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AN ANALYSIS OF SPECIAL EDUCATION DUE PROCESS HEARINGS IN OKLAHOMA

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THE UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

# AN ANALYSIS OF SPECIAL EDUCATION DUE PROCESS HEARINGS IN OKLAHOMA

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

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By

CHARLES R. DAVIS

Norman, Oklahoma

1983

AN ANALYSIS OF SPECIAL EDUCATION

DUE PROCESS HEARINGS IN

OKLAHOMA

APPROVED BY

DISSERTATION COMMITTEE

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## DEDICATION

This dissertation is dedicated to the researcher's parents, Leon Parker Davis, Sr. and Lela Ora Hawthorne Davis, whose lifetime love and total personal commitment to the children they served as professional public school educators inspired countless numbers of former students, and to the researcher's wife, Sherry Ann Childs Davis, and children, Robert Evan, Erin Ann and Charles Eric, with love and appreciation.

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# AN ANALYSIS OF SPECIAL EDUCATION DUE PROCESS HEARINGS IN OKLAHOMA

## CHAPTER I

## INTRODUCTION

### Introductory Statement

The Education for all Handicapped Children Act of 1975, Public Law 94-142 (P.L. 94-142), has provided for the extension to another population of "the absolute right to an education" suggested by Horace Mann in 1846. Public education, initially the exclusive domain of the able-bodied white male, has now been extended to individuals with physical, mental, and emotional handicaps. To insure the right of these individuals to an appropriate public education and related services, P.L. 94-142 extended due process recourse to students, parents, and school districts.

Special education due process is only one aspect of P.L. 94-142, which was intended to accomplish two major purposes. First, it is considered to be an educational bill of rights for individuals with handicapping conditions, and second, it is a funding formula to provide for these acquired rights. P.L. 94-142 provided for a substantial escalation of federal funding for special education programs. Funding was made available to each state which was willing to join with the federal government to provide for these citizens. The states were required to ensure that the local school districts either directly educated or com-

bined with other school districts to educate students with handicapping conditions. The educational bill of rights does not stop at the right to a public education, but stipulates that: the education be appropriate to the needs of the individual student; the environment for the education be the least restrictive alternative; an individualized education program be written for each child with a handicapping condition; and parents and schools be given due process rights to back up the child's right to an appropriate education.

Due process under P.L. 94-142 is intended to provide a vehicle for the resolution of disagreements between parents and schools concerning evaluation, identification, placement, educational program, and related services. It requires public schools to notify in writing and to secure signed agreement from parents prior to a change in any of these school activities (Sec. 615). Special education due process rights are based on the Fifth and Fourteenth Amendments, with the first specific guidelines provided by the Pennsylvania Association for Retarded Citizens (PARC) and Mills cases.

Concerns have been expressed by public school administrators about the possibility of massive numbers of school hearings and school bankruptcy; to date, these situations have not materialized (Zimmerman and Robinson, Note 1). Smith (1981) reports that Wyoming had not conducted a hearing as of the spring of 1980. Data collected at the same time from 41 other states indicated that a total of 3,691 hearings had been conducted within those states. Massachusetts accounted for 836 of the 3,691, which left an average of 71.1 hearings per state over the course of two years for the remaining 40 states responding to Smith's

survey.

P.L. 94-142 directs each state to establish and maintain procedures for impartial due process hearings and provides general guidelines for such hearings. State guidelines vary because they must comply with the appropriate state laws in addition to those of the federal government. Because there is such variance between states, researchers such as Turnbull, Strickland and Turnbull (1981) and Budoff, Orenstein and Abramson (1981) have analyzed individual states to assess the status of special education due process. Turnbull, Strickland and Turnbull (1981) focused on characteristics and training needs of hearing officers in North Carolina. They found current regulations governing the appointment of hearing officers to be insufficient to ensure appointment of qualified and impartial persons. In Massachusetts, Budoff, Orenstein and Abramson (1981) looked at hearings which were requested by parents concerned with more appropriate programs within the public schools. They examined the issues raised by parents in 51 decisions.

While a published study concerning special education due process hearings in Oklahoma does not exist to date, Dr. William Zimmerman of the University of Tulsa presented an overview of the status of hearing decisions in Oklahoma at the 1981 American Association on Mental Deficiency (AAMD) convention. Dr. Zimmerman reviewed the cases held through June of 1979. Forty-six requests for hearings had been received by the Oklahoma State Department of Education. Twenty-four of those requests were either mediated or canceled. Of the twenty-two hearings held, eleven decisions favored the parent, four favored the Local Education Agency (LEA), eight were in the appeals process, and one remained

undecided (Zimmerman, Note 2).

In Oklahoma, the State Department of Education (OSDE) coordinates the special education due process hearing procedure. A request is submitted by the parents to the LEA; the LEA then mails it to the OSDE or informs the parents of its intent to file against the parents and then mails the request to the OSDE. The OSDE then assigns a hearing officer and sets the date of the hearing. Hearing decisions may be appealed to the OSDE, which has assigned the review responsibility to a particular individual. This individual appoints two additional OSDE employees to serve with him or her to form the appeals panel. The OSDE received 292 requests for special education due process hearings prior to 1 January 1983. Since Zimmerman's initial cursory review, no one has analyzed the hearings which have occurred as a result of these requests.

## Significance of the Study

This study was designed to analyze special education due process hearings in Oklahoma. This analysis should provide a reference for other states to review their hearing process and, when combined with other data, should provide a clearer picture of special education due process nationally. The combination of these studies could also lead to revision of the federal guidelines.

In Oklahoma, the results of this study should lead to the development of criteria for determining both impartiality and other qualifications of hearing officers. The state education agency may change its hearing procedures to correct problems identified by the study. Parents should ask for specific services after hearing of success on

the same issue elsewhere. The results of this study may cause parents and schools to utilize a particular source of representation in special education due process hearings. Parent advocacy agencies should request that schools provide services without hearings based on the outcomes of hearings reported in this study.

## Statement of the Problem

The problem of this study was to determine the current status of special education due process hearings: who was involved, what issues were raised, and how the parties fared in hearing decisions and decisions after the appeal opportunity.

## Definition of Terms

1. Individual (child or student) with a handicapping condition.--Those (individuals) evaluated in accordance with §§121a.530 - 121a.534 (P.L. 94-142 regulations) as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf blind, multi-handicapped, or as having specific learning disabilities, who, because of those impairments, need special education and related services. (Federal Register 42, no. 163, 23 August 1977, 42480)

2. Special Education.--Specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term includes speech pathology or any other related service if the service con-

of a handicapped child. (Federal Register 42, no. 163, 23 August 1977, 42480)

3. Related Services.--"Transportation and such development, corrective, and other supportive services as are required to assist a handcapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services and medical services for diagnostic or evaluation purposes. The term alsc includes school health services, social work services in schools, and parent counseling and training." (Federal Register 42, no. 163, 23 August 1977, 42479)

4. Party.--A person or group taking one side of a question, dispute, or contest. (Webster's Seventh New Collegiate Dictionary, page 615)

5. Conference.--A meeting between the parents of an individual with a handicapping condition, or the individual him/herself when of legal age and/or responsibility, and representatives of the local public school in order to agree as to the evaluation, identification, placement, and educational program of the individual with or suspected of having a handicapping condition.

6. Special Education Due Process Hearing.--A hearing which may be requested by a parent or a public educational agency to settle disputes between parents and schools concerning evaluation, identification, placement, educational program, and related services.

7. Mediation.--A meeting which includes the conflicting parties in a proposed due process hearing and an impartial third party, the purpose

8. Hearing Officer.--An individual who conducts the meeting between parents and schools in a Due Process Hearing. This person may not be (1) "An employee of a public agency which is involved in the education or care of the child, or (2) be any person having a personal or professional interest which would conflict with his or her objectivity in the hearing." (121a.507, Federal Register 42, no. 163, 23 August 1977, 42495)

9. Demographic.--Data which include age, sex, race, occupation, educational level, and, in the case of students with handicapping conditions, the handicapping conditions.

10. Town.--For the purposes of this study town was defined as an incorporated community with a population of between 1,000 and 50,000 (smaller communities were considered rural while larger communities were labeled urban).

## Research Questions

The purpose of this study is to analyze special education due process in Oklahoma. The specific questions to be addressed are:

### Descriptive Data

1. What percent of requests have resulted in hearings prior to 1 January 1983?
2. What percent of hearing decisions have been appealed prior to 1 January 1983?
3. What are the demographic characteristics of children who have been the focus of due process hearings?
4. What are the relative frequencies of hearings for school districts of differing enrollments?

5. What are the relative frequencies of hearings for school districts located in the various regions of the state?
6. What are the relative frequencies of hearings for school districts located in various environments?
7. What are the demographic characteristics of the hearing officers who have presided at due process hearings?
8. What are the relative frequencies of hearings for each of the general issues?
9. What are the relative frequencies of hearings for the various specific issues?
10. What are the relative frequencies of hearings which were requested by the two parties?
11. What percentage of the hearings have been won by the parents?
12. What percentage of the hearings have been won by the school?
13. What percentage of the hearings have been won by neither party (a draw, a decision somewhere near the middle of the two positions)?
14. What percentage of decisions have been reversed by the appeals panel?
15. What percentage of decisions have been won by parents after the appeal opportunity?
16. What percentage of decisions have been won by school districts after the appeal opportunity?
17. What percentage of decisions have been won by neither party after the appeal opportunity?

Intervariable Relationships

18. How have the different parties fared in hearing decisions and

decisions after the appeal opportunity when school districts are of differing enrollments?

19. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when school districts located are in various regions fo the state?

20. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when the school districts are located in various environments?

21. How have the different parties fared in hearing decisions and decisions after the appeal opportunity, when the various handicapping conditions are involved?

22. How have the parents fared in hearing decisions and decisions after the appeal opportunity when represented by either themselves, an advocate, a public attorney or a private attorney.

23. How have school districts fared in hearings decisions and decisions after the appeal opportunity, when represented by either an administrative official or an attorney?

24. How have the different parties fared in hearing decisions, when the hearing officer's sex is either male or female?

25. How have the different parties fared in hearing decisions, when the hearing officer's age is either 40 and under or over 40?

26. How have the different parties fared in hearing decisions, when the hearing officer's occupation is either special education teacher, special educaton administrator, higher education faculty or others?

27. How have the different parties fared in hearing decisions,

when the hearing officer's education level is either master's or doctoral?

28. How have the different parties fared in hearing decisions and decisions after the appeal opportunity, when the issue was either identification evaluation, placement or free appropriate public education (FAPE)?

29. How have the differe parties fared in hearing decisions and decisions after the appeal opportunity, when the hearing was requested by either the parent or the school district?

30. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when the various specific issues have been involved as the primary concern and and as a secondary concern?

31. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when payment for private services was an aspect of the hearing?

## Limitations of the Study

This study is limited to the state of Oklahoma and the data concerning the hearings held within the state. The potential for analysis is limited by the number of hearings which have been conducted in Oklahoma. The study is also limited by the number of years during which special education due process hearings have been held in the state. The first hearing was conducted during the fall of 1977.

# CHAPTER II

# REVIEW OF LITERATURE

## History

### National

A review of literature relevant to special education due process hearings must begin with its legal base. Due process is established in the Fifth and Fourteenth Amendments to the United States Constitution. The Fifth Amendment states that "No person shall be . . . deprived of life, liberty or property without due process of law;" and the Fourteenth Amendment follows with: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any persons of life, liberty, or property without due process of law;" (sec. 1). Between this foundation in constitutional law and the implementing regulations for Public Law 94-142, which in all but one state provide for special education due process hearings, lies a history of court battles which spawned the present procedures.

Equality in education erupted in 1954 in the landmark decision of Brown v. Board of Education, 347 U.S. 483 (1954). What the Brown case had accomplished for black children became the goal of the Pennsylvania Association for Retarded Children, PARC (Whalen, 1980). Prior to the landmark PARC decision, cases in Utah and Wisconsin set the stage

for "the right to free public education" and "a hearing prior to exclusion" for at least some children with handicapping conditions (Burgdorf, 1980).

In Utah, the parents of Richard Willard Paulsen and Joan Annette Wolf, in a case which is referred to as Wolf v. Legislature of the State of Utah (1969), asked that their children, who were described as trainable mentally retarded, be provided free public education in their resident school district. The Third Judicial District Court, Salt Lake County, Utah, ruled in favor of the parents in Civ. No. 182646 on January 8, 1969.

The Wisconsin case, Marlega v. Board of School Directors of the City of Milwaukee, Wisconsin (1970), prevented the Milwaukee Public Schools from eliminating students with alleged medical problems unless the action was approved by a hearing committee. The hearing was established to meet the due process of law requirements.

These were important decisions, but they did not have the impact of the PARC case. PARC, filed in 1971 as a class action, challenged the constitutionality of four Pennsylvania statutes. The plaintiff class included all mentally retarded children between six and twenty-one years of age. The four relevant laws, as described in Judge Masterson's decision, were:

(1) 24 Purd. Stat. Sec. 13-1375 which relieves the State Board of Education from any obligation to educate a child whom a public school psychologist certifies as uneducable and untrainable. The burden of caring for such a child then shifts to the Department of Welfare which has no obligation to provide any educational services for the child;

(2) 24 Purd. Stat. Sec. 13-1304 which allows an indefinite postponement of admission to public school of any child who has not at-

tained a mental age of five years;

(3) 24 Purd. Stat. Sec. 13-1330 which appears to excuse any child from compulsory school attendance whom a psychologist finds unable to profit therefrom and

(4) 24 Purd. Stat. Sec. 13-1326 which defines compulsory school age as 8 to 17 years but has been used in practice to postpone admission of retarded children until age 8 or to eliminate them from public school at age 17 (Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 343 F. Supp. 279, 1972; hereafter referred to as PARC, 1972).

