the Code of Federal Regulations (C.F.R.) to implement IDEA. The C.F.R. is of the general and permanent rules that are published in the Federal Register by the executive departments and agencies of the federal government (U.S. Department of Education, 2006). These regulations govern how governing bodies should carry out the law. Part 300 of the Code of Federal Regulations contains all regulations for IDEA. These statutes and regulations apply to the states. Each state legislature develops

its statutes based on the IDEA and C.F.R. Virginia Department of Education (VDOE) then develops its regulations based on state statutes.

In Virginia, the Office of Dispute Resolution and Administrative Services handles all dispute resolution procedures. There are four compliant specialists, a coordinator of mediation services, a coordinator of due process services, and a director who offers consultation to assist parents, advocates, or school system, charter school, or state operated programs personnel who request help with problem-solving. Virginia has adopted three formal means of dispute resolution; mediation, complaint resolution procedures (CRP), and due process procedures (DRP) (Virginia Department of Public Education [VDOE] Website at http://www.doe.virginia.gov/VDOE/dueproc/).

Once a child has been found eligible to receive special education services and has an IEP in place, Virginia laws and governing procedures parallel federal regulations of the IDEA for handling disputes. If parents are unhappy with the services their child is receiving and would like to dispute the LEA they may request a due process hearing. However, Virginia has other avenues that can occur prior to requesting a due process hearing. Parents are encouraged to use mediation or CRP. Mediation is typically used when there is a significant disagreement that the parties are otherwise unable to resolve (Consortium for Appropriate Dispute Resolution in Special Education and the ALLIANCE (2008).

Mediation

Mediation can be requested by the parent or the LEA if the requesting parent and the school are unable to agree upon the identification, evaluation, educational program, placement or the provision of a free, appropriate public education. The availability of a

State system of mediation is mandated under IDEA but participation in mediation is voluntary Virginia Department of Public Education [VDOE] Website at http://www.doe.virginia.gov/VDOE/dueproc/>mediation). Mediation is a non-litigious solution to dispute resolution. According to Mehfoud (2008), parents and LEAs continue to work together to try to resolve differences when they are involved in dispute resolutions that do not involve litigation. These methods are often less time consuming and more advantageous for the child's educational needs, as the child does not have to remain in a sometimes inappropriate stay-put placement as he/she would for the duration of a litigious method (Mehfoud, 2008). Stay-put is the child's current educational placement at the time of a due process request or petition for judicial action.

Mediation cannot be used to delay or deny the parent's rights to due process, and has to be conducted by a qualified and impartial mediator who is trained in effective mediation techniques [8 Virginia Code (VAC) 20-80-74(B)(2-3)]. Mediation has to be held in a timely manner and conclude with a written mediation agreement if any agreement is reached [8 VAC 20-80-74(E)(1-2)]. Discussions that occur during mediation has to be kept confidential and cannot be used in any subsequent due process hearing or civil proceedings [8 VAC 20-80-74(E)(3)]. If parents choose not to use mediation, the LEA has to establish an appropriate dispute resolution entity; which affords the parties an opportunity to meet, at a time and location convenient to the parent with a disinterested party who can explain the benefits of the mediation process [8 VAC 20-80-74(C)].

The state has to maintain a list of qualified mediators and select mediators on a random, rotational, or other impartial basis [8 VAC 20-80-74(D)(1-2)]. At the time of

the request, the coordinator of mediation services assigns a mediator from the list of approved mediators who are knowledgeable in laws and regulations relating to the provision of special education and related services (VDOE, 2009).

If an agreement is reached during mediation, the parties must execute a binding agreement that sets forth such a resolution. The agreement (a) states that all discussions that occurred during the mediation process remains confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding and (b) is signed by both the parent and a representative of the district with appropriate authority to bind it to the terms of the agreement [8 VAC 20-80-74(E)(3)].

VDOE bears the cost of the mediation process (VDOE, 2009). Mediations were initiated in the 1997 amendments to IDEA as a means to provide for a less costly process of dispute resolution than the adversarial due process hearing (VDOE, 2009). Cost (Howard, 1991; Webb, 1994; Opuda, 1997) is a deterrent for most parents wishing to use due process hearings as their primary mechanism to resolve disagreements relating to special education issues with their child. Opuda (1997) and Kreb (2001) also cite that the relationship between parents and the school district deteriorates whatever the decision of the due process hearing officer. Mediation in Virginia has been highly successful, leading to an outcome of resolution between 76-82% of the time that people come to the table to work with a mediator (Administration of the Virginia Special Education Mediation System, 2009).

Due Process Hearings

Shaul (2003) states that a due process hearing is an administrative agency process, in which an impartial hearing officer receives evidence, provides for the examination and

cross-examination of witnesses by each party, and then issues a report of findings of fact and decisions. The Virginia Department of Education (VDOE) is responsible for the operation of the due process system; however, the local educational agency shares responsibility for the hearing process by ensuring the timely appointment of officers, communicating with the Virginia Department of Education, assisting with the hearing, and implementing the hearing officer's decision (8 Virginia Code [VAC] 20-80-76). In accordance with 20 U.S.C. §1415(f), the timeline for requesting a due process hearing is within two years of the date the parent or the LEA knew or should have known about the alleged action (Virginia Procedural Safeguards Notice, 2007). Upon receipt of a request for a due process hearing, the LEA is obligated to inform the parents of the availability of mediation and of any free or low cost legal and other relevant services available in the area (Virginia Procedural Safeguards Notice, 2007).

In Virginia, this impartial hearing is before a trained hearing officer who is appointed to the case by the Supreme Court of Virginia [8 VAC 20-80-76(D)(1)]. A parent or an LEA can file a request for a due process hearing on matters related to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child [8 VAC 20-80-76(C)(1)]. When a parent files a due process complaint, the LEA has to respond in accordance to C.F.R. 300.508(e), which states that if the LEA has not sent prior written notice under Section 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA has 10 days of receiving the due process complaint to respond to the parent with:

- an explanation of why the agency proposed or refused to take the action raised in the due process complaint;

- a description of other options that the IEP Team considered and the reasons why those options were rejected;
- a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- a description of the other factors that are relevant to the agency's proposed or refused action[34 C.F.R. 300.508(e)].

The petition for a due process hearing is made in writing to the LEA with a copy provided to VDOE [8 VAC 20-80-76(C)(1)]. The due process timeline begin upon the other party's receipt of the petition and has to remain confidential by the LEA and VDOE [8 VAC 20-80-76(L)(1); 8 VAC 20-80-76(C)(1)]. The hearing officer who has been appointed to the case agrees to have the hearing completed within the 45-day timeline [8 VAC 20-80-76(J)(1)]. Within 5 days of being appointed to the case, the hearing officer contacts both parties to set the time, date, and location of the hearing; ensuring that the hearing will be held in an atmosphere that is conducive to impartiality and fairness as well as inform the VDOE, in writing, of the time, date, and location of the hearing [8 VAC 20-80-76(J)(4)and (13)].

The hearing officer also conducts a prehearing conference with both parties via telephone or in person in order to clarify or narrow the issues and determine the scope of the hearing [8 VAC 20-80-76(J)(6)]. During the prehearing conference, the hearing officer informs the parties of their right to mediation, the opportunity to settle the case, and their right to appeal the final decision of the case [8 VAC 20-80-76(J)(7)]. IDEA 2004 imposes an additional requirement that upon receipt of the request for due process, the school district is required to schedule a resolution session which consists of the

parents and relevant members of the IEP team who have specific knowledge of the facts identified in the complaint [20 U.S.C. §1415(f)(1)(B)]. According to 34 C.F.R. 300.510, the resolution session (a) has to take place within 15 days of the district's receiving notice of the parent's complaint, (b) has to include a representative from the district who has decision-making authority, and (c) cannot include a district's attorney unless the parent is also accompanied by an attorney.

IDEA 2004 provisions state that the 45-day timeline begins after the expiration of the 30-day resolution period. The resolution session can be waived but both parties have to agree to waive the meeting and the agreement has to be put in writing, at which point the due process request moves forward in accordance with the required timelines [20 U.S.C. §1415(f)(1)(B)]. The decision of the hearing officer is final and binding [8 VAC 20-80-76(O)(1)], except any party involved has the right to appeal.

Virginia has adopted a one-tier system for filing an appeal of the decision of the hearing officer. [Regulations Governing Students Special Education Programs for Children with Disabilities in Virginia, (2002)]. If the losing party chooses to appeal the decision of the hearing officer, the decision may be appealed directly to any state court of competent jurisdiction or to a district court of the United States (8 VAC 20-80-76).

Although due process hearings are used to file most disputes, they should not be confused with the growing number of formal written state complaints that are filed. The 2004 IDEA mandates that each SEA adopt a state complaint procedure as an alternative means to resolve disputes between parents and LEAs (34 C.F.R. 300.151).

Complaint Resolution Procedures

According to Shaul (2003) a formal written complaint is initiated through a signed written document that includes a statement that a public agency has violated a requirement of IDEA and the facts on which the statement is based (Shaul, 2003). The VDOE maintains and operates a complaint system that provides for the investigation and issuance of findings regarding violations of the rights of parents or children with disabilities (8 VAC 20-80-78). The Superintendent of Public Instruction or designee is responsible for the operation of the complaint system (8 VAC 20-80-78). Any person or agency can make a formal written complaint with the SEA in Virginia [8 VAC 20-80-78(B)]. A signed written complaint can be submitted in person, by mail, by fax, or email in a PDF file (VDOE, 2009); with complaints being received via email as being submitted with an electronic signature [8 VAC 20-82-170(I)].

According to 34 C.F.R. 300.151 – 300.153, the complaint has to include the following:

1. A statement that the LEA has violated a requirement of Part B of the IDEA.

2. The facts on which the statement is based.

3. The signature and contact information for the complainant.

4. Specifics of the child (name, address, school, homeless information, if applicable, a description of the nature of the problem of the child, a proposed resolution of the problem to the extent known) [8 VAC 20-80-78(B)(3); Virginia Department of Education. (2009)].

The complaint must allege a violation that has not occurred more than one year prior to the date that the complaint is received and the party filing the complaint must forward the complaint to the Superintendent of the LEA serving the child at the same

time the party files the complaint with the SEA [8 VAC 20-80-78(B)(4)]. Within sixty days upon receipt of a complaint, the VDOE has to initiate an investigation to determine whether the LEA is in compliance with applicable law and regulations [8 VAC 20-80-78(C)]. The SEA informs the school district of the complaint, requests documentation from the Special Education Director of the LEA by providing written documentation of the findings that address each allegation made against the LEA, then the LEA has 10 days to file a reply [8 VAC 20-80-78(C)(1)].

The VDOE reviews the complaint and the reply filed by the LEA to determine if further action is necessary [8 VAC 20-80-78(C)(3)]. If no further investigation or action is necessary, VDOE notifies both parties in writing stating the grounds for such findings [8 VAC 20-80-78(C)(3)(a)]. If further investigation is necessary, the VDOE conducts an investigation, which includes a complete review of all relevant documentation as well as an on-site investigation, if necessary [8 VAC 20-80-78 (C)(3)(b)]. A complaint that is also the subject of a due process hearing or if it contains multiple issues of which one or more are part of that due process hearing, the VDOE will set aside any part of the complaint that is being addressed in the due process until after the hearing and resolve the issues that are not part of the due process hearing [8 VAC 20-80-78(C)(3)(c)(1-2)]. Issues that have previously been decided in due process are held as binding by the due process hearing [8 VAC 20-80-78(C)(3)(d)].

If it is found that the LEA is not in compliance with an issue, the VDOE ensures that the final decision is effectively implemented through technical assistance activities, negotiations, and corrective actions to achieve compliance [8 VAC 20-80-78(C)(4)(c)]. The LEA has to develop a plan of action detailing all changes contemplated [8 VAC 20-

80-78(C)(5)]. The plan of action is subject to approval by the VDOE; wherein the VDOE will address:

- the remediation of the denial of those services, including, as appropriate, compensatory services, the awarding of monetary reimbursement, or other corrective action appropriate to the needs of the child; and
- appropriate future provision of services for all children with disabilities [8 VAC 20-80-78(D)].

The Superintendent of Public Instruction monitors the LEA to ensure that it comes into compliance within the specified period of time as outlined in the plan of action or if further action has to be taken as deemed necessary [8 VAC 20-80-78(E)]. These actions include a decision in writing stating that state and federal funds for the education of children with disabilities will not be made available to that local educational agency until there is no longer any failure to comply with the applicable law or regulation [8 VAC 20-80-78(F)]. Any party can appeal the decision of the complaint issues but has to do so to the VDOE within 30 calendar days of issuance of the decision [8 VAC 20-80-78(G)].

Opuda (1997) in his study, *A comparison of parents who initiated due process hearings and complaints in Maine,* noted that parents who had filed a state complaint affirmed that the lack of follow-up on the state's behalf to ensure that the school was complying with the corrective action was a problem. He also pointed out that no matter what the outcome of the due process hearing or complaint, for parents and schools, "even if you win, you lose" (p. 112). Formal written complaints, due process hearings, and mediation meetings are means Virginia has in place for parents to resolve disputes when parents are not satisfied with the kind or level of service being provided to their child.

This study analyzed the Complaint Resolution Procedures in Virginia and the trends of compliant versus noncompliant issues over the 2005-2006 through the 2008-2009 school years. The focus of this study will be the number of formal written complaints under the complaint resolution procedure (CRP) that were filed with the SEA during a 4-year period, from the 2005-2006 school year through the 2008-2009 school year and the number of decisions that were found to be compliant or non-compliant.

Summary

The Individuals with Disabilities Education Act (IDEA) provides students and parents the right to a fair and equitable education, with the new provisions having a strong emphasis on parent participation in the education of their child with disabilities. Providing access to education for students with disabilities in the United States had a slow start, specifically with the federal government not playing a major role until the late1960s. The first legislation passed by Congress to include involvement with the education of students with disabilities was the amendments of the Elementary and Secondary Education Act of 1966. This act provided opportunities for states to receive grants to assist with the initiation, expansion, and improvement of programs and projects for the education of students with disabilities.

The Education of the Handicapped Act was developed originally from the amendments of the ESEA, providing funds for states to educate students with disabilities. Even after the first funds were provided for by the EHA, in 1970, states continued to exclude students they felt were uneducable or had behavior problems as well as, have low expectations for students with disabilities. With this widespread practice of denying services for all students and especially those with disabilities, parents and agencies

decided that litigation was a necessary step in deciding the lingering questions over what the legislation actually mandated. The PARC and Mills cases led to precedent-setting decisions that established the foundation of the Education of All Handicapped Children Act. This landmark legislation provided students with disabilities important well-defined rights, which included a free appropriate education, an Individualized Education Program that determined their special education and related services, and ensured that all of these services would occur in the least restrictive environment in which to learn. Finally this Act mandated due process procedures to be implemented for parents to have a means to dispute if they disagreed with the services provided to their child.

The EHACA was renamed IDEA in 1990 and mandated that states have a general supervision system in place to monitor due process hearings. Litigious methods proliferated and the cost of due process hearings was astronomical. The number of hearings began to increase annually and several studies suggest that parents were requesting due process hearings due to placement, evaluation, educational program, and program issues. Part of the procedures for the IDEA was to have a right to mediation before going to a due process hearing. Mediation was put in place as a means to exercise a low cost, less timely approach to resolve a dispute before filing for due process hearings.

At the turn of the 20th century, states began implementing strategies for early resolution to lessen the likelihood of parents filing for the more costly and time-consuming due process hearings. Although the number of due process hearings appears to be relatively low in comparison to the number of students who had been identified as being a child with a disability, the relationship between the schools and families who

have filed for due process is extremely adversarial. Upon the decision of an administrative law judge, the losing party has the right to appeal the decision and exhaust their administrative remedies before filing for civil action in court.

As a result of the regulations mandated in IDEA, Virginia implemented three formal methods of dispute resolution. Parents have the option of the more formal due process and mediation, but many times this is at the expense of the child's education as the child has to remain in a stay-put situation for the duration of the due process hearing or mediation. Due to cost and time, parents are now opting to exercise the usage of formal written complaints. This mechanism is less adversarial since litigation does not take place and parents are assured that the school will have to come into compliance within a year, if they are found to be noncompliant.

Webb (1997) found that the smaller districts and districts located in rural areas had an increased number of hearings during the final years of her study. In 2003, the United States General Accounting Office (GAO) issued a report to Congress opining that the overall federal dispute activity was low relative to the number of students with disabilities. The findings in this report revealed that there were about five due process hearings per 10,000 students, seven mediations per 10,000 students, and 10 state complaints per 10,000 students. Shaul (2003) explains that complaint resolution procedures are generally less expensive than due process hearings with the relative financial cost to the SEA because complaint resolution procedures primarily involve staff cost to resolve the complaint.

This study will examine the number of cases where parents have exercised their right to dispute regarding special education complaint resolution procedures, specifically

focusing on state complaints. The next chapter will describe the methodology that was used in this research.

