

A Descriptive Study of Special Education Due Process Hearings in Texas from  
January 1, 2016 to December 31, 2019

by

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## **LIST OF ABBREVIATIONS**

ADHD	Attention Deficit Hyperactivity Disorder
AI	Auditory Impairment
AU	Autism
CF	Child Find
CIC	Clean Intermittent Catheterization
D	District
DB	Deaf/Blind
DC	Special Education Student Disability Categories
DI	Dispute Issues
DN	Docket Number
DPH	Due Process Hearing
DS	Discipline
DT	Date
EAHCA	Education for All Handicapped Children Act
ED	Emotional Disturbance
EV	Evaluation
FAPE	Free Appropriate Public Education
ID	Intellectual Disability
IDEA	Individuals with Disabilities Education Act
IDEIA	Individuals with Disabilities Education Improvement Act

IEP	Individual Education Plan
IN	Ineligible
IP	Initiating Party
ISD	Independent School District
LD	Learning Disability
LRE	Least Restrictive Environment
M	Masked
MD	Multiple Disability
N	Neither
OHI	Other Health Impairment
OI	Orthopedic Impairment
P	Parent
PLAAFP	Present Levels of Academic Achievement and Functional Performance
PP	Prevailing Party
PS	Procedural Safeguards
SI	Speech Impairment
SP	State Population in Special Education Student Disability Categories
SS	Services
TBI	Traumatic Brain Injury
TEA	Texas Education Agency
VI	Visual Impairment



## **ABSTRACT**

The foundation of special education law is based upon the 14<sup>th</sup> Amendment of the U.S. Constitution that secures equal protection for all and bars states from denying individuals the right to life, liberty, and property without due process. In accordance with the 14<sup>th</sup> Amendment and the Individuals with Disabilities Act, the Texas Education Agency has developed a process to resolve conflict between parents and school districts over special education dispute issues. Parents may contest a student's special education services through a voluntary facilitated individual education plan conference, or they may follow the state mandated resolution route that first includes mediation, then complaint resolution, and finally, the special education due process hearing. The due process hearing is a time-consuming, expensive method for resolving conflict that damages relationships between parents and districts and places students, and their special education services, in the middle of the conflict. Several studies have examined different aspects of the special education due process hearings at the state, multi-state, and national level, but only two studies have examined special education due process hearings in Texas from 2006-2008 and 2011-2015. This study utilized a descriptive, quantitative research design to examine the initiating and prevailing parties, dispute issues, and student disability categories in special education due process hearings held in Texas from January 1, 2016 to December 31, 2019 to identify common issues that lead to conflict in providing special education services and to define the status quo. The data analysis showed that parents are significantly more likely to file for, and less likely to prevail, in a special education due process

hearing which illustrates a need for training and improved special education resources for parents; additional training for educators; a focus on collaborative practices; and policy changes that extend the definition of meaningful educational benefit.

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## CHAPTER I

### INTRODUCTION

The 14<sup>th</sup> Amendment of the U.S. Constitution provides equal protection for all and prevents states from depriving individuals of life, liberty, or property without due process for all. This amendment constructs the foundation of special education law (Yell, 2019). The landmark decision in *Brown v. Board of Education* (1954) that prevented public schools from segregating children by race opened the door for parents to begin advocating for educational services for their children with special needs. After many years of parental advocacy, special education rules and regulations now require due process of law as a legal remedy for school and parent disputes. As one of the six principles of the Individuals with Disabilities Act, IDEA, due process protects students with disabilities from unwarranted or discriminatory school action and affords them the right to sue school districts in court (Turnbull, Turnbull, Wehmeyer, & Shogren, 2016) Each student's individualized special education plan is designed to meet student needs and its development is intended to function as a collaborative effort between parents and educators that focuses on the student's unique and individual needs and provide a free appropriate public education, FAPE, in the least restrictive environment, LRE. While each student's Individualized Education Plan, IEP, is based upon the grade level curriculum, the objectives are tailored to the student needs and educational goals so educators are unable to pull a plan off of the shelf and apply it to each student's needs as they would for math, reading, or science.

Instead, educators must create a plan in partnership with the parents and other school staff that meets the student's unique individual educational needs in the best possible setting. During the 2018-2019 school year, 532,270 students received special education services in Texas, which required educators to develop 532,270 different IEPs in cooperation with parents (Texas Education Agency, 2020a).

Human nature tells us that there will be conflict when melding the attitudes, ideas, and beliefs of many people in creating over half a million educational plans, and the research proves this assumption. While the majority of all parties involved, parents, educators, and specialists, want the best possible outcome for each student, each party may not agree on the best path to reach the educational goals. Special education is the most contested program in education (Blackwell & Blackwell, 2015; Connolly, Zirkel, & Mayes, 2019; Katsiyannis, Counts, Popham, Ryan, & Butzer, 2016; Shaver, 2015; Shuran & Roblyer, 2012). In Texas, the education agency offers IDEA mandated mediation and complaint resolution services, as well as voluntary IEP facilitation sessions to allow parents and schools to resolve difference before entering into formal legal proceedings as the due process hearings are considered a formal, legal hearing that offers a final attempt to resolve conflicts within the educational system before filing suit (TEA, 2017). The cost to parents and school districts moves beyond monetary measures into stress, lost time, fractured relationships, and lost learning (Blackwell & Blackwell, 2015; Cope-Kasten, 2011; Mueller & Carranza, 2011; Schanding, Cheramie, Hyatt, Praytor, & Yellen, 2017; Shaver, 2015; Shuran & Roblyer, 2012) and neither party emerges from a due process hearing with a positive

view of the other (Mueller & Carranza, 2011). Amid the conflict of the due process hearing, the student is caught in the middle while typically still enrolled in the district and still dependent upon the special education services in question. The purpose of this study was to identify trends within the special education due process hearings heard by the Texas Education Agency TEA from January 1, 2016 to December 31, 2019. Identifying the initiating and prevailing party, dispute issues, and common special education disability categories can inform policy and practice in school.

### **Statement of the Problem**

One hundred due process hearings were conducted in Texas from the period of January 1, 2016 to December 31, 2019. Researchers estimate that families and districts may spend more than \$12,000 litigating each due process hearing (Mueller, 2009). However, hidden costs to districts and families may be more pronounced in the form of time and relationships (Schanding et al., 2017; Shaver, 2015). The student may ultimately suffer the most due to the delay in services. The research questions in this study addressed the components of due process hearing decisions to inform system change or improvements. The questions analyzed special education due process hearings in Texas to determine common issues leading to conflict.

### **Research Questions**

1. How often are districts or parents the initiating party in special education due process hearings in Texas?

2. How often are districts or parents the prevailing party in special education due process hearings in Texas?
3. How often does the initiating party prevail in special education due process hearings in Texas?
4. Which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues?
5. Which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category?
6. Is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of student categories in the special education student disability categories in Texas?

### **Theoretical Framework**

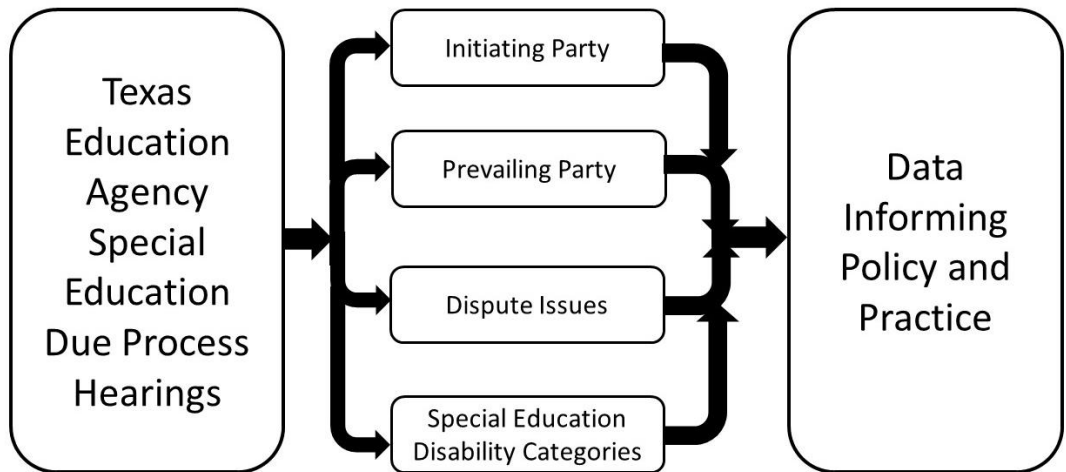
Researchers have studied due process disputes on a state, multi-state, and national level to discover trends to inform policy and practice. The majority of the studies utilized descriptive research to analyze due process hearing cases obtained from state sources (Barnes, 2019; Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012). Descriptive studies quantify educational phenomena, opinions, and behaviors by studying entire populations or representative samples (Gall, Gall, & Borg, 2015) Descriptive research can provide



statistics that inform policy makers and educators about characteristics of an educational phenomenon (Gall, Gall, & Borg, 2007) and insight beyond quantitative numbers into themes and patterns that emerge from the data (Mueller & Carranza, 2011; Shuran & Roblyer, 2012). Each researcher has selected differing data points to answer research questions. This study examined the initiating and prevailing parties, the critical dispute issues in each case, and the special education student disability categories represented in the special education due process hearings in Texas.

Figure 1

Theoretical Framework



### Study Design Rationale

The purpose of this research was to analyze the one hundred TEA due process hearing decisions published from January 1, 2016 to December 31, 2019 utilizing a quantitative descriptive research approach. The descriptive approach characterized the who, what, when, where, and to what extent of a subject of interest (Loeb, Dynarski,

McFarland, Morris, Reardon, & Reber,w 2017) and provided pertinent information about the status quo (Gall, Gall, & Borg, 2015). Quantifying and describing the aggregate of the due process cases could identify the hidden patterns in the cases (Loeb et al., 2017) and make sense of the issues that lead to prolonged conflict between parents and school districts (Leedy & Ormrod, 2016)

### **Assumptions**

This study assumed that each of the one hundred special education due process hearing documents included the initiating and prevailing party, the dispute issues, and the special education student disability category. Upon analysis, the researcher discovered that several cases were missing one or more data points. The researcher eliminated these cases from the appropriate quantitative analyses. The research study also assumed that all districts secured legal representation for due process hearings and that the data provided on the special education student disability categories in the TEA Special Education Databook: Demographic Data was complete and accurate.

## **Definition of Terms**

**Due process hearing (DPH).** The due process hearing in Texas is a formal hearing between parents and school districts to resolve issues over special education. Hearings are convened after all other conflict resolution measures fail.

**Initiating party (IP).** The initiating party is the party (parent, district, or other) who requests the due process hearing.

**Prevailing party (PP).** The prevailing party is the party (parent, district, or neither) who wins the majority of the issues contested in the due process hearing. For the purpose of this study, the prevailing party is the party winning 51% of the issues.

**Dispute issues (DI).** The dispute issues are the areas of disagreement between the parents and the school district litigated in the due process hearing. The researcher identified all dispute issues in the conclusions of law and then classified those issues into seven broad categories. These categories were child find, issues involving the identification and eligibility of students for special education services; discipline, issues involving the removal of a student from the prescribed education program outlined in the IEP; evaluation issues, the method of identifying need and eligibility for services through assessments by the district or independent evaluators (Blackwell & Blackwell, 2015; Schanding et al., 2017); FAPE, a free appropriate public education that provides services in the least restrictive environment with an individual education plan that is developed to deliver a meaningful educational benefit; IEP, the

individualized education plan; procedural safeguards, the rules that require school districts to provide notice to parents and include them in the decision-making process; and services, the services may include occupational therapy, extended school year services, transportation, speech therapy, applied behavior analysis, outside consultation, related services, supplemental aids, or a commensurate school day.

**Special education student disability categories (DC).** The special education student disability categories are defined by the TEA. The issue categories include auditory impairment, autism, deaf/blind, emotional disability, intellectual disability, learning disability, multiple disabilities, orthopedic impairment, other health impairment, speech impairment, traumatic brain injury, and visual impairment. The researcher added two additional categories, masked and ineligible.

### **Delimitations and Limitations**

The first delimitation of this study was the focus on special education due process hearing cases heard in Texas from January 1, 2016 to December 31, 2019. The second was the decision to limit the study of the disability category to the primary disability category to facilitate the comparison of the disability categories represented in the special education due process hearings and the disability categories reported annually by the TEA.

The study was limited to the publicly available data provided by the TEA in the special education due process hearing case dockets. As the study progressed, some special education due process hearing cases were eliminated from the data analysis

due to missing or masked information. Finally, as each special education due process hearing case is unique and focuses on one student's special education services, generalizability is not possible for this study.

### **Significance of the Study**

This study contributed to the knowledge base on the issues inherent in providing Special Education services to students in Texas. By quantitatively describing and analyzing the initiating and prevailing parties, dispute issues, and disability categories, the researcher identified trends in issues that led to disputes and extend the limited research into special education due process hearings.

The data can be utilized to inform policy and practice. Issues encountered in special education due process hearings may lead to changes in policy that benefit special education students. Educators, advocates, and families may utilize information included in this research to collaborate to provide services to students in special education programs. Finally, the data may be organized to present learning opportunities for educators, advocates, or parents; develop materials that guide the special education planning process; or devise case studies for use in undergraduate and graduate special education courses.

### **Summary**

The study is organized in five chapters. The first chapter examines the background and statement of the problem, then moves to the purpose and significance of the study. The chapter outlines the theoretical model utilized to inform the study

and then provides conceptual definitions, assumptions, and limitations of the study. The second chapter provides a review of the literature, and the third chapter outlines the methodology. The fourth and fifth chapters will report and discuss the findings of the research.

## **CHAPTER II**

### **LITERATURE REVIEW**

#### **Introduction**

Special Education is the most litigated program in education (Blackwell & Blackwell, 2015; Connolly et al., 2019; Katsiyannis et al., 2016; Shaver, 2015; Shuran & Roblyer, 2012). While due process hearings are fundamental to the Individuals with Disabilities Act, IDEA (Connolly et al., 2019; Shaver, 2015), the costs to the families and school districts go beyond financial considerations into lost learning, broken relationships, and related stress (Blackwell & Blackwell, 2015; Cope-Kasten, 2011; Mueller & Carranza, 2011; Schanding et al., 2017; Shaver, 2015; Shuran & Roblyer, 2012). Special Education disputes are sensitive as both parties need to protect their relationship as the child continues to need services (Shaver, 2015) yet the initiation of due process hearings tends to keep families in conflict with the district (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017). Mueller and Carranza (2011) posit that neither party feels positive after the completion of a due process hearing, no matter which party prevails. Mueller (2009) discovered that due process hearings could cost an average of eight to twelve thousand dollars per hearing, with some costing upwards of fifty thousand dollars per hearing (Blackwell & Blackwell, 2015). In addition to the financial costs, families and districts suffer from lost time, and the impact on relationships (Schanding et al., 2017; Shaver, 2015) since the process can permanently harm the parent-district relationship (Shaver, 2015).

Many families are unable to bring due process complaints as the process is cost prohibitive for families due to the expense of attorneys and experts required to make a successful case (Shaver, 2015). Special education disputes may arise due to differences in interpretations of IDEA requirements, the absence of sustained involvement with families, inadequate teacher training, and the growing frequency of autism spectrum disorder (Shuran & Roblyer, 2012). Research into due process disputes can inform policy makers and educators of the common elements that lead to disagreement (Blackwell, 2019) as well as inform families of the particular categories of cases where families prevail and the common types of relief awarded (Schanding et al., 2017).

### **History of Due Process**

Federal law did not address the needs of students with disabilities until after the *Brown v. Board of Education* decision in 1954. Federal courts and legislation deferred decisions on education to states, local educational agencies, and parents (Romberg, 2017) until parents began advocating for their children. The decision in *Brown v. Board of Education* (1954) prohibited public schools from segregating students based on race and eventually impacted other parts of educational law, including special education legislation (Yell, 2019). Parents began advocating on behalf of their children with disabilities by arguing that their children were treated differently in educational settings and that some were not provided an education (Yell, 2019) so the federal government amended the Elementary and Secondary Education Act (P.L. 89-750 Title VI) to provide funding to states for students with disabilities



(Romberg, 2017; Yell, 2019). Parents urged legal authorities to recognize students with disabilities as a class as minorities were considered in *Brown v. Board of Education* (1954). These efforts brought forth two cases related to the exclusion of students with disabilities.

*Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania* (1972), the first litigated case, centered around the state not providing educational services to what were then known as “retarded children.” The case was settled by a consent decree that provided a free public education to all students from ages 6 to 21 (Yell, 2019). *Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania* (1972) also extended “a full range of due process procedures” for each student’s education (Romberg, 2017). The second case, *Mills v. Board of Education, Mills*, (1972), involved the parents of seven children who were denied educational services due to a range of exceptionalities including “mental retardation” (now known as intellectual disabilities), hyperactivity, behavior issues, and orthopedic impairments (Yell, 2019). The parents alleged that their children were denied services without due process of law. The Federal District Court ruled in favor of the parents and specified that the exclusion of these students was unconstitutional and that the district was required to implement procedural safeguards including “labeling, placement, and exclusions of students with disabilities” (Yell, 2019). The *PARC* (1972) and *Mills* (1972) decisions led most states into passing laws requiring schools to provide services to students with disabilities and allow the students and their families the due process of law (Yell, 2019).