PARC, through its lawyer, Thomas K. Gilhool, alleged that Sections 1375 and 1304 were unconstitutional because there was neither a requirement to notify parents nor an opportunity for a hearing in which to object, which together denied the due process rights of the parents. Gilhool questioned the "rational basis in fact" for the assertion that certain retarded children were uneducable or untrainable, which he felt violated the equal protection provisions of the Constitution. His third contention concerning these sections contrasted the provisions of other state laws and the state's Constitution, which guaranteed education to all children, to the denial of that right to retarded children. This denial violated due process according to Gilhool (PARC, 1972).

Sections 1330 and 1326 were contested on the basis of their application to retarded children. It was not claimed that the statutes were unconstitutional but rather that they violated due process and equal protection only insofar as they were used to exclude retarded children from the public schools. Gilhool's contention was that Sections 1330 and 1326 were being misinterpreted.

After the three-judge court had been appointed, but prior to the prehearing conference, the parties asked to be allowed to resolve

the demand for due process hearings. The court agreed and delayed the hearing date to allow the parties an opportunity to settle that aspect of the case.

On June 18, 1971, the court approved the Stipulation agreed upon by the parties. Judge Masterson's summation of that Stipulation follows:

> no child who is mentally retarded or thought to be mentally retarded can be assigned initially (or re-assigned) to either a regular or special education status, or excluded from a public education without a prior recorded hearing before a special hearing officer. At that hearing, parents have the right to representation by counsel, to examine their child's records, to compel the attendance of school officials who may have relevant evidence to offer, to cross-examine witnesses testifying on behalf of school officials and to introduce evidence of their own. (PARC, 1972)

In August, after plaintiffs' opening arguments and testimony from four expert witnesses, the state wanted to settle the remaining question by agreement. The equal protection question was resolved with a Consent Agreement dated October 7, 1971. Both the June 18 Stipulation and the Consent Agreement of October 7 were contested by five of twenty-nine Intermediate Units and nine of 569 individual school districts. The objections were principally to the due process hearings included in the June 18 Stipulation. After a meeting in which the parties modified the agreements, all but one Intermediate Unit withdrew. The remaining Intermediate Unit did not question the fairness of the settlement but tried to argue the questions of jurisdiction and abstention. The court found the last contentions to be without merit.

The only remaining objection was from the Pennsylvania Association of Private Schools of Exceptional Children (PAPSEC). PAPSEC did

not like the group approval of transfers from private agencies to approved public programs, which was detailed in the Amended Consent Agreement. The court decided that PAPSEC did not have standing in the case but went on to point out that it was satisfied that "sufficient safeguards" did exist without providing for individual hearings in the situation.

On May 5, 1972, the court issued its Order and Injunction approving the Amended Stipulation and Amended Consent Agreement and enjoining the defendants from their previous "misuse" of state laws to exclude children who were retarded. The Order further directed the defendants to provide appropriate educational programs to all children who are retarded, to include preschool when this is provided for other children. Finally, the Order further directed the defendants to provide notice and hearing opportunities prior to any change of program and upon the re-evaluation of the child, which should be conducted at least biannually or yearly if requested by the parents (PARC, 1972).

The PARC decision has been called "quasi-consensual, quasi-adversarial" by Burgdorf (1980) because it included a stipulation and a consent agreement; however, both were amended and the entire case questioned on the basis of jurisdiction and abstention. Whether consensual or adversarial, the PARC decision caught the attention of the national press according to Lippman and Goldberg (1973), who reprinted a New York Times editorial which started with this sentence:

> The ruling by a three-judge Federal court in Philadelphia that the state of Pennsylvania must provide free public education to all retarded children constitutes a historic step in an area that suffered from public and professional neglect. (p. 45)

The major interest in PARC for this study remains the institution of due process hearings, which had some early difficulties. Kirp, Kuriloff and Buss (1975) reported shortages of trained hearing officers which created a backlog of cases. Of the cases which went to hearing during the first year, most were won by parents, and parents won much more often when represented by counsel (Kirp, Kuriloff & Buss).

PARC was certainly important; however, another case filed in the District of Columbia while PARC was still in progress surpasses it by involving children with a variety of handicapping conditions, attacking local practice, and being decided on its merits (Whalen, 1980). Mills v. Board of Education, 348 F. Supp. 866 (1972), was brought in behalf of seven school-age children who were excluded from public school on the basis of their handicapping conditions. Mills did not have a strong parent group behind it as did PARC; instead, three organizations of lawyers were responsible (Kirp, Kuriloff and Buss). The problem as stated by Judge Waddy's decision was that:

> The genesis of this case is found (1) in the failure of the District of Columbia to provide publicly supported education and training to plaintiffs and other "exceptional" children, members of their class, and (2) the excluding, suspending, expelling, reassigning and transferring of "exceptional" children from regular public school classes without affording them due process of law. (348 F. Supp. 868)

The defendants argued that they did not have the funds to afford the necessary program to remedy the problem and they were generally uncooperative with the court according to Judge Waddy's decision. The Judge's Judgement and Decree granted summary judgement to the plaintiffs and went on to detail the rights of students with handicapping conditions and the rights of their parents, which included the right and spe-

cific guidelines of special education due process hearings (Mills, 1972).

The Mills case lies in the shadow of PARC in the minds of many observers principally because it followed PARC, if only by a few months. However, as is pointed out by Burgdorf (1980), the PARC case is not cited in Mills a single time. Burgdorf reminds us that Mills orders due process, including hearings, for children with any recognized handicapping condition--not just the retarded as in PARC. It was the Mills decision which established much of the special education due process hearing procedure written into P.L. 94-142.

On the heels of the PARC and Mills decisions, Congress enacted Section 504 of the Rehabilitation Act of 1973.

> Sec. 504. No otherwise qualified handicapped individual in the United States as defined in section 7(7), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. (Emphasis added)

Because public schools receive Federal aid, this civil rights legislation required them to educate students with handicapping conditions. Sec. 504 did not, however, include due process hearing procedures for schools.

At that time there existed a mandate to serve students with handicapping conditions, but the public schools across the country were finding funding difficult, as had been suggested by the defendant in Mills. The answer to this problem also answered the due process hearing question posed by Sec. 504. It was Congress which responded in 1975 with the Education for All Handicapped Children Act (P.L. 94-142). As a

funding bill, P.L. 94-142 was established to pay the excess cost of educating students with handicapping conditions (Sec. 611). In this situation, excess cost meant the cost above the educational expense of the non-handicapped (Sec. 4(20)). However, there were stipulations which applied to each state which would receive these funds (Sec. 612). One of these stipulations was procedural due process, which included hearings similar to those required in the PARC and Mills cases (Sec. 615). These hearings were one of the safeguards to ensure that the other provisions of this legislation were adhered to. The other major provisions required: "a free appropriate public education" (Sec. 612(2)(B)), education with non-handicapped students or as close to the regular class as possible (Sec. 612(5)(B)), non-discriminatory testing and evaluation of students (Sec. 612(5)(C)), and an "individualized education program for each handicapped child" (Sec. 612(4)).

The requirements of Sec. 504 and P.L. 94-142 were detailed by regulations. Sec. 504 regulations briefly mention due process hearings, suggesting P.L. 94-142 as a possible model.

§84.35 Procedural safeguards.

> A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of Section 615 of the Education of the Handicapped Act is one means of meeting this requirement. (Federal Register 42, no. 86, 4 May 1977, 22683. Emphasis added.)

P.L. 94-142 implementing regulations outline special education

due process hearings in Subpart E, Procedural Safeguards. The regulations allow school districts as well as parents to request hearings concerning "identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child" (121a.506(a), Federal Register 42, no. 163, 23 August 1977, 42495). Each individual state can decide whether the hearings within its jurisdiction will be conducted by the state education agency (SEA) or by the local education agency (LEA) (121a.506(b)). If there is free or inexpensive representation in the area, the LEA must tell the parents (121a.506(e)). In a special comment, the regulations note that mediation may be helpful prior to the hearing; however, mediation is not required and is not a reason to delay the hearing.

The hearing is to be conducted by an impartial hearing officer who is not an employee of or affiliated with the LEA (121a.507(a)). A hearing officer must have some other vocation in addition to his/her role as a hearing officer. The agency responsible for hearings must maintain a roster of hearing officers with their qualifications (121a.507(c)).

Each of the parties to a hearing has the right to:

> (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;
> (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
> (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
> (4) Obtain a written or electronic verbatim record of the hearing;
> (5) Obtain written findings of fact and decisions. (The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the State

advisory panel established under Subpart F). (121a.508(a), Federal Register 42, no. 163, 23 August, 1977, 42495)

Parents have the additional rights to:

(1) Have the child who is the subject of the hearing present; and
(2) Open the hearing to the public. (121a.508(b), Federal Register 42, no. 163, 23 August 1977, 42495)

The decision of the hearing officer is final, unless the decision is appealed to the SEA and/or to a state or federal court (121a.509, 510, and 511). The hearing decision is to be mailed to the parties within 45 days of the hearing request, while the appeals decision is to be mailed not later than thirty days after the appeals request (121a.512). Until the hearing or court case is resolved, the child is to attend school in the existing placement unless there is mutual agreement to the contrary (121a.513). These regulations did not answer every question; however, they provided an outline by which each state could establish its own special education due process hearing procedures.

## Oklahoma

In early August, 1977, just prior to the publication of the approved P.L. 94-142 regulations, Dr. Maurice Walraven, Oklahoma Administrator of Special Education, sent Fred Catron, Director of the Eastern Regional Education Service Center, and Buster Meeks, Director of the Cimarron Valley Regional Education Service Center, to Amana, Iowa, for a regional workshop on special education due process hearings. The workshop was conducted by the Midwest Regional Resource Center, Des Moines, Iowa. Catron and Meeks report that initially they were unsure of their role; neither felt confident about his knowledge base at that time.

They were, however, relieved fo find the other workshop participants indicating similar feelings. Catron remembers wondering about the source of the information which was disseminated; the regulations were as yet not published in final form.

Upon their return to Oklahoma, Catron and Meeks met with Dr. Walraven and two other senior Oklahoma State Department of Education (SDE) administrators. In that meeting, Catron and Meeks conveyed in brief the information which they had received at the workshop in Iowa. Catron and Meeks were instructed to take leaves of absence from their respective centers and come to the SDE for a six-month period to develop a manual to serve as a guide for conducting hearings. In addition, they were to serve as the first two hearing officers for the state and they were to train a group of other hearing officers to supplement their services.

The manual, Due Process Procedures: Instruction Manual 1977, was completed in time for the first hearing request which came on October 3, 1977. The first hearing, which followed from that request, was held on November 22, 1977. Shortly after the first hearing, Catron and Meeks conducted at Shawnee the first hearing officer training in Oklahoma. During the next two months, Catron and Meeks presented workshops in each region of the state to inform parents and school administrators of their rights and responsibilities in special education due process. During this time they also conducted other hearing officer training sessions as well as their second hearing. Even after returning to their respective centers, they were utilized for three more hearings (thereby serving in each of the first five hearings conducted in the state) and

several more workshops (Catron, Note 3; Meeks, Note 4).

The responsibility for hearings was then transferred to a special education staff member at the SDE, Mary Robertson, who was sent to a training program in Montgomery, Alabama. The National Association of State Directors of Special Education (NASDSE) was responsible for the program, which now had the benefit of the actual P.L. 94-142 regulations as well as the experiences of the many hearings which had been held under the new provisions (Robertson, Note 5). It should be noted that special education hearings had been held in several states under previous state laws as well as court orders, and these accounted for the formats used by many states before the regulations were published. Robertson returned to Oklahoma to complete a new hearings manual which Catron and Meeks had already started to revise. The new manual, adopted by the State Board of Education on August 24, 1978, has since been revised twice.

The current or second revision, approved by the State Board of Education on February 25, 1982, is in fact the fourth manual. Changes have been necessary to comply with Federal regulations and to remedy problems encountered in hearings. The present manual, titled Due Process in Special Education: Guidelines for Parents and School Administrators, includes the following sections and appendixes:

I. Who May Request a Hearing and For What Purpose

II. How to Request a Due Process Hearing

III. Pre-Hearing Procedures, Responsibilities of School, Parent, State Department of Education, and the Hearing Officer

IV. Mediation

V. Extension of Time

VI. Non-Appearance

VII. Guidelines for Setting Up the Due Process Hearing

VIII. Formal Due Process Hearing

IX. Financial Responsibilities

X. Due Process Hearing Appeal

Appendix

A. P.L. 94-142 - Federal Register

B. Checklist

C. Forms

Though most of the sections have been included in each edition, problems arose after the publication of each one which necessitated subsequent revisions and publication of another edition.

The first manual compiled by Catron and Meeks was based in part on the 1978 state plan for compliance with P.L. 94-142, which had been written during the first months of 1977. One requirement written into the first manual was based on the following statement from the 1978 state plan:

> If the request for a hearing is made more than ten (10) days before a scheduled meeting of the local board of education, it shall be heard at the scheduled meeting. If the request for a hearing is made less than ten (10) days before a scheduled meeting of the local board of education, it shall be heard at the next scheduled meeting of the local board of education. (Amended Annual Program Plan for FY 1978, Section VII, page 3)

Prior to the request being presented to the school board, the parents and school were required to meet within five days of the initial request for hearing. The hearing before the due process hearing officer was to be held within forty-five days of the presentation to the school board.