CHAPTER 3: METHODOLOGY

Introduction

Virginia has three methods of dispute resolution procedures that parents use when they feel their child had not been provided a FAPE. They are due process hearing, mediation, and formal state complaints. The focus of this study was on the number of formal written complaints under the complaint resolution procedures (CRP) that were filed with VDOE during a four year period, from the 2005-2006 school year through the 2008-2009 school year and the number of decisions that were found to be compliant or non-compliant. This study attempted to derive from those outcomes, recommendations for improving IDEA compliance in Virginia and suggested areas for further research.

Methodology

Research Design

The study used a quantitative method utilizing a descriptive research design which reported the total count (frequency) and outcomes of the formal written complaint requests. This type of statistics includes a frequency distribution, which depicts an organized tabulation indicating the number of cases observed at each score value (McCall, 2001). These frequencies were coded into categories based on the nature of the complaint. The population of the descriptive data was all state complaint procedure cases filed with the VDOE from 2005 – 2009. Data represented all 132 public school divisions in Virginia.

For the second research questions, an analysis of variance (ANOVA) was performed in the Statistical Package for the Social Sciences (SPSS). Often researchers

wish to compare means from more than two samples and need to surmise what the probability is that these several samples are all drawn from populations having the same mean (McCall, 2001). The purpose for using a simple ANOVA was to determine the probability that the means of several groups of scores deviated from one another merely by sampling error (McCall, 2001). If there was a statistically significant difference, a post hoc test was used to help locate the specific differences within the means of incidents per special education population. Tukey's HSD, one of the most common post hoc tests, was used in this study (Creighton, 2007).

To determine the outcomes of the issues for the last two research questions, a chi-square analysis was conducted. The chi-square analysis was used to compare observed and expected frequencies in order to determine whether a single distribution of cases differed from an expected distribution by sampling error (McCall, 2001). McCall further stated that conditions for using a chi-square analysis implied that different and unrelated sets had been selected, the members of each group were randomly and independently selected, the members qualified for one and only one category in the classification scheme and the sample size was relatively large. If there was a statistically significant difference, the effect size was evaluated to note the power of the finding (Creighton, 2007). A small effect size was valued at .10, a medium effect size valued at .25 and a large effect size valued at .40 (Creighton, 2007).

In this study, the focus was whether the effects of the division size, locale (rural, suburban, or city), geographical region, socioeconomic status of the family, and the category of the issue influenced the outcome of the CRP. It is important to note that data calculated for the locale descriptor, towns, were relatively small. Those calculations

skewed the data. The data that were collected for towns were recorded with the rural locale since these two locales had similar demographic characteristics. For this reason, instead of four locales, this study only contained three.

Data were recorded using percentages of all cases determined to be compliant or non-compliant, with the statistical level being determined significant at .05. According to Creighton, when using the ANOVA and chi-square analysis, setting the alpha level at .05 determined the data analysis to be significant at that level, specifically stating that there was less than a 5% possibility that the outcome occurred by chance alone.

For the purpose of making all divisions comparable, when reporting the frequencies of the complaint resolution procedures filed, the divisions were defined in terms of the special education population. The average number of complaints for the four years was calculated and divided into the average number of special education population for the four years. As a result of those calculations, divisions were able to be compared based on the number of complaints received per special education student per year.

Data were also reported by using a frequency distribution to determine if the size of the division had an impact on whether complaint resolution procedures were filed against the division. The divisions were represented in four quartiles with an equal number of divisions in each quartile. The divisions were ordered by their pupil population and 33 divisions were sectioned off four times in the order of their state pupil population.

Subsequently, data were reported by the number of complaints and the number of issues that were filed. It is important to note that the number of complaints and issues were not the same since some complaints had more than one issue reported.

Research Questions

IDEA requires that states guarantee parents the right to bring complaints about any matter relating to the identification, evaluation, or educational placement of their child, or the provision of a free appropriate public education ("FAPE") for that child. IDEA provides two formal avenues for parents to obtain administrative relief: the "due process" hearing and the "state complaint procedure." In addition, where both parties agreed, IDEA affords the opportunity to participate in mediation. These complaints are filed on the state level. Each state put in place a supervision system that provided for monitoring of these complaints.

This study investigated the following questions about the state's monitoring system:

1. What are the frequencies of state complaint procedures filed against all school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes?
2. What is the relationship, if any, between division size, location, geographical region or socioeconomic status and the actual number of complaint resolution procedures filed against the division?
3. What is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed?
4. What is the relationship, if any, between the types of issue filed in the complaint resolution procedures and the outcome of the complaint that is filed?

Population

The population of this study was all special education state complaint procedures requested in the state from July 2005 to June 2009. There were 132 local education agencies (LEA) in the state, all of which were included in the population. For the purpose of this study, the sample size was data collected only from the LEAs that had complaints filed against them in each of the given years.

Data represented all 132 public school divisions in Virginia. At the end of the fiscal school year in June, all data were formally reported to the state as part of the school divisions' annual report. This information was made available to the public in November of the following school year and maintained on the Virginia Department of Education's Web (VDOE) site. Selected data submitted by each LEA served as the database for this study. Additional information was requested from the Commonwealth Virginia's Office of Special Education Services, Dispute Resolution and Administrative Services. The additional data gave a more specific breakdown from which LEA each complaint was received, the nature of the complaint, and the outcome of the complaint.

Data Management

Data for years 2005-2009 were collected and stored in EXCEL. Data were coded by compliance outcome, division size, locale, geographical region, SES, and category (issue) of the request as described in Table 1. Analyses were conducted using SPSS.

Data Analysis

Analysis 1

This analysis allowed the researcher to identify all of the complaint resolution procedures (CRP) that were filed in Virginia from July 2005 - June 2009 and to organize

Table 1

Data Management for Complaint Resolution Procedures

Variable	Definition		Coding
	Constitutive	Operational	
Compliance Outcome	Result of the issue filed in the dispute resolution	Complaints divided into two categories; compliant and non-compliant	1 – compliant 2 – non-compliant
Division Size	The total number of students represented in each division	The divisions divided into four equal parts order by state pupil population	1 – 0 – 25% 2- 26 – 50% 3 – 51 – 75% 4 – 76 -100%
Locale	Description of the division represented by its demographic location	The locale descriptors divided into three categories: rural, suburban, and city	1 – rural 2 – suburban 3 – city
Geographical Region	Location of a cluster of divisions that compose Virginia's Educational Regions	There are eight Superintendent's regions in Virginia	1- Region 1 2- Region 2 3- Region 3 4- Region 4 5- Region 5 6- Region 6 7- Region 7 8- Region 8
Socioeconomic Status	Incomes of families in each division	Incomes of families based on the number of students receiving free and reduced lunch	1 – low poverty for the division with less than 20% of the students receiving free and reduced lunch 2 – high poverty for the division with more the 20% of students receiving free and reduced lunch
Type of Issue	Types of disputes that are identified from the	Disagreements will be categorized into five major	1 – program 2 – placement 3 – procedures 4 - identification/

	requests of dispute resolutions	categories	evaluation 5 – FAPE

the data by high occurrences. There were five columns in the distribution tables. The first column contained the following:

- the name of the school divisions
- the number of complaints/issues filed over the four years of the study
- the number of complaints/issues filed per year
- the average special education population over the four years, and
- the ratio of one complaint per special education student population for the four years of the study.

The divisions were listed in ascending order with the divisions having the most complaints filed per special education student listed last.

The same analysis was done for the number of issues that were filed. It is important to note that the number of complaints and the number of issues were not the same. The number of complaints was the total number of complaint resolution procedures parents filed against an LEA for an alleged violation. The number of issues represented each of the alleged violations parents filed in each of the complaints. This number varied from one issue to many issues. When the state investigated the complaints that were filed, the outcome of the CRP was determined by each issue, not each complaint.

Analysis 2

This analysis examined the data collected in Analysis 1 to determine which divisions had a greater number of issues that were non-complaint with IDEA regulations. The frequency distribution table was organized as follows:

- the name of the school divisions
- the number of issues received over the four years
- the number of non-compliant issues received over the four years
- the percentage of non-compliant issues over the four years

This frequency distribution was listed in descending order. The divisions with the lower percentage of non-compliant issues are listed at the bottom of the list.

Analysis 3

For the next sets of data, an ANOVA was used to determine the statistical significance of each outcome. For each of the analyses, the number 1 represented compliant outcomes and the number 2 represented non-compliant outcomes. First, the researcher determined if there was a relationship between the size of the division and the number of complaints received that were found to be compliant or non-compliant. The size of the division was represented by 0 – 25% (1), 26 – 50% (2), 51 – 75% (3) and 76 – 100% (4). The range of the pupil population for division size is as follows:

- 0 – 25% division had between 292 – 2053 students
- 26 – 50% division had between 2103 – 3792 students
- 51 – 75% division had between 3926 – 7541 students
- 76 – 100% division had between 7748 – 162,928 students.

Next, the researcher determined if there was a relationship between the locale of the division and the number of complaints received. The locale of the divisions was

represented by the locale descriptions as determined by the VDOE. They were rural (1), suburban (2), or city (3).

The next analysis was to determine the statistical significance of the geographical location of the school divisions and the outcome(s) of the CRP. The divisions were divided into the eight Superintendent's Regions. Each region was represented as follows: (1) Region 1 – Central Virginia, (2) Region 2 - Tidewater, (3) Region 3 – Northern Neck, (4) Region 4 – Northern Virginia, (5) Region 5 - Valley, (6) Region 6 – Western Virginia, (7) Region 7 - Southwest, and (8) Region 8 – Southside (See Appendix B).

Next, the researcher examined the statistical significance of the SES and the outcome of the CRP. The SES was determined by the average percentage of students in the division receiving free or reduced lunch over the four years of the study. There were two categories of SES, high SES (1), divisions with less than 20% of the students receiving free and reduced lunch, and low SES (2), divisions with more than 20% of the students receiving free and reduced lunch (National Center for Education Statistics).

Analysis 4

This analysis was used to determine the statistical significance, if any, of the outcome of the CRPs. A chi-square analysis was used. The outcomes were determined by each of the demographic characteristics, divisions' size, locale, geographical regions, and SES as in analysis 3. For each of the analyses, the number 1 represented compliant outcomes and the number 2 represented non-compliant outcomes.

Analysis 5

The final analysis was to determine the statistical significance of the type of issue that was filed and the outcome. Each complaint was categorized into one of five different

groups: program issues (1), placement issues (2), procedural issues (3), identification/evaluation (4) and FAPE (5). All program issues were those surrounding the Individualized Education Program (IEP). Such issues represented:

a. implementation of the IEP,
b. development, review, and revision of the IEP,
c. provision of progress reports,
d. IEP meeting components,
e. records,
f. or qualified personnel.

Placement issues represented all issues dealing with:

a. the least restrictive environment and
b. disciplinary removal.

Procedural issues represented issues outlined in the procedural safeguards, which would include:

a. independent evaluations,
b. written prior notice,
c. notice of procedural safeguards, and
d. parent participation.

Identification/evaluation subsumed all issues with:

a. eligibility procedures,
b. evaluations and reevaluation procedures,
c. team composition,
d. child find,

e. timelines, and

f. the development of the initial IEP within the given timeline.

FAPE included:

a. participation in extended school year,

b. participation in extra-curricular activities,

c. provision of FAPE,

d. transportation and related services, and

e. disability harassment.

Time Line

All data for the study were in the public domain and available to the researcher. Data were collected from the VDOE website and the Annual Reports. More specified data, which included more detailed information on which school divisions received CRP, the issues that were received in each of the CRP, and the outcomes were requested and obtained from the complaint specialist overseeing data collection in the VDOE Dispute Resolution Systems and Administrative Services department.

Approval to complete the research was requested from the Virginia Polytechnic and State University's Institutional Review Board (IRB) via an online application. According to information retrieved from the IRB website in 2010, for any research conducted, IRB approval is necessary to protect the rights of and ensure the safety of human subjects participating in research conducted by faculty, staff and students of the University. IRB approval was granted to the researcher through an approval letter to conduct this study.

Summary

The purpose of this study was to examine state investigations where parents filed state complaint procedures against an LEA in Virginia alleging a violation of their student's IDEA rights. Data were collected from the VDOE and represented all 132 LEA's during the four year period. Data were collected from the Virginia Department of Education's Web site and the Annual Report of the Dispute Resolution Systems and Administrative Services.

This was a quantitative study using descriptive statistics. Data were maintained in Microsoft EXCEL and analyzed using SPSS. Categorical data were analyzed using frequency distributions. ANOVAs and chi-square analyses were conducted to determine if there were any statistical significant relationships in the proposed data.

This chapter explained the research design and methodology for collecting and analyzing the data. The next chapter presents the results of the methodology that were stated in this chapter.

CHAPTER 4: RESULTS OF THE STUDY

Introduction

In accordance with regulations implementing IDEA, parents and organizations have a right to file formal written complaints with VDOE to resolve conflicts between the schools and themselves. The purpose of this study was to examine state investigations where parents filed state complaint procedures against local education agencies in Virginia alleging a violation of their student's IDEA rights. The study was a quantitative study that used a descriptive research design to report the total count (frequency) and outcomes of the formal written complaint requests.

Descriptive statistics were used to show the relationship between the divisions' size of the special education population as well as to observe the relationship between the total population of the school division, locale, geographical region and socioeconomic status (SES). An ANOVA was used to evaluate the difference among the means of incidents per special education population to determine if there was a statistical significance or if the difference occurred by chance alone. If there was a statistical significance, a post hoc test was used to help locate the specific differences within the means of incidents per special education population. For the purpose of this study, one of the most common post hoc tests, Tukey's HSD test was used (Creighton, 2007).

According to Creighton (2007), Tukey's HSD computes a single value that is related to the specific sample and is called the honestly significant difference. A chi-square analysis was used to evaluate if there was a statistically significant difference among the demographic characteristics and the outcome of the issues. If there was a

statistically significant difference, an analysis of the effect size was used to determine the power of the finding (Creighton, 2007). Finally, a chi-square analysis was used to determine statistical significance of the outcomes of the issues. The chi-square analysis was performed to determine if there were any statistically significant differences between the demographic characteristics and the outcome of the issue as well as the type of issue filed and the outcome of the issues.

Data from each of the 132 LEA's were collected and reviewed. The following research questions guided the study:

1. What are the frequencies of complaint resolution procedures filed against all school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes?
2. What is the relationship, if any, between division size, location, geographical region or socioeconomic status and the actual number of complaint resolution procedures filed against the division?
3. What is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed?
4. What is the relationship, if any, between the types of issue filed in the complaint resolution procedures and the outcome of the complaint that is filed?

This chapter is organized by research question. For the first research question, what are the frequencies of complaint resolution procedures filed against school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes, the data gathered are reported in Table 2. The frequency distribution lists all LEA's in rank order based on the average number of complaints filed against the division

per year per special education student. The rank order is listed from low to high by the average number of complaints filed per special education eligible student(s) over the four year period. Having this presentation in ascending order places the divisions that had the most complaints filed per special education student listed last. Divisions that did not have any complaints filed against them are listed in alphabetical order at the beginning of the frequency distribution. With this organizational structure, school divisions at the top of the frequency distribution notate divisions with fewer complaints per special education student per year, while the school divisions at the bottom of the frequency distribution represents divisions with more complaints filed against them per special education student per year.

The number of issues was used to determine the outcomes. The number of complaints and the number of issues differ because a parent or organization may file more than one issue against the LEA in one complaint; therefore, the results were calculated on an issue by issue basis rather than a complaint by complaint basis. The issues ruling could be in favor of the parent or the division. Issues that resulted in outcomes in favor of the parent are considered non-compliant and issues that resulted in outcomes in favor of the division are considered compliant.

Table 2 shows the average number of issues filed per year during the four year period per special education eligible students. Similarly to the first frequency distribution table, the school divisions are listed in ascending rank order, from low to high, with divisions that did not have any issues filed against them listed in alphabetical order at the top of the frequency distribution. With this organizational structure, school divisions at the top of the frequency distribution notate divisions with fewer issues per special

education student per year, while the school divisions at the bottom of the frequency distribution represents divisions with more issues filed against them per special education student per year.

Finally, a percentage was used to illustrate the number of non-compliant issues reported for each division over the four year period. This percentage represents results that favored the parents by showing that the divisions were determined to be non-compliant with IDEA regulations. Table 3 illustrates the average number of issues that were filed per complaint, the number of issues that were determined to be non-compliant over the four year period, and the percentage of non-compliance over the four year period. The rank order for this table is listed from high to low by the percentage of issues determined to be non-compliant over the four year period. School divisions at the top of the frequency distribution note divisions with a higher percentage of the issues determined to be non-compliant, while the school divisions at the bottom of the frequency distribution represents divisions with a lower percentage of the issues determined to be non-compliant over the four year period. Divisions that did not have any complaints filed against them are listed in alphabetical order at the end of the frequency distribution.