## **Recognition in Federal Law**

The Federal Government provided additional safeguards for students with disabilities by creating Section 504 of the Rehabilitation Act (P.L. 93-112), preventing discrimination against otherwise qualified individuals with disabilities in federally funded programs (Yell, 2019); adding amendments to the education code (P.L. 93-380) that codified the rights extended to students with disabilities by *PARC* and *Mills* (Yell, 2019) and provided a significant increase to federal special education funding, set a goal of educating all children, and called for hearings to discover “the practical realities of educating disabled children,” (Romberg, 2017). After learning that states and local districts denied over one million, seven hundred and fifty thousand students with disabilities education services and more than three million students’ education programs were inappropriate, Congress passed the Education for All Handicapped Children Act, EAHCA, in 1975 (Mead & Paige, 2008; Yell, 2019). This act tied funding to services; introduced free and appropriate public education, FAPE; required the creation of an individualized education plan, IEP; and established due process rules (Yell, 2019) ensuring that parents could advocate for their children with disabilities (Mead & Paige, 2008). Romberg (2017) posits that these requirements outline the process of the decision-making process but leave the substance to the local district. The act did provide specific rights to parents:

The right to receive written notice of their rights under the law; receive written notice of the school's intent to evaluate for special education services; receive written notice of whenever the school initiates a change of placement or

refuses to make a change of placement; be a member of any Individualized Education Program (IEP) Team for their child; participate in all decisions about their child; receive information about their child's progress; obtain an independent evaluation of their child at public expense when they disagree with the school's evaluation results; challenge a school's decisions by filing a complaint which will be resolved by a hearing before an impartial hearing officer; and appeal an administrative decision in a court of law (45 C.F.R. 121a.504(b) 1977).

In addition, the regulations written for the EAHCA of 1975 also provided additional rights to parents including:

The right to grant or deny permission to evaluate their child; grant or deny permission to provide special education and related services to their child; have all evaluation results explained to them; receive copies of IEPs written for their child; have information they have independently gathered considered by school officials; and invite persons of their choosing to meetings called to discuss the child and plan for the child. (45 C.F.R. 121a.504(b) 1977).

These rights provided in the act and regulations appear in four universal categories that included notice, consent, participation, and challenge (Mead & Paige, 2008). The notice requirements in the act safeguarded parents' and children's understanding of their rights, and that parents were informed when schools took action with their child. The regulations provided further guidance on notice requirements and included "consent" requirements for evaluation and placement actions. The rule supporting the

parents' right to participate ensured that parents were partners in the collaboration of the IEP and evaluation of their child's academic performance. The key element of these rights is the right of parents to challenge a school's decisions concerning the child's placement and IEP. The act included language that prevented the school from making changes to the child's placement if a parent challenged the decision. These rights also included substantial procedures for parents to appeal school decisions through due process. Parents could enter into a due process hearing with a neutral third party if they felt the school was not delivering a free appropriate education for their child. The act also included provisions for parents to appeal due process decisions in civil court (Mead & Paige, 2008).

The evolution of special education law continued with Congress amending the EAHCA into the IDEA (P.L. 101-476) to add traumatic brain injury and autism categories, transition requirements for students sixteen and older, language that allowed parents to sue states, include 'assistive technology', and use people-first language, as well as provide guidance to state and local education officials in implementing the law (Mead & Paige, 2008; Yell, 2019).

In 1997, Congress amended the IDEA by noting that while the 1990 IDEA law, was instrumental in safeguarding access to educational programs for students with disabilities, progress stalled due to the attention placed upon the legal processes and resulting paperwork, inadequate methods for implementing research practices, and modest or insignificant learning goals for students with disabilities (Yell & Shriener, 1997). The 1997 amendments altered the IEP requirements, added disciplinary

provisions, required mediation before due process hearings, restructured the IDEA (Yell, 2017), and provided increased parental rights by listing parents as the first member of the IEP team (Mead & Paige, 2008). According to Romberg, Congress changed the law to increase student achievement (Romberg, 2017) and Yell and Shriner posit that these amendments were the most substantial changes to the law since its inception in 1975 (Yell & Shriner, 1997).

In 2004, the passage of the Individuals with Disabilities Education Improvement Act (IDEIA, P.L. 108-446) changed the landscape of special education again. The law required schools to staff 'highly qualified' special education teachers, removed short-term objectives from most IEPs, prevented states from requiring the use of a discrepancy model, and encouraged the use of Response to Intervention (Yell, 2019). Changes to procedural safeguards required evaluation within 60 days of parental consent; parental consent to provide services, eliminating the possibility of a district filing for due process to provide services and absolving a district of FAPE requirements if the parent does not consent; allowing mutual consent for the exclusion of an IEP team member; reducing the distribution of procedural safeguard literature to once per year except during initial referral or when a parent files a complaint. The Act also clarified the mediation process and expressly prohibited the use of mediation in place of a parent's right to lodge a due process complaint; limited the time to file a complaint to within two years of a known issue; and allowed for parents to collect reasonable attorney's fees but also allowed state and local education agencies to collect attorney's fees from parents if complaints are deemed frivolous (Hyatt, 2007).

## **Seminal Case Law**

Parents and districts have practiced their right to appeal due process hearing decisions and appealed cases to the state, district, federal, and supreme court (Bailey & Zirkel, 2015). Decisions in these appeals have changed the landscape of special education services for students across the nation by defining the interpretation of IDEA or leading to changes in federal law.

Court decisions have defined the services for the current issues encountered in special education due process hearings. As each issue is litigated both current practice and guidelines have evolved. This section will address the court decisions that have affected child find, discipline, evaluation, FAPE, IEPs, procedural safeguards, and services throughout the past thirty-six years.

**Child find and evaluation.** The issues of child find and evaluation tend to be considered simultaneously by the courts as districts are required to evaluate students they expect could be eligible for special education services. The child find tenet encompasses the actions districts must take to properly find and identify students eligible for special education services (Texas Education Agency, 2019). According to Zirkel (2016) child find cases have focused on whether a district suspected a child was eligible and if the district met the requirement to evaluate a child suspected of needing services in a timely manner.

A case in Texas, *El Paso Independent School District v. Richard R.*, (2008) progressed to the District Court where the Court ruled against El Paso ISD's approach to providing educational services to Richard as the district had been providing

accommodations through §504, and tutoring services for three years without Richard realizing any success on the Texas Assessment of Knowledge and Skills, TAKS. The Court also scrutinized whether the district had fulfilled its child find duties by performing a timely evaluation of the student once the parents requested evaluation for special education services. While no court had defined the timeline for a reasonable amount of time, two other courts had allowed six months and twelve months between the request and the evaluation. The District Court ruled that thirteen months was unreasonable (Walker & Daves, 2010).

In *D.K. v. Abington School District*, (2012), a child was declared ineligible for special education services after being evaluated in the first grade. In second grade, the child continued to have behavioral issues and began seeing a therapist who suggested special education services to the district, but the child was not evaluated. The parents then provided the school information on the child's auditory processing disorder and sensory stimulation problems, but the district did not evaluate. In the third grade the child was diagnosed with attention deficit hyperactivity disorder, ADHD, by a private physician. After receiving this information, the district again evaluated the child and found the child eligible for special education services as a student with other health impairment, OHI. The parents sought a due process hearing which ruled in favor of the district. Upon appeal, the Third Circuit of Appeals also ruled in the district's favor because the district had evaluated the student with various measures; not been required to consider an assessment of the student's behavior through a functional

behavior assessment; and was proactive in providing services outside of special education to the child from the first evaluation to eligibility (*D.K. v. Abington*, 2012).

Another child find due process hearing case included an appeal to civil court by the school district, *D.G. v. Flour Bluff Independent School District* (2012). This case began when a student was placed in an alternative school for behavioral problems. The parents provided a diagnosis of ADHD to the school district completed by a private physician when the student was a fifth grader and the district began providing §504 services. This service plan included accommodations, counseling, and a move back to the regular campus. The parents filed for a due process hearing after the district reassigned the student to the alternative campus after behavior incidents that were not a function of his disability. The district then requested permission to evaluate the student for special education services. After the evaluation, the district determined the student was not eligible for special education services. The parents then discovered the student had rheumatoid arthritis, and the school adjusted the IEP for adaptive physical education and a shortened school day. The case progressed through the system where a federal court found that the district violated child find and owed the student compensatory education and attorney's fees. The district appealed the case and the court found that the district's decision that the student was ineligible was not informed by the rheumatoid arthritis diagnosis so the student was truly ineligible (Zirkel, 2015).

**Discipline.** Many cases overlap over several dispute issues as with *D.G. v. Flour Bluff Independent School District* (2012) and *D.K. v. Abington School District*,



(2012). While the litigated issue in each case was child find, the parents also disputed each student's placement over discipline issues. Most discipline issues involve emergency manifest determination hearings where parents are contesting a student's placement in disciplinary settings stating that the behavior subject to discipline is a manifestation of the student's disability (TEA, 2017).

One of the key aspects of manifest determination is that while districts may suspend a student for dangerous behavior for up to ten days, the district must continue to provide the services in the student's IEP while the parents and the district work through the legal process (Jeffers, 2014). The Supreme Court addressed this provision in 1988 in the case of *Honig v. Doe* (1988). This case involved a special education student, 'John Doe,' who was expelled from the San Francisco Unified School District for dangerous behavior. Another student, 'Jack Smith' joined in the litigation after a similar suspension. Through the court process the lower courts ruled that the district could not suspend students for more than five days without parental consent and that the state was barred from approving independent placements and was responsible for providing educational services to any student who was suspended. Bill Honig, the California Superintendent of Public Instruction, appealed the decision to the Supreme Court stating that the lower courts did not consider the dangerousness exception to the stay-put provision. The Supreme Court ruled for Smith, John Doe no longer qualified for special education services as he was over 21, stating that Congress had not included a dangerousness exception because they intended for the procedural safeguards to protect the student (Steketee, 2019).

**FAPE.** The enactment of the EAHCA led to disagreements between parents and schools over the interpretation of FAPE. FAPE has been the cornerstone of special education services since the creation of the EAHCA, yet neither the Act nor any of its amendments have specified the extent of educational benefit that equates to FAPE as none truly define what constitutes an appropriate education (Cowin, 2018).

*The Board of Educ. v. Rowley* (1982) is considered the most influential Supreme Court Special Education decision (Yell, Katsiyannis, & Hazelkorn, 2007), as it concerned the FAPE for Amy Rowley, a first grade deaf student. Amy performed well in a mainstream Kindergarten classroom with the use of a specialized hearing aid. In developing her IEP for first grade, the school believed that the services of an interpreter were unnecessary, and they offered speech and hearing services twice per week and tutorial assistance as necessary, but her parents disagreed and did not sign the IEP. They appealed the decision of the school district through a due process hearing but lost because the school was providing an appropriate education for Amy. The case proceeded through the courts. The U.S. District Court reversed the due process hearing decision and ordered the school to provide an interpreter for Amy. The U.S. Court of Appeals affirmed the decision, and the school district appealed to the Supreme Court (Yell et al., 2007). The Supreme Court overturned the Appeals Court Decision and held that the district was providing FAPE for Amy. The Court issued a two-part test for compliance. The test considers if the IEP is individualized and devised to produce an educational benefit (Romberg, 2017). The Court stated that Congress designed the EAHCA to provide public education for each child with

disabilities and that the EAHCA includes exceptional children in public school but does not guarantee a specific level of education (*Rowley*, 1982), but the Court stipulated that parents had a right to fully participate in planning their child's educational program and IEP. *The Board of Educ. v. Rowley* (1982) strengthened each parent's ability to advocate as this decision defined the requirement that mandates the parents' involvement in the law at every step of the process (Mead & Paige, 2008).

Another case the Supreme Court heard regarding students' rights to FAPE was *Tatro v. Irving Independent School District* (1984). This case concerned the free appropriate public education of a child, Amber, age 3 ½ with a bladder condition that required Clean Intermittent Catheterization (CIC) every few hours, a procedure that could be performed by anyone completing the training. The procedure was routinely performed at home by her mother, father, and brother. Once Amber was older, she would be able to perform the procedure herself. The Irving Independent School District considered CIC a "medical service" and refused to perform the service on Amber at school, thus denying her the right to remain in school for the entire school day. Amber's family sued the district stating that CIC is a "related service" and necessary for Amber to receive FAPE and asked for damages and attorney's fees in the suit. The U.S. District Court of Northern Texas sided with the school district by stating that the CIC was not a "related service" because it was not related to special education but was a maintenance of a life skill. The court also maintained districts were also only required to provide medical services for diagnosis and evaluation. The Court of Appeals reversed this decision stating that the CIC was a "related service"

that was necessary to her FAPE and remanded the case to the District Court. The District Court ruled that CIC was essential to Amber's FAPE and a "related service" and awarded damages and attorney's fees through §504 of the Rehabilitation Act. The case was appealed to the Supreme Court by the district (Vitello, 1986). The Supreme Court reversed the Court of Appeals' decision to award damages and attorney's fees under §504 of the Rehabilitation Act because the remedies requested were a part of the EAHCA, §504 of the Rehabilitation Act (Luckasson, 1986) but the Court affirmed the decision of the Court of Appeals that the CIC was a "related service." The Court instituted a two-part test to determine if services were included in the EAHCA. The first part considered if a service was necessary for a child to receive FAPE. If the service was necessary, the second part asked if the service was required to be performed by a licensed physician. If not, the service was considered a "related service" (Vitello, 1986). Finally, the Court affirmed parents' rights to sue schools to comply with EAHCA procedures or provide an appropriate education to their child (Mead & Paige, 2008).

**IEP.** In *Doe v. Board of Education of Tullahoma City Schools* (1993) the Third Circuit U.S. Court of Appeals followed the Supreme Court guidance in *The Board of Educ. v. Rowley* (1982) that students are not entitled to "the best possible education or an education that allows them to achieve their maximum potential" (Yell, 2019) by explaining that students with disabilities were entitled to the Chevrolet version of an education, not the Cadillac standard (Millman, 2007) in the following ruling:

The Act requires that the Tullahoma schools provide the educational equivalent of a serviceable Chevrolet to every handicapped student. Appellant, however, demands that the Tullahoma school system provide a Cadillac solely for appellant's use. We suspect that the Chevrolet offered to appellant is in fact a much nicer model than that offered to the average Tullahoma student. Be that as it may, we hold that the Board is not required to provide a Cadillac, and that the proposed IEP is reasonably calculated to provide educational benefits to appellant, and is therefore in compliance with the requirements of the IDEA (Tullahoma, 9 F.3d at 459-60).

In 2005 a federal district judge reinforced the importance of FAPE and measurable IEP goals in *Escambia County Board of Education v. Benton* (2005) by ruling that the school district did not develop meaningful, measurable goals or consider FAPE when writing Jarred Benton's IEP (Yell & Bateman, 2019). Jarred was diagnosed with autism spectrum disorder and his parents believed that the school district had violated the IDEA by not providing Jarred with FAPE (Yell, Katsiyannis, Ennis, & Christle, 2016). The judge agreed with the parents and ruled that,

without meaningful measurable objectives and goals, Benton's educators and parent were engaged in a futile endeavor to pin the tail on a moving donkey while blindfolded in a dark room. In other words, a meaningful, measurable goal gives Benton a target to work towards and his educators and parents a way to evaluate his progress... a program cannot possibly confer an educational benefit to Benton if his teachers and parents do not know where

they are trying to take Benton and how they will know when he has arrived.

(Benton, 2005, p. 1264).

According to Yell, Katsiyannis, Ennis, et al. (2016), the inclusion of measurable annual goals is necessary to assess a student's educational progress and the strength of educational benefit in the program. Another case in the Southern District Court of West Virginia, *Kirby v. Cabell County Board of Education* (2006) also utilized the meaningful educational benefit standard in ruling that districts cannot provide a *de minimis*, or trivial, IEP to students with disabilities (Daniel, 2008). In this case, the district did not assess an eighteen-year old's present level of achievement when developing his IEP. Thus, the court ruled that the IEP did not comply with the IDEA (Yell, Katsiyannis, Ennis, et al., 2016).

The U.S. Court of Appeals for the Third Circuit reinforced a district's right to select research-based programming in 2013 in *Ridley School District v. M.R. and J.R. ex rel. E.R.* (2012) by affirming a federal district court decision that the reading program selected by the Ridley School District was research based and peer reviewed (Yell, Katsiyannis, Losinski, & Marshall, 2016). While the court requires each district to provide educational services that provide substantial benefits and considerable learning (Conroy & Yell, 2019), each district has the freedom to select research based and peer reviewed programs (Yell, Katsiyannis, Losinski, et al., 2016). The key issue in *Ridley* (2012) concerned a disagreement between the parents and the district on the selection of a reading program (Yell, Katsiyannis, Losinski, et al., 2016). In *Ridley* (2012), "the Court of Appeals noted that the LEA does not have to choose

methodology based on the optimal level of PRR to fulfill its requirements under the IDEA,” highlighting the difference between legal requirements and professional recommendations (Russo-Campisi, 2017, p. 201).

A Supreme Court Case, *Endrew F. v. Douglas County School District* (2017), changed the nature of the definition of educational benefit in 2017. Endrew (Drew) F.’s parents challenged the IEP and due process procedures provided by the Douglas County School District. Drew was diagnosed with attention deficit hyperactivity disorder, ADHD, and autism and was struggling in the fourth grade. The parents rejected Drew’s IEP for fifth grade because they felt it was the same IEP Drew had followed in the fourth grade that did not provide educational benefit to Drew. The parents placed Drew in a private school where he excelled and filed for a due process hearing. The case progressed through the Courts with the district prevailing. At the Supreme Court, the family argued that the district had not followed procedural safeguards and denied a FAPE to Drew (Yell & Bateman, 2017). In the ruling, Justice Roberts stated, “When all is said and done, a student offered an educational program providing “merely more than de minimis” progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be equivalent to “sitting idly . . . awaiting the time they were old enough to drop out,” (*Endrew*, p. 14) and the Court devised a two-part clarifying test (now referred to as the *Rowley/Endrew* test):

Part 1: Has the school district complied with the procedures of the IDEA?

Part 2: Is the IEP reasonably calculated to enable a child to make appropriate progress in light of a student's circumstances? (Yell & Bateman, 2017, p. 13).

This new definition changes the landscape for special education as districts must now provide more than the minimal benefit to students.