Finally, the hearing officer had an additional twenty days within which to render a decision. It was possible--with five days between the initial request and the conference, up to forty days between the conference and the presentation to the school board, a possible forty-five days until the hearing and another twenty days for the decision to be rendered --that one hundred and ten days could pass between the initial request and the decision of the hearing officer. The Catron and Meeks manual did not mention mediation as a possible remedy to resolve differences between parents and the school; however, the manual did require the parents and the school to hold a conference within five days of the initial request.

The second manual did mention mediation, but only as a quote from the P.L. 94-142 regulations. The parent-school conference within five days of initial request was again required but, as a result of the P.L. 94-142 regulations, the requirement of going to the local school board was eliminated and the overall timeline was now forty-five days from initial request to the hearing officer's decision (Due Process Hearing Manual, 1978). The elimination of the appearance before the school board was first written into the 1979 state plan, which was prepared during the spring of 1978 (Annual Plan, 1979). The second manual included numerous forms and check sheets for parents, LEA's, the SDE, and hearing officers, which more than doubled those included in the first manual.

A revision of the second manual, which had been supervised by Evelyn Llewellyn, an SDE staff member who had been given responsibility for special education due process in Oklahoma, was approved by the State

Board of Education on May 24, 1979. The principal changes from the second manual included a requirement that, after a hearing request, schools attempt to resolve differences through a conference and now mediation, while the parents were not required to participate in either a conference or mediation. Another change which became the center of controversy at a hearing was a sentence which was included in Section XIV, Guidelines for Consideration in Due Process Hearings Procedures, under subsection B, Confidentiality, which stated:

> The hearing officer shall exclude all persons from the hearing other than the parties, counselors of the parties, SDE representative and witnesses, unless the hearing be open to the public. (page 15)

This sentence was used by a lawyer to prevent the sequestering of witnesses by a hearing officer. The question of sequestering witnesses, along with another question pertaining to the burden of proof in a hearing, led to the second revision of the August 24, 1978 manual.

The burden of proof had been addressed in each of the first two manuals with the same statement:

> The burden of proof, as to the appropriateness of any proposed placement, as to why more normalized placements could not adequately and appropriately serve the child's educational needs, and as to the adequacy and appropriateness of any test or evaluation procedure, will be upon the local agency. (page 1 of both manuals)

The third manual differed only by substituting the word "plan" for the word "placement" and by adding the word "identification" before the word "test." The statement concerning burden of proof was the basis for the school district always presenting its case first. Having to present first concerned many schools and their representatives. They contended that they were not aware of the true nature of the parents' complaint

because only very general statements were used by the parents to request a hearing (Llewellyn, Note 6). This issue led to the deletion of the burden of proof statement in the fourth manual and a requirement that the complaining party present its case first. The issue of sequestering witnesses was resolved in this revision by stating:

> All witnesses shall be sequestered in open and closed hearings at all times. After testimony witnesses may be excused by the Hearing Officers to leave if both parties agree that no further testimony is needed. (page 12)

The fourth manual changed the requirements for parents and schools concerning parent conferences and mediation. According to the February 25, 1982 manual, the school must "attempt to resolve the disagreement by an informal parent conference and/or mediation" (page 4). On page 6, the parents are "encouraged to participate in the formal parent conference and/or mediation," but on page 9 they appear to be required to attend mediation if it is requested by either party. Also on page 9, "Either party may refuse to participate in a conference without prejudice to any procedural safeguard afforded under this manual or any applicable state or federal law" (page 9). Whether the parties engage in conference or mediation, the required timelines must be observed.

An addition to the fourth manual is a required pre-hearing conference the day of the hearing. The purpose of this conference is to:

1. identify representatives,
2. clarify the purpose of the hearing,
3. determine if procedural safeguards have been followed,
4. establish hearing protocol,
5. query parties regarding preliminary problems, objections or questions and
6. discuss other issues of special concern. (page 14)

Conferences of this nature had been routinely conducted for at least two years. Currently the SDE seeks to fulfill its obligation under P.L. 94-142 due process hearing requirements through the guidelines of the fourth manual, and it conducts yearly hearing officer training supported by this document (Llewellyn, Note 6).

A significant factor in Oklahoma special education due process hearings has been the Protection and Advocacy Agency for Developmental Disabilities (PAADD). PAADD is a non-profit agency operating totally on Federal funds under P.L. 95-602. Established in October of 1977, the agency is managed by a nine-member board. The board represents several organizations concerned with developmental disabilities, and its members come from across the state of Oklahoma. PAADD seeks to support individuals with handicapping conditions in all aspects of their lives; however, the first priority is education. The agency began operation with only its director, Dr. Bob Van Osdol, and a secretary, but it was soon necessary to employ a lawyer to represent the concerns of individuals with handicapping conditions and their parents. Representation for parents in special education due process hearings in Oklahoma over the first four and one-half years has usually been provided by PAADD. The agency works from parent requests or referrals and does not search out schools or programs with problems unless there is a request (Van Osdol, Note 7).

## Research

### National

While almost every special education text and several articles discuss due process hearings, only a few have published research on the subject. (Black & Berdine, 1981; Ekstrand, 1979; Hewett, 1977; Jacobs, 1979; Reynolds & Birch, 1977; Silberberg, 1979) Two national studies conducted in 1980 provided a limited view of special education due process hearings. One major difficulty experienced by both Smith (1981) and Zimmerman and Robertson (Note 1) was the lack of cooperation they encountered when surveying the various state education agencies (SEA's). Smith was more successful, receiving forty-two replies from fifty-one requests. Another difficulty encountered in both studies was the lack of specificity in the responses. Some SEA's reported data on only one year; others, for only those years since P.L. 94-142; and some included data on hearings conducted since 1972 without distinguishing yearly totals. Despite these problems, the two studies were able to draw some tentative conclusions.

Zimmerman and Robertson point to the moderate number of hearings conducted, suggesting that perhaps mediation was resolving many of the differences prior to a hearing. They further speculated that the cost of hearings had led administrators to resolve problems without hearings if possible. Their research found that

> hearings were requested for three basic reasons including appropriateness of program (47%), appropriateness of placement (39%), and requesting an appropriate evaluation of the child (14%). (page 1)

Sixty-eight percent of the hearing officers in this study were professional educators, while seventeen percent were lawyers, four percent were parents of children with handicapping conditions, and eleven percent were what they called other interested parties. "Eleven states reported using only professional educators and six states used only lawyers as hearing officers" (page 2). The cost of hearings, according to Zimmerman and Robertson, was paid by the SEA in one-half of the states responding, by the LEA in one-third, was shared by both the SEA and the LEA in thirteen percent of the states, and was paid by a regional education agency in three percent of the states.

Both studies found that parents request hearings much more often than schools do; Zimmerman and Robertson report the percentage of requests which originate with parents as 93%, while Smith reports the figure as 96%. Smith's figures on the occupations of the hearing officers were close to those of Zimmerman and Robertson when the various education categories are grouped as one. The reasons for the hearings, which were addressed in the Smith study, reveal an 89% placement figure, with 4% evaluation, less than 1% referral, and 6% related to other issues. An area unchecked by the Zimmerman and Robertson study was the number of hearings held which involved particular handicapping conditions. Smith's numbers in this area, when converted to percentages after removing the figures on gifted and talented which were reported jointly, yield mental retardation--33%, learning disabilities--21%, emotional disturbance--14%, hearing and visually impaired grouped together--7%, and others--24%. Smith also looked at how often the parties won, stating that "rulings were favorable to schools in two-thirds

of parent-requested hearings" (page 235). Schools won a "high percentage" of school-requested hearings also. Smith suggested some possible reasons for the uneven won-lost records as parents being at a disadvantage, or parents using the hearings to "harass and punish" schools, or parents misunderstanding the meaning of "appropriate." Smith closes his article with the question of "whether or not parents have an equal chance of having decisions ruled in their favor" (page 236).

Turnbull, Strickland and Turnbull (1981) address the question of fairness in special education due process hearings by looking at the impartial hearing officer. They point to a lack of specific criteria in the P.L. 94-142 regulation for determining "impartiality and other qualifications." Since the regulations are not specific in this area, Turnbull, Strickland and Turnbull chose to research characteristics, needs, and appointment criteria in a single state. For this study they selected North Carolina, where Strickland is a due process hearing officer.

They found that most hearing officers were white (86%) males (80%) between the ages of twenty-five and thirty-five (36%) or sixty and sixty-five (25%). "All hearing officers had completed high school; 87% had completed undergraduate degrees; and 68% had 1 to 3 years of graduate training" (page 49). About one-third of the hearing officers were lawyers, with retired public school teachers and administrators comprising another one-third. Almost one-fourth of the hearing officers were active professional educators in local public schools or in higher education. The other occupations were diverse, from homemaker to research biologist.

Turnbull, Strickland and Turnbull compiled most of the data for this study at the beginning of the 1978-79 school year, which was three years prior to the publication of their article in September of 1981. The responses by superintendents and new hearing officers to surveys undertaken at this early date might be different from their responses three years later. Turnbull, Strickland and Turnbull were most concerned about the local appointment of hearing officers, who many times had previous links with the particular school districts. They make several suggestions for further research, one of which is to document differences in the decision making of hearing officers from different professions. Other questions include compensation and training of hearing officers.

Another team of researchers looked at special education due process hearings which dealt with requests for more appropriate programs in Massachusetts public schools. Budoff, Orenstein and Abramson (1981) categorized the issues of these hearings as "identification issues, disputes relating to services, placement disputes, and miscellaneous cases" (p. 180). Of the fifty-one decision studies, nine related to identification, with four being requests for identification as gifted. Out of ten cases dealing with direct educational services, parents won seven, the school two, and one was not reported by the researchers. Fifteen cases involved related services, with eight of the fifteen requesting psychiatric or psychological services. The parents won when they were able to show the "direct effect of counseling/psychotherapy on the child's educational progress," which was in four of the eight cases (p. 181). Two of three related service hearings granted summer programs,

while the other decision stated that it was the school's decision whether or not to offer a summer program. Requests for physical therapy and transportation were also won by parents. In cases relating to placement, the least restrictive placement was usually preferred by hearing officers; however, if the hearing officer felt the "quality of service and the integrated approach to the child's needs overrode the least restrictive placement requirement, he or she ruled in favor of the more restrictive placement. Budoff, Orenstein and Abramson suggest that losing on the part of parents is not necessarily losing if the school was required to alter the child's program, even if the alteration was not to the degree desired by the parents.

In Alabama, Frith, Diebold and Walker (1979) pose and answer eighteen legal questions concerning special education due process hearings. Dr. Charles Walker, Associate Professor of Elementary Education, who also holds a Juris Doctorate, provides the answers. One major point established in several questions was that the hearing officer has a source of support in the courts when administrative problems arise in a hearing. These problems might include subpoena powers, refusal to testify once at the hearing, perjured testimony, or delay of the hearing. Walker's response to the question of who should present evidence first seems to support the stand taken in the fourth Oklahoma special education due process hearing manual--namely, that the complaining party should present its case first.

## Oklahoma

A published study concerning special education due process does

not exist to this date; however, Dr. William Zimmerman of the University of Tulsa presented an overview of the status of hearing decisions in Oklahoma at the 1981 American Association on Mental Deficiency (AAMD) convention. Zimmerman's overview discussed the cases conducted through June of 1979. Schools had requested only two hearings as of 30 June 1979, while parents had made forty-four requests. Of the total of forty-six requested, twenty-four had been mediated or canceled. The remaining twenty-two requests resulted in hearings. Eleven of the twenty-two cases were won by parents, schools won four, eight were in the appeals process, and one remained undecided. Since Zimmerman's initial cursory review, no one had analyzed special education due process hearings in Oklahoma.

# CHAPTER III

# METHODOLOGY

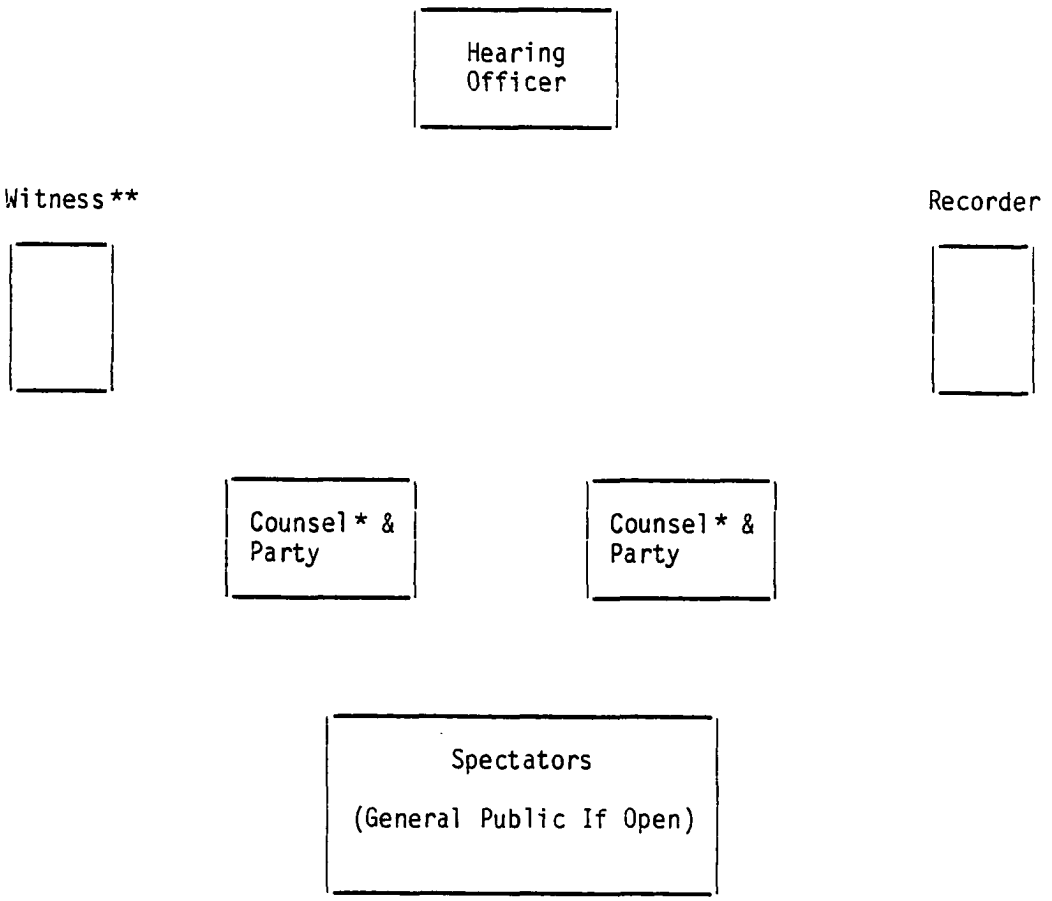
This study was an analysis of special education due process in Oklahoma. This chapter contains an outline of the methodology which was utilized to conduct the investigation.