For the data gathered in response to the second research question, what is the relationship, if any, between division size, location, geographical region, or socioeconomic status and the actual number of a complaint filed, descriptive statistics were used to show the relationships that exist between the demographic characteristics, division size, locale, region, and SES and the number of complaints filed against the division. Division size is represented by four equal parts notated as 0 - 25%, 26 - 50%,

51 - 75%, and 76 - 100% depending on the total population of students in the division. There are 132 divisions in the Commonwealth of Virginia which would consist of 33 divisions in each quartile. Data for the locale of the division were divided into four categories, rural, suburban, city, and town. The data calculated for towns were relatively small and using towns as a separate descriptor skewed the data. Given that towns and rural locales had similar characteristics, the town's locale was included in the data with rural locales for the purpose analyzing all data. The regions were determined by the Superintendent's regions. There are eight regions in the Commonwealth of Virginia. Finally, socioeconomic status was represented by the number of students receiving free or reduced lunch according to the VDOE Website. Divisions were divided into SES categories based on the poverty rate of less than 20% of students receiving free or reduced lunch were high SES and more than 20% were low SES.

The total number of complaints per special education population filed against each division was used to calculate the mean for each reporting category. An ANOVA was used to determine if there were any statistically significant relationships. Based on the issues filed for each of the complaints, the total number of issues per special education population filed against each division was used to calculate the mean for each reporting category. Equivalently to the complaints, an ANOVA was used to determine if there were any statistically significant relationships.

For data gathered for the third research question, what is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed, a chi-square analysis was conducted to determine if any statistically significant difference existed between the demographic characteristics

and whether or not the outcome was compliant or non-compliant with IDEA regulations. Data were analyzed for each of the demographic characteristics, divisions' size, locale, geographical region, and SES, separately.

Finally, for the data gathered in response to the fourth research question, a chi-square analysis was conducted to examine if any statistically significant difference existed between the type of issue reported and the outcome of the issue. The types of issues were categorized into five areas. The five areas were: (1) program issues, (2) placement issues, (3) procedural issues, (4) identification/evaluation issues, or (5) FAPE. This analysis shows the frequencies in areas where most parents identified claims that the division was not providing appropriate services to their students as well as shows the percentage of rulings in favor of the parents or the divisions.

For the purpose of this study, data represented all 132 public school divisions in the Commonwealth of Virginia. It is important to note that after all of the data had been analyzed, there were 59 out of the 132 divisions that did not have any complaints filed against them during the four years of the study. It is also important to point out that when observing data that has been calculated per special education student, the worst case scenarios are the ratios with the smaller numbers.

Presentation of the Data

Research Question 1

What are the frequencies of state complaint procedures filed against all school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes?

Complaints

Data from all 132 school divisions in the Commonwealth of Virginia were collected over the four year period from July 1, 2005 until June 30, 2009. Of these data, 73 school divisions had state complaint resolution procedures (CRP) filed against them and 59 school divisions did not have any complaints filed against them during the timeframe of this study. Table 2 illustrates all divisions and the number of complaints filed against them for each of the four years. The number of complaints range from zero to 55.

Of the divisions receiving complaints, 11 divisions had 10 or more complaints filed against them. Looking at the initial exploration of the trends, it appears that parents were bringing about many complaints in largest school divisions. Fairfax County Schools had the highest number of CRP's filed against them with 55 total complaints. The school divisions with the highest totals of CRP's following Fairfax County were Virginia Beach City (n = 35), Chesterfield County (n = 22) and Henrico County (n = 20). Other divisions with multiple complaints filed against them are Norfolk (n = 15), Loudoun County, Prince William County and Richmond City (n = 12), Chesapeake and Spotsylvania (n = 11), and York County (n = 10). However, when the data are disaggregated by special education population, this does not hold true.

Among the 73 school divisions with CRP's filed against them, 35 of them only had one complaint filed during the four year period, 26 divisions had between two and nine complaints filed (see Table 2). There were 364 total complaints filed from July 1, 2005 – June 30, 2009. It is important to note that these numbers represent only the raw data and do not take into account the number of complaints filed against the school division according to the size of the special education population. To make all divisions

Table 2

Frequency distribution of complaints filed per special education student

Division Name	Number of Complaints Received over 4 Years	Number of Complaints per Year	Average Special Education Population 2005 - 2009	Ratio of 1 Complaint per Special Education Population
Alleghany County	0	0	452.50	0.00
Amherst County	0	0	573.75	0.00
Appomattox County	0	0	327.25	0.00
Bath County	0	0	102.75	0.00
Bland County	0	0	141.00	0.00
Bristol City	0	0	380.75	0.00
Buckingham County	0	0	268.75	0.00
Buena Vista City	0	0	149.25	0.00
Carroll County	0	0	615.50	0.00
Charles City County	0	0	135.25	0.00
Charlotte County	0	0	343.00	0.00

Clarke County	0	0	169.25	0.00
Colonial Beach	0	0	86.75	0.00
Craig County	0	0	120.50	0.00
Danville City	0	0	1013.50	0.00
Dickenson County	0	0	433.75	0.00
Essex County	0	0	241.25	0.00
Floyd County	0	0	339.25	0.00
Franklin City	0	0	236.50	0.00
Galax City	0	0	137.50	0.00
Giles County	0	0	374.50	0.00
Grayson County	0	0	245.00	0.00
Greene County	0	0	471.75	0.00
Greensville County	0	0	365.50	0.00
Henry County	0	0	1307.50	0.00
Highland County	0	0	56.50	0.00
King William County	0	0	321.00	0.00
Lexington City	0	0	66.50	0.00

Louisa County	0	0	746.75	0.00
Madison County	0	0	199.50	0.00
Manassas Park City	0	0	272.00	0.00
Martinsville City	0	0	316.00	0.00
Mathews County	0	0	210.00	0.00
Mecklenburg County	0	0	795.50	0.00
New Kent County	0	0	450.75	0.00
Northumberland County	0	0	182.50	0.00
Norton City	0	0	106.75	0.00
Nottoway County	0	0	384.75	0.00
Orange County	0	0	546.75	0.00
Page County	0	0	419.75	0.00
Patrick County	0	0	441.50	0.00
Poquoson City	0	0	275.25	0.00
Pulaski County	0	0	807.75	0.00
Radford City	0	0	236.00	0.00
Rappahannock County	0	0	130.75	0.00

Rockingham County	0	0	1394.50	0.00
Russell County	0	0	781.50	0.00
Salem City	0	0	478.50	0.00
Smyth County	0	0	863.00	0.00
Staunton City	0	0	437.00	0.00
Surry County	0	0	141.50	0.00
Sussex County	0	0	200.50	0.00
Washington County	0	0	1075.75	0.00
Waynesboro City	0	0	331.25	0.00
West Point	0	0	93.00	0.00
Westmoreland County	0	0	238.50	0.00
Winchester City	0	0	646.75	0.00
Wise County	0	0	942.25	0.00
Wythe County	0	0	492.00	0.00
Roanoke City	1	0.25	1911.75	7647.00
Alexandria City	1	0.25	1828.00	7312.00
Augusta County	1	0.25	1520.50	6082.00

Lynchburg City	1	0.25	1440.25	5761.00
Franklin County	1	0.25	1342.00	5368.00
Fauquier County	1	0.25	1323.00	5292.00
Bedford County	1	0.25	1157.50	4630.00
Halifax County	1	0.25	1140.75	4563.00
Campbell County	1	0.25	1007.50	4030.00
Shenandoah County	1	0.25	884.25	3537.00
Botetourt County	1	0.25	776.50	3106.00
Prince George County	1	0.25	763.50	3054.00
Culpeper County	1	0.25	760.50	3042.00
Gloucester County	1	0.25	740.00	2960.00
Lee County	1	0.25	719.25	2877.00
Warren County	1	0.25	697.50	2790.00
Charlottesville City	1	0.25	687.25	2749.00
Prince William County	12	3	8225.00	2741.67
Hopewell City	1	0.25	669.50	2678.00
Dinwiddie County	1	0.25	666.75	2667.00

Chesapeake City	11	2.75	7090.75	2578.45
Montgomery County	2	0.5	1281.25	2562.50
Powhatan County	1	0.25	597.50	2390.00
Petersburg City	1	0.25	573.25	2293.00
Frederick County	3	0.75	1718.75	2291.67
Hanover County	5	1.25	2855.00	2284.00
Prince Edward County	1	0.25	561.75	2247.00
Suffolk City	3	0.75	1649.25	2199.00
Fluvanna County	1	0.25	531.00	2124.00
Tazewell County	2	0.5	1027.50	2055.00
Southampton County	1	0.25	498.25	1993.00
Newport News City	9	2.25	4360.75	1938.11
Pittsylvania County	3	0.75	1365.00	1820.00
Portsmouth City	5	1.25	2220.25	1776.20
Colonial Heights City	1	0.25	438.00	1752.00
Albemarle County	4	1	1747.75	1747.75
Loudoun County	12	3	5239.25	1746.42

Fairfax County	55	13.75	23783.75	1729.73
Manassas City	2	0.5	850.50	1701.00
Arlington County	7	1.75	2924.25	1671.00
Stafford County	6	1.5	2431.25	1620.83
Richmond City	12	3	4697.75	1565.92
Rockbridge County	1	0.25	374.00	1496.00
Chesterfield County	22	5.5	8083.00	1469.64
Hampton City	9	2.25	3223.00	1432.44
Buchanan County	2	0.5	699.50	1399.00
Henrico County	20	5	6903.25	1380.65
Norfolk City	15	3.75	4954.25	1321.13
Nelson County	1	0.25	301.75	1207.00
Caroline County	2	0.5	594.00	1188.00
Northampton County	1	0.25	292.50	1170.00
Brunswick County	1	0.25	291.50	1166.00
Virginia Beach City	35	8.75	9920.25	1133.74
Spotsylvania County	11	2.75	3103.75	1128.64

Harrisonburg City	2	0.5	563.25	1126.50
Lunenburg County	1	0.25	280.50	1122.00
Falls Church City	1	0.25	257.75	1031.00
Accomack County	3	0.75	767.50	1023.33
Roanoke County	9	2.25	2248.75	999.44
Williamsburg-James City	6	1.5	1471.75	981.17
Amelia County	1	0.25	239.75	959.00
Middlesex County	1	0.25	208.25	833.00
Covington City	1	0.25	191.25	765.00
Lancaster County	1	0.25	176.25	705.00
Richmond County	1	0.25	166.25	665.00
Fredericksburg City	2	0.5	328.25	656.50
Scott County	5	1.25	711.75	569.40
Isle of Wight County	6	1.5	749.25	499.50
York County	10	2.5	1228.75	491.50
Goochland County	4	1	356.25	356.25
King and Queen County	2	0.5	159.00	318.00

King George County	6	1.5	431.25	287.50
Cumberland County	5	1.25	195.50	156.40

comparable, the average number of complaints for the four years was calculated and divided into the average number of special education population for the four years. As a result of those calculations, divisions were able to be compared based on the number of special education students received per complaint per year.

Table 2 shows that Roanoke City, Alexandria, Augusta, Bedford, Campbell, Amelia, Lancaster, and Richmond County all received one complaint filed against the school division during the four years of the study. When looking at the number of complaints filed per special education students per year, Roanoke City had 1 complaint per 7647 special education students, Alexandria had 1 complaint per 7312 special education students, Augusta had 1 complaint per 6082 students, Bedford had 1 complaint per 4630 special education students, and Campbell had 1 complaint per 4030 special education students. Each of these school divisions had fewer complaints filed per year per special education students than the other divisions.

On the contrary, Amelia had 1 complaint per 959 special education students, Lancaster had 1 complaint per 705 special education students and Richmond County had 1 complaint per 665 special education students. While it would appear that these divisions fared better with the number of complaints filed against the division using raw data, when making comparable groups and observing the data of students per complaint filed, Amelia, Lancaster, and Richmond County surpassed the ratio of larger school

divisions with multiple complaints filed against them like Fairfax County, Virginia Beach City, Chesterfield County, and Henrico County.

When complaints per special education population were considered, King and Queen, King George and Cumberland Counties fared worse than all other divisions with complaints filed against them. King and Queen County had two complaints filed against the school division during the four year period at a ratio of 1 complaint per 318 special education students, King George had six complaints filed during the four year period at a ratio of 1 complaint per 287 special education students and Cumberland County had five complaints filed during the four year period at a ratio of 1 per 156 special education students per year.

Issues

For each complaint, parents or agencies could file one or more issues. The issues could encompass all of the areas parents identified in which, they felt the division was not following IDEA regulations. Each issue could be filed under one complaint. The results of the issues determined the outcome. These outcomes could be compliant meaning the school division was following the regulations of IDEA or non-compliant meaning the school division was not following the regulations of IDEA. From the 364 complaints that were filed, there were 1085 issues reported. Table 3 illustrates the number of issues that were filed over the four year period, the average number of issues per year, the total special education population, and the number of issues per special education student. To make all divisions comparable, the average number of issues for the four years was calculated and divided into the average number of special education population for the four years.

Table 3

Frequency distribution of issues filed per special education student

Division Name	Number of Issues 2005 - 2009	Average Number of Issues per Year	Average Special Education Population 2005 - 2009	Ratio of 1 Issue per Special Education Population
Alleghany County	0	0.00	452.50	0.00
Amherst County	0	0.00	573.75	0.00
Appomattox County	0	0.00	327.25	0.00
Bath County	0	0.00	102.75	0.00
Bland County	0	0.00	141.00	0.00
Bristol City	0	0.00	380.75	0.00
Buckingham County	0	0.00	268.75	0.00
Buena Vista City	0	0.00	149.25	0.00
Carroll County	0	0.00	615.50	0.00
Charles City County	0	0.00	135.25	0.00
Charlotte County	0	0.00	343.00	0.00

Clarke County	0	0.00	169.25	0.00
Colonial Beach	0	0.00	86.75	0.00
Danville City	0	0.00	1013.50	0.00
Dickenson County	0	0.00	433.75	0.00
Essex County	0	0.00	241.25	0.00
Floyd County	0	0.00	339.25	0.00
Franklin City	0	0.00	236.50	0.00
Galax City	0	0.00	137.50	0.00
Giles County	0	0.00	374.50	0.00
Grayson County	0	0.00	245.00	0.00
Greene County	0	0.00	471.75	0.00
Greensville County	0	0.00	365.50	0.00
Henry County	0	0.00	1307.50	0.00
Highland County	0	0.00	56.50	0.00
King William County	0	0.00	321.00	0.00
Lexington City	0	0.00	66.50	0.00
Louisa County	0	0.00	746.75	0.00

Madison County	0	0.00	199.50	0.00
Manassas Park City	0	0.00	272.00	0.00
Martinsville City	0	0.00	316.00	0.00
Mathews County	0	0.00	210.00	0.00
Mecklenburg County	0	0.00	795.50	0.00
New Kent County	0	0.00	450.75	0.00
Northumberland County	0	0.00	182.50	0.00
Norton City	0	0.00	106.75	0.00
Nottoway County	0	0.00	384.75	0.00
Orange County	0	0.00	546.75	0.00
Page County	0	0.00	419.75	0.00
Patrick County	0	0.00	441.50	0.00
Poquoson City	0	0.00	275.25	0.00
Pulaski County	0	0.00	807.75	0.00
Radford City	0	0.00	236.00	0.00
Rappahannock County	0	0.00	130.75	0.00
Rockingham County	0	0.00	1394.50	0.00

Russell County	0	0.00	781.50	0.00
Salem City	0	0.00	478.50	0.00
Smyth County	0	0.00	863.00	0.00
Staunton City	0	0.00	437.00	0.00
Surry County	0	0.00	141.50	0.00
Sussex County	0	0.00	200.50	0.00
Washington County	0	0.00	1075.75	0.00
Waynesboro City	0	0.00	331.25	0.00
West Point	0	0.00	93.00	0.00
Westmoreland County	0	0.00	238.50	0.00
Winchester City	0	0.00	646.75	0.00
Wise County	0	0.00	942.25	0.00
Wythe County	0	0.00	492.00	0.00
Lynchburg City	1	0.25	1440.25	5761.00
Fauquier County	1	0.25	1323.00	5292.00
Bedford County	1	0.25	1157.50	4630.00
Halifax County	1	0.25	1140.75	4563.00

Alexandria City	2	0.50	1828.00	3656.00
Culpeper County	1	0.25	760.50	3042.00
Augusta County	2	0.50	1520.50	3041.00
Warren County	1	0.25	697.50	2790.00
Dinwiddie County	1	0.25	666.75	2667.00
Powhatan County	1	0.25	597.50	2390.00
Campbell County	2	0.50	1007.50	2015.00
Franklin County	3	0.75	1342.00	1789.33
Manassas City	2	0.50	850.50	1701.00
Hanover County	7	1.75	2855.00	1631.43
Roanoke City	5	1.25	1911.75	1529.40
Prince George County	2	0.50	763.50	1527.00
Stafford County	7	1.75	2431.25	1389.29
Northampton County	1	0.25	292.50	1170.00
Frederick County	6	1.50	1718.75	1145.83
Lunenburg County	1	0.25	280.50	1122.00
Suffolk City	6	1.50	1649.25	1099.50