The *Andrew F. v. Douglas County School District* (2017) decision presented a new standard for FAPE (Cowin, 2018; Hammel, 2018; Turnbull, Turnbull, & Cooper, 2018; Yell & Bateman, 2017) and ensured that schools must provide special education services with an IEP that offer more than a minimal educational benefit, but left unanswered questions as the Court did not prescribe a formula for determining how much of an educational benefit is necessary to meet the standard (Turnbull et al., 2018; Yell & Bateman, 2017). In addition, Cowin (2018) calls attention to the ambiguity in the Court's decision regarding the educational expertise of school authorities. He explains that the Court's opinion states that "courts should defer to school administrators on 'questions of methodology'" but also praised "the procedural nature of the IEP process," (Cowin, 2018). However, the authors agreed that *Andrew* (1999) would provide an educational benefit to special education students and set a higher standard for the development of an IEP to include objectives intended to provide an educational benefit.

Turnbull, Turnbull, and Cooper (2018) likened the Court decision to *the middle-path-plus* because the *Andrew* test requires schools to follow due process in developing an IEP that provides the student the opportunity to make progress within the student's abilities. The authors state that the Court expects an educational program



with high expectations, an IEP developed in partnership with the parents and school officials for the individual student, documented measures of progress, and consideration of the child's circumstances (Turnbull et al., 2018). Yell and Bateman (2018) explain that the decision did stress the importance of involving parents in developing the IEP. The decision also called for treating the IEP as a living document developed through data collection, collaboration, and evaluation (Yell & Bateman). Finally, Cowin (2018) posits that the decision will impact district decisions on student programming and the allocation of resources.

**Due process.** *Smith v. Robinson* (1984) limited the scope of future due process claims and eliminated the possibility of recovering attorney's fees (Mead & Paige, 2008). The parents in the *Smith v. Robinson* (1984) case argued that the school committee violated their child's rights for FAPE under the EAHCA, EAHCA, the §504 of the Rehabilitation Act, and the 14<sup>th</sup> Amendment. The Supreme Court ruled that "the EAHCA is available to a handicapped child asserting a right to FAPE, based either on the EAHCA or on the Equal Protection Clause of the Fourteenth Amendment, the EAHCA is the exclusive avenue through which the child and his parents or guardians can pursue their claim," (*Smith*, 1984, 995). The court also disallowed the recovery of attorney's fees under the EAHCA because the EAHCA did not include language allowing for this provision (Mead & Paige, 2008). According to Mead and Paige (2008), the ruling in *Smith v. Robinson* (1984) reduced the number of attorneys willing to represent families in EACA cases, so Congress acted in 1986 to remedy the situation by creating Handicapped Children's Protection Act to provide a

mechanism for families to collect attorney's fees (Yell, 2019). In addition, Congress amended the EAHCA (PL 99-457) to require states to serve three to five-year-old children; support states in serving children from birth to age three; require states to begin providing services children from birth to age three in five years for continued federal support; and require Individual Family Service Plans (DeGraw et al., 1988; Yell, 2019). In 1988 the Court addressed reimbursement to families in *Burlington* by allowing reimbursement for private school tuition because the IEP was inappropriate (Mead & Paige, 2008). The Supreme Court considered another case which examined which party bears the responsibility of persuading the Court. In *Schaffer v. Weast* (2006) the Court emphasized that the IDEA recognized the inherent expertise of districts in the special education field is necessary to implement the program (*Schaffer*, 2006) and placed the responsibility of proving the due process and IDEA violations on the petitioner (Wagner & Katsiyannis, 2010). In *Winkelman v. Parma City School District* (2007) the Supreme Court ruled that parents had a right to serve as their child's representative on a *pro se* basis in litigation (Mead & Paige, 2008; Wagner & Katsiyannis, 2010).

Other cases involving procedural safeguards included a case involving the exclusion of a classroom teacher in the development of the IEP (*Deal V. Hamilton County Board of Education*, 2004); the failure to modify an IEP before changing a student's placement (*Spielberg v. Henrico County Public Schools*, 1988); and negligence in not providing notification to parents of their IDEA rights (*Hall v. Vance County Board of Education*, 1985) (Yell, 2019). In some cases, the Courts ruled that

the procedural violations were not significant to the educational benefit of the student and ruled in favor of the district (Yell, 2019).

Finally, a U.S. District Court decision in *Compton Unified School District v. A.F.* (2010) held that families' rights extend to the evaluation process after grandparents alleged that the school psychologist did not assess their grandson with behavior problems and attention deficit hyperactivity disorder with a functional behavioral assessment (FBA). The grandparents challenged the IEP through due process because the IEP team did not include behavioral goals (Yell, Katsiyannis, Ennis, et al., 2016). The District Court ruled for the grandparents stating that the IEP was not appropriate since the team was unable to consider all of the student's needs due to the absence of a comprehensive assessment (Yell, Katsiyannis, Ennis, et al., 2016).

**Services.** As cases have overlapped between the issues, *Tatro v. Irving Independent School District* (1984) considered FAPE and services. This case was reaffirmed in 1999 with *Cedar Rapids Community School District v. Garret F.* (1999) when the Cedar Rapids Community School District denied special nursing services to Garret F., a medically fragile student dependent upon a ventilator whose mother requested these services after providing them to Garret from the time of his accident, age four, through middle school (Katsiyannis & Yell, 2000). Garret required an electronic or hand-pumped ventilator, assistance with his tracheotomy, help with eating and drinking, and frequent observation checks to assess his respiration (Katsiyannis & Yell, 2000). The district denied the services and the mother requested

a due process hearing. Katsiyannis and Yell (2000) posit that schools struggle to identify the medical services that are not required under IDEA as many services are incredibly demanding. The *Tatro* (1984) 'bright-line test' first considered if a service was crucial for a student to receive FAPE and then examined if a licensed physician must perform the service (Vitello, 1986). The case moved through the courts with the school district appealing the decision in favor of Garret to the Supreme Court (Katsiyannis & Yell, 2000). The Court acknowledged the financial concern for the services but believed the services were necessary for Garret to receive FAPE and did not require a licensed physician's services (Katsiyannis & Yell, 2000).

Special Education law has evolved from excluding students from schools and segregating students within schools, to including students in schools. These changes developed through the advocacy of the Civil Rights Movement and concerned parents and educators who demanded better opportunities for their children. From *PARC*, to *MILLS*, to the EAHCA, to IDEA, the courts and Congress have worked to expand the rights of students with disabilities and ensure their educational opportunities. The enactment of due process laws ensures that families have a process for advocating for their child's educational rights.

### **Due Process**

Recent research into due process hearing issues and outcomes informs practice on the trends associated with special education litigation. While due process hearing decision outcomes generally affect only the district and the child, an analysis of the cumulative decisions represents a body of administrative case law that offers wisdom

in the current trends and applications of the IDEA (Zirkel & Skidmore, 2014). This unique perspective provides insight into the disability categories, prevalent issues, initiating and prevailing parties, and legal representation. Recent research focuses on due process hearings across the nation and in large states. Several longitudinal studies have provided data that analyze due process hearing decisions in national and state studies.

### **Due Process Hearing Outcomes**

Mueller and Carranza (2011) and Zirkel and Skidmore (2014) conducted national studies on due process hearings. The Mueller and Carranza (2011) study analyzed five hundred seventy-five cases occurring in forty-one states during 2005-2006 to determine the initiating party, disability category, dispute, and outcome of the hearing by gathering data from state special education websites and through contacts with state special education directors. The Zirkel and Skidmore (2014) study utilized data from the Special Ed Connection® to determine the national frequencies and outcomes of due process hearings over a thirty-five-year period. In addition, Zirkel (2014) utilized the data gathered in the Zirkel and Skidmore (2014) study to determine whether the representation of an attorney or advocate affected the outcome of due process hearings. Researchers conducted similar state studies in Massachusetts (Blackwell & Blackwell, 2015), Texas (Schanding et al., 2017; Yocum, 2010), Tennessee (Shuran & Roblyer, 2012), and Missouri (Barnes, 2019).

### **Common Findings**

While researchers collected the data in different years and locations, similarities emerge among the research (Table 1). Autism, emotional disturbance, specific learning disability, and other health impairment rank as the most litigated disability categories in the due process hearings examined in the research (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010). Interestingly, only one study conducted on Texas due process hearings from 2006 and 2008 identified speech impairment as a predominant issue category (Yocum, 2010).

Table 1. Most Common Disability Categories Reported in Current Studies

Category	Blackwell	Mueller/Carranza	Schanding	Shuran/Roblyer	Yocum
Auditory Impairment	1.2%	2.0%	3.6%	*	0%
Autism	14.3%	20.2%	25.9%	18.8%	16%
Deaf/Blind	*	0.4%	*	*	0
Emotional Disturbance	14.0%	13.2%	20.1%	10.7%	12%
Intellectual Disability	2.3%	7.3%	5.0%	15.2%	12%
Learning Disability	23.6%	26.3%	7.9%	17.0%	7%
Multiple Disabilities	29.1%	5.7%	0.7%	18.8%	*
Orthopedic Impairment	0.4%	2.6%	0.7%	*	2%
Other Health Impairment	3.9%	15.1%	19.4%	10.7%	22%
Speech Impairment	1.2%	4.9%	2.9%	8.0%	25%
Traumatic Brain Injury	4.3%	0.8%	*	*	0
Visual Impairment	0.4%	0.8%	*	*	2%

*Note:* \* percentages were converted from the original format to facilitate comparison

Source: Blackwell & Blackwell (2015); Mueller & Carranza (2011); Schanding (2017); Shuran & Roblyer (2012); Yocum (2010).

Researchers have also noted commonalities in the issues initiating due process proceedings (Table 2). Placement, the IEP, evaluation/assessment, FAPE, procedural safeguards, and eligibility conflicts often led to due process hearings (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010; Zirkel, 2014; Zirkel & Skidmore, 2014).

Table 2. Most Common Dispute Issues Reported in Current Studies

Issues	Blackwell	Mueller/Carranza	Schanding	Shuran/Roblyer	Yocum
Compensatory Education	*	2.7%	*	*	*
Discipline	1.6%	8.5%	3.4%	6.67%	*
Evaluation	8.5%	11.9%	17.4%	10.4%	19.0%
Extended School Year	2.6%	1.8%	1.9%	*	*
FAPE	*	*	*	36.7%	22.0%
Identification/Eligibility	2.8%	10.8%	14.0%	*	*
IEP	34.3%	23.9%	*	*	20.0%
Multiple Issues	*	*	27.4%	23.3%	*
Placement	30.4%	25.4%	16.5%	*	12.0%
Procedural Safeguards	10.3%	4.6%	12.1%	7.5%	22.0%
Related Services	7.7%	6.9%	6.5%	15.4%	5.0%
Transition	1.8%	1.4%	0.6%	*	*
Tuition	*	2.1%	*	*	*

*Note:* \* = not reported

Source: Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding, 2017; Shuran & Roblyer, 2012, Yocum, 2010.

Another facet of due process hearings included in many studies concerns the legal process of initiating and litigating due process hearings. Researchers have collected and analyzed data on initiating parties, outcomes, and legal representation in due process hearings. Two studies analyzed data on initiating parties and found that parents filed over 80% of the due process hearings (Mueller & Carranza, 2011; Shuran



& Roblyer, 2012), yet districts win more due process hearings. The varied research categories for reporting the prevailing party make the research challenging to compare (Table 3). Zirkel and Skidmore posit that different scales and methods utilized by researchers contribute to the ambiguity in the studies of due process (Zirkel & Skidmore, 2014). Zirkel and Skidmore developed a 5-level issue category scale that analyzes due process decisions from decisions that completely favor the parent (1) to completely favor the district (5). This scale creates two additional categories for the split decisions that include decisions that chiefly favor the parent (2) to decisions that mainly favor the district (4) (Zirkel & Skidmore, 2014). Other researchers have utilized a three-category scale to analyze due process decisions.

**Table 3. Statistics on Prevailing Parties in Current Studies**

Decisions	Blackwell	Mueller/Carranza	Schanding	Shuran/Roblyer	Yocum	Zirkel
Completely in Favor of the Parent	*	*	*	*	*	34%
Mostly in Favor of the Parent	27.2%	30.4%	28.6%	32.1%	16.0%	8.0%
Neutral/Mixed	10.3%	10.4%	*	*	*	8.0%
Mostly in Favor of the District	62.5%	78.5%	71.9%	64.3%	84.0%	6.0%
Completely in Favor of the District	*	*	*	*	*	44.0%
Other	*	0.5%	*	2.7%	*	*

*Note:* \* = not reported

Source: Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding, 2017; Shuran & Roblyer, 2012, Yocum, 2010; Zirkel, 2014

Only three studies delved into the outcomes based upon representation for parents and districts (Table 4). The Blackwell and Blackwell (2015), Schanding, et al. (2017), and Zirkel (2014) studies found that districts always utilized an attorney (Blackwell & Blackwell, 2015; Schanding et al., 2017; Zirkel, 2014). Two of the three studies found that parents were more likely to win when utilizing legal representation (Blackwell & Blackwell, 2015; Schanding, 2017; Zirkel, 2014).

Table 4. Statistics on Parent Prevailing based on Legal Representation in Current Studies

Representation	Blackwell	Schanding	Zirkel
Attorney	30.8%	34%	58%
Advocate	20.5%	*	*
Pro Se	10.7%	12.5%	14%
No Participation	16.7%	*	*

*Note:* \* = not reported

Source: Blackwell & Blackwell, 2015; Schanding, 2017; Zirkel, 2014

While each study investigates different parameters of the sample, methods, and topics, one can discover commonalities between the studies. The district is the prevailing party in the majority of cases (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010; Zirkel, 2014; Zirkel & Skidmore, 2014). Blackwell and Blackwell (2015) suggest that districts may opt to settle cases they are not confident in winning due to the potential social and economic costs. Each of the studies found that parents are more likely than districts (> 80%) to request due process hearings (Mueller & Carranza, 2011; Shuran & Roblyer, 2012). Shuran and Roblyer (2012) posit that while parents are more knowledgeable about special education services than in the past, special education

directors report that parents believe the law is more prescriptive than it is, thus, parents may be expecting districts to provide more services to their child than required by law. The majority of the researchers developed their coding system and definitions for disability and issue categories. This practice leads to inconsistencies in comparing the studies to find commonalities in disability and issue categories. However, the majority of the researchers reported that due process hearings involved students with autism, emotional disturbance, low-incidence disabilities, learning disabilities, multiple disabilities, other health impairments, and specific learning disabilities (Barnes, 2019; Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010). Interestingly, Schanding et al. (2017) utilized the coding system developed by Blackwell and Blackwell (2015). Issue categories are ambiguous between studies as well, yet placement, individualized education program, evaluation/assessment, FAPE, procedural safeguards, and eligibility have been the most reported categories throughout the literature search (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010; Zirkel & Skidmore, 2014).

### **Research Gaps**

These studies have informed the literature regarding special education litigation but “continued research aimed at investigating the issue and resolution of disputes in special education could serve as a vehicle for change that would allow the development of more friendly parent and district dispute resolution practices,” (Mueller & Carranza, 2011, p. 8). The most common call for additional research is

what Connolly, Zirkel, and Mayes deem ‘more intensive insights’ (Connolly et al., 2019, p. 7). Zirkel (2014, 2018) calls for researchers to examine the stakeholders’ perceptions while other researchers seek information on the issues leading to the conflict (Schanding et al., 2017; Shuran & Roblyer, 2012). Other areas for future study include specific disability categories (Bailey & Zirkel, 2015; Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Zirkel, 2018); issues in placement and evaluation (Mueller & Carranza, 2011; Schanding et al., 2017; Zirkel, 2018); requested services (Schanding et al., 2017; Zirkel, 2018); the utilization of alternative dispute resolutions (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017); per capita hearing requests, quality of the educational system, and district resources (Bailey & Zirkel, 2015); due process outcomes compared to degree of legal representation (Zirkel, 2014); and a study examining the prevailing rates of different disability categories (Schanding et al., 2017).

### **Discussion**

Existing research into due process hearings across the nation has taught us that school districts are more likely to prevail in the hearings (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Yocum, 2010; Zirkel, 2014; Zirkel & Skidmore, 2014) and that parents are more likely to request the due process hearings (Mueller & Carranza, 2011; Shuran & Roblyer, 2012) yet the lack of a standardized coding system and additional research poses questions about the most common disability categories involved and the issues related to placement and evaluation (Bailey & Zirkel, 2015; Blackwell & Blackwell, 2015;

Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Zirkel, 2018). With the cost of a due process hearing averaging eight to twelve thousand dollars (Mueller, 2009) and the damage to relationships between families and school personnel long-lasting (Shaver, 2015), further research is necessary to inform all stakeholders, educators, policy makers, parents, and children with disabilities, of the issues surrounding due process hearings to promote a more collaborative process for providing special education services to each unique student.

### **Summary**

Special education services have been defined by litigation since parents began advocating for their children after the landmark decision in *Brown v. Board of Education* (1954). The special education due process hearing is a means for parents to contest issues regarding special education services for their child. In Texas, the conflict resolution process consists of a voluntary IEP facilitation, a mandatory mediation session, a mandatory complaint resolution process, and finally, the special education due process hearing. Researchers have explored the findings of special education due process hearings to uncover trends that inform policy and practice. Researchers have discovered that parents initiate the majority of special education due process hearings but districts prevail in the majority of those hearings. Further research is needed in special education due process hearings to discover trends and social phenomena (Loeb, et al., 2017) to improve policy and practice.

## **CHAPTER III**

### **METHODOLOGY**

Disputes between parents and school districts that lead to due process hearings have shaped the field of special education at a high economic and emotional cost to all parties involved. While each court decision may not change the field of special education, each due process hearing decision determines the special education program for the student involved in the dispute. Analysis of special education due process hearing results in Texas can inform practice on issues that lead to conflict, trends in special education due process hearing decisions, and the specific special education disability categories, if any, that are more likely to lead to disagreements.

#### **Research Questions**

1. How often are districts or parents the initiating party in special education due process hearings in Texas?
2. How often are districts or parents the prevailing party in special education due process hearings in Texas?
3. How often does the initiating party prevail in special education due process hearings in Texas?
4. Which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues?