## Subjects for the Study

The subjects in this study were the individuals who had participated in and/or had been the subject of special education due process hearings in Oklahoma. The number of people involved in a particular hearing ranged from as few as four to an unlimited number. The four who are necessary for a hearing in Oklahoma are: the child (who may or may not be present); the parent or surrogate parent; a school district official or representative; and a hearing officer. The other individuals who could be involved are representatives (lawyer, expert in handicapping condition, or advocate), witnesses, a recorder, and the general public (only if the hearing is open and not a subject of this study). (See page 35.)

Suggested Physical Arrangement

of the Hearing Room




* Or representative
** Other witnesses would be sequestered

Source: Bateman, 1980

## Data Acquisition

Data acquisition was accomplished by reviewing each written decision of hearing held prior to 1 January 1983. The researcher was granted permission by administrative officials of the Oklahoma State Department of Education to review the files containing hearing decisions. The researcher agreed to maintain the confidentiality of student and parent identities, which is a requirement of P.L. 94-142. Hearing decisions are preserved in locked files in the Special Educaiton Section of the State Department of Education. The researcher made repeated visits to the state offices to review each hearing decision. When an item of data was not included in the hearing decision, the researcher made personal telephone calls to the hearing officer who had written the decision or to an official of the school district involved in the specific hearing. The items most commonly found to be missing were the age and the handicapping condition of the child. Appeal decisons are also maintained in the Special Education Section and were reviewed similarly with the exception that questions arising from the review of the appeals were directed to the State Department official who was responsible for special education due process hearing appeals.

## Treatment of Data

The analysis of the data from this study was performed in three stages. In the first stage, data from the hearing data sheets were quantified. The hearing data sheet was constructed such that a categorical numerical value was assigned to each possible response for the listed variables.

In the second stage, relative frequencies in the form of percentages were calculated for each variable. These percentages were utilized to answer research questions one through seventeen which were concerned with intravariable observations.

In stage three, variables concerning the characterisitcs of participants and the issues involved were cross-tabulated with the outcomes of the cases. Within each cell of the cross-tabulations, a percentage was calculated for the relative frequency of that cell to each variable (row percentage and column percentage) and the relative frequency of that cell to the total number of comparisons (total percentage). The rows and columns were then totaled and the relative frequency figured for each level of the variables. These cross-tabulations are presented in tables twenty-two through forty-seven as answers to research questions eighteen through thirty-one.

## Summary of Methodology

This is a descriptive study utilizing the parameters of the population of special education due process cases brought to hearing prior to 1 January 1983, to determine the current status of special education due process hearings in the State of Oklahoma.

# CHAPTER IV

# FINDINGS

## Introduction

This study presents data from each special eduction due process hearing in Oklahoma held prior to 1 January, 1983. The findings from these cases are presented in two sections: first, responses to questions 1-17, which involve intravariable observations; second, responses to questions 18-31, which involve intervariable relationships. When viewing the intervariable relationships the reader should note the actual count prior to observing the row percent since a difference of only one in actual count can reflect a percentage difference of 66.7 to 33.3 with three observations or 100.0 to 00.0 with only one observation. Unless the case or cases reflect a clear precedent as in some specific issues, a large percentage difference resulting from an extremely small actual count difference should be viewed with extreme caution.

## Descriptive Data Questions

1. What percentage of requests have results in hearings prior to 1 January, 1983?

TABLE 1

Disposition of Requests for Hearings
N = 292

| | Absolute Frequency | Relative Frequency |
|---|---|---|
| Requests Resulting in Hearings | 86 | 29.5% |
| Requests Not Resulting in Hearings | 206 | 70.5% |

2. What percentage of hearing decisions have been appealed prior to 1 January 1983?

TABLE 2

Hearing Decisions Appealed
N = 86

| | Absolute Frequency | Relative Frequency |
|---|---|---|
| Hearing Decisions Appealed | 49 | 57.0% |
| Hearing Decisions Not Appealed | 37 | 43.0% |

3. What are the demographic characteristics of children who have been the focus of due process hearings?

TABLE 3

Sex of Children in Due Process Hearings

| Sex of Child | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Male | 53 | 61.6% |
| 2. Female | 33 | 39.4% |

TABLE 4

Age of Children in Due Process Hearings

| Age of Child | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. 0--2 | 6 | 7.0% |
| 2. 3--5 | 9 | 10.5% |
| 3. 6--11 | 36 | 41.9% |
| 4. 12--14 | 16 | 18.6% |
| 5. 15--18 | 13 | 15.1% |
| 6. 19--21 | 5 | 5.8% |
| 7. 22 and over | 1 | 1.2% |

TABLE 5

Race of Children in Due Process Hearings

| Race of Child | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Caucasian | 83 | 96.5% |
| 2. Black | 2 | 2.3% |
| 3. American Indian | 1 | 1.2% |
| 4. Hispanic | 0 | 0.0% |
| 5. Other | 0 | 0.0% |

Table 6

Handicapping Condition of Children in Due Process Hearings

| Handicapping Condition | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Mentally Retarded | 29 | 33.7% |
| 2. Physically Handicapped | 4 | 4.7% |
| 3. Emotionally Disturbed | 10 | 11.6% |
| 4. Learning Disability | 20 | 23.3% |
| 5. Visual | 0 | 0.0% |
| 6. Hearing | 6 | 7.0% |
| 7. Other Health | 1 | 1.2% |
| 8. Multiple | 16 | 18.6% |

4. What are the relative frequencies of hearings for school districts of differing enrollments?

TABLE 7

Hearings by Size of School District Enrollments

| School Enrollment | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Under 1,000 | 27 | 31.4% |
| 2. 1,000--1,999 | 5 | 5.8% |
| 3. 2,000--2,999 | 4 | 4.7% |
| 4. 3,000--3,999 | 10 | 11.6% |
| 5. 4,000--4,999 | 3 | 3.5% |
| 6. 5,000--5,999 | 14 | 16.3% |
| 7. 10,000--14,999 | 10 | 11.6% |
| 8. 15,000--19,999 | 6 | 7.0% |
| 9. 20,000 and larger | 7 | 8.1% |

5. What are the relative frequencies of hearings for school districts located in the various regions of the state?

TABLE 8

Hearings by Geographic Location of School Districts

| Geographic Area | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Northeast | 43 | 50.0% |
| 2. Southeast | 7 | 8.1% |
| 3. Central | 26 | 30.2% |
| 4. Northwest | 5 | 5.8% |
| 5. Southwest | 5 | 5.8% |

6. What are the relative frequencies of hearings for school districts located in various environments?

TABLE 9

Hearings by Environment of School Districts

| School Environment | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Urban | 12 | 14.0% |
| 2. Suburban | 28 | 32.6% |
| 3. Town | 22 | 25.6% |
| 4. Rural | 24 | 27.9% |

7. What are the demographic characteristics of the hearing officers who have presided at due process hearings.

TABLE 10

Sex of Hearing Officers

| Sex of Hearing Officer | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Male | 43 | 50.0% |
| 2. Female | 43 | 50.0% |

TABLE 11

Age of Hearing Officers

| Age of Hearing Officer | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. 40 and under | 53 | 61.6% |
| 2. over 40 | 33 | 38.4% |

TABLE 12

Race of Hearing Officers

| Race of Hearing Officer | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Caucasian | 86 | 100.0% |

TABLE 13

Occupation of Hearing Officers

| Occupation of Hearing Officer | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Special education teacher | 5 | 5.8% |
| 2. Special education Administrator | 40 | 46.5% |
| 3. Higher education faculty | 34 | 39.5% |
| 4. Other | 7 | 8.1% |

TABLE 14

Educational Level of Hearing Officers

| Educational Level | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. M.S. degree | 58 | 67.4% |
| 2. Ph.D. or Ed.D. degree | 28 | 32.6% |

8. What are the relative frequencies of hearings for each of the general issues?

TABLE 15

Hearings by General Issue

| General Issue | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Identification | 1 | 1.2% |
| 2. Evaluation | 6 | 7.0% |
| 3. Placement | 24 | 27.9% |
| 4. FAPE | 55 | 64.0% |

9. What are the relative frequencies of hearings for the various specific issues?

TABLE 16

Hearings by First Specific Issue

| First Specific | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Mentally Retarded Services | 0 | 0.0% |
| 2. Physically Handicapped Services | 0 | 0.0% |
| 3. Emotionally Disturbed Services | 3 | 3.5% |
| 4. Learning Disability Services | 4 | 4.7% |
| 5. Visual Impaired Services | 0 | 0.0% |
| 6. Hearing Impaired Services | 3 | 3.5% |
| 7. Other Health Services | 0 | 0.0% |
| 8. Multi-Handicapped Services | 2 | 2.3% |
| 9. Speech and Language Services | 6 | 7.0% |
| 10. PT Services | 4 | 4.7% |
| 11. OT Services | 0 | 0.0% |
| 12. PT/OT Services | 0 | 0.0% |
| 13. Catherterization | 1 | 1.2% |
| 14. New IEP | 12 | 14.0% |
| 15. Summer School | 5 | 5.8% |
| 16. School Beyond 18 Years of Age | 6 | 7.0% |
| 17. Residency | 0 | 0.0% |
| 18. Self-Contained Special Class | 3 | 3.5% |
| 19. Lab Class | 2 | 2.3% |

TABLE 16 (Continued)

| First Specific | | Absolute Frequency | Relative Frequency |
|---|---|---|---|
| 20. | Regular Class | 0 | 0.0% |
| 21. | Establish Program | 5 | 5.8% |
| 22. | Transfer | 7 | 8.1% |
| 23. | Additional | 3 | 3.5% |
| 24. | Transportation | 2 | 2.3% |
| 25. | Private Services | 12 | 14.0% |
| 26. | Homes Services | 2 | 2.3% |
| 27. | Physical Environment | 3 | 3.5% |
| 28. | Pre-School Services | 1 | 1.2% |

TABLE 17

Hearings by Second Specific Issue

| Second Specific | | Absolute Frequency | Relative Frequency |
|---|---|---|---|
| 0. | No Second Issue | 15 | 17.4% |
| 1. | Mentally Retarded Services | 4 | 4.7% |
| 2. | Physically Handicapped Services | 0 | 0.0% |
| 3. | Emotionally Disturbed Services | 6 | 7.0% |
| 4. | Learning Disability Services | 2 | 2.3% |
| 5. | Visual Impaired Services | 0 | 0.0% |
| 6. | Hearing Impaired Services | 2 | 2.3% |
| 7. | Other Health Services | 1 | 1.2% |

TABLE 17 (Continued)

Hearings by Second Specific Issue

| Second Specific | Absolute Frequency | Relative Frequency |
|---|---|---|
| 8. Multi-Handicapped Services | 7 | 8.1% |
| 9. Speech and Language Services | 7 | 8.1% |
| 10. PT Services | 4 | 4.7% |
| 11. OT Services | 1 | 1.2% |
| 12. PT/OT Services | 5 | 5.8% |
| 13. Catherterization | 0 | 0.0% |
| 14. New IEP | 5 | 5.8% |
| 15. Summer School | 3 | 3.5% |
| 16. School Beyond 18 Years of Age | 0 | 0.0% |
| 17. Residency | 4 | 4.7% |
| 18. Self-Contained Special Class | 5 | 5.8% |
| 19. Lab Class | 3 | 3.5% |
| 20. Regular Class | 0 | 0.0% |
| 21. Establish Program | 0 | 0.0% |
| 22. Transfer | 3 | 3.5% |
| 23. Additional Evaluation | 5 | 5.8% |
| 24. Transportation | 1 | 1.2% |
| 25. Private Services | 3 | 3.5% |
| 26. Homes Services | 0 | 0.0% |
| 27. Physical Environment | 0 | 0.0% |
| 28. Pre-School Services | 0 | 0.0% |

10. What are the relative frequencies of hearings which were requested by the two parties?

TABLE 18

Hearings by Party Making the Request

| Party Requesting | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Parents | 80 | 93.0% |
| 2. School Districts | 6 | 7.0% |

11. What percentage of the hearings have been won by the parents?

12. What percentage of the hearings have been won by the school?

13. What percentage of the hearings have been won by neither party?

TABLE 19

Successful Parties in Hearing Decisions

| Successful Party | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Parents | 38 | 44.2% |
| 2. School Districts | 41 | 47.7% |
| 3. Neither | 7 | 8.1% |

14. What percentage of decisions have been reversed and significantly modified by the appeals panel?

TABLE 20

Hearing Decisions Reversed or Significantly Modified by Appeals

| Hearing Decision | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Reversed | 6 | 7.0% |
| 2. Significantly Modified | 3 | 3.5% |

15. What percentage of decisions have been won by parents after the appeal opportunity?

16. What percentage of decisions have been won by school districts after the appeal opportunity?

17. What percentage of decisions have been won by neither party after the appeal opportunity?

TABLE 21

Successful Parties After Appeal Opportunity

| Successful Party | Absolute Frequency | Relative Frequency |
|---|---|---|
| 1. Parents | 34 | 39.5% |
| 2. School Districts | 43 | 50.0% |
| 3. Neither | 9 | 10.5% |

Intervariable Relationship Questions

18. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when school districts are of differing enrollments?