Prince William County	31	7.75	8225.00	1061.29
Montgomery County	5	1.25	1281.25	1025.00
Chesapeake City	29	7.25	7090.75	978.03
Lee County	3	0.75	719.25	959.00
Hopewell City	3	0.75	669.50	892.67
Shenandoah County	4	1.00	884.25	884.25
Covington City	1	0.25	191.25	765.00
Fluvanna County	3	0.75	531.00	708.00
Lancaster County	1	0.25	176.25	705.00
Arlington County	18	4.50	2924.25	649.83
Henrico County	43	10.75	6903.25	642.16
Norfolk City	31	7.75	4954.25	639.26
Botetourt County	5	1.25	776.50	621.20
Hampton City	21	5.25	3223.00	613.90
Chesterfield County	53	13.25	8083.00	610.04
Fairfax County	161	40.25	23783.75	590.90
Colonial Heights City	3	0.75	438.00	584.00

Harrisonburg City	4	1.00	563.25	563.25
Prince Edward County	4	1.00	561.75	561.75
Charlottesville City	5	1.25	687.25	549.80
Newport News City	33	8.25	4360.75	528.58
Southampton County	4	1.00	498.25	498.25
Gloucester County	6	1.50	740.00	493.33
Craig County	1	0.25	120.50	482.00
Portsmouth City	19	4.75	2220.25	467.42
Petersburg City	5	1.25	573.25	458.60
Pittsylvania County	12	3.00	1365.00	455.00
Albemarle County	16	4.00	1747.75	436.94
Tazewell County	10	2.50	1027.50	411.00
Loudoun County	51	12.75	5239.25	410.92
Richmond City	47	11.75	4697.75	399.81
Buchanan County	7	1.75	699.50	399.71
Brunswick County	3	0.75	291.50	388.67
Virginia Beach City	106	26.50	9920.25	374.35

Scott County	8	2.00	711.75	355.88
Williamsburg-James City	17	4.25	1471.75	346.29
Falls Church City	3	0.75	257.75	343.67
King and Queen County	2	0.50	159.00	318.00
Roanoke County	30	7.50	2248.75	299.83
Rockbridge County	6	1.50	374.00	249.33
Isle of Wight County	13	3.25	749.25	230.54
Nelson County	6	1.50	301.75	201.17
Spotsylvania County	62	15.50	3103.75	200.20
Richmond County	4	1.00	166.25	166.25
York County	31	7.75	1228.75	158.55
Caroline County	15	3.75	594.00	158.40
Goochland County	9	2.25	356.25	158.33
King George County	11	2.75	431.25	156.82
Middlesex County	6	1.50	208.25	138.83
Accomack County	24	6.00	767.50	127.92
Amelia County	10	2.50	239.75	95.90

Fredericksburg City	15	3.75	328.25	87.53
Cumberland County	11	2.75	195.50	71.09

As a result of those calculations, the researcher was able to compare divisions based on the number of issues received per special education student per year. When observing these data, several school divisions had multiple issues filed against them based on one complaint. Roanoke City had one complaint but five issues with a ratio of 1 issue per 1529 special education students per year and Shenandoah had one complaint but four issues with a ratio 1 issue filed per 884 special education students per year.

Using these data in Table 3, Lynchburg and Fauquier had the fewest issues among all divisions that had issues, followed by Bedford, Halifax, and Alexandria. Lynchburg had one issue at a ratio of 1 issue per 5671 special education students and Fauquier had one issue at a ratio of 1 issue per 5292 special education students. Bedford County had one issue at a ratio of 1 issue per 4630 special education students, Halifax had one issue at a ratio of 1 issue per 4563 special education students, and Alexandria had two issues at a ratio of 1 issue per 3656 special education students.

Amelia, Fredericksburg and Cumberland County had the most issues per special education student among all divisions. Amelia County reported 10 issues at a ratio of 1 issue per 96 special education students. Fredericksburg reported 15 issues at a ratio of 1 issue per 88 special education students and Cumberland County reported 11 issues at a ratio of 1 issue per 71 special education students. Other divisions reporting larger ratios were Accomack, Middlesex, and King George Counties. Accomack County reported 24 issues at a ratio of 1 issue per 128 special education students, Middlesex reported six

issues at a ratio of 1 issue per 139 students, and King George County reported 11 issues at a ratio of 1 issue per 157 special education students.

Outcomes

The last part of the first research question was to determine the outcomes of the CRP's that were filed against the divisions. The results of the issues determined the outcome. The outcomes of the issues are represented by the percentage of issues that were non-compliant since those issues represented the percentage of cases, in which, the school division failed to follow IDEA regulations. The researcher was able to determine the percentage of non-complaint issues by dividing the total number of issues by the total number of non-complaint issues. The percentage is based on the number of non-complaint issues over the four year period.

Table 4 illustrates the outcomes of the CRP's. Of the divisions reporting issues, 48 of the 73 divisions had issues that resulted in non-compliance of IDEA regulations. Of those 48, only 15 divisions reported 50% or more of non-compliance. Augusta and Halifax Counties reported 100% of their issues resulting in non-compliance. It is important to note that whereas Amelia County had 1 complaint per 959 special education students and reported 10 issues at a ratio of 1 issue per 96 special education students, the division only had 10% of the outcomes determined to be non-compliant with IDEA regulations.

Research Question 2

What is the relationship, if any, between division size, location, geographical region or socioeconomic status and the actual number of complaint resolution procedures filed against the division?

Table 4

Frequency distribution of issues determined to be non-compliant

Division Name	Number of Issues Received over the 4 Years	Number of Non-Compliant Issues	Percentage of Non-Compliant Issues
Augusta County	2	2	100.00%
Halifax County	1	1	100.00%
Middlesex County	6	5	83.33%
Rockbridge County	6	5	83.33%
Richmond County	4	3	75.00%
Stafford County	7	5	71.43%
Caroline County	15	10	66.67%
Lee County	3	2	66.67%
York County	31	20	64.52%
Richmond City	47	27	57.45%
Isle of Wight County	13	7	53.85%
Norfolk City	31	16	51.61%
Prince Edward County	4	2	50.00%
Shenandoah County	4	2	50.00%
Campbell County	2	1	50.00%
Cumberland County	11	5	45.45%
Henrico County	43	19	44.19%

Tazewell County	10	4	40.00%
Montgomery County	5	2	40.00%
Arlington County	18	7	38.89%
Scott County	8	3	37.50%
Portsmouth City	19	7	36.84%
King George County	11	4	36.36%
Fairfax County	161	55	34.16%
Virginia Beach City	106	36	33.96%
Hampton City	21	7	33.33%
Franklin County	3	1	33.33%
Hopewell City	3	1	33.33%
Accomack County	24	7	29.17%
Buchanan County	7	2	28.57%
Hanover County	7	2	28.57%
Chesapeake City	29	8	27.59%
Loudoun County	51	14	27.45%
Southampton County	4	1	25.00%
Spotsylvania County	62	15	24.19%
Williamsburg-James City	17	4	23.53%
Prince William County	31	7	22.58%
Goochland County	9	2	22.22%
Fredericksburg City	15	3	20.00%
Botetourt County	5	1	20.00%

Newport News City	33	6	18.18%
Pittsylvania County	12	2	16.67%
Suffolk City	12	1	16.67%
Gloucester County	6	1	16.67%
Chesterfield County	53	7	13.21%
Amelia County	10	1	10.00%
Roanoke County	30	2	6.67%
Albemarle County	16	1	6.25%
Nelson County	6	0	0.00%
Charlottesville City	5	0	0.00%
Petersburg City	5	0	0.00%
Roanoke City	5	0	0.00%
Brunswick County	3	0	0.00%
Colonial Heights City	3	0	0.00%
Fluvanna County	3	0	0.00%
Alexandria City	2	0	0.00%
Frederick County	2	0	0.00%
Harrisonburg City	2	0	0.00%
Prince George County	2	0	0.00%
Bedford County	1	0	0.00%
Covington City	1	0	0.00%
Culpeper County	1	0	0.00%
Dinwiddie County	1	0	0.00%

Fauquier County	1	0	0.00%
King and Queen County	1	0	0.00%
Lancaster County	1	0	0.00%
Lunenburg County	1	0	0.00%
Lynchburg City	1	0	0.00%
Manassas City	1	0	0.00%
Northampton County	1	0	0.00%
Powhatan County	1	0	0.00%
Warren County	1	0	0.00%
Alleghany County	0	0	0.00%
Amherst County	0	0	0.00%
Appomattox County	0	0	0.00%
Bath County	0	0	0.00%
Bland County	0	0	0.00%
Bristol City	0	0	0.00%
Buckingham County	0	0	0.00%
Buena Vista City	0	0	0.00%
Carroll County	0	0	0.00%
Charles City County	0	0	0.00%
Charlotte County	0	0	0.00%
Clarke County	0	0	0.00%
Colonial Beach	0	0	0.00%
Craig County	0	0	0.00%

Danville City	0	0	0.00%
Dickenson County	0	0	0.00%
Essex County	0	0	0.00%
Falls Church City	0	0	0.00%
Floyd County	0	0	0.00%
Franklin City	0	0	0.00%
Galax City	0	0	0.00%
Giles County	0	0	0.00%
Grayson County	0	0	0.00%
Greene County	0	0	0.00%
Greensville County	0	0	0.00%
Henry County	0	0	0.00%
Highland County	0	0	0.00%
King William County	0	0	0.00%
Lexington City	0	0	0.00%
Louisa County	0	0	0.00%
Madison County	0	0	0.00%
Manassas Park City	0	0	0.00%
Martinsville City	0	0	0.00%
Mathews County	0	0	0.00%
Mecklenburg County	0	0	0.00%
New Kent County	0	0	0.00%
Northumberland County	0	0	0.00%

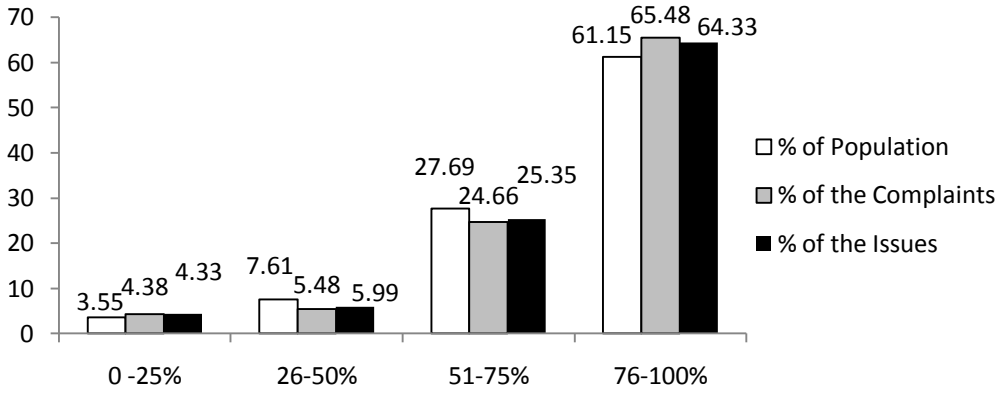
Norton City	0	0	0.00%
Nottoway County	0	0	0.00%
Orange County	0	0	0.00%
Page County	0	0	0.00%
Patrick County	0	0	0.00%
Poquoson City	0	0	0.00%
Pulaski County	0	0	0.00%
Radford City	0	0	0.00%
Rappahannock County	0	0	0.00%
Rockingham County	0	0	0.00%
Russell County	0	0	0.00%
Salem City	0	0	0.00%
Smyth County	0	0	0.00%
Staunton City	0	0	0.00%
Surry County	0	0	0.00%
Sussex County	0	0	0.00%
Washington County	0	0	0.00%
Waynesboro City	0	0	0.00%
West Point	0	0	0.00%
Westmoreland County	0	0	0.00%
Winchester City	0	0	0.00%
Wise County	0	0	0.00%
Wythe County	0	0	0.00%

Division Size

Appendix C lists all divisions with number of complaints filed against them. This appendix includes the division size, locale, and Superintendent's region, SES, along with the percentage of the total complaints, issues, and population represented by each division. Division size is represented by four equal groups notated as 0 – 25%, 26 -50%, 51 – 75%, and 76 – 100% depending on the total population of students in the division. There are 132 divisions in the Commonwealth of Virginia which would consist of 33 divisions in each quartile.

Divisions were listed from the smallest total student population to the largest total student population and to determine their placement in the four equal groups. Of the 73 divisions receiving complaints, 12 of the divisions in the lower quartile received complaints, 11 of the divisions from the 26 - 50% quartile received complaints, 20 divisions from the 51 - 75% quartile received complaints, and 30 divisions from the upper quartile received complaints. Figure 1 illustrates the percentage of the total population, as well as the percentage of the total complaints and issues each quartile had filed against them.

Figure 1. Percentage of population, complaints and issues filed for each division



For each of the quartiles, when observing the percentage of population the data reveal a balance of the percentage of the complaints and the percentage of the issues that were filed within the given quartiles. Thus the expected outcome is in proportion to the observed outcome in that the 0 - 25% division represented 4% of the state's pupil population and 4% of the complaints and issues. The 26 - 50% division represented 8% of the state's pupil population and 6% of the complaints and issues. Similarly for the larger divisions, the 51 - 75% division represented 28% of the state's pupil population and 25% of the complaints and issues, while the 76 - 100% division represented 61% of the state's pupil population and roughly 65% of the complaints and issues.

Table 5 provides the results of the total number of complaints filed against each quartile, along with the corresponding descriptive statistics based on complaints filed per special education population per year. In calculating the results, the mean of complaints and issues per special education population was used to determine the statistical significance for each comparison group. Among the division sizes, the small divisions, represented by 0 - 25% had the highest number of complaints filed per special education population per year with a ratio of 1 complaint for every 239 special education students and the large divisions, represented by 76 - 100% had the lowest with a ratio of 1 complaint for every 2468 students. Based on the number of complaints per special education student, the large divisions were less likely to have complaints filed against them than the other three quartiles; the ANOVA in Figure 2 reveals that when looking at complaints filed per special education student per year, there is a statistically significant difference between the division size and the likelihood of having a complaint filed against the division, (F = 20.251 [3, 128], p = .000) and a large effect size of .32. Post

Table 5

Descriptive Statistics of Complaints and Issues Based on Division Size

Complaints			Issues		
Division Size	*N*	*Mean Complaints per Special Education Population*	Division Size	*N*	*Mean Issues per Special Education Population*
0 - 25%	33	239.41	0 - 25%	33	169.06
26 - 50%	33	416.95	26 - 50%	33	150.01
51 - 75%	33	1484.91	51 - 75%	33	894.54
76 - 100%	33	2467.93	76 - 100%	33	1168.97

hoc analyses using Tukey *a* post hoc criterion indicated that complaints filed per special education population per year were significantly lower when comparing complaints filed in the 76 - 100% divisions with the ratio of 1:2468 special education students than in the other three division sizes combined which had a ratio of 1:2141 special education students.

Issues for Division Size

Among the divisions, as shown in Table 5, the 26 - 50% divisions had the highest number of issues filed per special education population per year with a ratio of 1 issue for every 150 special education students and the large divisions, represented by 76 - 100%,

Figure 2. ANOVA for Complaints per Special Education Student based on Division Size

A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	1.061E8	3	35371868.198	20.251	.000
Within Groups	2.236E8	128	1746637.740		
Total	3.297E8	131			

B Tukey HSD 1 - 0- 25%; 2 - 26-50%; 3 - 51-75%; 4 - 76-100%

(I) 1; 2; 3; 4	(J) 1; 2; 3; 4	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
1.00	2.00	-177.53788	325.35647	.948	-1024.4742	669.3984
	3.00	-1245.49788*	325.35647	.001*	-2092.4342	-398.5616
	4.00	-2228.52121*	325.35647	.000*	-3075.4575	-1381.5849
2.00	1.00	177.53788	325.35647	.948	-669.3984	1024.4742
	3.00	-1067.96000*	325.35647	.007*	-1914.8963	-221.0237
	4.00	-2050.98333*	325.35647	.000*	-2897.9196	-1204.0470
3.00	1.00	1245.49788*	325.35647	.001*	398.5616	2092.4342
	2.00	1067.96000*	325.35647	.007*	221.0237	1914.8963
	4.00	-983.02333*	325.35647	.016*	-1829.9596	-136.0870
4.00	1.00	2228.52121*	325.35647	.000*	1381.5849	3075.4575
	2.00	2050.98333*	325.35647	.000*	1204.0470	2897.9196
	3.00	983.02333*	325.35647	.016*	136.0870	1829.9596

*. The mean difference is significant at the 0.05 level.

had the lowest with a ratio of 1 issue for every 1169 special education students. Based on the number of issues per special education students, the large divisions were less likely to have issues filed against them than the other three quartiles; the ANOVA in Figure 3 reveals that when looking at issues filed per special education student per year, there is a statistically significant difference between the division size and the likelihood of having an issue filed against the division, (F = 9.198 [3, 128], p = .000) and a large effect size of .18. Post hoc analyses using Tukey *a* post hoc criterion indicated that issues filed per special education population per year were significantly lower when comparing issues filed in the 100% divisions with a 1:1169 ratio than in the 50% division (ratio of 1:150) and the 25% division (ratio of 1:169).