5. Which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category?
6. Is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of student categories in the special education student disability categories in Texas?

### **Rationale**

The purpose of this research was to analyze special education due process hearings conducted by the TEA from January 1, 2016 to December 31, 2019 through the use of a quantitative descriptive research approach to inform practice on common issues that lead to conflict in providing special education services. Descriptive research delivers data about the status quo (Gall et al., 2015) and defines the who, what, when, where, and to what extent of a topic (Loeb et al., 2017). Ivey (2016) theorizes that descriptive research provides the underpinning for experimental or correlational research as descriptive research explains the current state of a phenomenon. Quantitative research utilizes numbers to make better sense of the world (Leedy & Ormrod, 2016) and can identify patterns hidden in large datasets (Loeb et al., 2017).

The researcher chose a historical approach because this approach may help educators, parents, and policy makers identify potential problems and formulate their

response based upon data from previous practices (Gall et al., 2007). The researcher selected a content analysis approach to address the socially important issue of identifying conflict issues between parents and school districts in providing special education services (Springer, 2010).

The primary sources for this project were the one hundred special education due process hearing decisions published by the TEA from January 1, 2016 to December 31, 2019. Primary sources provided the researcher with a record of due process proceedings and served as the ultimate basis of a record of each special education due process hearing dispute (Gall et al., 2007; Springer, 2010). Due to the sensitive nature of due process hearings, the TEA redacted information from the due process hearing decisions that would allow identification of a student's identity including name, age, grade, and school campus (Texas Education Agency, 2020b); thus, the researcher analyzed this publicly available data with quantitative, descriptive measures. Similar studies have utilized a descriptive research design to analyze results of due process hearings on a state, multi-state, and national level (Barnes, 2019; Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Schanding et al., 2017; Shuran & Roblyer, 2012; Zirkel & Skidmore, 2014) as this design may identify trends or changes over time (Gall et al., 2015) through the simplification of the data (Loeb et al., 2017).

### **Research Design**

The study utilized a descriptive research design to discover the frequency counts of initiating parties, prevailing parties, dispute issues, and special education



specific disability categories in special education due process hearings in Texas occurring from 2016-2019. The study also analyzed differences in outcomes based upon disability category and initiating party as well as compared the Texas special education disability categories with the disability categories represented in due process hearings. Gall, Gall, and Borg (2015) define descriptive research as research that quantitatively represents a phenomenon and analyzes a representative sample or whole population to allow for conclusions, and specifies the data to be explored in advance (Gall et al., 2015). This study analyzed each of the one hundred cases disputed in special education due process hearings in Texas from 2016-2019 through content analysis.

### **Context of the Study**

Due to the historical nature of the study, all data were stored and analyzed on the researcher's computer. The data did not present any privacy concerns to parents or students as all identifying information was de-identified by the TEA prior to publication. Data identifying school districts and charter schools is a matter of public record. This study demonstrates social validity as it examined an issue of social importance (Springer, 2010); providing educational services to special education students through a partnership between parents and schools that provides a student with FAPE in the LRE in the pursuit of a meaningful education.

## Data Sources

### Texas Special Education Due Process Hearing Decisions

The TEA published ten years of redacted special education due process hearing decisions on the TEA Website through the Office of Legal Services. The office censored information that would identify each student. The decisions did not follow a standard format yet each decision included the name of the district, alleged due process violations and the relief requested, a timeline of procedural events occurring after the due process hearing was requested, information on both petitioner’s and respondent’s legal representation, the history of the case, the student disability category, a history of services provided and student issues, findings based upon the evidence, a discussion summarizing the issues and findings based upon the evidence, conclusions of law connecting the discussion to the appropriate federal and state codes and applicable case law, and orders. The cases in the study were the one hundred cases conducted from the period of January 1, 2016 to December 31, 2019 (Table 5). The list of cases is provided in Appendix A.

Table 5. Number of Due Process Hearing (DPH) Cases 2016-2019

Year	<i>n</i>
2016	19
2017	33
2018	21
2019	27

Source: (Texas Education Agency, 2020b).

## **Special Education Databook: Demographic Data**

The TEA published demographic data of the special education student disability categories for the 2016-2017, 2017-2018, and 2018-2019 school years in the Special Education Databook. This data provided a count of each special education student's primary disability category. Disability categories included were auditory impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), intellectual disability (ID), learning disability (LD), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic brain injury (TBI), and visual impairment (VI) (Texas Education Agency, 2020a). This demographic data is provided in Appendix B.

### **Definitions of Variables Utilized in Study**

This study utilized variables included in the special education due process hearings in Texas and the Special Education Databook. Definitions are provided below:

**Initiating party.** The initiating party is the party requesting the special education due process hearing with the TEA Office of Legal Services Special Education Due Process Hearing program.

**Disability category.** This variable defines the primary student disability category as defined by the TEA. The categories are auditory impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), intellectual disability (ID), learning disability (LD), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic brain injury (TBI), and

visual impairment (VI) (Texas Education Agency, 2020a). The researcher added two additional categories, ineligible (IN) and masked (MK) through the course of data analysis to categorize issues where the student was ineligible for special education services or where the TEA had removed a student disability category due to privacy concerns.

**Issues/issue category.** The researcher identified over forty different issues in the conclusions of law section of the special education due process hearing records. Issues recorded for each case ranged from one to seventeen. These issues were classified into seven broad issue categories to facilitate data analysis and allow for more meaningful analysis. These categories were child find (CF), discipline (DS), evaluation (EV), free appropriate public education (FAPE), individual education plan (IEP), procedural safeguards (PS), and services (SS).

**Prevailing party per issue.** The researcher coded the prevailing party for each issue as parent (P), district (D), or neither (N) based upon the result stated in the conclusions of law for each special education due process hearing.

**Prevailing party overall.** The prevailing party overall was calculated as the percentage of P prevailing issues divided by the total number of issues. The prevailing party was scored as P if the percentage were over 51%; D if the percentage was under 50%; and N if the percentage was 50%.

### **Data Collection Methods**

The researcher obtained the data from the Texas Education Agency web site and downloaded each special education due process hearing case conducted from

January 1, 2016 to December 31, 2019. After downloading the data and the cases, the researcher created a checklist (by year) of each special education due process hearing decision conducted from January 1, 2016 to December 31, 2019 and checked the downloaded cases against the checklist. Then, the researcher downloaded the Special Education DataBook: Demographic Data and created an Excel© Spreadsheet to collect the data. The researcher then entered the data from each special education due process hearing decision and performed secondary data checks. The researcher eliminated one case from the dataset due where the parties prevailed on an equal number of issues.

The researcher utilized Microsoft Office Excel©, IBM SPSS©, Statistical Package for Social Science, and StatPack Statistics Calculator© to collect and analyze the research. The Excel© data analysis tool was used to collect the data and calculate frequencies for some of the variables. SPSS© was utilized to perform the data analysis as it calculates more complicated statistical analyses (Gall et al., 2015).

## **Data Analysis**

### **Research Question One**

The first research question, how often are districts or parents the initiating party in special education due process hearings in Texas, was developed to identify the parties initiating special education due process hearings in Texas. The variables were Parent (P) and District (D). The researcher performed a frequency count and then an independent samples t-test. A frequency count is performed to tabulate the number of

members of each category (Gall et al., 2015). While a frequency count will not provide evidence of causation, it may reveal data that indicate a socially relevant detail (Loeb et al., 2017). An independent samples t-test compares the means of two populations to determine if the differences are random or statistically significant (Field, 2018) with a significance level of  $p < 0.05$ . The researcher created a hypothesis:

H<sub>0</sub>: There is no significant difference between the number of school districts and parents initiating special education due process hearings in Texas.

H<sub>1</sub>: There are significant differences between the number of school districts and parents initiating special education due process hearings in Texas.

### **Research Question Two**

In the second research question the researcher examined the outcomes of the special education due process hearings in Texas to determine the prevailing party for each issue by asking how often are districts or parents the prevailing party in special education due process hearings in Texas? The researcher again utilized a frequency count and independent samples t-test to test the hypothesis:

H<sub>0</sub>: There is no significant difference between the number of school districts and parents prevailing in special education due process hearings in Texas.

H<sub>1</sub>: There are significant differences between the number of school districts and parents prevailing in special education due process hearings in Texas.

An independent samples t-test is a method of comparing the means of two samples to analyze if the difference between the means is one we would expect to obtain over time if there were no effect (Field, 2018) and a frequency count may uncover trends in the data (Loeb et al., 2017). The significance level is  $p < 0.05$ .

Researchers have defined the prevailing party in different ways. Zirkel and Skidmore (2014) utilized a five-factor scale that ranged from the parent prevailing completely to the district prevailing completely. The researchers utilized assigned mid-category factors based upon their interpretation of decisions with rulings for both parties. Schanding et al. (2017) reported the prevailing party in two ways, both through frequency counts. First, the researchers coded each issue and its respective ruling in the data analysis and then coded each case. Blackwell and Blackwell (2015) selected a three-factor scale that included parent, district, and mixed. This research awarded codes for district and parent only when the entire decision favored one party.

This study utilized a two-factor scale for the prevailing party that included parent and district. One case, case # 2019-8, was removed as both parties won exactly 50% of the issues. The researcher assigned a code of parent for decisions where the parent prevailed in over 50% of the issues. The researcher assigned a code of district when the parent prevailed in less than 50% of the issues.

### **Research Question Three**

The third question asked, how often does the initiating party prevail in special education due process hearings in Texas? The researcher generated a crosstabulation that calculated a frequency count of the prevailing parties organized by the initiating

parties. The crosstabulation method is a simple approach to quickly calculating counts of cases that occur in combination of two or more variables (Muijs, 2011). The researcher then performed a Fisher's Exact Test that examined the number of times the initiating party prevailed, and the likelihood of the initiating party prevailing and asked: How often does the initiating party prevail in special education due process hearings in Texas? The researcher performed a frequency count and Fisher's exact test to test for statistical significance. Fisher's exact test was chosen for its ability to compute the chi-square probability in small samples (Field, 2018). Significance was set at  $p < 0.05$ . The hypothesis was:

H<sub>0</sub>: There is no significant association between the initiating party and the prevailing in special education due process hearings in Texas.

H<sub>1</sub>: There is a significant association between the initiating party and the prevailing in special education due process hearings in Texas.

#### **Research Question Four**

The fourth question explored the most often litigated dispute issues. As each due process hearing is unique to the circumstances surrounding the special education services for a specific student, the researcher defined these categories during the data analysis. Common issues reported in the literature include the individualized education program, identification, discipline, transition, services, procedural safeguards, and evaluation (Barnes, 2019; Blackwell & Blackwell, 2015; Schanding et al., 2017; Shuran & Roblyer, 2012). The researcher tabulated all of the issues and then categorized the issues into the following categories: child find, discipline



evaluation, FAPE, IEP, procedural safeguards, and services to allow for analysis. The question asked: which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues? Before performing a frequency count, the researcher eliminated issues in which neither party won, case #2016\_1, case #2016\_13, and case #2017\_21. And cases where the issue was removed, or masked, from the case report by the TEA, case #2017\_19, case #2017\_24, and case #2018\_5. Then the researcher performed a frequency count of the issues involved in special education due process hearings in Texas. The researcher tested the data for linearity and normality. The researcher discovered a linear relationship between the prevailing parties and issue categories,  $p = 0.001$ . The researcher then tested for normality and found that the data was in a normal distribution. Finally, the researcher tested for homogeneity of variance. The researcher found that the data violated the assumption of homogeneity of variance,  $p = 0.000$ , so the researcher selected the Kruskal-Wallis ANOVA test. The Kruskal-Wallis ANOVA is a model that compares groups with independent measures (Field, 2018). Once completed, the researcher performed a Mann-Whitney post hoc analysis, a non-parametric test. The hypothesis was:

H<sub>0</sub>: There is no significant association between the special education student disability category and the prevailing party in special education due process hearings in Texas.

H<sub>1</sub> There is a significant association between the special education student disability category and the prevailing party in special education due

process hearings in Texas.

### **Research Question Five**

The fifth question asked: which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category? The categories were auditory impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), ineligible (IN), intellectual disabilities (ID), learning disability (LD), masked (MK), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic brain injury (TBI), and visual impairment (VI). The researcher conducted a frequency count to determine the number of student disability categories represented in the special education due process hearings from 2016 to 2019. After eliminating cases where the student was ineligible for special education services, case #2017\_2, case #2017\_5, case #2017\_12, case #2017\_13, case #2018\_1, case #2018\_11, case #2018\_21, case #2019\_8, case #2019\_22, or the data was masked, case #2016\_10, case #2017\_8, case #2017\_10, case #2017\_26, case #2018\_5, case #2019\_4, case #2019\_7, case #2019\_15, case #2019\_21, case #2019\_23, the researcher tested the data for linearity and normality. The researcher tested the linearity of the data and determined that the data did not follow a linear pattern,  $p = 0.676$ . The researcher then tested for normality and found that the data was in a normal distribution,  $p = 0.101$ . Finally, the researcher tested for homogeneity of variance. The researcher found that the data violated the assumption of homogeneity of variance,  $p = 0.003$ , so the

researcher selected the Kruskal-Wallis ANOVA test. The Kruskal-Wallis ANOVA is a model that compares groups with independent measures (Field, 2018). The hypothesis was:

H<sub>0</sub>: There is no association between the special education student disability category and the prevailing party in special education due process hearings in Texas.

H<sub>1</sub>: There is an association between the special education student disability category and the prevailing party in special education due process hearings in Texas.

### **Research Question Six**

In the final question, the researcher compared the percentage of students in the student disability categories with the annual state percentage of students in the disability categories. The question asked: is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of students categorized in the special education student disability categories in Texas? The researcher obtained the percentages in the TEA Special Education DataBook: Disability Category. This data is reported by school year, so the researcher classified the cases in the special education due process hearings in Texas by school year, August 1 to July 31. First, the researcher selected the categories with positive numbers to meet the assumptions of the chi-square goodness of fit test (Field, 2018). In 2016-2017 autism, AU, emotional disturbance, ED, intellectual disability, ID, learning disability, LD, multiple

disabilities, MD, other health impairment, OHI, speech impairment, SI were the categories utilized for comparison. In 2017-2018, the categories were autism, AU, emotional disturbance, ED, intellectual disability, ID, learning disability, LD, other health impairment, OHI, visual impairment, VI. Finally, in 2018-2019, the categories used for comparison were autism, AU, learning disability, LD, and other health impairment, OHI. Then the researcher performed the chi-squared goodness of fit test for each school year. This method compares the predicted result, TEA student disability categories, with the actual result, student disability categories represented in special education due process hearings (Muijs, 2011). The researcher then performed a two-sample t-test between percents to assess statistical significance for each disability category included in the goodness of fit tests for each school year. The hypothesis was:

H<sub>0</sub>: There is no significant difference between the special education student disability categories represented in the due process hearings and in the state population.

H<sub>1</sub> There is a significant difference between the special education student disability categories represented in the due process hearings and in the state population.

### **Summary**

This proposed research study utilized quantitative, descriptive statistics to answer the six research questions. The quantitative data was collected from the TEA special education due process hearings conducted from January 1, 2016 and December

31, 2019 and the TEA Special Education DataBook: Disability Category tables and then analyzed to discover trends that inform policy and practice. This chapter outlined the methodology by listing the research questions and identifying the statistical analysis performed for each research question. The researcher utilized frequency counts, independent samples *t*-tests, the Kruskal-Wallis analysis of variance, the Mann-Whitney U analysis, and the chi-squared goodness of fit test to analyze the data.

## **CHAPTER IV**

### **RESULTS**

This chapter will explain the results for each research question obtained through the use of descriptive and inferential statistics. The purpose of this study was to identify trends within the special education due process hearings heard by the TEA from January 1, 2016 and December 31, 2019. The researcher gathered quantitative data to answer the research questions. Each research question is answered separately in the following sections. The study examined the initiating parties, prevailing parties, dispute issues in due process hearings, and student disability categories to examine the data to inform policy and practice. The first research question asked, “How often are districts or parents the initiating party in special education due process hearings in Texas?” The second asked, “How often are districts or parents the prevailing party in special education due process hearings in Texas?” and the third continued this query by asking, “How often does the initiating party prevail in special education due process hearings in Texas?” The fourth question asked, “Which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues?” and the fifth analyzed common disability categories by asking, “Which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category?” The final research question compared the

student disability categories represented in the hearing and the population of Texas students by asking, “Is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of students categories in the special education student disability categories in Texas?”

## **Descriptive Statistics**

### **Data Source**

The data sources for this study were the one hundred TEA due process hearing decisions from hearings conducted from January 1, 2016 to December 31, 2019 (Appendix A). The researcher created a spreadsheet to collect the docket number, date, district, initiating party, parent legal representation, student disability category, issues, prevailing party per issue, and overall prevailing party. Data was also collected from the TEA Special Education Databook: Demographic Data (Appendix B) which provides the number of special education students in each disability category for the 2016-2017, 2017-2018, and 2018-2019. Disability categories included are auditory impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), intellectual disability (ID), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic brain injury (TBI), and visual impairment (VI) (Texas Education Agency, 2020a). Additional categories of ineligible (IN) and masked (MK) were added to code variables not included in the data, masked, or students who did not qualify for special education services, ineligible.

Issue categories were defined as child find (CF), discipline (DS), evaluation (EV), free appropriate public education (FAPE), individual education plan (IEP), procedural safeguards (PS), and services (SS).

### Demographics

The one hundred cases were first analyzed to identify usable data. One case, case # 2019-8, was eliminated as neither party prevailed in over 51% of the issues. To facilitate data analysis for the different research questions, the cases were then sorted by both calendar year, January 1 to December 31 (Table 6), and school year, August 1 to July 31 (Table 7). When cases were sorted by school year, twenty-seven cases fell outside of the designated timeframe, August 1, 2016 to July 31, 2019.