TABLE 22

Successful Party in Hearing Decisions By Enrollment Size of School District

| School Enrollment | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Under 1,000 | | | | |
| Count | 13 | 13 | 1 | 27 |
| Row Pct. | 48.1 | 48.1 | 3.7 | 31.4 |
| Col. Pct. | 34.2 | 31.7 | 14.3 | |
| Tot. Pct. | 15.1 | 15.1 | 1.2 | |
| 2. 1,000--1,999 | | | | |
| Count | 3 | 2 | 0 | 5 |
| Row Pct. | 60.0 | 40.0 | 0.0 | 5.8 |
| Col. Pct. | 7.9 | 4.9 | 0.0 | |
| Tot. Pct. | 3.5 | 2.3 | 0.0 | |
| 3. 2,000--2,999 | | | | |
| Count | 2 | 1 | 1 | 4 |
| Row Pct. | 50.0 | 25.0 | 25.0 | 4.7 |
| Col. Pct. | 5.3 | 2.4 | 14.3 | |
| Tot. Pct. | 2.3 | 1.2 | 1.2 | |
| 4. 3,000--3,999 | | | | |
| Count | 4 | 5 | 1 | 10 |
| Row Pct. | 40.0 | 50.0 | 10.0 | 11.6 |
| Col. Pct. | 10.5 | 12.2 | 14.3 | |
| Tot. Pct. | 4.7 | 5.8 | 1.2 | |
| 5. 4,000--4,999 | | | | |
| Count | 0 | 3 | 0 | 3 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 3.5 |
| Col. Pct. | 0.0 | 7.3 | 0.0 | |
| Tot. Pct. | 0.0 | 3.5 | 0.0 | |

TABLE 22 (Continued)

| School Enrollment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 6. 5,000--9,999 | | | | |
| Count | 6 | 5 | 3 | 14 |
| Row Pct. | 42.9 | 35.7 | 21.4 | 16.3 |
| Col. Pct. | 15.8 | 12.2 | 42.9 | |
| Tot. Pct. | 7.0 | 5.8 | 3.5 | |
| 7. 10,000--14,999 | | | | |
| Count | 3 | 6 | 1 | 10 |
| Row Pct. | 30.0 | 60.0 | 10.0 | 11.6 |
| Col. Pct. | 7.9 | 14.6 | 14.3 | |
| Tot. Pct. | 3.5 | 7.0 | 1.2 | |
| 8. 15,000--19,999 | | | | |
| Count | 3 | 3 | 0 | 6 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 7.0 |
| Col. Pct. | 7.9 | 7.3 | 0.0 | |
| Tot. Pct. | 3.5 | 3.5 | 0.0 | |
| 9. 20,000 and larger | | | | |
| Count | 4 | 3 | 0 | 7 |
| Row Pct. | 57.1 | 42.9 | 0.0 | 8.1 |
| Col. Pct. | 10.5 | 7.3 | 0.0 | |
| Tot. Pct. | 4.7 | 3.5 | 0.0 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 23

Successful Party in Decisions After the Appeal Opportunity by Enrollment Size of School District

| School Enrollment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Under 1,000 | | | | |
| Count | 13 | 13 | 1 | 27 |
| Row Pct. | 48.1 | 48.1 | 3.7 | 31.4 |
| Col. Pct. | 38.2 | 30.2 | 11.1 | |
| Tot. Pct. | 15.1 | 15.1 | 1.2 | |
| 2. 1,000--1,999 | | | | |
| Count | 3 | 2 | 0 | 5 |
| Row Pct. | 60.0 | 40.0 | 0.0 | 5.8 |
| Col. Pct. | 8.8 | 4.7 | 0.0 | |
| Tot. Pct. | 3.5 | 2.3 | 0.0 | |
| 3. 2,000--2,999 | | | | |
| Count | 2 | 1 | 1 | 4 |
| Row Pct. | 50.0 | 25.0 | 25.0 | 4.7 |
| Col. Pct. | 5.9 | 2.3 | 11.1 | |
| Tot. Pct. | 2.3 | 1.2 | 1.2 | |
| 4. 3,000--3,999 | | | | |
| Count | 4 | 4 | 2 | 10 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 11.6 |
| Col. Pct. | 11.8 | 9.3 | 22.2 | |
| Tot. Pct. | 4.7 | 4.7 | 2.3 | |
| 5. 4,000--4,999 | | | | |
| Count | 0 | 3 | 0 | 3 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 3.5 |
| Col. Pct. | 0.0 | 7.0 | 0.0 | |
| Tot. Pct. | 0.0 | 3.5 | 0.0 | |
| 6. 5,000--9,999 | | | | |
| Count | 6 | 4 | 4 | 14 |
| Row Pct. | 42.9 | 28.6 | 28.6 | 16.3 |
| Col. Pct. | 17.6 | 9.3 | 44.4 | |
| Tot. Pct. | 7.0 | 4.7 | 4.7 | |
| 7. 10,000--14,999 | | | | |
| Count | 1 | 8 | 1 | 10 |
| Row Pct. | 10.0 | 80.0 | 10.0 | 11.6 |
| Col. Pct. | 2.9 | 18.6 | 11.1 | |
| Tot. Pct. | 1.2 | 9.3 | 1.2 | |

TABLE 23 (Continued)

| School Enrollment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 8. 15,000--19,999 | | | | |
| Count | 3 | 3 | 0 | 6 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 7.0 |
| Col. Pct. | 8.8 | 7.0 | 0.0 | |
| Tot. Pct. | 3.5 | 3.5 | 0.0 | |
| 9. 20,000 and larger | | | | |
| Count | 2 | 5 | 0 | 7 |
| Row Pct. | 28.6 | 71.4 | 0.0 | 8.1 |
| Col. Pct. | 5.9 | 11.6 | 0.0 | |
| Tot. Pct. | 2.3 | 5.8 | 0.0 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

19. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when school districts are located are in the various regions of the state?

TABLE 24

Successful Party in Hearing Decisions By Regional Location of School District

| Location or District | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Northeast | | | | |
| Count | 20 | 21 | 2 | 43 |
| Row Pct. | 46.5 | 48.8 | 4.7 | 50.0 |
| Col. Pct. | 52.6 | 51.2 | 28.6 | |
| Tot. Pct. | 23.3 | 24.4 | 2.3 | |
| 2. Southeast | | | | |
| Count | 3 | 4 | 0 | 7 |
| Row Pct. | 42.9 | 57.1 | 0.0 | 8.1 |
| Col. Pct. | 7.9 | 9.8 | 0.0 | |
| Tot. Pct. | 3.5 | 4.7 | 0.0 | |

Table 24 (Continued)

| Location or District | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 3. Central | | | | |
| Count | 11 | 10 | 5 | 26 |
| Row Pct. | 42.3 | 38.5 | 19.2 | 30.2 |
| Col. Pct. | 28.9 | 24.4 | 71.4 | |
| Tot. Pct. | 12.8 | 11.6 | 5.8 | |
| 4. Northwest | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.3 | 7.3 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 5. Southwest | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.3 | 7.3 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 25

Successful Party in Decisions After the Appeal Opportunity by Regional Location of School District

| Location or District | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Northeast | | | | |
| Count | 18 | 22 | 3 | 43 |
| Row Pct. | 41.9 | 51.2 | 7.0 | 50.0 |
| Col. Pct. | 52.9 | 51.2 | 33.3 | |
| Tot. Pct. | 20.9 | 25.6 | 3.5 | |
| 2. Southeast | | | | |
| Count | 2 | 4 | 1 | 7 |
| Row Pct. | 28.6 | 57.1 | 14.3 | 8.1 |
| Col. Pct. | 5.9 | 9.3 | 11.1 | |
| Tot. Pct. | 2.3 | 4.7 | 1.2 | |

Table 25 (Continued)

| Location or District | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 3. Central | | | | |
| Count | 10 | 11 | 5 | 26 |
| Row Pct. | 38.5 | 42.3 | 19.2 | 30.2 |
| Col. Pct. | 29.4 | 25.6 | 55.6 | |
| Tot. Pct. | 11.6 | 12.8 | 5.8 | |
| 4. Northwest | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.9 | 7.0 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 5. Southwest | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.9 | 7.0 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

20. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when school districts are located in various environments?

TABLE 26

Successful Party in Hearing Decisions By Environment of the School District

| Environment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Urban | | | | |
| Count | 6 | 6 | 0 | 12 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 14.0 |
| Col. Pct. | 15.8 | 14.6 | 0.0 | |
| Tot. Pct. | 7.0 | 7.0 | 0.0 | |

Table 26 (Continued)

| Environment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 2. Suburban | | | | |
| Count | 11 | 13 | 4 | 28 |
| Row Pct. | 39.3 | 46.4 | 14.3 | 32.6 |
| Col. Pct. | 28.9 | 31.7 | 57.1 | |
| Tot. Pct. | 12.8 | 15.1 | 4.7 | |
| 3. Town | | | | |
| Count | 9 | 11 | 2 | 22 |
| Row Pct. | 40.9 | 50.0 | 9.1 | 25.6 |
| Col. Pct. | 23.7 | 26.3 | 28.6 | |
| Tot. Pct. | 10.5 | 12.8 | 2.3 | |
| 4. Rural | | | | |
| Count | 12 | 11 | 1 | 24 |
| Row Pct. | 50.0 | 45.8 | 4.2 | 27.9 |
| Col. Pct. | 31.6 | 26.8 | 14.3 | |
| Tot. Pct. | 14.0 | 12.8 | 1.2 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

Table 27

Successful Party in Decisions After the Appeal Opportunity by Environment of the School District

| Environment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Urban | | | | |
| Count | 4 | 8 | 0 | 12 |
| Row Pct. | 33.3 | 66.7 | 0.0 | 14.0 |
| Col. Pct. | 11.8 | 18.6 | 0.0 | |
| Tot. Pct. | 4.7 | 9.3 | 0.0 | |
| 2. Suburban | | | | |
| Count | 9 | 15 | 4 | 28 |
| Row Pct. | 32.1 | 53.6 | 14.3 | 32.6 |
| Col. Pct. | 26.5 | 34.9 | 44.4 | |
| Tot. Pct. | 10.5 | 17.4 | 4.7 | |

Table 27 (Continued)

| Environment | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 3. Town | | | | |
| Count | 9 | 9 | 4 | 22 |
| Row Pct. | 40.9 | 40.9 | 18.2 | 25.6 |
| Col. Pct. | 26.5 | 20.9 | 44.4 | |
| Tot. Pct. | 10.5 | 10.5 | 4.7 | |
| 4. Rural | | | | |
| Count | 12 | 11 | 1 | 24 |
| Row Pct. | 50.0 | 45.8 | 4.2 | 27.9 |
| Col. Pct. | 35.3 | 25.6 | 11.1 | |
| Tot. Pct. | 14.0 | 12.8 | 1.2 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

21. How have the different parties fared in hearing decisions and decisions after the appeal opportunity, when the various handicapping conditions are involved?