Locales

The next characteristic that was analyzed was the locale, which was determined by the locale descriptors by the Virginia Department of Education (VDOE website, 2009). They were divided into rural (which includes town), suburban, and city. Of all 132 divisions, rural represented the largest locale with 98 divisions. There were 45 divisions from the rural locale with complaints filed against them. Spotsylvania had the highest number of complaints filed against the division with 11. King George and Isle of Wight each had six, Cumberland, Hanover and Scott Counties had five. The rural locale had 100 complaints filed against divisions in that category.

Suburban locale had 18 divisions with 14 of the divisions having complaints filed against the division. Fairfax (n = 55), Chesterfield (n = 22), Henrico (n = 20), Loudoun (n = 12), Prince William (n = 12), Chesapeake (n = 11), and York County (n = 10) all had the highest number of complaints filed against the division. The suburban locale had a

Figure 3. ANOVA for Issues filed per Special Education Student based on Division Size

A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	26353977.163	3	8784659.054	9.198	.000
Within Groups	1.222E8	128	955032.071		
Total	1.486E8	131			

B Tukey HSD 1 - 0- 25%; 2 - 26-50%; 3 - 51-75%; 4 - 76-100%

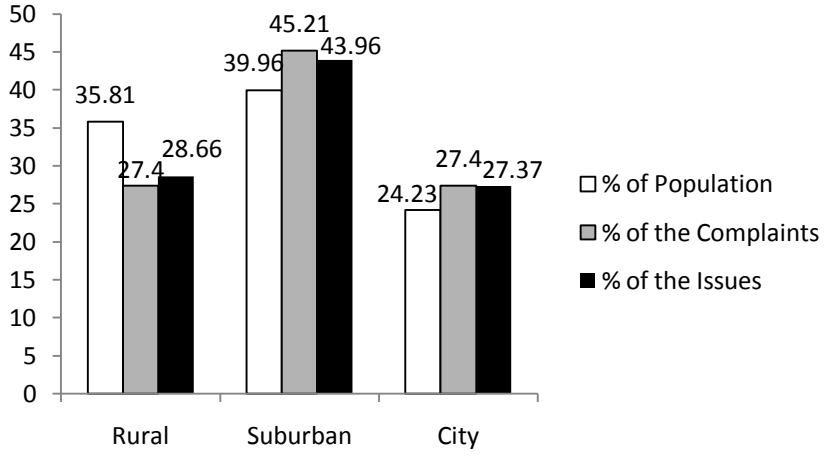
(I) 1; 2 3; 4	(J) 1; 2; 3; 4	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
1.00	2.00	19.04424	240.58415	1.000	-607.2210	645.3095
	3.00	-725.48091*	240.58415	.016*	-1351.7461	-99.2157
	4.00	-999.91424*	240.58415	.000*	-1626.1795	-373.6490
2.00	1.00	-19.04424	240.58415	1.000	-645.3095	607.2210
	3.00	-744.52515*	240.58415	.013*	-1370.7904	-118.2599
	4.00	-1018.95848*	240.58415	.000*	-1645.2237	-392.6933
3.00	1.00	725.48091*	240.58415	.016*	99.2157	1351.7461
	2.00	744.52515*	240.58415	.013*	118.2599	1370.7904
	4.00	-274.43333	240.58415	.665	-900.6986	351.8319
4.00	1.00	999.91424*	240.58415	.000*	373.6490	1626.1795
	2.00	1018.95848*	240.58415	.000*	392.6933	1645.2237
	3.00	274.43333	240.58415	.665	-351.8319	900.6986

*. The mean difference is significant at the 0.05 level.

combined total of 164 complaints filed against divisions in that category.

The final locale was city. The city locale had 16 divisions with 13 of those divisions having complaints filed against them. Virginia Beach (*n* = 35), Norfolk (*n* = 15), and Richmond (*n* = 12) had the highest number of complaints filed against them, followed by Hampton and Newport News (*n* = 9). The city locale had 99 complaints filed against divisions in that category. Figure 4 illustrates the percentage of the total population, as well as the percentage of the total complaints and issues each locale had filed against them.

Figure 4. Percentage of population, complaints and issues filed for each locale



For each of the locales, when observing the percentage of state's pupil population the data reveal an imbalance of the percentage of the complaints and the percentage of the issues that were filed within the given locales. Thus city locale has the least variance in the expected outcome as compared to the observed outcome. The total state's pupil population of the school divisions in the city locale is 24% which is representative of the percentage of the complaints (27%) and issues (27%) filed over the four year period. The total state's pupil population of the suburban locale is 40%. The total complaints (45%)

and issues (44%) filed in the suburban locale is slightly higher than the total state's pupil population but representative of the 40th percentile. Finally for the rural locale, the total state's pupil population is 36% but the percentage of complaints and issues are not balanced but rather show a decreased number of complaints (27%) and issues (29%) filed against divisions in the rural locale.

Table 6 provides the results of the total number of complaints filed against each locale, along with the corresponding descriptive statistics based on complaints per special education population per year. Table 6 also illustrates that among the localities, that just as the rural locale (n = 98) had most divisions represented, it also had the highest number of complaints filed per special education population per year with a ratio of 1 complaint per every 906 special education students, making the rural locale more likely to have complaints filed against it than the other locales. The city locale (n = 16) had the lowest number of divisions represented and had the lowest number of complaints filed per special education population per year (ratio of 1:2375). The suburban locale (n = 18) was more likely to have complaints filed against the divisions per special education population per year (ratio of 1:1289) than the divisions represented from the city locale.

The ANOVA reveals that when looking at complaints filed per special education student, there is a statistically significant difference between the locale and the likelihood of having a complaint filed against the division, (F = 7.611 [2, 129], p = .001) and a medium effect size of .11. Post hoc analyses using Tukey a post hoc criterion reveals the most significant mean difference of complaints filed per special education population per year were from divisions in the city locale and those from the rural locale. The mean difference between the city and rural locales was 1 complaint per every 1467 special

Table 6

Descriptive Statistics of Complaints and Issues Based on Locale

Complaints			Issues		
Locale	*N*	*Mean Complaints per Special Education Population*	Locale	*N*	*Mean Issues per Special Education Population*
Rural	98	905.87	Rural	98	537.78
Suburban	18	1288.84	Suburban	18	509.19
City	16	2374.78	City	16	1047.35

education students, at a very significant alpha level, $p = .001$. There was no significant difference between the rural and suburban locales. The mean difference between the rural and suburban locales was 1 complaint per every 383 students, at an unacceptable alpha level, $p = .540$. Figure 5 reveals there was no significant difference between the suburban and city locales. The mean difference between the suburban and city locales was 1 complaint per every 1086 students, $p = .068$.

Issues for Locales

Among the locales, as shown in Table 6, the suburban locales had the highest number of issues filed per special education student per year with a ratio of 1 issue per every 509 special education students and the city locale had the lowest with a ratio of 1 issue per every 1047 special education students. Despite city locales being determined less likely to have issues filed against them than the other two locales; the ANOVA in

Figure 5. ANOVA for Complaints filed per Special Education Student based on Locale

A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	30163872.608	2	15081936.304	7.611	.001
Within Groups	2.556E8	129	1981662.442		
Total	2.858E8	131			

B Tukey HSD 1 - Rural; 2 - Suburban; 3 - City

		Mean Difference			95% Confidence Interval	
(I) 1; 2; 3	(J) 1; 2; 3	(I-J)	Std. Error	Sig.	Lower Bound	Upper Bound
1.00	2.00	-382.97176	360.98948	.540	-1238.9044	472.9609
	3.00	-1468.91273*	379.57206	.001*	-2368.9061	-568.9194
2.00	1.00	382.97176	360.98948	.540	-472.9609	1238.9044
	3.00	-1085.94097	483.67992	.068	-2232.7817	60.8998
3.00	1.00	1468.91273*	379.57206	.001*	568.9194	2368.9061
	2.00	1085.94097	483.67992	.068	-60.8998	2232.7817

*. The mean difference is significant at the 0.05 level.

Figure 6 reveals that when looking at issues filed per special education student per year, there is not a statistically significant difference between the locale and the likelihood of having an issue filed against the division, (F = 1.659 [2, 129], p = .194).

Regions

Figure 6. ANOVA for Issues filed per Special Education Student based on Locale

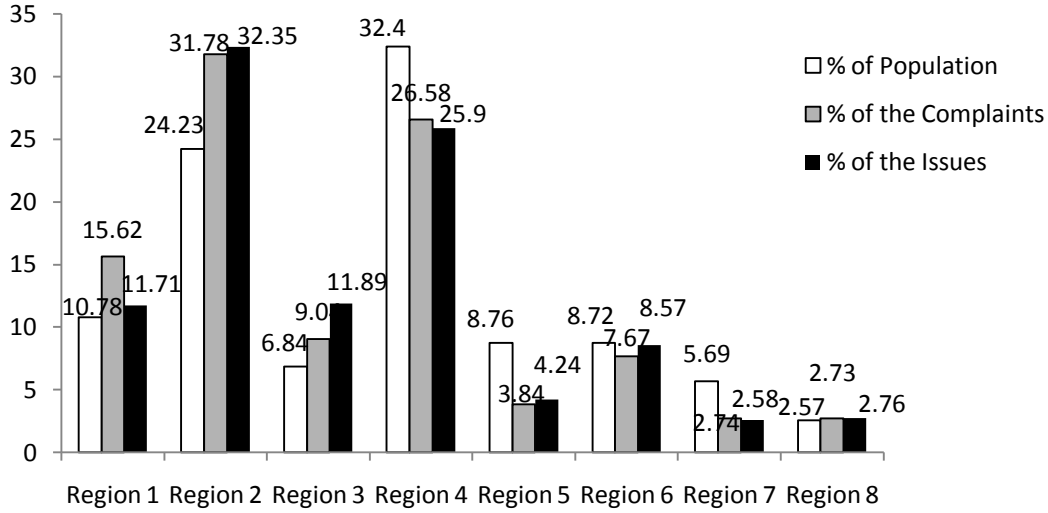
A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	3727301.281	2	1863650.641	1.659	.194
Within Groups	1.449E8	129	1123029.326		
Total	1.486E8	131			

The third demographic analysis was determined by the Superintendent's regions. There are eight regions in the Commonwealth of Virginia. Region 1 had 14 divisions represented with 10 having complaints filed against them, accounting for 57 complaints. There were 15 divisions represented in Region 2. Of those 15 divisions, 14 divisions received CRP's against them, accounting for 117 complaints. Region 3 had 17 divisions represented with 10 of those divisions having complaints filed against them. Region 3 had 33 complaints filed against the school divisions. Region 4 had 19 divisions with 11 having complaints filed against them. There were 96 complaints from Region 4.

The last four regions had a combined total of 60 complaints filed against them regions. Region 5 had 20 divisions with 10 of the divisions receiving 14 total complaints. Region 6 had 17 divisions represented with seven receiving a total of 27 complaints. Subsequently, Region 7 had 19 divisions represented and of those 19, four divisions received a total of 10 complaints. Finally, Region 8 had 11 divisions with six of the divisions accounting for 11 complaints. Under half of the divisions from Regions 5 and 6 received complaints while between 60% and 70 % of the divisions from Regions 1, 3, 4, and 8 received complaints. Figure 7 illustrates the percentage of the total state's pupil

Figure 7. Percentage of population, complaints and issues filed for each region



population, as well as the percentage of the total complaints and issues each region had filed against them.

For each of the regions, when observing the percentage of the state's pupil population in comparison to the percentage of the complaints and issues filed with the given regions, Region 6 and Region 8 represent the best balance of expected and observed outcomes. Region 6 has 9% of the state's pupil population, 8% of the complaints filed and 9% of the issues filed while Region 8 has 3% of the state's pupil population, 3% of the complaints filed and 3% of the issues filed. Other regions represent an imbalance of outcomes. Region 2 represents 24% of the state's pupil population with 32% of the complaints and 32% of the issues filed. In contrast to Region 2, Region 4 has 32% of the state's pupil population with 27% of the complaints and 26% of the issues filed. Regions 5 and 7, similarly, to Region 4 have substantially higher percentages of the state's pupil population (9% and 6%, respectively) than the complaints and issues that were filed against the divisions.

Table 7 provides the results of the total number of complaints filed against each region, along with the corresponding descriptive statistics on complaints filed per special education population per year. Among the regions illustrated in Table 7, Region 7 (n = 19) had the greatest number of complaints filed per special education population per year with a ratio of 1 complaint per every 212 special education students, followed by Region 3 (n = 17, with a ratio of 1 complaint per every 610 special education students. The lowest number of complaints filed per special education population per year came from Region 4 (n = 19, with a ratio of 1 complaint per every 1782 special education students), followed by Region 5 (n = 20, with a ratio of 1 complaint per every 1548 special education students). The school divisions in Region 4 were less likely to have complaints filed against them while the school divisions in Region 7 were more likely to have complaints filed against them.

The ANOVA in Figure 8 reveals that when looking at complaints filed per special education population per year, there is a statistically significant difference between the region and the likelihood of having a complaint filed, (F = 2.119 [7, 124], p = .046) and a medium effect size of .11. Post hoc analyses using Tukey *a* post hoc criterion reveals the only significant mean difference of incidents per special education population exists between divisions in Regions 4 and Region 7 (with a ratio difference of 1:1570), at a significant alpha level, p = .043. There was no significant difference between any of the other regions.

Issues for Regions

Among the divisions, as shown in Table 7, Region 7 had the highest number of issues filed per special education population per year with a ratio of 1 issue per

Table 7

Descriptive Statistics of Complaints and Issues Based on Region

Complaints			Issues		
Regions	*N*	*Mean Complaints per Special Education Population*	Regions	*N*	*Mean Issues per Special Education Population*
Region 1	14	1451.75	Region 1	14	825.80
Region 2	15	1307.47	Region 2	15	498.26
Region 3	17	609.58	Region 3	17	224.33
Region 4	19	1781.82	Region 4	19	1135.14
Region 5	20	1547.66	Region 5	20	907.77
Region 6	17	1338.79	Region 6	17	419.14
Region 7	19	211.76	Region 7	19	111.87
Region 8	11	928.49	Region 8	11	618.40

112 special education students and Region 4 had the lowest with a ratio of 1 issue per 1135 special education students. Region 4 and Region 5 (1:908 special education students) were less likely to have issues filed against them than the other regions; the ANOVA in Figure 9 reveals that when looking at issues filed per special education

Figure 8. ANOVA for Complaints per Special Education Student based on Regions

A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	35229977.554	7	5032853.936	2.119	.046
Within Groups	2.945E8	124	2374639.176		
Total	3.297E8	131			

B Tukey HSD

1 –Region 1; 2- Region 2; 3 –Region 3; 4 – Region 4; 5 – Region 5; 6 – Region 6; 7 – Region 7; 8 – Region 8

(I)1; 2; 3; 4; 5; 6; 7; 8	(J) 1; 2; 3; 4; 5; 6; 7; 8	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
1.00	2.00	144.28686	572.64855	1.000	-1621.3901	1909.9638
	3.00	842.19580	556.14903	.798	-872.6073	2556.9989
	4.00	-330.06241	542.76891	.999	-2003.6099	1343.4851
	5.00	-95.90964	536.98142	1.000	-1751.6123	1559.7930
	6.00	112.96227	556.14903	1.000	-1601.8409	1827.7654
	7.00	1239.99496	542.76891	.310	-433.5526	2913.5425
	8.00	523.26195	620.88113	.990	-1391.1330	2437.6569
2.00	1.00	-144.28686	572.64855	1.000	-1909.9638	1621.3901
	3.00	697.90894	545.88821	.905	-985.2565	2381.0744
	4.00	-474.34926	532.25021	.986	-2115.4639	1166.7654
	5.00	-240.19650	526.34707	1.000	-1863.1097	1382.7167
	6.00	-31.32459	545.88821	1.000	-1714.4900	1651.8408

	7.00	1095.70811	532.25021	.447	-545.4066	2736.8228
	8.00	378.97509	611.70709	.999	-1507.1331	2265.0833
3.00	1.00	-842.19580	556.14903	.798	-2556.9989	872.6073
	2.00	-697.90894	545.88821	.905	-2381.0744	985.2565
	4.00	-1172.25820	514.45667	.314	-2758.5091	413.9927
	5.00	-938.10544	508.34694	.591	-2505.5179	629.3070
	6.00	-729.23353	528.55398	.865	-2358.9514	900.4844
	7.00	397.79916	514.45667	.994	-1188.4518	1984.0501
	8.00	-318.93385	596.28931	.999	-2157.5036	1519.6359
4.00	1.00	330.06241	542.76891	.999	-1343.4851	2003.6099
	2.00	474.34926	532.25021	.986	-1166.7654	2115.4639
	3.00	1172.25820	514.45667	.314	-413.9927	2758.5091
	5.00	234.15276	493.67294	1.000	-1288.0146	1756.3201
	6.00	443.02467	514.45667	.989	-1143.2262	2029.2756
	7.00	1570.05737*	499.96202	.043*	28.4986	3111.6162
	8.00	853.32435	583.82985	.826	-946.8285	2653.4772
5.00	1.00	95.90964	536.98142	1.000	-1559.7930	1751.6123
	2.00	240.19650	526.34707	1.000	-1382.7167	1863.1097
	3.00	938.10544	508.34694	.591	-629.3070	2505.5179
	4.00	-234.15276	493.67294	1.000	-1756.3201	1288.0146
	6.00	208.87191	508.34694	1.000	-1358.5406	1776.2844
	7.00	1335.90461	493.67294	.131	-186.2627	2858.0720
	8.00	619.17159	578.45332	.962	-1164.4035	2402.7467

6.00	1.00	-112.96227	556.14903	1.000	-1827.7654	1601.8409
	2.00	31.32459	545.88821	1.000	-1651.8408	1714.4900
	3.00	729.23353	528.55398	.865	-900.4844	2358.9514
	4.00	-443.02467	514.45667	.989	-2029.2756	1143.2262
	5.00	-208.87191	508.34694	1.000	-1776.2844	1358.5406
	7.00	1127.03269	514.45667	.365	-459.2182	2713.2836
	8.00	410.29968	596.28931	.997	-1428.2701	2248.8694
7.00	1.00	-1239.99496	542.76891	.310	-2913.5425	433.5526
	2.00	-1095.70811	532.25021	.447	-2736.8228	545.4066
	3.00	-397.79916	514.45667	.994	-1984.0501	1188.4518
	4.00	-1570.05737*	499.96202	.043*	-3111.6162	-28.4986
	5.00	-1335.90461	493.67294	.131	-2858.0720	186.2627
	6.00	-1127.03269	514.45667	.365	-2713.2836	459.2182
	8.00	-716.73301	583.82985	.922	-2516.8859	1083.4198
8.00	1.00	-523.26195	620.88113	.990	-2437.6569	1391.1330
	2.00	-378.97509	611.70709	.999	-2265.0833	1507.1331
	3.00	318.93385	596.28931	.999	-1519.6359	2157.5036
	4.00	-853.32435	583.82985	.826	-2653.4772	946.8285
	5.00	-619.17159	578.45332	.962	-2402.7467	1164.4035
	6.00	-410.29968	596.28931	.997	-2248.8694	1428.2701
	7.00	716.73301	583.82985	.922	-1083.4198	2516.8859

*. The mean difference is significant at the 0.05 level.