Table 6. Number of Due Process Cases 2016-2019 Per Calendar Year

Year	Frequency	%	Valid %	Cumulative Percent
2016	19	19.2	19.2	19.2
2017	33	33.3	33.3	52.5
2018	21	21.2	21.2	73.7
2019	26	26.3	26.3	100.0
Total	99	100.0	100.0	

Table 7. Number of Due Process Cases 2016-2019 Per School Year

Year	Frequency	%	Valid %	Cumulative Percent
2016-2017	26	26.3	26.3	26.3
2017-2018	28	28.3	28.3	54.5
2018-2019	18	18.2	18.2	72.7
<i>Excluded</i>	27	27.3	27.3	
<i>Total</i>	99	100.0	100.0	

Fifty-four school districts and one charter school participated in the due process hearings from 2016-2019. Disability categories (DC) included were auditory



impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), intellectual disability (ID), learning disability (LD), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic brain injury (TBI), and visual impairment (VI) (Texas Education Agency, 2020a). Table 8 provides a frequency count and percentage of each special education student disability category. Several disability categories were not represented by students in the special education due process hearings in Texas. Those included auditory impairment, orthopedic impairment, and traumatic brain injury.

Table 8: Number of Disability Categories Represented

Disability Category	Frequency	%	Valid %	Cumulative Percent
AI	0	0.0	0.0	0.0
AU	25	25.3	25.3	25.3
ED	11	11.1	11.1	36.4
IN	8	8.1	8.1	44.4
ID	5	5.1	5.1	49.5
LD	10	10.1	10.1	59.6
MK	13	13.1	13.1	72.7
MD	3	3.0	3.0	75.8
OI	0	0.0	0.0	75.8
OHI	22	22.2	22.2	98.0
SI	1	1.0	1.0	99.0
TBI	0	0.0	0.0	99.0
VI	1	1.0	1.0	100.0
<i>Total</i>	99	100.0	100.0	

**Results by Research Question**

**Research Question One: How often are districts or parents the initiating party in special education due process hearings in Texas?**

Research question one was utilized to identify the parties initiating special education due process hearings in Texas. The quantitative data was collected by analyzing the one hundred special education due process case hearings in Texas. One case, Case # 2019-8, was eliminated from the analysis as neither party prevailed in the hearing. The remaining ninety-nine cases were analyzed through a frequency count and an independent samples t-test. The significance level of  $p < 0.05$  identified areas of high significance in the data. The results for each analysis are presented below.

Table 9 depicts the frequency count of the number of initiating parties for special education due process hearings in Texas. Ninety-five parents initiated special education due process hearings in Texas while only four districts initiated hearings.

**Table 9: Number of Initiating Parties (IP)**

IP	Frequency	%	Valid %	Cumulative Percent
Parent	95	96.0	96.0	96.0
District	4	4.0	4.0	100.0
<i>Total</i>	99	100.0	100.0	

The independent t-test revealed that parents (n=95) initiated due process hearings in significantly larger numbers than school districts (n=4),  $t(98) = 52.307, p = 0.000$ .

The original hypothesis for research question one stated that an equal number of parents and districts would initiate special education due process hearings in Texas from January 1, 2016 to December 31, 2019. The results of the frequency count

indicate a significant difference between the groups. The results of the t-test confirm the statistical significance as  $p = 0.000$ . The null hypothesis is rejected.

**Research Question Two: How often are districts or parents the prevailing party in special education due process hearings in Texas?**

Research question two analyzed the outcomes of the special education due process hearings in Texas to determine the prevailing party for each special education due process hearing in Texas using a frequency count and independent samples t-test. The quantitative data was collected by analyzing the one hundred special education due process case hearings in Texas. One case, case # 2019-8, was eliminated from the analysis as neither party prevailed in the hearing. The remaining cases were analyzed through a frequency count and independent samples t-test. Table 10 depicts the frequency count of the number of cases where the parent prevailed and the number of cases where the district prevailed in special education due process hearings in Texas. Nineteen parents prevailed and eighty districts prevailed in the special education due process hearings in Texas from January 1, 2016 to December 31, 2019.

Table 10: Number of Prevailing Parties (PP)

PP	Frequency	%	Valid %	Cumulative Percent
Parent	19	19.2	19.2	19.2
District	80	80.8	80.8	100.0
<i>Total</i>	99	100.0	100.0	

School districts (n=80) prevailed in significantly larger numbers than parents (n=19), in special education due process hearings in Texas  $t(98) = 45.451, p = 0.000$ .

The original hypothesis for research question two stated that an equal number of parents and districts would prevail in special education due process hearings in Texas from January 1, 2016 to December 31, 2019. The results of the frequency count indicate a significant difference between the groups. The results of the t-test confirm the statistical significance as  $p = 0.000$ . The null hypothesis is rejected.

**Research Question Three: How often does the initiating party prevail in special education due process hearings in Texas?**

Question three examined the number of times the initiating party prevailed and examined the statistical significance. The researcher performed a frequency count (Table 11) through cross-tabulation and Fisher’s Exact test to analyze the cases.

Table 11: Initiating & Prevailing Parties in Due Process Cases 2016-2019

	Initiated	Prevailed	Percent Prevailed
Parent	95	18	19
District	4	3	75

The researcher then performed the Fisher’s Exact Test  $p = .580$  (two-sided). The results indicated a non-significant relationship between the initiating party and the prevailing party of 21.2% (21/99) when compared to the responding party and the prevailing party of 78.8% (78/99) with  $p = 0.580$ .

The hypothesis for research question three stated that there would be a significant association between the initiating and prevailing party in special education due process hearings in Texas from January 1, 2016 to December 31, 2019. The results of the Fisher’s Exact Test indicate a non-significant difference between the groups. The results of the t-test confirm no evidence of the statistical significance as

$p = 0.580$ . The null hypothesis is accepted.

**Research Question Four: Which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues?**

The fourth question examined the number of times each special education issue category was contested in the special education due process hearings in Texas and analyzed the significance of parents prevailing more in any issue category. The researcher first performed a frequency count (Table 12) to determine the most common dispute issues. The categories were child find (CF), discipline (DS), evaluation (EV), free appropriate public education (FAPE), individual education plan (IEP), procedural safeguards (PS), and services (SS). The frequency count determined that IEP and FAPE were the most common issues.

Table 12: Number of Issue Categories Represented

IC	Frequency	%	Valid %	Cumulative Percent
CF	37	7.2	7.2	7.2
DS	25	4.9	4.9	12.1
EV	73	14.2	14.2	26.3
FAPE	121	23.6	23.6	49.9
IEP	137	26.7	26.7	76.6
PS	72	14.0	14.0	90.6
SS	48	9.4	9.4	100.0
<i>Total</i>	513	100.0	100.0	

The Kruskal-Wallis test found a statistically significant difference between the groups,  $p = 0.002$ . Then, a Mann-Whitney U Test (Table 13) was performed to investigate the differences when parents prevail between the issue categories of child

find (CF), discipline (DS), evaluation (EV), free appropriate public education (FAPE), individual education program (IEP), procedural safeguards (PS), and services (SS).

The independent variables were the issue category and the dependent variable was the prevailing party.

Table 13: Prevailing Party by Issue Category (IC)

IC	<i>Parent</i>	<i>District</i>	Mann-Whitney U	Z-value	Asymptotic Sig. (2 tailed)
	( <i>n=143</i> )	( <i>n=370</i> )			
	Mean Rank	Mean Rank			
CF	251.06	259.30	25,605.00	-1.260	0.208
DS	253.47	258.36	25,950.00	-0.900	0.368
EV	256.37	257.24	26,365.50	-0.098	0.922
FAPE*	235.96	265.13	23,446.50	-2.718	0.007
IEP*	276.39	249.51	29,228.00	-2.404	0.016
PS	246.11	261.21	24,898.00	-1.719	0.086
SS*	279.64	248.25	29,692.00	-4.263	0.000

Note: \*  $p < 0.05$

**Child find.** A Mann-Whitney test determined if there were differences in the prevailing party for the child find issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the child find category, there was not a statistically significant difference in the prevailing party between parents (mean rank = 251.06) and districts (mean rank = 259.300),  $U = 25,605.000$ ,  $z = -1.260$ ,  $p = 0.208$ .

**Discipline.** A Mann-Whitney test determined if there were differences in the prevailing party for the discipline issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the discipline category, there was not a statistically significant difference in the prevailing party between parents

(mean rank = 253.470) and districts (mean rank = 258.360),  $U = 25,950.000$ ,  
 $z = -0.900$ ,  $p = 0.368$ .

**Evaluation.** A Mann-Whitney test determined if there were differences in the prevailing party for the evaluation issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the evaluation category, there was not a statistically significant difference in the prevailing party between parents (mean rank = 256.370) and districts (mean rank = 257.240),  $U = 26,365.500$ ,  
 $z = -0.098$ ,  $p = 0.922$ .

**FAPE.** A Mann-Whitney test determined if there were differences in the prevailing party for the FAPE issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the FAPE category, there was a statistically significant difference in the prevailing party with districts (mean rank = 265.130) prevailing in statistically larger numbers than parents (235.960),  
 $U = 23,446.500$ ,  $z = -2.718$ ,  $p = 0.007$ .

**IEP.** A Mann-Whitney test determined if there were differences in the prevailing party for the IEP issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the IEP category, there was a statistically significant difference in the prevailing party with parents (mean rank = 276.110) prevailing in statistically larger numbers than districts (249.510),  
 $U = 29,228.000$ ,  $z = -2.404$ ,  $p = 0.016$ .

**Procedural safeguards.** A Mann-Whitney test determined if there were differences in the prevailing party for the procedural safeguards issue category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the procedural safeguards category, there was not a statistically significant difference in the prevailing party between parents (mean rank = 246.110) and districts (mean rank = 261.210),  $U = 24,898.000$ ,  $z = -1.719$ ,  $p = 0.086$ .

**Services.** A Mann-Whitney test determined if there were differences in the prevailing party for the services category. Distributions of the prevailing party were not similar, as assessed by visual inspection. In the services category, there was a statistically significant difference in the prevailing party with parents (mean rank = 279.640) prevailing in statistically larger numbers than districts (248.250),  $U = 29,692.000$ ,  $z = -4.263$ ,  $p = 0.000$ .

**Research Question Five: Which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category?**

The fifth question examined the number of students in each special education student disability category and the relationship between those categories and the prevailing party. The categories were auditory impairment (AI), autism (AU), deaf/blind (DB), emotional disturbance (ED), ineligible (IN), intellectual disabilities (ID), learning disability (LD), masked (MK), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), speech impairment (SI), traumatic



brain injury (TBI), and visual impairment (VI). The frequency count (Table 14) determined that autism and other health issues were the most common special education disability categories from January 1, 2016 to December 31, 2019.

Table 14: Number of Disability Categories (DC) Represented

DC	2016	2018	2018	2019	Total	Percent
AI	0	0	0	0	0	0.0%
AU	5	7	6	7	25	25.3%
DB	0	0	0	0	0	0.0%
ED	3	7	0	1	11	11.1%
IN	0	3	3	2	8	8.1%
ID	1	1	2	1	5	5.1%
LD	2	2	4	2	10	10.1%
MK	1	5	1	6	13	13.1%
MD	2	1	0	0	3	3.0%
OI	0	0	0	0	0	0.0%
OHI	4	6	5	1	22	22.2%
SI	1	0	0	0	1	1.0%
TBI	0	0	0	0	0	0.0%
VI	1	0	0	0	1	1.0%
<i>Total</i>	19	22	21	26	99	100%

The Kruskal-Wallis ANOVA determined there was no statistically significant difference between the groups at  $p = 0.747$ . The null hypothesis is accepted.

**Research Question Six: Is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of student disability categories in the special education student disability categories in Texas?**

This question compared the special education student disability categories represented in the special education due process hearings in Texas with the student

disability categories represented across the state of Texas. The researcher compared the three available school years.

**2016-2017 school year.**

The researcher calculated the chi-square goodness of fit test (Table 15) to compare the percentage of students represented in the student disability categories in special education due process hearings in Texas (observed) and the primary disability category in the State of Texas (expected). The researcher hypothesized that these values would be equal. Significant deviation from the hypothesized values was discovered ( $\chi^2(6) = 187.879, p = 0.000$ ).

Table 15: Percentages of disability category populations represented in state population (SP) and due process hearings (DPH) in 2016-2017

	AU	ED	ID	LD	MD	OHI	SI	
SP	13.1	5.9	10.9	34.0	1.5	13.9	20.6	expected
DPH	25.0	30.0	5.0	10.0	10.0	15.0	5.0	observed

*Note:* Total percentages do not add up to 100 as low percentage cells were omitted.

The researcher then performed a two-sample t-test between percents for the autism (AU) disability category, the emotional disturbance (ED) disability category, the intellectual disability (ID) category, the multiple disabilities (MD) category, the other health impairment disability category, and the speech impairment (SI) disability category. The results are displayed in Table 16. The results show that the emotional disturbance (ED) and multiple disabilities (MD) categories were significantly over-represented in special education due process hearings in Texas and the learning disability (LD) disability category was significantly under-represented in the special education due process hearings in Texas.

Table 16: Comparison of disability category populations represented in state population (SP) and due process hearings (DPH)

	AU	ED*	ID	LD*	MD*	OHI	SI
t (2 tail)	1.883	5.344	0.928	2.485	3.565	0.224	1.912
p	0.0559	0.0000	0.3539	0.0131	0.0004	0.8229	0.0562

Note:  $df = 430,898$  \* $p < 0.050$

**2017-2018 school year.**

The researcher calculated the chi-square goodness of fit test (Table 17) to compare the percentage of students represented in the student disability categories in special education due process hearings in Texas and the primary disability category in the State of Texas. The researcher hypothesized that these values would be equal. Significant deviation from the hypothesized values was discovered ( $\chi^2(5) = 37.530$ ,  $p < =0 .000$ ).

Table 17: Percentages of disability category populations represented in state population (SP) and due process hearings (DPH) in 2017-2018

	AU	ED	ID	LD	MD	VI	
SP	13.4	5.8	10.9	31.6	13.7	0.7	expected
DPH	26.09	6.7	13.04	17.39	30.43	4.35	observed

Note: Total percentages do not add up to 100 as low percentage cells were omitted.

The researcher then performed a two-sample t-test between percents for the autism (AU) disability category, the emotional disturbance (ED) disability category, the intellectual disability (ID) category, the learning disability category (LD), the multiple disabilities (MD) category, and the visual impairment (VI) disability category. The results are displayed in Table 18. The results show that the autism (AU), multiple disabilities (MD), and visual impairment (VI) categories were significantly over-represented in special education due process hearings in Texas.

Table 18: Percentages of disability category populations represented in state population (SP) and due process hearings (DPH) in 2017-2018

	AU*	ED	ID	LD	MD*	VI*
t (2 tail)	1.971	0.656	0.363	1.617	2.574	2.316
p	0.0490	0.5117	0.7164	0.1061	0.0102	0.0208

Note:  $df = 448,933$  \* $p < 0.050$

**2018-2019 school year.**

The researcher calculated the chi-square goodness of fit test (Table 19) to compare the percentage of students represented in the student disability categories in special education due process hearings in Texas and the primary disability category in the State of Texas. The researcher hypothesized that these values would be equal. Significant deviation from the hypothesized values was discovered ( $\chi^2(2) = 63.142$ ,  $p = 0.000$ ).

Table 19: Percentages of disability category populations represented in state population (SP) and due process hearings (DPH) in 2018-2019

	AU	LD	OHI	
SP	13.9	30.7	14	Expected
DPH	40	13.33	46.67	Observed

Note: Total percentages do not add up to 100 as low percentage cells were omitted.

The researcher then performed a two-sample t-test between percents for the autism (AU) disability category, the learning disability (LD) category, and the other health impairment (OHI) disability category. The results are displayed in Table 20. The results show that the autism (AU) and other health impairment (OHI) categories were significantly over-represented in special education due process hearings in Texas.

Table 20: Percentages of disability category populations represented in state population (SP) and due process hearings (DPH) in 2018-2019

	AU*	LD	OHI*
t (2 tail)	3.201	1.598	3.994
p	0.0014	0.1104	0.0001

Note:  $df = 478,522$  \* $p < 0.050$

### Summary

Quantitative data results showed a significant statistical difference in four of the six research questions. The data demonstrate that parents are more likely to initiate a special education due process hearing in Texas while districts are more likely to prevail in a special education due process hearing in Texas. The data finds no statistical relationship between the initiating party and the prevailing party. IEP and FAPE are the most represented issue categories in special education due process hearings in Texas and parents are more likely to prevail in the issue categories of services and IEP while districts are more likely to prevail in the FAPE issue category in special education due process hearings in Texas. There is no statistical significance between the special education student disability categories in special education due process hearing in Texas. Finally, the distribution of the percentage of disability categories represented in special education due process hearing in Texas is significantly different that the percentage of students represented overall in special education services in Texas. In 2016-2017, the categories of emotional disturbance, multiple disabilities, and learning disability are over-represented. In 2017-2018, the categories are multiple disabilities and autism and in 2018-2019, the categories are other health impairment and autism. These results define the who, what, when, where, and to what extent of the special education due process hearings in Texas (Loeb et al.,

2017) and provide insight into the initiating parties, prevailing parties, issues, and special education student disability categories to inform policy and practice in special education in the state of Texas. Table 21 summarizes the significance and results for each of the research questions.