TABLE 28

Successful Party in Hearing Decisions
by Handicapping Condition Involved

| Handicap | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Mentally Retarded | | | | |
| Count | 11 | 16 | 2 | 29 |
| Row Pct. | 37.9 | 55.2 | 6.9 | 33.7 |
| Col. Pct. | 28.9 | 39.0 | 28.6 | |
| Tot. Pct. | 12.8 | 18.6 | 2.3 | |

TABLE 28 (Continued)

| Handicap | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 2. Physically Handicapped | | | | |
| Count | 1 | 2 | 1 | 4 |
| Row Pct. | 25.0 | 50.0 | 25.0 | 4.7 |
| Col. Pct. | 2.6 | 4.9 | 14.3 | |
| Tot. Pct. | 1.2 | 2.3 | 1.2 | |
| 3. Emotionally Disturbed | | | | |
| Count | 4 | 4 | 2 | 10 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 11.6 |
| Col. Pct. | 10.5 | 9.8 | 28.6 | |
| Tot. Pct. | 4.7 | 4.7 | 2.3 | |
| 4. Learning Disabled | | | | |
| Count | 10 | 9 | 1 | 20 |
| Row Pct. | 50.0 | 45.0 | 5.0 | 23.3 |
| Col. Pct. | 7.9 | 22.0 | 14.3 | |
| Tot. Pct. | 3.5 | 10.5 | 1.2 | |
| 5. Hearing | | | | |
| Count | 3 | 3 | 0 | 6 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 7.0 |
| Col. Pct. | 7.9 | 7.3 | 0.0 | |
| Tot. Pct. | 3.5 | 3.5 | 0.0 | |
| 6. Other Health | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.6 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 7. Multi | | | | |
| Count | 8 | 7 | 1 | 16 |
| Row Pct. | 50.0 | 43.8 | 6.3 | 18.6 |
| Col. Pct. | 21.1 | 17.1 | 14.3 | |
| Tot. Pct. | 9.3 | 8.1 | 1.2 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 29

Successful Party in Decisions After the Appeal Opportunity by Handicapping Condition Involved

| Handicap | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Mentally Retarded | | | | |
| Count | 8 | 19 | 2 | 29 |
| Row Pct. | 27.6 | 65.5 | 6.9 | 33.7 |
| Col. Pct. | 23.5 | 44.2 | 22.2 | |
| Tot. Pct. | 9.3 | 22.1 | 2.3 | |
| 2. Physically Handicapped | | | | |
| Count | 1 | 2 | 1 | 4 |
| Row Pct. | 25.0 | 50.0 | 25.0 | 4.7 |
| Col. Pct. | 2.9 | 4.7 | 11.1 | |
| Tot. Pct. | 1.2 | 2.3 | 1.2 | |
| 3. Emotionally Disturbed | | | | |
| Count | 4 | 4 | 2 | 10 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 11.6 |
| Col. Pct. | 11.8 | 9.8 | 22.2 | |
| Tot. Pct. | 4.7 | 4.7 | 2.3 | |
| 4. Learning Disabled | | | | |
| Count | 9 | 9 | 2 | 20 |
| Row Pct. | 45.0 | 45.0 | 10.0 | 23.3 |
| Col. Pct. | 26.5 | 20.9 | 22.2 | |
| Tot. Pct. | 10.5 | 10.5 | 2.3 | |
| 5. Hearing | | | | |
| Count | 3 | 2 | 1 | 6 |
| Row Pct. | 50.0 | 33.3 | 16.7 | 7.0 |
| Col. Pct. | 8.8 | 4.7 | 11.1 | |
| Tot. Pct. | 3.5 | 2.3 | 1.2 | |
| 6. Other Health | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.9 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 7. Multi | | | | |
| Count | 8 | 7 | 1 | 16 |
| Row Pct. | 50.0 | 43.8 | 6.3 | 18.6 |
| Col. Pct. | 23.5 | 16.3 | 11.1 | |
| Tot. Pct. | 9.3 | 8.1 | 1.2 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

22. How have parents fared in hearing decisions and decisions after the appeal opportunity when represented by either themselves, an advocate, a public attorney or a private attorney?

TABLE 30

Successful Party in Hearing Decisions By Type of Parent Representation

| Type of Parent Representation | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Self | | | | |
| Count | 2 | 2 | 0 | 4 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 4.7 |
| Col. Pct. | 5.3 | 4.9 | 0.0 | |
| Tot. Pct. | 2.3 | 2.3 | 0.0 | |
| 2. Advocate | | | | |
| Count | 5 | 6 | 1 | 12 |
| Row Pct. | 41.7 | 50.0 | 8.3 | 14.0 |
| Col. Pct. | 13.2 | 14.6 | 14.3 | |
| Tot. Pct. | 5.8 | 7.0 | 1.2 | |
| 3. Public Attorney | | | | |
| Count | 25 | 27 | 6 | 58 |
| Row Pct. | 43.1 | 46.6 | 10.3 | 67.4 |
| Col. Pct. | 65.8 | 65.9 | 85.7 | |
| Tot. Pct. | 29.1 | 31.4 | 7.0 | |
| 4. Private Attorney | | | | |
| Count | 6 | 6 | 0 | 12 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 14.0 |
| Col. Pct. | 15.8 | 14.6 | 0.0 | |
| Tot. Pct. | 7.0 | 7.0 | 0.0 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 31

Successful Party in Decisions After the Appeal Opportunity By Type of Parent Representation

| Type of Parent Representation | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Self | | | | |
| Count | 2 | 2 | 0 | 4 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 4.7 |
| Col. Pct. | 5.9 | 4.7 | 0.0 | |
| Tot. Pct. | 2.3 | 2.3 | 0.0 | |
| 2. Advocate | | | | |
| Count | 5 | 5 | 2 | 12 |
| Row Pct. | 41.7 | 41.7 | 16.7 | 14.0 |
| Col. Pct. | 14.7 | 11.6 | 22.2 | |
| Tot. Pct. | 5.8 | 5.8 | 2.3 | |
| 3. Public Attorney | | | | |
| Count | 22 | 29 | 7 | 58 |
| Row Pct. | 37.9 | 50.0 | 12.1 | 67.4 |
| Col. Pct. | 64.7 | 67.4 | 77.8 | |
| Tot. Pct. | 25.6 | 33.7 | 8.1 | |
| 4. Private Attorney | | | | |
| Count | 5 | 7 | 0 | 12 |
| Row Pct. | 41.7 | 58.3 | 0.0 | 14.0 |
| Col. Pct. | 14.7 | 16.3 | 0.0 | |
| Tot. Pct. | 5.8 | 8.1 | 0.0 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

23. How have school districts fared in hearing decisions and decisions after the appeal opportunity, when represented by either an administrative official or an attorney?

TABLE 32

Successful Party in Hearing Decisions
By Type of School Representation

| Type of School Representation | Successful Party | | | Row |
|---|---|---|---|---|
| | Parent | School | Neither | Total |
| 1. Administrative Official | | | | |
| Count | 25 | 17 | 4 | 46 |
| Row Pct. | 54.3 | 37.0 | 8.7 | 53.5 |
| Col. Pct. | 65.8 | 41.5 | 57.1 | |
| Tot. Pct. | 29.1 | 19.8 | 4.7 | |
| 2. Attorney | | | | |
| Count | 13 | 24 | 3 | 40 |
| Row Pct. | 32.5 | 60.0 | 7.5 | 46.5 |
| Col. Pct. | 34.2 | 58.5 | 42.9 | |
| Tot. Pct. | 15.1 | 27.9 | 3.5 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 33

Successful Party in Decisions After Appeal Opportunity
By Type of School Representation

| Type of School Representation | Successful Party | | | Row |
|---|---|---|---|---|
| | Parent | School | Neither | Total |
| 1. Administrative Official | | | | |
| Count | 24 | 16 | 6 | 46 |
| Row Pct. | 52.2 | 34.8 | 13.0 | 53.5 |
| Col. Pct. | 70.6 | 37.2 | 66.7 | |
| Tot. Pct. | 27.9 | 18.6 | 7.0 | |
| 2. Attorney | | | | |
| Count | 10 | 27 | 3 | 40 |
| Row Pct. | 25.0 | 67.5 | 7.5 | 46.5 |
| Col. Pct. | 29.4 | 62.3 | 33.3 | |
| Tot. Pct. | 11.6 | 31.4 | 3.5 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

24. How have the different parties fared in hearing decisions when the hearing officer's sex is either male or female?

TABLE 34

Successful Party in Hearing Decisions
By Sex of Hearing Officer

| Sex of Hearing Officer | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Male | | | | |
| Count | 18 | 20 | 5 | 46 |
| Row Pct. | 41.9 | 46.5 | 11.6 | 50.0 |
| Col. Pct. | 47.4 | 48.8 | 71.4 | |
| Tot. Pct. | 20.9 | 23.3 | 5.8 | |
| 2. Female | | | | |
| Count | 20 | 21 | 2 | 43 |
| Row Pct. | 46.5 | 48.8 | 4.7 | 50.0 |
| Col. Pct. | 52.6 | 51.2 | 28.6 | |
| Tot. Pct. | 23.3 | 24.4 | 2.3 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

25. How have the different parties fared in hearing decisions when the hearing officer's age is either 40 and under or over 40?

TABLE 35

Successful Party in Hearing Decisions
By Age of Hearing Officer

| Age of Hearing Officer | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. 40 and under | | | | |
| Count | 22 | 25 | 6 | 53 |
| Row Pct. | 41.5 | 47.2 | 11.3 | 61.6 |
| Col. Pct. | 57.9 | 61.0 | 85.7 | |
| Tot. Pct. | 25.6 | 29.1 | 7.0 | |

TABLE 35 (Continued)

| Age of Hearing Officer | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 2. Over 40 | | | | |
| Count | 16 | 16 | 1 | 33 |
| Row Pct. | 48.5 | 48.5 | 3.0 | 38.4 |
| Col. Pct. | 42.1 | 39.0 | 14.3 | |
| Tot. Pct. | 18.6 | 18.6 | 1.2 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

26. How have the different parties fared in hearing decisions when the hearing officer's occupation is either special education teacher, special education administrator, higher education faculty or others?

TABLE 36

Successful Party in Hearing Decision
by Occupation of Hearing Officer

| Occupation of Hearing Officer | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Special Education Teacher | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.3 | 7.3 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 2. Special Education Administrator | | | | |
| Count | 19 | 19 | 2 | 40 |
| Row Pct. | 47.5 | 47.5 | 5.0 | 46.5 |
| Col. Pct. | 50.0 | 46.3 | 28.6 | |
| Tot. Pct. | 22.1 | 22.1 | 2.3 | |
| 3. Higher Education Faculty | | | | |
| Count | 13 | 16 | 5 | 34 |
| Row Pct. | 38.2 | 47.1 | 14.7 | 39.5 |
| Col. Pct. | 34.2 | 39.0 | 71.4 | |
| Tot. Pct. | 15.1 | 18.6 | 5.8 | |

TABLE 36 (Continued)

| Occupation of Hearing Officer | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 4. Other | | | | |
| Count | 4 | 3 | 0 | 7 |
| Row Pct. | 57.1 | 42.9 | 0.0 | 8.1 |
| Col. Pct. | 10.5 | 7.3 | 0.0 | |
| Tot. Pct. | 4.7 | 3.5 | 0.0 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

27. How have the different parties fared in hearing decisions when the hearing officer's education level is either master's or doctoral?

TABLE 37

Successful Party in Hearing Decisions by Hearing Officer's Level of Education

| Officer's Education | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. M.S. | | | | |
| Count | 24 | 31 | 3 | 58 |
| Row Pct. | 41.4 | 53.4 | 5.2 | 67.4 |
| Col. Pct. | 63.2 | 75.4 | 42.9 | |
| Tot. Pct. | 27.9 | 36.0 | 3.5 | |
| 2. Ph.D | | | | |
| Count | 14 | 10 | 4 | 28 |
| Row Pct. | 50.0 | 35.7 | 14.3 | 32.6 |
| Col. Pct. | 36.8 | 24.4 | 57.1 | |
| Tot. Pct. | 16.3 | 11.6 | 4.7 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

28. How have the different parties fared in hearing decisions and

decisions after the appeal opportunity, when the issue was either identification evaluation, placement or free appropriate public education (FAPE)?

TABLE 38

Successful Party in Hearing Decisions by Issue Involved *

| Issue | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Identification | | | | |
| Count | 0 | 1 | 0 | 1 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 1.2 |
| Col. Pct. | 0.0 | 2.4 | 0.0 | |
| Tot. Pct. | 0.0 | 1.2 | 0.0 | |
| 2. Evaluation | | | | |
| Count | 3 | 3 | 0 | 6 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 7.0 |
| Col. Pct. | 7.9 | 7.3 | 0.0 | |
| Tot. Pct. | 3.5 | 3.5 | 0.0 | |
| 3. Placement | | | | |
| Count | 9 | 15 | 0 | 24 |
| Row Pct. | 37.5 | 62.5 | 0.0 | 27.9 |
| Col. Pct. | 23.7 | 36.6 | 0.0 | |
| Tot. Pct. | 10.5 | 17.4 | 0.0 | |
| 4. FAPE | | | | |
| Count | 26 | 22 | 7 | 55 |
| Row Pct. | 47.3 | 40.0 | 12.7 | 64.0 |
| Col. Pct. | 68.4 | 53.7 | 100.0 | |
| Tot. Pct. | 30.2 | 25.6 | 8.1 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

* The four areas of possible disagreement described in P.L. 94-142.

TABLE 39

Successful Party in Decisions After the Appeal Opportunity by Issue Involved *

| Issue | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Identification | | | | |
| Count | 0 | 1 | 0 | 1 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 1.2 |
| Col. Pct. | 0.0 | 2.3 | 0.0 | |
| Tot. Pct. | 0.0 | 1.2 | 0.0 | |
| 2. Evaluation | | | | |
| Count | 3 | 2 | 1 | 6 |
| Row Pct. | 50.0 | 33.3 | 16.7 | 7.0 |
| Col. Pct. | 8.8 | 4.7 | 11.1 | |
| Tot. Pct. | 3.5 | 2.3 | 1.2 | |
| 3. Placement | | | | |
| Count | 9 | 14 | 1 | 24 |
| Row Pct. | 37.5 | 58.3 | 4.2 | 27.9 |
| Col. Pct. | 26.5 | 32.6 | 11.1 | |
| Tot. Pct. | 10.5 | 16.3 | 1.2 | |
| 4. FAPE | | | | |
| Count | 22 | 26 | 7 | 55 |
| Row Pct. | 40.0 | 47.3 | 12.7 | 64.0 |
| Col. Pct. | 64.7 | 60.5 | 77.8 | |
| Tot. Pct. | 25.6 | 30.2 | 8.1 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

* The four areas of possible disagreement described in P.L. 94-142.

29. How have the different parties fared in hearing decisions and decisions after the appeal opportunity, when the hearing was requested by either the parent or the school district?