Figure 9. ANOVA for Issues per Special Education Student based on Regions

A

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	15688301.034	7	2241185.862	2.091	.049
Within Groups	1.329E8	124	1071853.091		
Total	1.486E8	131			

student per year, there is not a statistically significant difference between the region and the likelihood of having an issue filed against the division, (F = 2.091 [7, 124], p = .049).

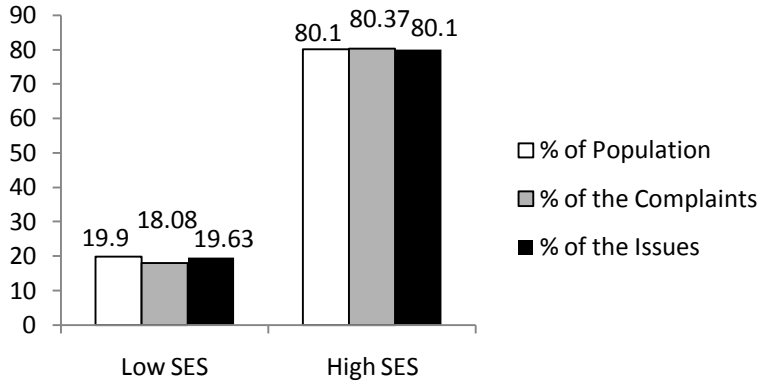
Socioeconomic Status

The final demographic analysis was socioeconomic status which was represented by the number of students receiving free or reduced lunch according to the VDOE Website. Divisions were divided into SES categories based on the poverty rate of less than 20% of students receiving free or reduced lunch were high SES and more than 20% were low SES. There were 43 divisions with low SES and 89 divisions with high SES.

Of the 73 divisions receiving complaints, 23 divisions were low SES and 50 divisions were high SES. Divisions with low SES accounted for 67 complaints while divisions with high SES accounted for 297 complaints. Figure 10 illustrates the percentage of the total state's pupil population, as well as the percentage of the total complaints and issues each SES had filed against them.

For each of the SES divisions, when observing the percentage of state's population the data reveal a balance of the percentage of the complaints and the percentage of the issues that were filed within the high and low SES. Thus the expected

Figure 10. Percentage of population, complaints and issues filed for each SES



outcome is in proportion to the observed outcome in that the low SES divisions represented 20% of the state's pupil population and 18% of the complaints and 20% of the issues. The high SES divisions represented 80% of the state's pupil population and 80% of the complaints and issues.

Table 8 provides the results of the total number of complaints filed against each SES, along with the corresponding descriptive statistics on complaints filed per special education population per year. Among the SES levels, Table 8 illustrates divisions with high SES (n = 89) had the lower number of complaints filed per special education population per year with a ratio of 1 complaint per every 1210 special education students. The divisions with low SES (n = 43) had a higher number complaints filed per special education population per year with a ratio of 1 complaint per every 1033 special education students. Although, it is slightly more likely for divisions with low SES to have complaints filed against them than divisions with high SES, the ANOVA in Figure 11 indicates that there is no statistical significant difference between high and low SES, (F = .359 [1, 130], p = .550).

Issues for Socioeconomic Status

Table 8

Descriptive Statistics Complaints and Issues Based on SES

Complaints			Issues		
SES	*N*	*Mean Complaints per Special Education Population*	SES	*N*	*Mean Issues per Special Education Population*
High SES	89	1209.98	High SES	89	591.72
Low SES	43	1032.91	Low SES	43	603.78

Among the divisions, as shown in Table 8, the low SES divisions had a lower number of issues filed per special education population per year with a ratio of 1 issue per every 604 special education students. The high SES divisions had the greater number of issues filed per special education population with a ratio of 1 issue per every 592 special education students. The high SES divisions were more likely to have issues filed against them than the low SES divisions; the ANOVA in Figure 12 reveals that when looking at issues filed per special education student per year, there is not a statistically significant difference between the SES and the likelihood of having a issue filed against the division, (F = .004 [1, 130], p = .952).

Inclusive Demographic Characteristic

According to the data represented in Appendix B, it is important to note that based on the percentage of population and the number of complaints and/or number of

Figure 11. ANOVA for Complaints per Special Education Student based on SES

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	908972.467	1	908972.467	.359	.550
Within Groups	3.288E8	130	2529048.176		
Total	3.297E8	131			

issues filed, two regions have multiple divisions with an imbalance of observable data. A balanced division constitutes a similar percentage of each category, for example Chesapeake represents 3.38% of the population, 3.01% of the complaints filed, and 2.67% of the issues filed.

Region 3 has eight divisions which constitute a higher percentage of complaints and/or issues than the percentage of total population. Caroline County, Fredericksburg City, King and Queen County, King George County, Lancaster County, Middlesex County, Richmond County, and Spotsylvania County all have a higher percentage of complaints and/or issues filed than the total percentage of population. Further, all are from the rural locale with the exception of Fredericksburg, which is from the suburban locale, and Middlesex, Spotsylvania, Caroline, King George, and King and Queen Counties are all high SES as well. Likewise, each of these school divisions are from the smaller division size category (0 - 25% or 26 - 50% division), with the exception of Caroline (51 - 75% division), King George (51 - 75% division), and Spotsylvania (76 - 100% division).

Region 2 is the second region with multiple school divisions with an imbalance of observable data. Region 2 has five school divisions that identify a higher percentage of

Figure 12. ANOVA for Issues per Special Education Student based on SES

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	4207.303	1	4207.303	.004	.952
Within Groups	1.486E8	130	1143029.823		
Total	1.486E8	131			

complaints and/or issues than the percentage of total population. Accomack, Isle of Wight, Virginia Beach, Williamsburg-James City, and York County all have a higher percentage of complaints and/or issues filed than the total percentage of population. Each of the divisions is from the 51 - 75% or 76 - 100% division size and three, Virginia Beach, Isle of Wight and York Counties, are from the high SES divisions.

Research Question 3

What is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed?

Issues for Division Size

The large divisions (76 - 100%) accounted for 698 of the 1085 issues that were filed. Out of that number, the divisions were in compliance of IDEA regulations 69% of the time. Interestingly enough, the small divisions (0- 25%) accounted for 47 of the 1085 issues. Similarly to the large divisions, the small division quartile was in compliance with 70% of the cases. It is also interesting to note that the chi-square analysis reveals that there is no statistical significant relationship between the size of the division and

whether or not the outcome of the issues is compliant or non-complaint, $\chi^2(3, N = 1085) = .740$, $p = .864$. See Figure 13 A, B, C. In the analysis, the expected outcome was 14.94 with three *df* at an alpha level of .05. A comparison of equating the divisions by the size of the population reveals that each sub-section is likely to have the same percent of compliant or non-compliant outcomes.

Issues for Locales

Based on the localities of the division, the rural locale had 311 issues filed out of the 1085 issues. Interestingly, Spotsylvania had 62 of the 311 issues, followed by Accomack County with 24, Albemarle with 16, and Caroline County with 15. The suburban locale had 477 issues filed out of the 1085 issues. Fairfax led the issues count with 161, followed by Chesterfield County ($n = 53$), Loudoun County ($n = 51$), and Henrico County ($n = 43$). The city locale had 297 issues filed out of the 1085 issues.

Among the divisions in the city locale, Virginia Beach ($n = 106$) had the highest number of complaints, followed by Richmond City ($n = 47$), Newport News ($n = 33$) and Norfolk ($n = 31$). The results of the issues were determined to be 68% compliant in favor of the school divisions, with the suburban locale faring the best with 71% compliance, followed by the rural locale with 68% and the city locale with 64%.

The chi-square analysis reveals that there is no statistical significant relationship between the locale of the division, rural, suburban, or city and whether or not the outcome of the issue is compliant or not, $\chi^2(2, N = 1085) = 4.42$, $p = .110$. See Figure 14 A, B, C. In the analysis, the expected outcome was 94.44 with two *df* at an alpha level of .05. Comparing the three categories reveals that each locale was likely to have the same number of compliant or non-compliant issues.

Figure 13 A, B, C. Chi-Square Analysis for Compliance based on Division Size

A

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
1- 0-25%, 2 – 26-50%, 3 – 51- 75%, 4 – 76-100% * 1 - Compliant, 2 - Noncompliant	1085	100.0%	0	.0%	1085	100.0%

B

		1 - Compliant, 2 - Noncompliant		Total
		1	2	
0-25%	1	33	14	47
26 -50%	2	45	20	65
51-76%	3	182	93	275
75-100%	4	480	218	698
Total		740	345	1085

C

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	.740[a]	3	.864
Likelihood Ratio	.736	3	.865
Linear-by-Linear Association	.013	1	.909
N of Valid Cases	1085		

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 14.94.

Issues for Regions

When looking at the issues by regions, Region 2 had the highest number of issues, comprising 335 total issues. Virginia Beach, Newport News, Norfolk, and York County

Figure 14 A, B, C. Chi-Square Analysis for Compliance Based on Locale

A

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
1 Rural; 2 Suburban; 3 City * 1 Compliant; 2 Noncompliant	1085	100.0%	0	.0%	1085	100.0%

B

Crosstabulation

		1 Compliant; 2 Noncompliant		Total
		1	2	
Rural	1	213	98	311
Suburban	2	338	139	477
City	3	189	108	297
Total		740	345	1085

C

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	4.420[a]	2	.110
Likelihood Ratio	4.378	2	.112
Linear-by-Linear Association	1.583	1	.208
N of Valid Cases	1085		

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 94.44.

had the largest number of issues filed against their divisions. Chesapeake (n = 29) and Accomack County (n = 24) also had high numbers of issues. Region 4 had the next highest count of issues with 281. Of those 281 issues, Fairfax County had 161 of them,

followed by Loudoun County (n = 51) and Prince William County (n = 31). The region with the lowest number of issues was Region 7. Region 7 had 28 issues with 10 from Tazewell County, eight from Scott County, seven from Buchanan County and three from Lee County.

The chi-square analysis in Figure 15 A, B, C reveals that there is a statistical significant relationship between regions and whether or not the outcome of the issue is likely to be compliant or non-compliant, $\chi^2(7, N = 1085) = 17.68$, $p = .014$. In the analysis, the expected outcome was 8.90 with seven *df* at an alpha level of .05, with an effect size of .128. Regions 5 and 6 are more likely to be in compliance with IDEA than the other six regions. The average percentage of compliant issues in the Commonwealth was 68% with Region 5 (80%) and Region 6 (87%) faring better than all regions in favor of the divisions.

Issues for SES

Based on the SES of the divisions, the divisions with high SES had 867 issues filed against them out of the 1085 issues. The divisions with the highest number of issues were Fairfax, Virginia Beach, Chesterfield and Loudon County. The percentage of outcomes that fared for divisions with high SES was 70%. The divisions with low SES had 218 issues filed against them, with the highest number of issues coming from Richmond City, Norfolk, Accomack County, and Portsmouth. Examination of the percentage distribution of the divisions with low SES reveals that these divisions did not fare as well as the divisions with high SES with 62% of compliant issues.

The chi-square analysis in Figure 16 A, B, C, reveals that there is a statistical significant relationship between high and low SES and whether or not the outcome of the

Figure 15 A, B, C. Chi-Square Analysis for Compliance Based on Regions

A

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Region 1; Region 2; Region 3; Region 4; Region 5; Region 6; Region 7; Region 8 * 1 Compliant; 2 Noncompliant	1085	100.0%	0	.0%	1085	100.0%

B

		1 Compliant; 2 Noncompliant		Total
		1	2	
Region 1	1	116	58	174
Region 2	2	216	119	335
Region 3	3	83	46	129
Region 4	4	196	85	281
Region 5	5	37	9	46
Region 6	6	54	8	62
Region 7	7	17	11	28
Region 8	8	21	9	30
Total		740	345	1085

C

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	17.679[a]	7	.014
Likelihood Ratio	19.661	7	.006
Linear-by-Linear Association	5.632	1	.018
N of Valid Cases	1085		

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 8.90.

issues was compliant or non-compliant, $\chi^2(1, N = 1085) = 4.96, p = .026$. In the analysis, the expected outcome was 69.32 with one *df* at an alpha level of .05. Divisions with high SES were more likely to have compliant issues than divisions with low SES. The effect size was .068.

Research Question 4

What is the relationship, if any, between the types of issue filed in the complaint resolution procedures and the outcome of the complaint that is filed?

There were 364 complaints filed with the Virginia Department of Education (VDOE) from July 1, 2005 – June 30, 2009, which resulted in 1085 issues. The issues were comprised of five categories. They were program issues, placement issues, procedural issues, identification and evaluation issues, and free appropriate public education (FAPE) issues. Each issue was investigated by VDOE to determine if the school division was in compliance with IDEA regulations or not in compliance with IDEA regulations. A chi-square analysis was conducted to determine if there was a relationship between the type of issue filed and the outcome of the issue. Figure 17 A, B, C, illustrates the results of the chi-square analysis.

The chi-square analysis shows that the actual number of complaints that were analyzed in order to determine the relationship between the issue type filed in the complaint resolution procedure and the outcome of the complaint. Of the 1085 issues, 100% of the cases were valid and none were missing from the analysis. In this analysis, the types of issues are represented by the numbers 1 – 5 and the outcomes, compliant or non-compliant are represented by numbers 1 – 2.

In each of the observed counts, the proportions represent about 2:3 ratio for

Figure 16 A, B, C. Chi-Square Analysis for Compliance Based on SES

A

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
1 - High SES, 2 - Low SES * 1 - Compliant, 2 - Noncompliant	1085	100.0%	0	.0%	1085	100.0%

B

		1 - Compliant, 2 - Noncompliant		Total
		1	2	
High SES	1	605	262	867
Low SES	2	135	83	218
Total		740	345	1085

C

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	4.955[a]	1	.026		
Continuity Correction[b]	4.600	1	.032		
Likelihood Ratio	4.843	1	.028		
Fisher's Exact Test				.028	.017
Linear-by-Linear Association	4.951	1	.026		
N of Valid Cases	1085				

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 69.32.

b. Computed only for a 2x2 table

outcomes that are compliant and 1:3 ratio for outcomes that are non-compliant. For example, based on the raw data, of the divisions with complaints filed against them, most of the issues center on program issues (n = 674). The lowest number of issues are those involving FAPE (n = 57). Program issues across the divisions are 66% compliant and 34% non-compliant, placement issues are 70% compliant and 30% non-compliant,

Figure 17 A, B, C. Chi-square analysis for issue types and the outcomes of the complaint

A

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
1 Program; 2 Placement; 3 Procedural; 4 IdEval; 5 FAPE * 1 Compliant; 2 Noncompliant	1085	100.0%	0	.0%	1085	100.0%

B

		1 Compliant; 2 Noncompliant		Total
		1	2	
Program	1	446	228	674
Placement	2	64	27	91
Procedural	3	109	44	153
Identification/Evaluation	4	77	33	110
FAPE	5	44	13	57
Total		740	345	1085

C

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	4.411[a]	4	.353
Likelihood Ratio	4.545	4	.337
Linear-by-Linear Association	3.704	1	.054
N of Valid Cases	1085		

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 18.12.

procedural issues are 71% compliant and 29% non-compliant, identification issues are 70% compliant and 30% non-compliant, while FAPE issues are 77% compliant and 23% non-compliant. FAPE has the highest percentage of compliant issues.