Table 21: Data Analysis Results for Questions 1-6

Question	Significance	Results
1. How often are districts or parents the initiating party in special education due process hearings in Texas?	The results are statistically significant at $p = 0.0000$ .	Parents ( $n = 95$ ) initiated DPH in significantly larger numbers than districts ( $n = 4$ ).
2. How often are districts or parents the prevailing party in special education due process hearings in Texas?	The results are statistically significant at $p = 0.0000$ .	School districts ( $n=80$ ) prevailed in significantly larger numbers than parents ( $n=19$ ).
3. How often does the initiating party prevail in special education due process hearings in Texas?	The results are not statistically significant $p = 0.580$	The results indicated a non-significant relationship between the initiating party and the prevailing party of 21.2% (21/99) when compared to the responding party and the prevailing party of 78.8% (78/99).
4. Which special education issues are most often disputed in special education due process hearings in Texas and are parents more likely to prevail on any specific dispute issues?	The results are statistically significant at $p = 0.0002$	IEP (26.7%) and FAPE (23.6%) are the most represented issue categories in DPH.  Parents are more likely to prevail in services, $p = 0.000$ and IEP, $p = 0.016$ . Districts are more likely to prevail in FAPE issues, $p = 0.007$ .
5. Which of the special education student disability categories are most often represented in special education due process hearings in Texas and are parents more likely to prevail when seeking relief for a student of any disability category?	The results are not statistically significant at $p = 0.747$ .	AU ( $n = 25$ ) and OHI ( $n = 22$ ) are the most represented student disability categories in DPH.
6. Is there a difference in the distribution of the percentage in the student disability categories represented in the special education due process hearings in Texas and the percentage of student categories in the special education student disability categories in Texas?	2016-17 -The results are statistically significant at $p = 0.000$	2016-17 - ED ( $p = 0.000$ ), MD ( $p = 0.004$ ), and LD ( $p = 0.0131$ ) are over-represented student disability categories in DPH.
	2017-18 - The results are statistically significant at $p = 0.000$	2017-18 - MD ( $p = 0.0102$ ) and AU ( $p = 0.0490$ ) are over-represented student disability categories in DPH.
	2018-19 - The results are statistically significant at $p = 0.000$	2018-19 - OHI ( $p = 0.001$ ) and AU ( $p = 0.0014$ ) are over-represented student disability categories in DPH.

## **CHAPTER V**

### **DISCUSSION**

One hundred special education due process hearings were conducted by the TEA from January 1, 2016 to December 31, 2019. Each hearing represents a family and district in conflict with one another and the dispute damages relationships between parents and district personnel; creates financial hardship for both the parent and the district; and results in lost learning for the student (Blackwell & Blackwell, 2015; Cope-Kasten, 2011; Mueller & Carranza, 2011; Schanding, Cheramie, Hyatt, Praytor, & Yellen, 2017; Shaver, 2015; Shuran & Roblyer, 2012). Researchers have studied data from due process hearings at the state, multi-state, and federal level to uncover trends to inform policy and practice. Identifying universal issues may lead to a change in practice that promotes greater collaboration between families and schools; more successful conflict resolution practices; and improved learning for the student at the center of the disagreement. This study analyzed the one hundred special education due process hearings held in Texas from January 1, 2016 to December 31, 2019.

#### **Brief Summary of Methods and Procedures**

This study used a quantitative design that focused on the special education due process hearings in Texas conducted from 2016-2019. The researcher read each special education due process hearing report and recorded the date, school district, initiating party, prevailing party, dispute issues, resolution for each dispute issue, and special education student disability category.



Quantitative data was analyzed using statistical tests performed in SPSS software©, Excel© software, and the StatPac Statistics Calculator©. The initiating and prevailing parties were analyzed through frequency counts and independent samples t-tests. A frequency count and Fisher's exact test were used to investigate the number of times the initiating party prevails in special education due process hearings. A frequency count, the Kruskal-Wallis ANOVA, and a Mann-Whitney post hoc analysis were used to determine if there was an association between the special education dispute issues and the prevailing party and between the special education student disability categories and the prevailing party. Finally, the researcher utilized a chi-squared goodness of fit test and two-sample t-test between percents to compare the student disability categories represented in special education due process hearings in Texas and the student disability categories represented in the Texas special education population.

### **Discussion of Results**

This section presents a discussion of the results for each research question. The results for each research question will be explained in depth. The researcher will then provide data to inform policy and practice and discuss limitations and recommendations for future research studies.

#### **Research Question One**

The first research question related to the number of parents and districts initiating special education due process hearings in Texas. The results showed a

statistically significant difference between the number of parents, ninety-five, and districts, four, initiating special education due process hearings in Texas. The researcher hypothesized that there would be significant differences in the number of parents and districts initiating due process hearings, and the results proved this hypothesis to be true.

The results of this study support three studies from 2011-2013 that analyzed the initiating party in special education due process hearings and found that parents are the initiating party in the majority of the cases. Mueller and Carranza (2011) performed a study on 575 due process hearings that occurred in forty-one states over a one-year period. They found that parents initiated 84.5% of the hearings. In another study analyzing ten years of due process hearing decisions in Tennessee, researchers found that parents initiated 86.6% of the hearings (Shuran & Roblyer, 2012). Finally, Cope-Kasten (2013) found that the majority of the two hundred ten hearings in Wisconsin and Minnesota over a ten-year period were initiated by parents.

The significance in this study of four district initiated special education due process hearing out of one hundred cases indicates that school districts are averse to initiating special education due process hearings. A survey of 200 superintendents found that 95% of superintendents believed that due process hearings induced high stress levels; affected the district budget adversely; and created an emotional burden (Pudelski, 2013). Three of the four cases initiated by districts in special education due process hearings from January 1, 2016 to December 31, 2019 involved evaluation issues. In two cases, the district sought to conduct additional evaluations and was

unable to secure parental consent. A third asked the hearing officer to rule that the full individual evaluation (FIE) was appropriate and deny the parents' request for an independent educational evaluation. A final case involved an emergency request to alter the stay-put provision which requires a student to remain in the educational placement outlined in the IEP while litigating a due process claim. In this case the district believed that the student's placement was a danger to himself and others.

Student IEP's are developed by a team of educators and the parents and while both parties consider the student's best interests disagreements may occur about eligibility, accommodations, modifications, services, goals, placement, and other aspects of the IEP (Schanding et al., 2017). According to the TEA, the majority of disagreements were resolved through voluntary facilitated IEP sessions or through state mandated mediation and complaint resolution (TEA, 2017), and few move into the adversarial arena of special education due process hearings. Once either party initiates a due process hearing the communication channels usually shut down and any remaining cooperation ends (Cope-Kasten, 2013) and regardless of the party initiating or prevailing in the complaint, both parties report negative experiences throughout the process (Pudelski, 2013). The significantly high number of parents initiating special education due process hearings in Texas from January 1, 2016 to December 31, 2019 indicates that parents believe in their dispute issue enough to risk a broken relationship to achieve their goal.

The special education due process hearings analyzed in this study were conducted during a period of change for the special education community. Until

*Endrew* was decided on March 22, 2017, the courts were operating under the *Rowley* standard for educational benefit. The *Rowley* standard required districts to provide students with an appropriate education with some educational benefit. The *Endrew* standard required a meaningful educational benefit (Schanding et al., 2017). The findings in this study of the significantly low number of districts and high number of parents initiating due process hearings suggest that parents do not understand the requirements of IDEA; do not believe the district is devoting enough time and resources to their child; or do not feel included in the educational process (Pudelski, 2013; Schanding et al., 2017; Shuran & Roblyer, 2012).

### **Research Question Two**

The second research question related to the number of parents and districts prevailing in special education due process hearings in Texas. The results showed a statistically significant difference between the number of parents, nineteen, and the number of districts, eighty, prevailing in special education due process hearings in Texas. The researcher hypothesized that there would be significant differences in the number of parents and districts prevailing in due process hearings, and the results proved this hypothesis to be true as 19.2% of parents and 80.8% of the districts prevailed in the due process hearings examined in the study.

These results support the two studies conducted in Texas by Yocum (2010) and Schanding et al. (2017). The Yocum (2010) dissertation analyzed special education due process hearings in Texas from 2006 to 2008. In this study, parents prevailed in 16% of the cases and the districts prevailed in 84% (Yocum, 2010). A

study conducted on cases heard from 2011 to 2015 found that the parents prevailed in 28.6% of the cases and the districts prevailed in 71.9% (Schanding et al., 2017). Other studies outside of Texas found similar results, but parents prevailed in higher numbers than the Texas studies. The Blackwell and Blackwell (2015) study analyzed cases heard over eight years in Massachusetts. They found that parents prevailed in 27.2% of the cases, districts prevailed in 62.5% of the cases, and neither party prevailed in 10.3% of the cases. The Mueller and Carranza (2011) study analyzed cases from forty-one states and found parents prevailing at a rate of 30.4%: districts at 58.6%. neither party at 10.4%, and other at 0.5%. Finally, a nationwide longitudinal study by Zirkel and Skidmore (2014) found parents prevailing in 42% of the cases, districts prevailing in 50% of the cases, and neither party prevailing in 8% of the cases.

Researchers posit that the disproportionate number of districts prevailing may be linked to the unequal resources between districts and parents; the assumed tendency of districts to settle uncertain cases; and the lack of understanding by parents of the IDEA requirements (Blackwell & Blackwell, 2015; Cope-Kasten, 2013; Schanding et al., 2017; Shuran & Roblyer, 2012). While districts typically have special education experts on staff; attorneys on retainer; and access to expert witnesses (Blackwell & Blackwell, 2015; Schanding et al., 2017; Zirkel, 2014), parents may choose to represent themselves or elect for advocate representation. The number of parents electing to choose the services of an advocate (7%) or represent themselves (16%), twenty-seven percent total, in this study is consistent with the Schanding et al. (2017) study in Texas at twenty-nine percent; smaller than the Blackwell & Blackwell (2015)

study at fifty-five percent; and inconsistent with the Zirkel (2014) study at sixty-nine percent. Due to the private nature of district settlements, data is not available on the number of cases districts choose to settle, but data is available on the lack of understanding of IDEA by parents. Cope-Kasten (2013) interviewed several administrative law judges and found that they believed that, in many cases, parents sought a level of educational services that was not supported by the IDEA; parents tended to unnecessarily blame the school district for their child's lack of progress; parents requested the district utilize a specific program; or parents expected the district to fund transportation and tuition costs for a private school of their choice. This study confirms that districts have either more knowledge or resources due to the disparate percentage of districts prevailing, over eighty percent, over parents in special education due process hearings in Texas.

### **Research Question Three**

The third research question asked if the initiating party is more likely to prevail in special education due process hearings in Texas. The results indicated a non-significant relationship between the initiating and prevailing parties. The researcher hypothesized that the initiating party would be more likely to prevail, but this hypothesis was proven false.

Mueller and Carranza (2011) researched this relationship in a study of five hundred seventy-five special education due process hearings conducted in forty-one states over one year. They found that parents initiated special education due process hearings at a rate of six times more than districts. They also discovered that districts

prevailed in more than 50% of those cases. Shuran and Roblyer (2012) presented descriptive data on initiating and prevailing parties and found that parents initiated 86.6% of the special education due process hearings but only prevailed in 32.1% of the hearings, while districts initiated only 11.6% of the hearings but prevailed in 64.3%.

In addition to parents misunderstanding the educational requirements of the IDEA; blaming the district for their child's stalled progress; expecting the success of a specific program; and claiming reimbursement for transportation or private tuition (Cope-Kasten, 2013), parents may also believe that their participation in the IEP process was meaningful (Schanding et al., 2017). Blackwell & Blackwell (2015) posit that parents initiate special education due process hearings at a higher rate due to the unequal balance in professional advice and legal representation. The findings in this study suggest this theory is true as districts prevailed in three of the four special education due process hearings they initiated.

#### **Research Question Four**

The fourth research question related to the frequency of each special education issue disputed in special education due process hearings in Texas and sought to determine whether parents are more likely to prevail when disputing certain special education issues. The researcher hypothesized a significant association between the special education issues and the prevailing party, and the data analysis proved this hypothesis to be true. The researcher found that the individual education plan (26.7%), IEP, and free appropriate public education (23.6%), FAPE, were the most

often contested special education issues. The other issues, in order of frequency, were evaluation (14.2%), procedural safeguards (14.0%), services (9.4%), child find (7.2%), and discipline (4.9%).

**Frequency of dispute issues.** A comparison of special education issues across studies is complicated by the varying categories selected by each researcher in reporting results. Other studies have utilized a minimum of six to a maximum of twelve researcher-identified categories. The results are similar to the Yocum (2010) study of Texas special education due process hearings from 2006-2008 as FAPE (22%) and IEP (20%) were the most reported issues. Since the other Texas study, the Schanding study, did not include the issues of FAPE and IEP (Schanding et al., 2017), the results cannot be compared. Two other studies, in addition to the Yocum dissertation, considered the IEP as an issue. It was the most disputed issue in the Blackwell (2015) study and the second most disputed issue in the Mueller and Carranza (2011). FAPE was considered as an issue category in the Shuran and Roblyer (2012) study and was the most disputed issue in the Tennessee study.

**Significance of dispute issues.** The researcher discovered a relationship between the dispute issue and the prevailing party for three dispute issues. Parents are more likely to prevail on two dispute issues, services and IEP. Districts are more likely to prevail on FAPE issues. These findings are similar to the Mueller & Carranza study of cases in forty-one states in finding that parents prevailed in higher numbers in disputes over the IEP (43%), related services (36%), and behavior (32%) (Mueller & Carranza, 2011). Blackwell & Blackwell (2015) found that the majority of



the issues in the IEP and educational program placement in an eight-year study in Massachusetts. The results of this question indicate that parents may not understand the definition and requirements of a free appropriate public education, FAPE, included in the IDEA law.

### **Research Question Five**

The fifth research question related to the frequency of each of the special education student disability categories in special education due process hearings in Texas and sought to determine whether parents are more likely to prevail when students are members of specific disability categories. The researcher found that autism (25.3%), other health impairment (22.2%), and emotional disturbance (11.1%) were the most represented disability categories. The results also indicated a non-significant relationship between the prevailing party and the student disability category. The researcher theorized that there would be a significant relationship between the student disability category and the prevailing party. The results proved this hypothesis false.

**Frequency of disability categories.** The different collection methods again complicate comparisons across studies. This study recorded only the primary student disability category as did the studies of Blackwell & Blackwell (2015), Mueller & Carranza (2011), and Schanding et al. (2017). Other researchers, Yocum (2010) and Shuran & Roblyer (2012), chose to record all areas of a student's eligibility. An additional complication to the comparison is the frequency (13.1%) that the TEA masks the student disability category to protect the anonymity of the student in the

special education due process hearing. However, the three most common student disability categories were also identified in the Yocum study of Texas due process hearings from 2006-2008 (Yocum, 2010) and the Schanding et al. (2017) study of Texas due process hearings from 2011-2015. Schanding et al. ((2017) found autism (25.9%), emotional disturbance (20.1%), and other health impairments (19.4%) were the most common reported special education student disability categories in special education due process hearings. Yocum (2010) found that speech impairment (25%), other health impairment (22%), autism (16%), emotional disturbance (12%) and intellectual disability (12%) were the most common. In studies outside of Texas, Mueller & Carranza (2011) reported learning disability (26.3%), autism (20.2%), and other health impairments as the leading disability categories from a study involving data from forty-one states; Shuran & Roblyer (2012) reported autism (18.8%), multiple disabilities (18.8%), and learning disability as the most common disability categories in a study of due process hearing cases in Tennessee; and Blackwell & Blackwell (2015) found that multiple disabilities (29.1%), the default category for the research team when unsure of the primary disability, learning disability (23.6%), and autism (14.3%) were the most prevalent student disability categories in a Massachusetts study.

**Significance of disability categories.** The second portion of the research question sought to determine if there were a relationship between the special education student disability category and the prevailing party. This study found there was not a significant difference between the prevailing party and the student disability category.

The results of this study support the finding of the Mueller and Carranza (2011) study of forty-one states as they discovered no association between the student disability category and the prevailing party.

The difference in research studies identifying the student disability category demonstrates the fact each special education due process hearing involves a parent that isn't satisfied with the special education services offered to their child or a school district seeking assistance in providing special education services to a student. Conflict may occur over a student in any special education student disability category, so the specific student disability category has little or no bearing in either party initiating or prevailing in a special education due process hearing. The trends establish that autism and other health impairment disability categories are common between studies.

### **Research Question Six**

The final research question related to the representation of student disability categories in special education due process hearings in Texas from January 1, 2016 to December 31, 2019 as compared to the primary student disability category represented across the state of Texas. The researcher hypothesized that there would be significant differences between the disability category percentages, and the results demonstrated significant differences in the 2016-2017, 2017-2018, and 2018-2019 school years, thus, proving the hypothesis true. During the 2016-2017 school year, the emotional disturbance and learning disability categories were significantly over-represented, and the multiple disabilities category was significantly under-represented in special

education due process hearings in Texas. In 2017-2018, autism, multiple disabilities, and visual impairment were over-represented, and in 2018-2019 autism and other health impairment were over-represented.

The results of the study do not support the results of studies by Yocum (2010) and Shuran & Roblyer (2012). Yocum (2010) identified autism and other health impairment as over-represented and learning disabilities as under-represented in a study of special education due process hearings in Texas conducted from 2006-2008. Shuran & Roblyer (2012) found autism and emotional disturbance as over-represented and learning disability and speech impairment as under-represented in special education due process hearings in Tennessee from 1996-2007. This study identified autism as over-represented in two out of three years and emotional disturbance as over-represented in one of three years. The difference in findings may be explained by different data collections methods as this study recorded the primary disability category to align with the TEA primary student disability categories and both the Yocum (2010) and Shuran & Roblyer (2012) studies recorded all disability categories of eligibility for each student; the difference in the time periods analyzed as this study analyzed each school year and the Yocum (2010) and Shuran & Roblyer (2012) studies combined the populations; or simply the individual nature of special education due process hearings.

Each year parents and districts initiate special education due process hearings in an effort to resolve conflict over a student's special education services. Since this

conflict involves individual students, it is not unexpected that research studies of different time frames and locations would discover differing results.