TABLE 40

Successful Party in Hearing Decisions
By Initiator of the Hearing Request

| Requesting Party | Successful Party | | | Row |
|---|---|---|---|---|
| | Parent | School | Neither | Total |
| 1. Parent | | | | |
| Count | 37 | 37 | 6 | 80 |
| Row Pct. | 46.3 | 46.3 | 7.5 | 93.0 |
| Col. Pct. | 97.4 | 90.2 | 85.7 | |
| Tot. Pct. | 43.0 | 43.0 | 7.0 | |
| 2. School | | | | |
| Count | 1 | 4 | 3 | 6 |
| Row Pct. | 16.7 | 66.7 | 16.7 | 7.0 |
| Col. Pct. | 2.6 | 9.8 | 14.3 | |
| Tot. Pct. | 1.2 | 4.7 | 1.2 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 41

Successful Party in Decisions After Appeal Opportunity
By Initiator of the Hearing Request

| Requesting Party | Successful Party | | | Row |
|---|---|---|---|---|
| | Parent | School | Neither | Total |
| 1. Parent | | | | |
| Count | 33 | 39 | 8 | 80 |
| Row Pct. | 41.3 | 48.8 | 10.0 | 93.0 |
| Col. Pct. | 97.1 | 90.7 | 88.9 | |
| Tot. Pct. | 38.4 | 45.3 | 9.3 | |
| 2. School | | | | |
| Count | 1 | 4 | 1 | 6 |
| Row Pct. | 16.7 | 66.7 | 16.7 | 70.0 |
| Col. Pct. | 2.9 | 9.3 | 11.1 | |
| Tot. Pct. | 1.2 | 4.7 | 1.2 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

30. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when the various specific issues have been involved as the primary concern and as a secondary concern?

TABLE 42

Successful Party Hearing Decisions By Issue of Primary Concern

| Primary Concern | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Emotionally Disturbed Services | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.3 | 2.4 | 0.0 | |
| Tot. Pct. | 2.3 | 1.2 | 0.0 | |
| 2. Learning Disabled Services | | | | |
| Count | 3 | 1 | 0 | 4 |
| Row Pct. | 75.0 | 25.0 | 0.0 | 4.7 |
| Col. Pct. | 7.9 | 2.4 | 0.0 | |
| Tot. Pct. | 3.5 | 2.4 | 0.0 | |
| 3. Hearing Impaired Services | | | | |
| Count | 1 | 2 | 0 | 3 |
| Row Pct. | 33.3 | 66.7 | 0.0 | 3.5 |
| Col. Pct. | 2.6 | 4.9 | 0.0 | |
| Tot. Pct. | 1.2 | 2.3 | 0.0 | |
| 4. Multi-Handicapped Services | | | | |
| Count | 2 | 0 | 0 | 2 |
| Row Pct. | 50.0 | 0.0 | 0.0 | 2.3 |
| Col. Pct. | 7.9 | 0.0 | 0.0 | |
| Tot. Pct. | 3.5 | 0.0 | 0.0 | |
| 5. Speech and Language Services | | | | |
| Count | 3 | 2 | 1 | 6 |
| Row Pct. | 75.0 | 33.3 | 16.7 | 7.0 |
| Col. Pct. | 7.9 | 4.9 | 14.3 | |
| Tot. Pct. | 3.5 | 2.3 | 1.2 | |
| 6. PT Services | | | | |
| Count | 3 | 0 | 1 | 4 |
| Row Pct. | 75.0 | 0.0 | 25.0 | 4.7 |
| Col. Pct. | 7.9 | 0.0 | 14.3 | |
| Tot. Pct. | 3.5 | 0.0 | 1.2 | |

TABLE 42 (Continued)

| Primary Concern | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 7. Catheterization | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.6 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 8. New IEP | | | | |
| Count | 6 | 4 | 2 | 12 |
| Row Pct. | 50.0 | 33.3 | 16.7 | 14.0 |
| Col. Pct. | 15.8 | 9.8 | 28.6 | |
| Tot. Pct. | 7.0 | 4.7 | 2.3 | |
| 9. Summer School | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.3 | 7.3 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 10. School Beyond 18 Years of Age | | | | |
| Count | 3 | 3 | 0 | 6 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 7.0 |
| Col. Pct. | 7.9 | 7.3 | 0.0 | |
| Tot. Pct. | 3.5 | 3.5 | 0.0 | |
| 11. Self-Contained Special Class | | | | |
| Count | 1 | 0 | 2 | 3 |
| Row Pct. | 33.3 | 0.0 | 66.7 | 3.5 |
| Col. Pct. | 2.6 | 0.0 | 28.6 | |
| Tot. Pct. | 1.2 | 0.0 | 2.3 | |
| 12. Lab Class | | | | |
| Count | 1 | 1 | 0 | 2 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 2.3 |
| Col. Pct. | 2.6 | 2.4 | 0.0 | |
| Tot. Pct. | 1.2 | 1.2 | 0.0 | |
| 13. Establish Program | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.3 | 7.3 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |

TABLE 42 (Continued)

| Primary Concern | Successul Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 14. Transfer | | | | |
| Count | 1 | 6 | 0 | 7 |
| Row Pct. | 14.3 | 85.7 | 0.0 | 8.1 |
| Col. Pct. | 2.6 | 14.6 | 0.0 | |
| Tot. Pct. | 1.2 | 7.0 | 0.0 | |
| 15. Additional Evaluation | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.3 | 2.4 | 0.0 | |
| Tot. Pct. | 2.3 | 1.2 | 0.0 | |
| 16. Transportation | | | | |
| Count | 0 | 2 | 0 | 2 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 2.3 |
| Col. Pct. | 0.0 | 4.9 | 0.0 | |
| Tot. Pct. | 0.0 | 2.3 | 0.0 | |
| 17. Private Services | | | | |
| Count | 3 | 9 | 0 | 12 |
| Row Pct. | 25.0 | 75.0 | 0.0 | 14.0 |
| Col. Pct. | 7.9 | 22.0 | 0.0 | |
| Tot. Pct. | 3.5 | 10.5 | 0.0 | |
| 18. Home Services | | | | |
| Count | 0 | 2 | 0 | 2 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 2.3 |
| Col. Pct. | 0.0 | 4.9 | 0.0 | |
| Tot. Pct. | 0.0 | 2.3 | 0.0 | |
| 19. Physical Environment | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 33.3 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.6 | 2.4 | 14.3 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 20. Pre-School Services | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.6 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 43

Successful Party in Decisions After the Appeal Opportunity
by Issue of Primary Concern

| Primary Concern | Successful Party | | | Row Total |
|---|---|---|---|---|
| | Parent | School | Neither | |
| 1. Emotionally Disturbed | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.9 | 2.3 | 0.0 | |
| Tot. Pct. | 2.3 | 1.2 | 0.0 | |
| 2. Learning Disabled | | | | |
| Count | 3 | 1 | 0 | 4 |
| Row Pct. | 75.0 | 25.0 | 0.0 | 4.7 |
| Col. Pct. | 8.8 | 2.3 | 0.0 | |
| Tot. Pct. | 3.5 | 1.2 | 0.0 | |
| 3. Hearing Impaired | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 33.3 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.9 | 2.3 | 11.1 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 4. Multi-Handicapped Services | | | | |
| Count | 2 | 0 | 0 | 2 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 2.3 |
| Col. Pct. | 5.9 | 0.0 | 0.0 | |
| Tot. Pct. | 2.3 | 0.0 | 0.0 | |
| 5. Speech and Language Services | | | | |
| Count | 3 | 2 | 1 | 6 |
| Row Pct. | 50.0 | 33.3 | 16.7 | 7.0 |
| Col. Pct. | 8.8 | 4.7 | 11.1 | |
| Tot. Pct. | 3.5 | 2.3 | 1.2 | |
| 6. PT Services | | | | |
| Count | 3 | 0 | 1 | 4 |
| Row Pct. | 75.0 | 0.0 | 25.0 | 4.7 |
| Col. Pct. | 8.8 | 0.0 | 11.1 | |
| Tot. Pct. | 3.5 | 0.0 | 1.2 | |
| 7. Catherterization | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.9 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |

TABLE 43 (Continued)

| Primary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 8. New IEP | | | | |
| Count | 5 | 5 | 2 | 12 |
| Row Pct. | 41.7 | 41.7 | 16.7 | 14.0 |
| Col. Pct. | 14.7 | 11.6 | 22.2 | |
| Tot. Pct. | 5.8 | 1.2 | 2.3 | |
| 9. Summer School | | | | |
| Count | 1 | 4 | 0 | 5 |
| Row Pct. | 20.0 | 80.0 | 0.0 | 5.8 |
| Col. Pct. | 2.9 | 9.3 | 0.0 | |
| Tot. Pct. | 1.2 | 4.7 | 0.0 | |
| 10. School Beyond 18 Years of Age | | | | |
| Count | 1 | 5 | 0 | 6 |
| Row Pct. | 16.7 | 83.3 | 0.0 | 7.0 |
| Col. Pct. | 2.9 | 11.6 | 0.0 | |
| Tot. Pct. | 1.2 | 5.8 | 0.0 | |
| 11. Self-Contained Special Class | | | | |
| Count | 1 | 0 | 2 | 3 |
| Row Pct. | 33.3 | 0.0 | 66.7 | 3.5 |
| Col. Pct. | 2.9 | 0.0 | 22.2 | |
| Tot. Pct. | 1.2 | 0.0 | 2.3 | |
| 12. Lab Class | | | | |
| Count | 1 | 1 | 0 | 2 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 2.3 |
| Col. Pct. | 2.9 | 2.3 | 0.0 | |
| Tot. Pct. | 1.2 | 1.2 | 0.0 | |
| 13. Establish Program | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.9 | 7.0 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 14. Transfer | | | | |
| Count | 1 | 6 | 0 | 7 |
| Row Pct. | 14.3 | 85.7 | 0.0 | 8.1 |
| Col. Pct. | 2.9 | 14.0 | 0.0 | |
| Tot. Pct. | 1.2 | 7.0 | 0.0 | |
| 15. Additional | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.9 | 2.3 | 0.0 | |
| Tot. Pct. | 2.3 | 1,2 | 0.0 | |

TABLE 43 (Continued)

| Primary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 16. Transportation | | | | |
| Count | 0 | 2 | 0 | 2 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 2.3 |
| Col. Pct. | 0.0 | 4.7 | 0.0 | |
| Tot. Pct. | 0.0 | 2.3 | 0.0 | |
| 17. Private Services | | | | |
| Count | 2 | 9 | 1 | 12 |
| Row Pct. | 16.7 | 75.0 | 8.3 | 14.0 |
| Col. Pct. | 5.9 | 20.9 | 11.1 | |
| Tot. Pct. | 2.3 | 10.5 | 1.2 | |
| 18. Home Services | | | | |
| Count | 1 | 1 | 0 | 2 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 2.3 |
| Col. Pct. | 2.9 | 2.3 | 0.0 | |
| Tot. Pct. | 1.2 | 1.2 | 0.0 | |
| 19. Physical Environment | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 33.3 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.9 | 2.3 | 11.1 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 20. Pre-School Services | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.9 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

TABLE 44

Successful Party in Hearing Decisions
by Issue of Secondary Concern

| Secondary Concern | Successful Party | | | Row |
|---|---|---|---|---|
| | Parent | School | Neither | Total |
| 0. No Issue | | | | |
| Count | 4 | 8 | 3 | 15 |
| Row Pct. | 26.7 | 53.3 | 20.0 | 17.4 |
| Col. Pct. | 10.5 | 19.5 | 42.9 | |
| Tot. Pct. | 4.7 | 9.3 | 3.5 | |
| 1. Mentally Retarded Services | | | | |
| Count | 1 | 3 | 0 | 4 |
| Row Pct. | 25.0 | 75.0 | 0.0 | 4.7 |
| Col. Pct. | 2.6 | 7.3 | 0.0 | |
| Tot. Pct. | 1.2 | 3.5 | 0.0 | |
| 2. Emotionally Disturbed Services | | | | |
| Count | 1 | 4 | 1 | 6 |
| Row Pct. | 16.7 | 66.7 | 16.7 | 7.0 |
| Col. Pct. | 2.6 | 9.8 | 14.3 | |
| Tot. Pct. | 1.2 | 4.7 | 1.2 | |
| 3. Learning Disabled Services | | | | |
| Count | 0.0 | 2 | 0 | 2 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 2.3 |
| Col. Pct. | 0.0 | 4.9 | 0.0 | |
| Tot. Pct. | 0.0 | 2.3 | 0.0 | |
| 4. Hearing Impaired Services | | | | |
| Count | 1 | 1 | 0 | 2 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 2.3 |
| Col. Pct. | 2.6 | 2.4 | 0.0 | |
| Tot. Pct. | 1.2 | 1.2 | 0.0 | |
| 5. Other Health Services | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.6 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 6. Multi-Handicapped Services | | | | |
| Count | 3 | 4 | 0 | 7 |
| Row Pct. | 42.9 | 57.1 | 0.0 | 8.1 |
| Col. Pct. | 7.9 | 9.8 | 0.0 | |
| Tot. Pct. | 3.5 | 4.7 | 0.0 | |