In this analysis, the expected outcome is 18.12 with four *df* at an alpha level of .05. Based on the results of the Pearson Chi-Square analysis, it is determined that there is no statistical significance when looking at the relationship between the type of issue and whether or not the outcome was compliant or non-compliant, χ^2 (4, N = 1085) = 4.41, p = .353.

Summary

The purpose of this study was to examine state investigations where parents filed state complaint procedures (CRP) against local education agencies (LEA) in Virginia alleging a violation of their student's IDEA rights. Descriptive statistics, ANOVA and chi-square analyses were used to assess the data. All 132 divisions were reviewed.

Raw data were collected and reported. These data were then recalculated to make divisions comparable based on the per pupil enrollment of the special education population per year. When making divisions comparable in this manner, divisions with the highest frequency counts of complaints were not the same divisions with the highest number of complaints per student eligible for special education services per year.

Data were also analyzed based on the number of issues that were reported for each complaint. Parents could file a CRP against the division with more than one issue embodied in each complaint. There were 364 complaints filed from June 30, 2005 – July 1, 2009, which comprised 1085 total issues.

Descriptive statistics were then used to observe relationships between demographic characteristics, such as, division size, locale, geographic region, and SES, and the possibility that a division would have a complaint filed against it. Inclusive comparisons of all demographics were also conducted to illustrate, based on the special

education population, which divisions were more likely to have complaints filed against them and what were the commonalities of the demographic characteristics.

An ANOVA was used to evaluate the difference of the means per incidents per special education population to determine if there was a statistical significance. If there was a statistical significance, a post hoc test was used to help locate the specific differences within the means. The post hoc test used in this study was Tukey's HSD procedure.

Finally, a chi-square analysis was conducted to determine if there was any statistical significance between the type of issue filed, program, placement, procedure, identification and evaluation, or FAPE, and the outcome of the complaint. Program issues reported the highest number of issues filed with 674 while FAPE issues were the lowest with 57.

All data presented in this chapter were based on the divisions that had complaints filed against them. Also, the data from towns were relatively small and skewed the comparisons. This descriptor was combined with and reported in the rural descriptor. A more detailed summary and discussion of the findings will be presented in the next chapter.

CHAPTER 5: DISCUSSION, CONCLUSIONS, AND RECOMMENDATIONS

Introduction

In recent years, Americans have seen a plethora of litigation surrounding disputes parents have with school districts involving a wide range of special education issues. The ability to challenge the decisions made by school personnel regarding identification, evaluation, placement, and the provision of FAPE is a cornerstone of the Individuals with Disabilities Act (Opuda, 1997). IDEA requires that states guarantee parents the right to bring complaints to the SEA regarding any of these matters. The federal government and state legislatures have toiled to develop strategies to work through these challenges by utilizing alternative dispute resolution procedures.

Under IDEA, there are two formal avenues for parents to obtain administrative relief: the due process hearing and the state complaint resolution procedure. In addition, where both parties agree, IDEA affords the opportunity to participate in mediation. According to Opuda (1997), parents indicated that the less adversarial process of mediation was at times unsuccessful. Opuda (1997) also states that parents often elected to go through due process or complaint resolution procedures and receive a decision because they believed it is the only way to compel the school district to change.

Several researchers have identified cost as a deterrent for most parents wishing to use due process hearings as their primary mechanism to resolve disagreements relating to special education issues with their child (Howard, 1991; Webb, 1994; Opuda, 1997). Under IDEA, parents may use the complaint resolution procedure at no cost to them. Each state must have in place a plan for parents to file formal written complaints against an LEA. In the Commonwealth of Virginia, VDOE is responsible for investigating each

complaint and issuing findings regarding alleged violations of the rights of parents or students with disabilities. If it is found that the LEA is not in compliance with an issue, the VDOE ensures that the final decision is effectively implemented through technical assistance activities, negotiations, and corrective actions to achieve compliance.

The purpose of this study was to examine state investigations where parents filed CRP against local education agencies in Virginia alleging a violation of their student's IDEA rights. Descriptive statistics were used to show the relationship between complaints/issues and the divisions' size of the special education population. Because of the variance of the size of the special education population, to make all divisions comparable, the average number of complaints for the four years was calculated and divided into the average number of special education population for the four years. As a result of those calculations, divisions were able to be compared based on the number of special education students per complaints received.

The study also observed the relationship between the total population of the school division, locale, geographical region and SES. An ANOVA was used to evaluate the difference of the means to determine if there was a statistically significant difference or if the difference occurred by chance alone. If there was a statistically significant difference, a post hoc test was used to help locate the specific differences within the means. A chi-square analysis was performed to determine if there were any statistical significance between the demographic characteristics and the outcome of the issues that were filed for the complaints. Each demographic characteristic, division size, locale, region, and SES, was analyzed separately. The final observation was the types of issues that were filed. The types of issues were categorized as program, placement, procedural,

identification/evaluation, or FAPE. Types of issues filed were also analyzed using a chi-square analysis, which was performed to determine if there were any statistical significances between the type of issue filed and the outcome of the issues.

The following research questions were used to guide the study:

1. What are the frequencies of state complaint procedures filed against all school divisions in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 and what were their outcomes?
2. What is the relationship, if any, between division size, location, geographical region or socioeconomic status and the actual number of complaint resolution procedures filed against the division?
3. What is the relationship, if any, between the division size, location, geographical region, or socioeconomic status and the outcome of the complaint that is filed?
4. What is the relationship, if any, between the types of issue filed in the complaint resolution procedures and the outcome of the complaint that is filed?

Findings

1. Finding 1. Smaller divisions, based on total pupil population, receiving complaints from July 2005 – June 2009 had more complaints per special education population than the larger divisions receiving complaints. The frequency of the complaint resolution procedures reflected, in terms of raw data, a high volume of complaints in the larger school divisions and a low volume of complaints in many of the smaller divisions. This would be

expected since the number of students identified eligible to receive special education services would increase with the larger population of the division. The larger the population would likely attribute to an increase in the opportunities for disagreements in services. Fairfax (n = 55), Virginia Beach (n = 35), and Chesterfield (n = 22) are large divisions that had a high volume of complaints filed against them. Amelia County (n = 1), Lancaster County (n = 1) and Cumberland County (n = 5) are all smaller divisions with fewer CRPs filed against the division over the four year period. When adjusting the frequencies based on special education population, Fairfax had 1 complaint per 1730 special education students, Virginia Beach had 1 complaint per 1134 special education students, Chesterfield had 1 complaint per 1470 special education students, while among the smaller divisions, Amelia County had 1 complaint per 240 special education students, Lancaster County had 1 complaint per 705 special education students, and Cumberland County had 1 complaint per 156 special education students.

This finding supports Zirkel and D'Angelo (2008) who found that the frequency of high volume regions, in terms of absolute totals, outweighed the frequency of low volume regions. But when adjusting the frequency for special education population, the low volume regions were the leading regions in terms of judicial forums.

2. Finding 2. Based on the number of issues, smaller divisions receiving complaints from July 2005 – June 2009 had a higher frequency of issues per special education population than the larger divisions. The issues determined

the outcome of the complaint resolution procedures filed since parents or agencies could file more than one issue under each CRP. The number of issues outnumbered the number of complaints since parents could file more than one issue under each complaint they initiated with the LEA. VDOE investigated each issue and determined findings on them separately. Similarly to the total number of complaints filed, the divisions with the larger population had more issues filed in terms of raw data than the divisions with smaller populations, but when adjusting the absolute total based on special education population, the divisions with the smaller special education population fared worse than the larger ones. Among some of the larger divisions, Alexandria (n = 2) had 1 issue per 3656 special education students, Chesapeake (n = 29) had 1 issue per 978 special education students and Loudoun County (n = 51) had 1 issue per 411 special education students. Some of the smaller divisions faring worse that the larger divisions per special education student were Accomack County (n = 24) with 1 issue per 128 special education students, Middlesex County (n = 6) with 1 issue per 139 special education students and King George County (n = 11) with 1 issue per 157 special education students.

3. Finding 3. Divisions in the quartiles with the smallest pupil population were more likely to have complaints filed against them per special education population than the divisions in the larger quartiles. Based on complaints and issues per special education population, the divisions with the smallest pupil population had 1 complaint per 239 special education students and 1 issue per

169 special education students while the divisions with the largest pupil population had 1 complaint per 2468 special education students and 1 issue per 1169 special education students.

This finding supports Webb (1994) who found that the number of hearings in the smaller districts increased over the years of her study.

4. Finding 4. Divisions that are located in suburban areas or cities are less likely to have complaints filed against them per special education student than those divisions in rural localities. In the rural locale, there was 1 complaint filed per 906 special education students while in the suburban locale, there was 1 complaint per 1289 special education students and 1 complaint per 2375 special education students in the city locale.

   This finding supports Webb (1994) who found evidence of an upward trend in the number of complaints being filed from the rural locales during the final years of her study.

5. Finding 5. There is a difference in the number of complaints per special education student by region. Divisions located in Region 7 had a greater likelihood of having complaints filed against the divisions per special education student than any of the other regions. Divisions located in Region 4 had a lesser likelihood of having complaints filed against the divisions per special education student than any of the other regions. Divisions in Region 4 had 1 complaint per 1782 special education students while Region 7 had 1 complaint per 212 special education students. Region 4 is located in the northeastern part of the Commonwealth while Region 7 is located on the far

southwestern part of the Commonwealth. While there are eight Superintendent's Regions only these two regions reveal any statistically significant relationship in the frequency of complaint/issues filed.

This finding supports Zirkel and D'Angelo (2002) who states that the regional rank order relationships in the frequency distribution and the adjusted distribution per special education student are limited.

6. Finding 6. There is no statistically significant relationship between SES and the likelihood of having a complaint filed against the division. Among the SES categories, high SES had 1 complaint filed per 1210 special education students and low SES had 1 complaint filed per 1033 special education student. The percentage of the population and the percentage of complaints filed among those divisions reveal a balance.

   This finding is inconsistent with Opuda (1997) who found a significant relationship between parents who initiated complaints and the annual household income. Opuda found that families with a higher income and higher paternal education had a tendency to file more complaints.

7. Finding 7. The outcomes of the issues favor the divisions the majority of the time. There were 1085 issues over the four year period. Out of the total issues for the four year period, 68% were compliant and 32% were non-compliant.

   This finding supports Webb (1994), Opuda (1997), and Zirkel and D'Angelo (2002 and 2008) who found that in previous studies of special

education litigation, the outcomes of the resolutions favored the school districts in the majority of the cases.

8. Finding 8. There was no significant relationship between the type of issue filed and the outcome of the issue. There were 1085 issues filed over the four years. These issues were categorized as program issues, placement issues, procedural issues, identification and evaluation issues, and free appropriate public education (FAPE) issues. Among the types of issues filed, the data show that the majority of the issues were based on program issues, followed by procedural issues, identification/evaluation issues, placement issues, and issues involving FAPE. The data indicate that each of the categories was relatively stable with the percentages of compliant to non-compliant outcomes; although, the percentages involving FAPE were slightly higher. The overall percentages represented roughly 70% of the outcomes to be compliant and 30% of them to be non-compliant in each of the categories.

Research has also shown that the outcome of litigations involving special education favor school authorities (Zirkel and D'Angelo, 2002 and 2008).

Summary of Findings

The primary findings in this study were based on the special education population per year among the divisions. When the size of the special education population was considered, the smaller divisions with fewer complaints filed against them had a higher frequency of complaints than the larger divisions having multiple complaints filed against them. Therefore, school divisions that have a smaller pupil population need to be cognizant of laws surrounding special education dispute resolution procedures.

Another primary finding was that of the outcomes of the complaint resolution procedures. The outcomes of the resolutions favored the school divisions in the majority of the cases. These results are directly in line with previous studies of special education litigation done by Webb (1994), Opuda (1997), and Zirkel and D'Angelo (2002 and 2008). Similar to the findings of Zirkel and D'Angelo, 2008, the pronounced variety of statistically significant difference among the division size or the location of the division was expected. These demographic characteristics revealed a more uniform homogeneity of the divisions with the outcomes of the complaint resolution procedures (Zirkel and D'Angelo, 2008). However, there was no statistically significant difference of complaint resolution procedures being filed as they related to Superintendent's Regions or socioeconomic status. This was a surprising finding to the researcher. The only statistically significant difference among the eight regions was between Regions 4 and 7. There was no statistical significance among any other region(s) nor was there any statistical significance among high and low SES. Finally, issues that were filed and were determined to be a violation of FAPE had a more favorable compliance percentage than issues based on program, procedural, placement, or identification/evaluation.

Limitations

The fundamental limitations that must be acknowledged in discussing these results are that the complaints resolved through meditation or withdrawn by parents are only noted in the data files. These numbers were not included as part of this study. These complaints do not necessarily extend to the total number of CRPs filed or the finding of compliance. More specifically, the issues surrounding the complaints would not be represented in the frequency distribution or the outcome of the published

decisions. The nature of the underlying violation or any admission of wrongdoing by the parent or school district is not exposed.

Additionally, the data collected and examined for this study were only from the Commonwealth of Virginia. Other states may or may not have similar findings. Findings from other states may also have larger or smaller sample sizes.

Finally, the data collected did not take into account the disability category of the students. The disability category could have a bearing on the number of complaints that were filed from each district. With this caveat in mind, caution should be exercised when generalizing the results.

Implications

Based on the findings of this study, school divisions working along with the VDOE could use the findings as a resource to bring all divisions in the Commonwealth of Virginia into compliance with IDEA regulations by focusing on the following:

1. School divisions should assign their most effective coordinators to work with those schools that are having the highest frequency of complaints filed against them. Coordinators are familiar with legal issues surrounding special education and are aware of the gaps and weaknesses noted throughout the division. Many principals and teachers are overwhelmed with the day to day activities of school life and legal issues are not always on the forefront of their minds. Coordinators have a different perspective of these legal issues and could be of assistance to administrators and teachers in the building since they are using data from the entire division to make decisions and set priorities.

Their role is to make sure schools are following procedures and not overlook policies or service protocols that would negatively impact the division.

2. Administrative preparation for principals and assistant principals should include topics in the areas of monitoring and supervision of state complaint resolution procedures.

   Principals are not required to be licensed in special education in order to become the leader of a school; however, principals must know the legal aspects of special education and how to monitor special education services that are provided in their schools. The result of administrators' lack of knowledge in this area could lead to more frequent complaints.

3. School divisions in the various locales and regions should have information sharing workshops to enhance their knowledge of legal aspects of special education and CRPs and share their resources, support personnel, and parent advocacy centers with divisions that may not have the same level of resources as a neighboring division. Small districts had the most complaints and generally have the least resources. Collaborating with neighboring divisions would provide them with equitable services and access to trainings in a more cost effective manner.

4. School divisions should develop a forum to promote better communication with their parents. Although, Shaul (2003) found complaint resolution procedures are less time consuming and more cost effective that due process procedures, many disagreements may be resolved at the school or division level and not have to result in the filing of a complaint on the state level.

Many divisions have a parent resource center or media and communications department which could support this endeavor. Smaller divisions may wish to collaborate with a neighboring division to make this more cost effective.

5. VDOE should devote attention to the categories of the issues reported to ensure that the divisions have the resources and support needed to provide services to the students with disabilities. Program issues had the highest frequency of complaints. Complaint specialists should focus their attention on these types of issues and collaborate with divisions to adopt policies and implement practices that would focus the attention around this area and lessen the possibility of complaints being filed.

Recommendations for Future Studies

This study raises several issues for further research.

1. Future studies like this one are recommended for other states in the United States. It would be informative to have comparison data on the state level.
2. Further research is recommended to include larger samples, such as, conducting research of all states in each of the court circuits in the United States. This would provide information on the liberal versus conservative nature of each of the circuits. It would also reveal if the decisions of the complaint resolutions provide parallel perspectives with the litigation of the court cases dealing with special education disputes resolutions.

3. A look into trends of the primary disability of the students whose parents are filing complaint resolution procedures would be informative. There may be a trend in the number of parents filing CRPs based on their child's disability.
4. A study to determine the frequency and outcomes of CRPs when an advocate or attorney is used in contrast to when one is not used would add to the research knowledge base.
5. A quantitative or qualitative study would be useful in regards to administrators and school district officials as to why the complaints were filed.
6. An examination of the types of issues that were filed in a qualitative manner would be an interesting study. This knowledge could quite possibly affect school administrators' actions when handling parents and students found to be IDEA eligible so that no residual effects in regards to any type of litigation would come upon the district.
7. An examination of the complaints resolution procedures filed that were withdrawn would be a valuable study. The nature of why the complaint was withdrawn could provide insightful information to school administrators.