## **Implications for Practice**

### **Policy Implications**

The field of special education has improved since parents began their advocacy efforts to prevent discrimination of their children after the landmark decision in *Brown v. Board of Education* (1954). Each authorization of special education law from §504 of the Rehabilitation Act (P.L. 93-112) to the EAHCA (P.L. 94-142) to the Individuals with Disabilities Act (P.L. 101-476) has addressed gaps in the previous law to ensure meaningful educational opportunities for students with special needs. While the IDEA has come a long way in ensuring the education of exceptional students, the current system can be improved by fully defining the meaning of educational benefit, examining the inequity of due process hearing decisions, creating a system accessible to those without means to initiate a due process hearing complaint, and exploring other alternatives to due process hearings that promote collaboration over conflict.

Three court cases have added meaning to the IDEA provision of a free appropriate public education with meaningful educational benefit. After hearing the first case, *The Board of Educ. v. Rowley* (1982), the Supreme Court issues a two-part test that asks if the IEP is individualized and intended to deliver an educational benefit (Romberg, 2017). In 1993, the Third Circuit U.S. Court of Appeals used the Rowley decision in *Doe v. Board of Education of Tullahoma City Schools* (1993) to explain

that the school system is required to provide a Chevrolet version, and not a Cadillac version, of a public education to meet the IDEA requirements (Millman, 2007). Finally, the Supreme Court strengthened the definition of meaningful education in 2017 through the ruling in *Endrew F. v. Douglas County School District* (2017) by formulating a two-part clarifying test, the *Rowley/Endrew* test that asks if the district complied with IDEA procedures and the IEP was designed for the student to make progress considering the situation (Yell & Bateman, 2017). While this test has clarified the intent of the IDEA to provide a meaningful educational benefit, parents and districts are still confused about the definition of meaningful educational benefit. In this study, parents initiated 96% of the special education due process hearings from January 1, 2016 to December 31, 2019 and only prevailed in 19.2% of the hearings. Issues concerning FAPE (23.6%) and the IEP (26.7%) comprised over fifty percent of the issues in these special education due process hearings. The educational community would benefit from, at a minimum, the U.S. Department of Education providing expansive guidance on the requirements for FAPE, the IEP, and meaningful education, and, at the maximum, Congress fully defining these requirements in a reauthorization of the IDEA.

### **Parent Education**

The number of court cases and special education due process hearings attest to the lack of understanding over the intent of due process. The TEA offers IDEA mandated mediation and complaint resolution services, as well as voluntary IEP facilitation sessions, to allow parents and schools to resolve differences before

entering into the formal legal proceedings of a due process hearing (TEA, 2017). Research and the results of this study suggest that parents do not understand the burden of proof and evidentiary requirements or the complex and technical nature of the due process hearings (Cope-Kasten, 2013). One of the more contested issues in this study was the unilateral placement of children in private schools by parents. Parents prevailed in eight out of twenty-eight cases, twenty-eight percent, of this nature in this study. These eight cases represented forty-two percent of the total of cases where parents prevailed in the special education due process hearings in Texas between January 1, 2016 and December 31, 2019. While the parents in *Andrew F. v. Douglas County School District* (2017) prevailed in their move to place their child in a private school unilaterally, the Supreme Court did not open the floodgates for parents to singlehandedly move their child into a private setting without the districts making egregious errors such as failing to provide services outlined in the IEP, changing a student's placement without an ARD committee meeting to change the IEP, or failing to fully evaluate a student or consider the student's present levels of academic achievement and functional performance, PLAAFP, before modifying an IEP. In addition, while procedural safeguards are in place to protect students, courts are averse to rule against districts in due process hearings for the honest mistake of providing notice or conducting an evaluation a few days after the deadline. Parents need training and resources from a trusted source that outlines the procedures and requirements of prevailing in a due process hearing and the common unintended consequences of broken relationships, lost learning, and financial hardship.

## **Collaboration**

Many parents feel that they are left out and uninformed of the planning and decision making process; district staff does not appreciate or value their contribution to the ARD Committee; and that they are not as qualified as professional educators to develop an educational plan for their child when they are participating in collaborative efforts to develop and provide special education services for their child (Shuran & Roblyer, 2012). Burke and Goldman (2019) posit that educators and parents encounter barriers to collaboration that include unbalanced power dynamics, lack of professionalism, poor communication, and a lack of respect. The high percentage of parents initiating special education due process hearings in this study, 96%, and the moderately high number of disputes involving procedural safeguard claims, 14%, confirm this statement. Mueller and Piantoni (2013) conducted a qualitative study of special education directors and found that directors successful in collaboration employed two unique strategies. One strategy was conducting an exercise for educators participating in the IEP to imagine themselves in the parents' shoes. Another suggestion was redistributing the power by providing information ahead of the meeting, working through the development of IEP with the use of a projector instead of multiple copies requiring everyone to take notes, and providing a liaison for parents to help them work through the process. School districts could improve collaboration with parents by offering conflict resolution and collaboration training to staff members and involving neutral parties earlier in the collaborative process through the facilitated IEP process. In addition, educators can strengthen the family-school



partnership through routine communication, flexibility in setting meetings, welcoming parents into meetings and ensuring they have a seat at the table, maintaining reliability, and being open-minded (Burke & Goldman, 2019). Parents who feel the district hears their ideas and recognizes their concerns are more likely to participate and value their partnership with the school district.

### **Educator and Administrator Preparation**

Special education training for teachers and administrators is limited and may only include training through mentoring by teachers and administrators with experience working with exceptional children (Shuran & Roblyer, 2012). Teachers and administrators would benefit from formal and informal training on the IDEA. One uniformed mistake can lead to conflict with parents over special education services and ultimately result in a due process hearing. In addition to learning the intricacies of the IDEA, educators and administrators would benefit from analyzing due process hearing results where the parents prevailed to identify the violations of IDEA that led to the decision and practices that could have, instead, complied with the IDEA and provided the student with meaningful educational benefit.

### **Limitations**

This study was limited in generalizability due to the unique nature of each special education due process hearing as each hearing focuses on one student's special education services. Another limitation is the unstandardized format of the special education due process hearing dockets. Each hearing officer follows a different

format, which slowed the data collection process. The study was also limited to the data provided publicly by the TEA. The Office of Legal Services reviews each due process hearing docket and redacts any identifying data before making the data available on the TEA web site. In some cases, the TEA masked the special education student disability category or dispute issues to protect the identity of a student in a small school district. The researcher eliminated cases with masked data in some research queries to facilitate the analysis of the data. This redacted data could have informed the study by providing more information about the initiating and prevailing parties, dispute issues, and special education student disability categories.

### **Future Studies**

This study investigated the nature of special education due process hearings in Texas from January 1, 2016 to December 31, 2019. The results showed that parents are more likely to initiate a due process hearing and less likely to prevail in that hearing; the most common dispute issues are FAPE, the IEP, and Evaluation; parents are more likely to prevail when disputing the IEP and services while districts are more likely to prevail in FAPE issues; autism, other health impairment, emotional disturbance, and learning disabilities are the most often represented special education student disability categories; and, finally, student disability categories represented in special education due process hearings are significantly different than the student disability categories represented in the special education student population. This study would be enhanced by a qualitative analysis of interviews or exit questionnaires completed by parents and districts involved in each dispute, which could lead to more

insight into each party's rationale in initiating and responding in a special education due process hearing. A study of cases resolved in mediation might provide insight into the techniques involved in securing a compromise between parties before progressing to a special education due process hearing. An additional qualitative analysis of the findings of fact regarding unilateral private placement by parents might provide insight into the characteristics of issues that cause parents to lose faith in the school system. Finally, a study could explore the decisions in any cases that were appealed to the judicial system (Bailey & Zirkel, 2015).

### **Summary**

Special education due process hearings are the last resort for parents and districts to solve differences over a student's individual educational plan before entering the legal system. The conflict in due process cases fractures relationships between the parents and district; places a financial burden on both parties; and, in some cases, delays the educational services a student needs for a free appropriate public education.

This study analyzed one hundred special education due process hearings conducted in Texas from January 1, 2016 to December 31, 2019 using a descriptive, quantitative design. The researcher collected data on the initiating and prevailing parties, dispute issues, and special education student disability category and analyzed this data to identify trends to inform policy and practice. The data analysis demonstrated that parents are more likely to initiate special education due process hearings and districts are more likely to prevail in those hearings. The most common

dispute issues are over the IEP and FAPE, and parents are more likely to prevail in issues regarding the IEP and services while districts are more likely to prevail in FAPE issues. The most represented student disability categories are autism and other health impairments. These findings suggest that all parties would benefit from a reauthorization of IDEA that includes a comprehensive definition of meaningful educational benefit, a system for solving disputes that focuses on collaboration instead of conflict, and a process for those without means to pursue a due process complaint. Parents would benefit from objective information that details the benefits and drawbacks of initiating a special education due process hearing and schools embracing a more collaborative stance in ARD Committee meetings that welcomes and respects parental input. Educators and administrators would benefit from informal and formal training opportunities that communicate the intricacies of the IDEA and provide opportunities to analyze special education due process hearings and devise alternative solutions that would result in a meaningful educational benefit for the student. Finally, students would benefit from a system of mutual trust and respect that considers their educational needs above all else.

## REFERENCES

- Bailey, T. R., & Zirkel, P. A. (2015). Frequency trends of court decisions under the individuals with disabilities act. *Journal of Special Education Apprenticeship*, 28(1), 3–13. Retrieved from <https://law.seattleu.edu/Documents/cle/Bailey-Zirkel IDEA Case Law Trends article.pdf>
- Barnes, M. E. (2019). *A content analysis of disability due process cases in missouri from 2008-2018* (Liberty University). Retrieved from <https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=3086&context=doctoral>
- Blackwell, W. H. (2019). Independent educational evaluations as issues of dispute in special education due process hearings. *Journal of Human Services: Training, Research, and Practice*, 4(1), 1–23. Retrieved from <https://scholarworks.sfasu.edu/cgi/viewcontent.cgi?article=1057&context=jhstrp>
- Blackwell, W. H., & Blackwell, V. V. (2015). A longitudinal study of special education due process hearings in Massachusetts: Issues, representation, and student characteristics. *SAGE Open*, 5(1). <https://doi.org/10.1177/2158244015577669>
- Brown v. Board of Education, 349 US 294 (1954)
- Burke, M. M., & Goldman, S. E. (2019). Working with parents. In D. F. Bateman & M. Yell (Eds.), *Current Trends and Legal Issues in Special Education*. Thousand Oaks, California: Corwin.
- Cedar Rapids Community School Dist. v. Garret F., 526 U.S. 66, 119 S. Ct. 992, 143 L. Ed. 2d 154 (1999).
- Connolly, J. F., Zirkel, P. A., & Mayes, T. A. (2019). State due process hearing systems under the IDEA: An update. *Journal of Disability Policy Studies*. <https://doi.org/10.1177/1044207319836660>
- Conroy, T., & Yell, M. (2019). Free appropriate public education after endrew f . v . douglas county school district ( 2017 ). *Touro Law Review*, 35(1), 1–70. Retrieved from <http://eds.a.ebscohost.com.lib-e2.lib.ttu.edu/ehost/pdfviewer/pdfviewer?vid=3&sid=45ac5cef-5a4b-4f5b-8bfe-d2632ee57d38%40sdc-v-sessmgr01>

- Cope-Kasten, C. (2013). Bidding ( fair ) well to due process : The need for a fairer final stage in special education dispute resolution. *Journal of Law and Education*, 42(3), 501–540. Retrieved from [http://digitalcommons.macalester.edu/cgi/viewcontent.cgi?article=1030&context=poli\\_honors](http://digitalcommons.macalester.edu/cgi/viewcontent.cgi?article=1030&context=poli_honors)
- Cowin, J. (2018). Is that appropriate?: Clarifying the IDEA’s free appropriate public education standard post- Andrew F. *Northwestern University Law Review*, 1133(3), 587–623. Retrieved from <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1361&context=nulr>
- DG v. Flour Bluff Independent School Dist., 832 F. Supp. 2d 755 (S.D. Tex. 2011).
- DK v. Abington School Dist., 696 F.3d 233 (3d Cir. 2012).
- Daniel, P. T. K. (2008). " Some Benefit " or " Maximum Benefit ": Does the No Child Left Behind Act Render Greater Educational Entitlement to Students with Disabilities. *Journal of Law and Education*, 37(3), 347–366.
- Deal v. Hamilton County Bd. of Educ., 392 F.3d 840 (6th Cir. 2004).
- DeGraw, C., Edell, D., Ellers, B., Hillemeier, M., Liebman, J., Perry, C., & Palfrey, J. S. (1988). Public law 99-457: New opportunities to serve young children with special needs. *The Journal of Pediatrics*, 113(6), 971–974. Retrieved from [https://www.academia.edu/download/54068444/s0022-3476\\_2888\\_2980565-120170805-27249-1t94ec1.pdf](https://www.academia.edu/download/54068444/s0022-3476_2888_2980565-120170805-27249-1t94ec1.pdf)
- Doe v. Bd. of Educ. of Tullahoma City Schools, 9 F.3d 455 (6th Cir. 1993).
- Andrew F. v. Douglas Co. School Dist. Re-1, 137 S. Ct. 988, 580 U.S., 197 L. Ed. 2d 335 (2017).
- El Paso Independent School Dist. v. Richard R., 591 F.3d 417 (5th Cir. 2009).
- Escambia County Board Of Education v. Benton, Civil Action 05-0009-WS-B (S.D. Ala. Feb. 25, 2005).
- Field, A. (2018). *Discovering statistics using IBM SPSS statistics* (5th Edition). Thousand Oaks, California: Sage Publications, Inc.
- Gall, M. D., Gall, J. P., & Borg, W. R. (2007). *Educational Research: An Introduction* (8th ed.). Boston, MA: Pearson.

- Gall, M. D., Gall, J. P., & Borg, W. R. (2015). *Applying educational research: How to read, do, and use research to solve problems of practice* (7th Edition). Boston, MA: Pearson.
- Hall By Hall v. Vance Cty. Bd. of Educ., 774 F.2d 629 (4th Cir. 1985).
- Hammel, A. M. (2018). Amy and drew: Two Children who helped determine what free appropriate public education means. *General Music Today*, 31(2), 29–32. <https://doi.org/10.1177/1048371317735921>
- Hendrick Hudson Dist. Bd. of Ed. v. Rowley, 458 U.S. 176, 102 S. Ct. 3034, 73 L. Ed. 2d 690 (1982).
- Honig v. Doe, 484 U.S. 305, 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988).
- Hyatt, K. J. (2007). The new IDEA: Changes, concerns, and questions. *Intervention in School and Clinic*, 42(3), 131–136. <https://doi.org/DOI:10.1177/10534512070420030101>
- Irving Independent School Dist. v. Tatro, 468 U.S. 883, 104 S. Ct. 3371, 82 L. Ed. 2d 664 (1984).
- Kirby v. Cabell County Bd. of Educ., 46 I.D.E.L.R. 156 (2006).
- Jeffers, E. (2014). Discipline for students with disabilities in the recovery school district ( rsd ) of new orleans. *Policy Futures in Education*, 12(8), 1070–1077. <https://doi.org/10.2304/pfie.2014.12.8.1070>
- Katsiyannis, A., Counts, J., Popham, M., Ryan, J., & Butzer, M. (2016). Litigation and students with disabilities: An overview of cases from 2015. *NASSP Bulletin*, 100(1), 26–46. <https://doi.org/10.1177/0192636516664827>
- Katsiyannis, A., & Yell, M. L. (2000). The supreme court and school health services: Cedar rapids v. garret f. *Exceptional Children*, 66(3), 317–326. <https://doi.org/10.1177/001440290006600303>
- Leedy, P., & Ormrod, J. E. (2016). *Practical research: planning and design* (11th Editi). Boston, MA: Pearson.
- Loeb, S., Dynarski, S., McFarland, D., Morris, P., Reardon, S., & Reber, S. (2017). Descriptive analysis in education: A guide for researchers. In *U.S. Department of Education, Institute of Education Sciences. National Center for Education Evaluation and Regional Assistance*. <https://doi.org/10.1094/PDIS.2003.87.5.550>

- Luckasson, R. A. (1986). Attorneys' fees reimbursement in special education cases : Smith v. Robinson. *Exceptional Children*, 52(4), 384–389. Retrieved from <http://web.a.ebscohost.com.lib-e2.lib.ttu.edu/ehost/pdfviewer/pdfviewer?vid=2&sid=e3f6e3e1-1893-4f5e-ab85-9f1a21539f1f%40sessionmgr4006>
- Mead, J. F., & Paige, M. A. (2008). Parents as advocates : Examining the history and evolution of parents' rights to advocate for children with disabilities under the idea. *Journal of Legislation*, 34(2), 123–167. Retrieved from <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1071&context=jleg>
- Millman, K. (2007). An argument for cadillacs instead of chevroleets : How the legal system can facilitate the needs of the twice-exceptional child. *Pepperdine Law Review*, 34(2). Retrieved from <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1157&context=plr>
- Mills v. Board of Education of District of Columbia, 348 F. Supp. 866 (D.C. 1972).
- Mueller, T. G. (2009). Alternative dispute resolution: A new agenda for special education policy. *Journal of Disability Policy Studies*, 20(1), 4–13. <https://doi.org/10.1177/1044207308315285>
- Mueller, T. G., & Carranza, F. (2011). An examination of special education due process hearings. *Journal of Disability Policy Studies*, 22(3), 131–139. <https://doi.org/10.1177/1044207311392762>
- Mueller, T. G., & Piantoni, S. (2013). Actions speak louder than words: How do special education administrators prevent and resolve conflict with families? *Journal of Special Education Apprenticeship*, 2(2). Retrieved from <http://login.ezproxy.lib.umn.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=eric&AN=EJ1127777&site=ehost-live>
- Muijs, D. (2011). *Doing quantitative research in education with SPSS* (2nd ed.). Thousand Oaks, California: Sage Publications, Inc.
- Pennsylvania Ass'n, Ret'd Child. v. Commonwealth of Pa., 343 F. Supp. 279 (E.D. Pa. 1972).
- Pudelski, S. (2013). *Rethinking Special Education Due Process: AASA IDEA Re-authorization Proposals: Part I*. Retrieved from <https://adayinourshoes.com/wp-content/uploads/2016/02/rethinking-special-ed-due-process.pdf>