Reflections

There were 364 complaint resolution procedures filed in the Commonwealth of Virginia from July 1, 2005 – June 30, 2009 resulting in 1085 issues being reviewed by VDOE. Fifty-nine of the 132 school divisions received CRPs during the four year period. It was interesting to find out that 73 of the divisions did not have any complaints filed over the four year period. This researcher initially thought the larger school divisions

like Fairfax, Virginia Beach, Chesterfield, and Loudoun County would have more complaints filed against them than the smaller divisions. While this may be true in terms of raw data, when adjusting the complaints per special education students, these divisions generally had fewer complaints filed against them per special education student per year. This finding also supports prior research when adjusting the frequencies in terms of special education enrollment.

The outcomes of the complaints were based on the issues filed. Complaints often had more than one issue and the outcome of each issue was determined separately. The resolutions of the complaints favored the school divisions 70% of the time and the parents 30% of the time. Previous research has indicated that the outcome of the dispute resolution procedures favor the school divisions the majority of the time.

Demographic characteristics also affected the outcome of the dispute resolutions. Divisions in Regions 5 (80%) and 6 (87%) had a greater percentage of outcomes favoring the parents than the other regions. Also, divisions with high SES (70%) had a greater percentage of compliant outcomes than divisions with low SES (62%). Surprisingly, there was not a significant relationship in the number of complaints that were filed among the regions or the SES.

The issues were grouped into five categories, program issues, placement issues, procedural issues, identification and evaluation issues, and free appropriate public education (FAPE) issues. While there was no statistically significant relationship based on the type of issue filed, school divisions fared better when the CRP involved an issue of FAPE. These issues were compliant 77% of the time.

Two tasks during the research process were difficult. The first was the collection of the data for entry into the Excel file. Each CRP filed had to be analyzed separately and the number of issues had to be calculated as compliant or non-compliant. These calculations had to be done by hand for each of the 364 complaints and 1085 issues. This took a tremendous amount of time and verification for accuracy was an on-going process throughout the research period. The second was calculating the data per special education student and interpreting it for meaning. Putting the divisions in order from low frequency to high frequency was difficult since the higher numbers represented the divisions with the least amount of complaints and issues.

There are many areas in which additional research could be done rooted in complaint resolution procedures. Regardless of the additional types of research that will be studied, administrators and school district officials must carefully examine the results of these studies. While the Commonwealth of Virginia consistently had the results favor school divisions, IDEA requires 100% compliance. The results of this study show that there is still work to do.

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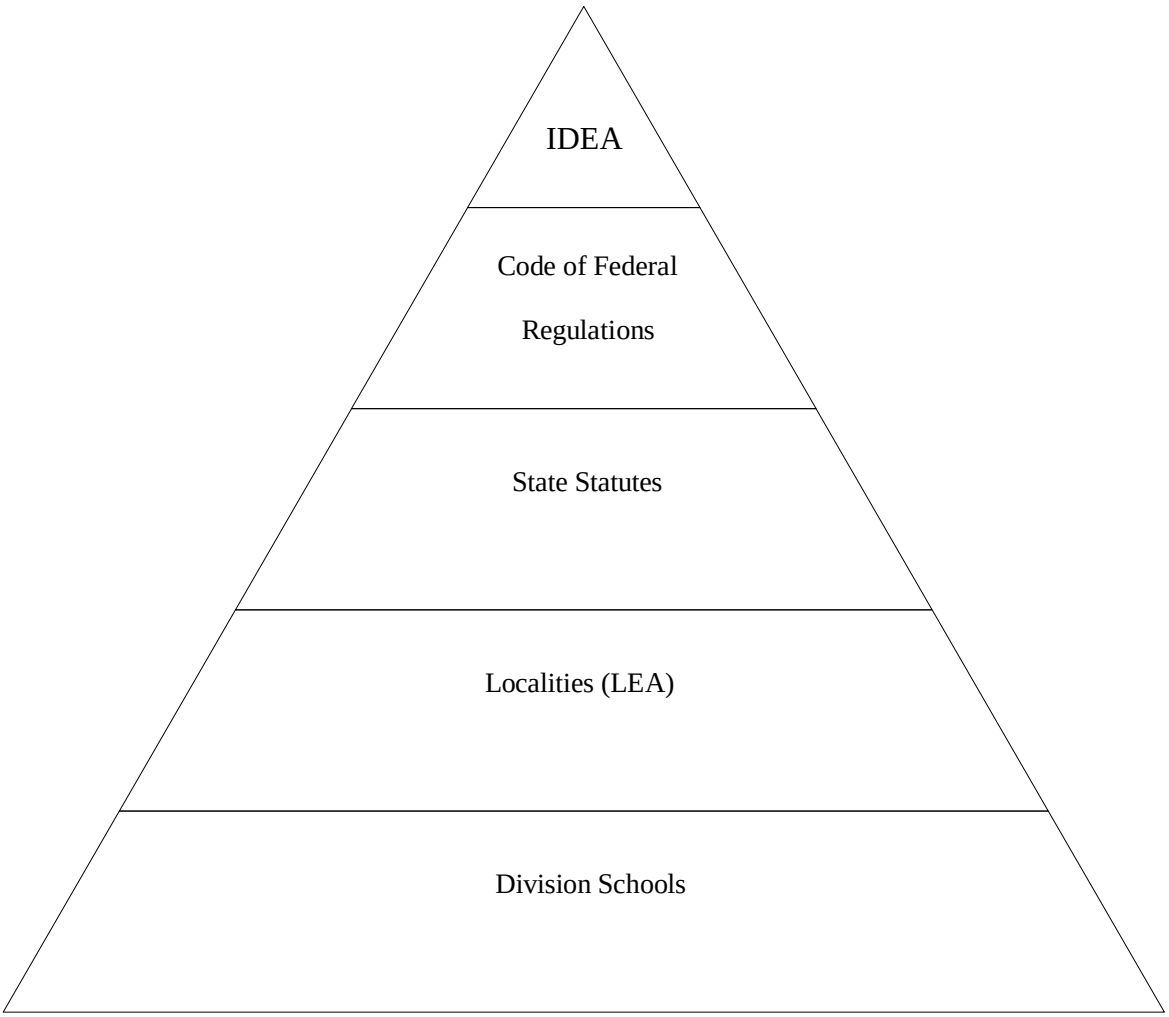
APPENDIX A

Theoretical Framework



Appendix B

Inclusive Demographic Characteristics

Division Name	Division Size	Locale	Region	SES	% of Total Complaints	% of Total Issues	% of Total Population
Accomack County	75%	Rural	2	Low	0.82%	2.21%	0.44%
Albemarle County	100%	Rural	5	High	1.10%	1.47%	1.06%
Alexandria City	100%	City	4	High	0.27%	0.18%	0.89%
Alleghany County	50%	Rural	6	High	0.00%	0.00%	0.24%
Amelia County	25%	Rural	8	High	0.27%	0.92%	0.15%
Amherst County	75%	Rural	5	High	0.00%	0.00%	0.39%
Appomattox County	50%	Rural	5	High	0.00%	0.00%	0.19%
Arlington County	100%	City	4	High	1.92%	1.66%	1.57%
Augusta County	100%	Rural	5	High	0.27%	0.18%	0.93%
Bath County	25%	Rural	5	High	0.00%	0.00%	0.06%
Bedford County	100%	Rural	5	Low	0.27%	0.09%	0.92%
Bland County	25%	Rural	7	High	0.00%	0.00%	0.08%

Botetourt County	75%	Rural	6	High	0.27%	0.46%	0.42%
Bristol City	50%	City	7	Low	0.00%	0.00%	0.20%
Brunswick County	50%	Rural	8	Low	0.27%	0.28%	0.19%
Buchanan County	50%	Rural	7	Low	0.55%	0.65%	0.29%
Buckingham County	50%	Rural	8	Low	0.00%	0.00%	0.18%
Buena Vista City	25%	Rural	5	High	0.00%	0.00%	0.10%
Campbell County	100%	Rural	5	High	0.27%	0.18%	0.75%
Caroline County	75%	Rural	3	High	0.55%	1.38%	0.35%
Carroll County	75%	Rural	7	High	0.00%	0.00%	0.35%
Charles City County	25%	Rural	1	High	0.00%	0.00%	0.07%
Charlotte County	50%	Rural	8	Low	0.00%	0.00%	0.19%
Charlottesville City	75%	City	5	High	0.27%	0.46%	0.35%
Chesapeake City	100%	Suburb	2	High	3.01%	2.67%	3.38%
Chesterfield County	100%	Suburb	1	High	6.03%	4.88%	3.38%
Clarke County	50%	Rural	4	High	0.00%	0.00%	0.19%
Colonial Beach	25%	Rural	3	High	0.00%	0.00%	0.05%
Colonial Heights City	50%	Suburb	1	High	0.27%	0.28%	0.16%

Covington City	25%	Rural	6	High	0.27%	0.09%	0.08%
Craig County	25%	Rural	6	High	0.00%	0.09%	0.06%
Culpeper County	75%	Rural	4	High	0.27%	0.09%	0.62%
Cumberland County	25%	Rural	8	Low	1.37%	1.01%	0.13%
Danville City	75%	City	6	Low	0.00%	0.00%	0.58%
Dickenson County	50%	Rural	7	Low	0.00%	0.00%	0.22%
Dinwiddie County	75%	Rural	1	High	0.27%	0.09%	0.40%
Essex County	25%	Rural	3	High	0.00%	0.00%	0.14%
Fairfax County	75%	Suburb	4	High	15.07%	14.84%	13.78%
Falls Church City	25%	Suburb	4	High	0.27%	0.28%	0.17%
Fauquier County	100%	Rural	4	High	0.27%	0.09%	0.95%
Floyd County	50%	Rural	6	High	0.00%	0.00%	0.18%
Fluvanna County	50%	Rural	5	High	0.27%	0.28%	0.31%
Franklin City	25%	Rural	2	Low	0.00%	0.00%	0.12%
Franklin County	100%	Rural	6	High	0.27%	0.28%	0.64%
Frederick County	100%	Rural	4	High	0.82%	0.55%	1.06%
Fredericksburg City	50%	Suburb	3	Low	0.55%	1.38%	0.23%

Galax City	25%	Rural	7	Low	0.00%	0.00%	0.11%
Giles County	50%	Rural	7	High	0.00%	0.00%	0.22%
Gloucester County	75%	Rural	3	High	0.27%	0.55%	0.47%
Goochland County	50%	Rural	1	High	1.10%	0.83%	0.20%
Grayson County	25%	Rural	7	Low	0.00%	0.00%	0.18%
Greene County	50%	Rural	5	High	0.00%	0.00%	0.24%
Greensville County	50%	Rural	8	Low	0.00%	0.00%	0.22%
Halifax County	75%	Rural	8	Low	0.27%	0.09%	0.52%
Hampton City	100%	City	2	High	2.47%	1.94%	1.94%
Hanover County	100%	Rural	1	High	1.37%	0.65%	1.09%
Harrisonburg City	75%	City	5	Low	0.55%	0.37%	0.38%
Henrico County	100%	Suburb	1	High	5.48%	3.96%	3.46%
Henry County	100%	Rural	6	Low	0.00%	0.00%	0.66%
Highland County	25%	Rural	6	High	0.00%	0.00%	0.02%
Hopewell City	75%	Suburb	1	Low	0.27%	0.28%	0.35%
Isle of Wight County	75%	Rural	2	High	1.64%	1.20%	0.45%
King and Queen	25%	Rural	3	High	0.55%	0.18%	0.07%

King George County	75%	Rural	3	High	1.64%	1.01%	0.32%
King William County	50%	Rural	3	High	0.00%	0.00%	0.18%
Lancaster County	25%	Rural	3	Low	0.27%	0.09%	0.12%
Lee County	50%	Rural	7	Low	0.27%	0.28%	0.30%
Lexington City	25%	Rural	5	High	0.00%	0.00%	0.04%
Loudoun County	100%	Suburb	4	High	3.29%	4.70%	4.14%
Louisa County	75%	Rural	5	High	0.00%	0.00%	0.39%
Lunenburg County	25%	Rural	8	Low	0.27%	0.09%	0.15%
Lynchburg City	100%	City	5	Low	0.27%	0.09%	0.76%
Madison County	25%	Rural	4	High	0.00%	0.00%	0.16%
Manassas City	75%	Suburb	4	High	0.55%	0.18%	0.55%
Manassas Park City	50%	Suburb	4	High	0.00%	0.00%	0.21%
Martinsville City	50%	Rural	6	Low	0.00%	0.00%	0.22%
Mathews County	25%	Rural	3	High	0.00%	0.00%	0.11%
Mecklenburg County	75%	Rural	8	Low	0.00%	0.00%	0.41%
Middlesex County	25%	Rural	3	High	0.27%	0.55%	0.11%
Montgomery County	100%	City	6	High	0.55%	0.46%	0.81%

Nelson County	25%	Rural	5	High	0.27%	0.55%	0.17%
New Kent County	50%	Rural	1	High	0.00%	0.00%	0.23%
Newport News City	100%	City	2	High	2.47%	3.04%	2.65%
Norfolk City	100%	City	2	Low	4.11%	2.86%	3.10%
Northampton County	25%	Rural	2	Low	0.27%	0.09%	0.17%
Northumberland	25%	Rural	3	Low	0.00%	0.00%	0.13%
Norton City	25%	Rural	7	Low	0.00%	0.00%	0.07%
Nottoway County	50%	Rural	8	Low	0.00%	0.00%	0.20%
Orange County	75%	Rural	4	High	0.00%	0.00%	0.41%
Page County	50%	Rural	4	High	0.00%	0.00%	0.32%
Patrick County	50%	Rural	6	Low	0.00%	0.00%	0.22%
Petersburg City	75%	Suburb	1	High	0.27%	0.46%	0.43%
Pittsylvania County	100%	Rural	6	High	0.82%	1.11%	0.78%
Poquoson City	50%	Suburb	2	High	0.00%	0.00%	0.21%
Portsmouth City	100%	City	2	Low	1.37%	1.75%	1.32%
Powhatan County	75%	Rural	1	High	0.27%	0.09%	0.37%
Prince Edward	50%	Rural	8	Low	0.27%	0.37%	0.23%

Prince George	75%	Rural	1	High	0.27%	0.18%	0.44%
Prince William	100%	Suburb	4	High	3.29%	2.86%	6.01%
Pulaski County	75%	Rural	7	High	0.00%	0.00%	0.42%
Radford City	25%	Rural	7	High	0.00%	0.00%	0.13%
Rappahannock	25%	Rural	4	High	0.00%	0.00%	0.08%
Richmond City	100%	City	2	Low	3.29%	4.33%	2.06%
Richmond County	25%	Rural	3	Low	0.27%	0.37%	0.10%
Roanoke City	100%	City	6	Low	0.27%	0.46%	1.13%
Roanoke County	100%	Suburb	6	High	2.47%	2.76%	1.28%
Rockbridge County	50%	Rural	5	High	0.27%	0.55%	0.25%
Rockingham County	100%	Rural	5	High	0.00%	0.00%	0.98%
Russell County	75%	Rural	7	Low	0.00%	0.00%	0.35%
Salem City	75%	Suburb	6	High	0.00%	0.00%	0.33%
Scott County	50%	Rural	7	High	1.37%	0.74%	0.32%
Shenandoah County	75%	Rural	4	High	0.27%	0.37%	0.52%
Smyth County	75%	Rural	7	Low	0.00%	0.00%	0.43%
Southampton County	50%	Rural	2	High	0.27%	0.37%	0.24%

Spotsylvania County	100%	Rural	3	High	3.01%	5.71%	2.02%
Stafford County	100%	Rural	3	High	1.64%	0.65%	2.23%
Staunton City	50%	Rural	5	High	0.00%	0.00%	0.23%
Suffolk City	100%	Rural	2	High	0.82%	0.55%	1.18%
Surry County	25%	Rural	1	High	0.00%	0.00%	0.09%
Sussex County	25%	Rural	1	Low	0.00%	0.00%	0.11%
Tazewell County	75%	Rural	7	Low	0.55%	0.92%	0.59%
Virginia Beach City	100%	City	2	High	9.59%	9.77%	6.17%
Warren County	75%	Rural	4	High	0.27%	0.09%	0.45%
Washington County	75%	Rural	7	High	0.00%	0.00%	0.50%
Waynesboro City	50%	Rural	5	Low	0.00%	0.00%	0.27%
West Point	25%	Rural	3	High	0.00%	0.00%	0.06%
Westmoreland	25%	Rural	3	High	0.00%	0.00%	0.16%
Williamsburg	100%	Suburb	2	Low	1.64%	1.57%	0.80%
Winchester City	50%	City	4	High	0.00%	0.00%	0.33%
Wise County	75%	Rural	7	Low	0.00%	0.00%	0.58%
Wythe County	75%	Rural	7	High	0.00%	0.00%	0.37%

York County	100%	Suburb	6	High	2.74%	2.86%	1.08%