- Ridley School Dist. v. MR, 680 F.3d 260 (3d Cir. 2012).
- Romberg, J. O. N. (2017). The means justify the ends : Structural due process in special education law. *Harvard Journal on Legislation*, 48(2), 415–466.  
Retrieved from <http://web.b.ebscohost.com.lib-e2.lib.ttu.edu/ehost/pdfviewer/pdfviewer?vid=1&sid=986b5b55-1612-46bb-9304-92a0a6921f79%40pdc-v-sessmgr01>
- Russo-Campisi, J. (2017). Evidence-Based practices in special education: current assumptions and future considerations. *Child & Youth Care Forum*, 46(2), 193–205. <https://doi.org/10.1007/s10566-017-9390-5>
- Schaffer v. Weast, 546 U.S. 49, 126 S. Ct. 528, 163 L. Ed. 2d 387 (2005).
- Schanding, G. T., Cheramie, G. M., Hyatt, H., Praytor, S. E., & Yellen, J. R. (2017). Analysis of special education due process hearings in texas. *SAGE Open*, (April-June 2017), 1–6. <https://doi.org/10.1177/2158244017715057>
- Shaver, E. (2015). Every day counts: Proposals to reform the idea’s due process Structure. *Case Western Reserve Law Review*, 66(1).  
<https://doi.org/10.2139/ssrn.2600654>
- Shuran, M. B., & Roblyer, M. D. (2012). Legal challenge: Characteristics of special education litigation in tennessee schools. *NASSP Bulletin*, 96(1), 44–66.  
<https://doi.org/10.1177/0192636511431009>
- Smith v. Robinson, 468 U.S. 992, 104 S. Ct. 3457, 82 L. Ed. 2d 746 (1984).
- Spielberg v. Henrico County Public Schools, 853 F.2d 256 (4th Cir. 1988).
- Springer, K. (2010). *Educational research: A contextual approach*. Hoboken, NJ.
- Steketee, A. (2019). Honig v. doe. Retrieved February 5, 2020, from Education Law website: <https://usedulaw.com/336-honig-v-doe.html>
- Texas Education Agency. (2017). *TEA dispute resolution systems handbook*. Retrieved from [https://tea.texas.gov/sites/default/files/SE Dispute Resolution Handbook March 2017.pdf](https://tea.texas.gov/sites/default/files/SE%20Dispute%20Resolution%20Handbook%20March%202017.pdf)
- Texas Education Agency. (2019). *Technical assistance: Child find and evaluation*. Retrieved from [https://tea.texas.gov/sites/default/files/FINAL Child Find and Evaluation - complete\\_11.1.19\\_accessible-locked.pdf](https://tea.texas.gov/sites/default/files/FINAL%20Child%20Find%20and%20Evaluation%20-%20complete_11.1.19_accessible-locked.pdf)

- Texas Education Agency. (2020a). *Special education databook: Demographic data-disability*. Retrieved from <https://tea4avwaylon.tea.state.tx.us/Tea.DataBook.Web/Forms/ReportViewer.aspx?report=DemographicDisability&graph=Count>
- Texas Education Agency. (2020b). Special education due process hearing decisions. Retrieved from Texas Education Agency website: [https://tea.texas.gov/About\\_TEA/Government\\_Relations\\_and\\_Legal/Special\\_Education\\_Hearings/Due\\_Process\\_Hearings/Special\\_Education\\_Due\\_Process\\_Hearing\\_Decisions](https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education_Hearings/Due_Process_Hearings/Special_Education_Due_Process_Hearing_Decisions)
- Turnbull, A., Turnbull, R., Wehmeyer, M., & Shogren, K. A. (2016). *Exceptional lives: Special education in today's schools* (8th Edition). Boston, MA: Pearson.
- Turnbull, H. R., Turnbull, A. P., & Cooper, D. H. (2018). The supreme court, endrew, and the appropriate education of students with disabilities. *Exceptional Children*, 84(2), 124–140. <https://doi.org/10.1177/0014402917734150>
- Vitello, S. J. (1986). The Tatro Case : Who gets what and why. *Exceptional Children*, 52(4), 353–356. Retrieved from <http://web.b.ebscohost.com.lib-e2.lib.ttu.edu/ehost/pdfviewer/pdfviewer?vid=1&sid=86e95e6f-7e4d-4f4e-9697-7c1c76f92a%40pdc-v-sessmgr05>
- Wagner, J. Y., & Katsiyannis, A. (2010). Special education litigation update : Implications for school administrators. *NASSP Bulletin*, 94(1), 40–52. <https://doi.org/10.1177/0192636510372251>
- Walker, D. W., & Daves, D. (2010). *Response to intervention and the courts : Litigation-based guidance*. 21(1), 40–46. <https://doi.org/10.1177/1044207310365060>
- Winkelman v. Parma City School Dist., 550 U.S. 516, 127 S. Ct. 1994, 167 L. Ed. 2d 904 (2007).
- Yell, M. (2019). *The law and special education* (5th ed.). New York: Pearson.
- Yell, M. L., & Bateman, D. F. (2017). Endrew f. v . douglas county school district (2017) fape and the u.s. supreme court. *TEACHING Exceptional Children*, 50(1), 7–15. <https://doi.org/10.1177/0040059917721116>
- Yell, M. L., & Bateman, D. F. (2019). Free appropriate public education and endrew f. v. douglas county school system ( 2017 ): Implications for Personnel Preparation. *Teacher Education and Special Education*, 42(1), 6–17. <https://doi.org/10.1177/0888406417754239>

- Yell, M. L., Katsiyannis, A., Ennis, R. P., & Christle, C. A. (2016). Avoiding substantive errors in individualized education program development. *Council for Exceptional Children*, 31–40. <https://doi.org/10.1177/0040059916662204>
- Yell, M. L., Katsiyannis, A., & Hazelkorn, M. (2007). Reflections on the 25th anniversary of the u.s. supreme court’s decision in board of education v. rowley. *Focus on Exceptional Children*, 39(9), 1–13. Retrieved from <https://journals.ku.edu/focusXchild/article/download/6876/6226>
- Yell, M. L., Katsiyannis, A., Losinski, M., & Marshall, K. (2016). Peer-reviewed research and the iep : Implications of ridley school district v . m . r . and j . r . ex rel . e . r . ( 2012 ). *Intervention in School and Clinic*, 51(4), 253–257. <https://doi.org/10.1177/1053451215589182>
- Yell, M. L., & Shriner, J. G. (1997). The IDEA amendments of 1997: Implications for special and general education teachers, administrators, and teacher trainers. *Focus on Exceptional Children*, 30(1), 1–19. Retrieved from <http://web.b.ebscohost.com.lib-e2.lib.ttu.edu/ehost/detail/detail?vid=1&sid=af8cd9ae-794e-4e87-8e5a-9e26388799ae%40pdc-v-sessmgr02&bdata=JnNpdGU9ZWwhvc3QtbGl2ZQ%3D%3D#AN=507587833&db=eue>
- Yocum, S. S. (2010). *Special education hearings in texas: An analysis of trends and decisions from 2006-2008*. Retrieved from <https://search-proquest-com.lib-e2.lib.ttu.edu/docview/520111809/fulltextPDF/529798467E754964PQ/1?accountid=7098>
- Zirkel, P. A. (2014). Are the outcomes of hearing ( and review ) officer decisions different for pro se and represented parents ? *Journal of the National Association of Administrative Law Judiciary*, 34(2), 263–282. Retrieved from <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1575&context=naalj>
- Zirkel, P. A. (2015). Special education law: Illustrative basics and nuances of key IDEA components. *Teacher Education and Special Education*, 38(4), 263–275. <https://doi.org/10.1177/0888406415575377>
- Zirkel, P. A. (2018). State laws for due process hearings under the individuals with disabilities education act. *Journal of the National Association of Administrative Law Judiciary*, 38(1), 4–33. Retrieved from <https://digitalcommons.pepperdine.edu/naalj/vol38/iss1/2>

Zirkel, P. A., & Skidmore, C. (2014). National trends in the frequency and outcomes of hearing and review officer decisions under the idea: An empirical analysis. *Ohio State Journal on Dispute Resolution*, 29(3), 525–575. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=98507532&site=ehost-live&scope=site>

## APPENDICES

### APPENDIX A

<b>2016 Special Education Due Process Hearings</b>			
<b>Case #</b>	<b>Docket #</b>	<b>Decision Date</b>	<b>District/Charter</b>
2016_1	369-SE-0815	1/15/2016	Bastrop ISD
2016_2	201-SE-0315	2/3/2016	Houston ISD
2016_3	355-SE-0815	2/12/2016	Houston ISD
2016_4	017-SE-0915	2/19/2016	Pflugerville ISD
2016_5	024-SE-0915	3/25/2016	Gregory Portland ISD
2016_6	166-SE-0216	4/13/2016	Allen ISD
2016_7	136-SE-0116	4/25/2016	Killeen ISD
2016_8	102-SE-1115	5/23/2016	Riesel ISD
2016_9	129-SE-0116	6/24/2016	Bullard ISD
2016_10	175-SE-0316	7/5/2016	Warren ISD
2016_11	219-SE-0415	7/19/2016	Highland Park ISD
2016_12	144-SE-0216	7/29/2016	Galveston ISD
2016_13	068-SE-1015	8/3/2016	Spring Branch ISD
2016_14	111-SE-1215	8/15/2016	Houston ISD
2016_15	267-SE-0516	8/22/2016	Leander ISD
2016_16	312-SE-0716	12/5/2016	Northside ISD
2016_17	332-SE-0816	12/6/2016	Tomball ISD
2016_18	305-SE-0616	12/16/2016	Conroe ISD
2016_19	024-SE-1016	12/29/2016	Northside ISD

*Note:* Texas Education Agency, 2020. Retrieved from:  
<https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-process-hearings/special-education-due-process-hearings-2016>

<b>2017 Special Education Due Process Hearings</b>			
<b>Case #</b>	<b>Docket #</b>	<b>Decision Date</b>	<b>District/Charter</b>
2017_1	009-SE-0916	1/13/2017	Huntsville ISD
2017_2	056-SE-0116	1/31/2017	Round Rock ISD
2017_3	316-SE-0716	3/7/2017	Quinlan ISD
2017_4	016-SE-0916	3/14/2017	Abilene ISD
2017_5	223-SE-0416	3/27/2017	Leander ISD
2017_6	072-SE-1116	4/7/2017	Clear Creek ISD
2017_7	062-SE-1116	4/10/2017	Georgetown ISD
2017_8	069-SE-1116	4/21/2017	Uplift Education
2017_9	030-SE-1016	4/24/2017	Cedar Hill ISD
2017_10	183-SE-0417	5/10/2017	Klein ISD
2017_11	286-SE-0616	5/23/2017	Killeen ISD
2017_12	098-SE-0117	6/30/2017	North East ISD
2017_13	101-SE-0117	6/30/2017	Copperas Cove ISD
2017_14	092-SE-1216	7/5/2017	Riesel ISD
2017_15	179-SE-0317	7/6/2017	Clear Creek ISD
2017_16	156-SE-0317	7/7/2017	Lancaster ISD
2017_17	001-SE-0916	7/13/2017	North East ISD
2017_18	014-SE-0916	7/15/2017	Killeen ISD
2017_19	157-SE-0317	7/31/2017	Lubbock-Cooper ISD
2017_20	117-SE-0217	8/1/2017	Pearland ISD
2017_21	195-SE-0417	8/15/2017	Port Arthur ISD
2017_22	224-SE-0517	8/18/2017	Smithville ISD
2017_23	158-SE-0317	8/25/2017	Lubbock-Cooper ISD
2017_24	223-SE-0517	9/25/2017	El Paso ISD
2017_25	099-SE-0917	10/4/2017	Northside ISD
2017_26	250-SE-0617	10/12/2017	Argyle ISD
2017_27	248-SE-0617	10/24/2017	Houston ISD
2017_28	218-SE-0517	10/27/2017	Northside ISD
2017_29	009-SE-0917	10/30/2017	Riesel ISD
2017_30	027-SE-1017	11/15/2017	Conroe ISD
2017_31	214-SE-0517	11/17/2017	Vernon ISD
2017_32	208-SE-0517	12/5/2017	Spring Branch ISD
2017_33	249-SE-0617	12/8/2017	Pearland ISD

*Note:* Texas Education Agency, 2020. Retrieved from:  
<https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-process-hearings/special-education-due-process-hearings-2017>

**2018 Special Education Due Process Hearings**

<b>Case #</b>	<b>Docket #</b>	<b>Decision Date</b>	<b>District/Charter</b>
2018_1	021-SE-1016	1/7/2018	Kirbyville ISD
2018_2	280-SE-0817	1/8/2018	Leander ISD
2018_3	263-SE-0717	2/2/2018	Riesel ISD
2018_4	092-SE-1217	2/8/2018	Lewisville ISD
2018_5	276-SE-0817	3/12/2018	Cleveland ISD
2018_6	040-SE-1017	3/19/2018	Huntsville ISD
2018_7	284-SE-0817	3/19/2018	Dallas ISD
2018_8	254-SE-0617	4/20/2018	Northwest ISD
2018_9	172-SE-0318	5/2/2018	Cypress-Fairbanks ISD
2018_10	226-SE-0517	5/18/2018	Leander ISD
2018_11	002-SE-0917	5/18/2018	El Paso ISD
2018_12	255-SE-0617	6/4/2018	Judson ISD
2018_13	146-SE-0218	6/25/2018	Klein ISD
2018_14	148-SE-0317	7/17/2018	Waxahachie ISD
2018_15	121-SE-0118	8/10/2018	Austin ISD
2018_16	035-SE-1017	9/12/2018	Leander ISD
2018_17	186-SE-0417	9/19/2018	Austin ISD
2018_18	241-SE-0518	10/29/2018	Florence ISD
2018_19	224-SE-0418	11/16/2018	Klein ISD
2018_20	185-SE-0418	11/19/2018	Conroe ISD
2018_21	062-SE-1118	12/14/2018	Kirbyville ISD

*Note:* Texas Education Agency, 2020. Retrieved from:  
<https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-process-hearings/special-education-due-process-hearings-2018>

<b>2019 Special Education Due Process Hearings</b>			
<b>Case #</b>	<b>Docket #</b>	<b>Decision Date</b>	<b>District/Charter</b>
2019_1	002-SE-0918	2/4/2019	San Antonio ISD
2019_2	019-SE-0918	2/5/2019	Copperas Cove ISD
2019_3	228-SE-0518	2/9/2019	Houston ISD
2019_4	099-SE-1218	2/28/2019	Conroe ISD
2019_5	165-SE-0118	3/11/2019	Denton ISD
2019_6	014-SE-0918	3/22/2019	Santa Rosa ISD
2019_7	056-SE-1018	4/1/2019	Sweetwater ISD
2019_8	128-SE-0119	5/24/2019	Houston ISD
2019_9	096-SE-1218	6/14/2019	Copperas Cove ISD
2019_10	144-SE-0119	6/21/2019	Conroe ISD
2019_11	222-SE-0319	6/28/2019	Highland Park ISD
2019_12	247-SE-0419	7/17/2019	Lancaster ISD
2019_13	180-SE-0219	8/23/2019	Frisco ISD
2019_14	333-SE-0619	8/29/2019	Pasadena ISD
2019_15	270-SE-0419	8/29/2019	Frisco ISD
2019_16	307-SE-0519	9/5/2019	Round Rock ISD
2019_17	397-SE-0819	9/24/2019	Wimberley ISD
2019_18	316-SE-0519	9/25/2019	Hallsville ISD
2019_19	401-SE-0819	10/8/2019	North East ISD
2019_20	218-SE-0319	10/11/2019	Ysleta ISD
2019_21	300-SE-0519	10/14/2019	Northside ISD
2019_22	262-SE-0419	10/28/2019	Northwest ISD
2019_23	119-SE-1218	10/31/2019	Klein ISD
2019_24	289-SE-0519	11/1/2019	Dallas ISD
2019_25	229-SE-0419	11/1/2019	Wimberley ISD
2019_26	365-SE-0719	11/15/2019	Katy ISD
2019_27	030-SE-0919	12/5/2019	Spring Branch ISD

*Note:* Texas Education Agency, 2020. Retrieved from:  
<https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-process-hearings/special-education-due-process-hearings-2019>



**APPENDIX B**

Texas Education Agency Student Disability Categories						
	2016 - 2017		2017 - 2018		2018 - 2019	
	Count	Percent	Count	Percent	Count	Percent
Auditory Impairment	6900	1.44%	6905	1.38%	6932	1.30%
Autism	60696	12.71%	66774	13.39%	74209	13.94%
Deaf/Blind	143	0.03%	161	0.03%	186	0.03%
Emotional Disturbance	27389	5.74%	29063	5.83%	31782	5.97%
Intellectual Disability	50582	10.59%	54134	10.86%	58348	10.96%
Learning Disability	157067	32.89%	157661	31.62%	163518	30.72%
Multiply Disabled	7144	1.50%	7163	1.44%	7555	1.42%
Orthopedic Impairment	3284	0.69%	3203	0.64%	3183	0.60%
Other Health Impairment	64253	13.46%	68544	13.75%	74345	13.97%
Speech Impairment	95474	19.99%	100372	20.13%	107628	20.22%
Traumatic Brain Injury	1126	0.24%	1163	0.23%	1167	0.22%
Visual Impairment	3468	0.73%	3445	0.69%	3417	0.64%
<b>Total</b>	<b>477526</b>	<b>100.00%</b>	<b>498588</b>	<b>100.00%</b>	<b>532270</b>	<b>100.00%</b>

*Note:* Adapted from: Special education databook: Demographic data. Texas Education Agency (2020a). Retrieved from: <https://tea4avwaylon.tea.state.tx.us/Tea.DataBook.Web/Forms/ReportViewer.aspx?report=DemographicDisability&graph=Count>