TABLE 44 (Continued)

| Secondary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 7. Speech and Language Services | | | | |
| Count | 4 | 2 | 1 | 7 |
| Row Pct. | 57.1 | 28.6 | 14.3 | 8.1 |
| Col. Pct. | 10.5 | 4.9 | 14.3 | |
| Tot. Pct. | 4.7 | 2.3 | 1.2 | |
| 8. PT Services | | | | |
| Count | 4 | 0 | 0 | 4 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 4.7 |
| Col. Pct. | 10.5 | 0.0 | 0.0 | |
| Tot. Pct. | 4.7 | 0.0 | 0.0 | |
| 9. OT Services | | | | |
| Count | 0 | 1 | 0 | 1 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 1.2 |
| Col. Pct. | 0.0 | 2.4 | 0.0 | |
| Tot. Pct. | 0.0 | 1.2 | 0.0 | |
| 10. PT/OT Services | | | | |
| Count | 3 | 2 | 0 | 5 |
| Row Pct. | 60.0 | 40.0 | 0.0 | 5.8 |
| Col. Pct. | 7.9 | 4.9 | 0.0 | |
| Tot. Pct. | 3.5 | 2.3 | 0.0 | |
| 11. New IEP | | | | |
| Count | 4 | 1 | 0 | 5 |
| Row Pct. | 80.0 | 20.0 | 0.0 | 5.8 |
| Col. Pct. | 10.5 | 2.4 | 0.0 | |
| Tot. Pct. | 4.7 | 1.2 | 0.0 | |
| 12. Summer School | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 33.3 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.6 | 2.4 | 14.3 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 13. Residency | | | | |
| Count | 2 | 2 | 0 | 4 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 4.7 |
| Col. Pct. | 5.3 | 4.9 | 0.0 | |
| Tot. Pct. | 2.3 | 2.3 | 0.0 | |
| 14. Self Contained Special Class | | | | |
| Count | 3 | 2 | 0 | 5 |
| Row Pct. | 60.0 | 40.0 | 0.0 | 5.8 |
| Col. Pct. | 7.9 | 4.9 | 0.0 | |
| Tot. Pct. | 3.5 | 2.3 | 0.0 | |

TABLE 44 (Continued)

| Secondary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 15. Lab Class | | | | |
| Count | 1 | 2 | 0 | 3 |
| Row Pct. | 33.3 | 66.7 | 0.0 | 3.5 |
| Col. Pct. | 2.6 | 4.9 | 0.0 | |
| Tot. Pct. | 1.2 | 2.3 | 0.0 | |
| 16. Transfer | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.3 | 2.4 | 0.0 | |
| Tot. Pct. | 2.3 | 1.2 | 0.0 | |
| 17. Additional | | | | |
| Count | 2 | 2 | 1 | 5 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 5.8 |
| Col. Pct. | 5.3 | 4.9 | 14.3 | |
| Tot. Pct. | 2.3 | 2.3 | 1.2 | |
| 18. Transportation | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.6 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 19. Private Services | | | | |
| Count | 0 | 3 | 0 | 3 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 3.5 |
| Col. Pct. | 0.0 | 7.3 | 0.0 | |
| Tot. Pct. | 0.0 | 3.5 | 0.0 | |
| COLUMN TOTAL | 39 | | 7 | 86 |
| | 44.2 | 50.0 | 8.1 | 100.0 |

TABLE 45

Successful Party in Decisions After the Appeal Opportunity
by Issue of Secondary Concern

| Secondary Issue | Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 0. No Issue | | | | |
| Count | 3 | 9 | 3 | 15 |
| Row Pct. | 20.0 | 60.0 | 20.0 | 17.4 |
| Col. Pct. | 8.8 | 20.9 | 33.3 | |
| Tot. Pct. | 3.5 | 10.5 | 3.5 | |
| 1. Mentally Retarded Services | | | | |
| Count | 1 | 3 | 0 | 4 |
| Row Pct. | 25.0 | 75.0 | 0.0 | 4.7 |
| Col. Pct. | 2.9 | 7.0 | 0.0 | |
| Tot. Pct. | 1.2 | 3.5 | 0.0 | |
| 2. Emotionally Disturbed Services | | | | |
| Count | 1 | 4 | 1 | 6 |
| Row Pct. | 16.7 | 66.7 | 16.7 | 7.0 |
| Col. Pct. | 2.9 | 9.3 | 11.1 | |
| Tot. Pct. | 1.2 | 4.7 | 1.2 | |
| 3. Learning Disabled Services | | | | |
| Count | 0.0 | 2 | 0 | 2 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 2.3 |
| Col. Pct. | 0.0 | 4.7 | 0.0 | |
| Tot. Pct. | 0.0 | 2.3 | 0.0 | |
| 4. Hearing Impaired Services | | | | |
| Count | 1 | 1 | 0 | 2 |
| Row Pct. | 50.0 | 50.0 | 0.0 | 2.3 |
| Col. Pct. | 2.9 | 2.3 | 0.0 | |
| Tot. Pct. | 1.2 | 1.2 | 0.0 | |
| 5. Other Health Services | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.9 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 6. Multi-Handicapped Services | | | | |
| Count | 4 | 3 | 0 | 7 |
| Row Pct. | 57.1 | 42.9 | 0.0 | 8.1 |
| Col. Pct. | 11.8 | 7.0 | 0.0 | |
| Tot. Pct. | 4.7 | 3.5 | 0.0 | |

TABLE 45 (Continued)

| Secondary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 7. Speech and Language Services | | | | |
| Count | 3 | 3 | 1 | 7 |
| Row Pct. | 42.9 | 42.9 | 14.3 | 8.1 |
| Col. Pct. | 8.8 | 7.0 | 11.1 | |
| Tot. Pct. | 3.5 | 3.5 | 1.2 | |
| 8. PT Services | | | | |
| Count | 4 | 0 | 0 | 4 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 4.7 |
| Col. Pct. | 11.8 | 0.0 | 0.0 | |
| Tot. Pct. | 4.7 | 0.0 | 0.0 | |
| 9. OT Services | | | | |
| Count | 0 | 1 | 0 | 1 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 1.2 |
| Col. Pct. | 0.0 | 2.3 | 0.0 | |
| Tot. Pct. | 0.0 | 1.2 | 0.0 | |
| 10. PT/OT Services | | | | |
| Count | 2 | 3 | 0 | 5 |
| Row Pct. | 40.0 | 60.0 | 0.0 | 5.8 |
| Col. Pct. | 5.9 | 7.0 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 11. New IEP | | | | |
| Count | 4 | 1 | 0 | 5 |
| Row Pct. | 80.0 | 20.0 | 0.0 | 5.8 |
| Col. Pct. | 11.8 | 2.3 | 0.0 | |
| Tot. Pct. | 4.7 | 1.2 | 0.0 | |
| 12. Summer School | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 25.0 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.9 | 2.3 | 11.1 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 13. Residency | | | | |
| Count | 2 | 3 | 0 | 4 |
| Row Pct. | 40.0 | 75.0 | 0.0 | 4.7 |
| Col. Pct. | 5.9 | 7.0 | 0.0 | |
| Tot. Pct. | 2.3 | 3.5 | 0.0 | |
| 14. Self Contained Special Class | | | | |
| Count | 2 | 2 | 1 | 5 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 5.8 |
| Col. Pct. | 5.9 | 4.7 | 11.1 | |
| Tot. Pct. | 2.3 | 2.3 | 1.2 | |

TABLE 45 (Continued)

| Secondary Concern | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 15. Lab Class | | | | |
| Count | 1 | 1 | 1 | 3 |
| Row Pct. | 33.3 | 33.3 | 33.3 | 3.5 |
| Col. Pct. | 2.9 | 2.3 | 11.1 | |
| Tot. Pct. | 1.2 | 1.2 | 1.2 | |
| 16. Transfer | | | | |
| Count | 2 | 1 | 0 | 3 |
| Row Pct. | 66.7 | 33.3 | 0.0 | 3.5 |
| Col. Pct. | 5.9 | 2.3 | 0.0 | |
| Tot. Pct. | 2.3 | 1.2 | 0.0 | |
| 17. Additional | | | | |
| Count | 2 | 2 | 1 | 5 |
| Row Pct. | 40.0 | 40.0 | 20.0 | 5.8 |
| Col. Pct. | 5.9 | 4.7 | 11.1 | |
| Tot. Pct. | 2.3 | 2.3 | 1.2 | |
| 18. Transportation | | | | |
| Count | 1 | 0 | 0 | 1 |
| Row Pct. | 100.0 | 0.0 | 0.0 | 1.2 |
| Col. Pct. | 2.9 | 0.0 | 0.0 | |
| Tot. Pct. | 1.2 | 0.0 | 0.0 | |
| 19. Private Services | | | | |
| Count | 0 | 3 | 0 | 3 |
| Row Pct. | 0.0 | 100.0 | 0.0 | 3.5 |
| Col. Pct. | 0.0 | 7.0 | 0.0 | |
| Tot. Pct. | 0.0 | 3.5 | 0.0 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

31. How have the different parties fared in hearing decisions and decisions after the appeal opportunity when payment for private services was an aspect of the hearing?

TABLE 46

Successful Party in Hearing Decisions by Payment for Private Services as an Issue

| Payment for Private Services | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Not an Issue | | | | |
| Count | 34 | 27 | 6 | 67 |
| Row Pct. | 50.7 | 40.3 | 9.0 | 77.9 |
| Col. Pct. | 89.5 | 65.9 | 85.7 | |
| Tot. Pct. | 39.5 | 31.4 | 7.0 | |
| 2. As an Issue | | | | |
| Count | 4 | 14 | 1 | 19 |
| Row Pct. | 21.1 | 73.7 | 5.3 | 22.1 |
| Col. Pct. | 10.5 | 34.1 | 14.3 | |
| Tot. Pct. | 4.7 | 16.3 | 1.2 | |
| COLUMN TOTAL | 38 | 41 | 7 | 86 |
| | 44.2 | 47.7 | 8.1 | 100.0 |

TABLE 47

Successful Party in Hearing Decisions After the Appeal Opportunity by Payment for Private Services as an Issue

| Payment for Private Services | Successful Party: Parent | School | Neither | Row Total |
|---|---|---|---|---|
| 1. Not an Issue | | | | |
| Count | 30 | 30 | 7 | 67 |
| Row Pct. | 44.8 | 44.8 | 10.4 | 77.9 |
| Col. Pct. | 88.2 | 69.8 | 77.8 | |
| Tot. Pct. | 34.9 | 34.9 | 8.1 | |
| 2. As an Issue | | | | |
| Count | 4 | 13 | 2 | 19 |
| Row Pct. | 21.1 | 68.4 | 10.5 | 22.1 |
| Col. Pct. | 11.8 | 30.2 | 22.2 | |
| Tot. Pct. | 4.7 | 15.1 | 2.3 | |
| COLUMN TOTAL | 34 | 43 | 9 | 86 |
| | 39.5 | 50.0 | 10.5 | 100.0 |

# CHAPTER V

# SUMMARY, CONCLUSION, AND RECOMMENDATIONS

## Summary

The purpose of this study was to analyze special education due process hearings in Oklahoma. The study included all hearings conducted prior to January 1, 1983. The written decision for each hearing was reviewed to determine the issues, the characteristics of the participants, and the successful party. This data was quantified on a hearing data sheet to allow the researcher to investigate intravariable and intervariable relationships.

The results of the intravariable observations indicate that 70.5% of the requests for hearings have been resolved prior to the initiation of an actual hearing. Of the hearings which were held, the decision of the hearing officer was accepted without appeal in 43.0% of the cases. The majority of the children who have been the focus of hearings have been male (61.6%), Caucasian (96.5%), and of school age (6 to 18 years of age--75.5%). Mental retardation (33.7%), learning disabilities (23.3%), multiple handicap (18.6%), and emotional disturbance (11.6%) accounted for the handicapping condition in almost ninety percent of the total number of cases.

Almost one-third of the hearings held have involved school

districts with enrollments under 1,000; one-half of the hearings have involved school districts in the northeastern section of the state. Suburban school district cases (32.6%) have outnumbered the cases involving rural areas (27.9%), towns (25.6%), and urban areas (14.0%), with the number of urban area cases almost one-half that of the number of cases of the other types of environmental categories.

Hearing officers presiding at hearings were male in exactly one-half of the cases. Most of the presiding hearing officers were forty years of age or younger (61.6% of the cases), while in every case the hearing officer was Caucasian. Eight-six percent of the hearings were conducted by special education administrators (46.5%) or higher education faculty (39.3%), while special education teachers (5.8%) and other occupations (8.1%) presided over the remaining hearings. In all cases, the hearing officer held at least a master's degree (for 67.5%, the master's degree was the highest degree obtained), and in many cases (32.6%) the hearing officer possessed the doctorate.

The general issues of free appropriate public education (FAPE) (64.0%) and placement (27.9%) were the concern of almost all hearings, with evaluation (7.0%) and identification (1.2%) rarely the topic of concern. The twenty-four topics which were either the first or second specific issue of the hearings were: services for the mentally retarded, the emotionally disturbed, the learning disabled, the hearing impaired, or for those with other health impairments or with multiple handicaps; speech and language services; physical therapy (PT), occupational therapy (OT), or a combination of PT and OT; catheterization; a new IEP; summer school; school beyond eighteen years of age; residency;

self-contained special class placement; laboratory class placement; establishment of the non-existing program; transfer to another school district for services; additional evaluation; transportation; private services; in-home services; desired change of the physical environment; and pre-school services.

Ninety-three percent of the hearings which were held were held at the request of parents. In 44.2% of all hearings, parents were successful; however, their success rate fell to 39.5% after the appeal level. School districts, which requested only 7.0% of the hearings, were successful in the hearings 47.7% of the time. School districts improved that mark to exactly 50.5% after the appeal opportunity. In 8.1% of the cases, neither side could be judged the more successful as far as the outcome, with this figure increasing to 10.5% after the appeal opportunity. The appeal process, which was requested after 57.0% of the hearings, reversed 7.0% of the 49 cases and significantly modified another 3.5%.

When observing the intervariable relationships, the reader is reminded that a low row total count required a cautious interpretation of the corresponding row percentages. The characteristics of school districts which correlated with striking differences between the number of favorable hearing and appeal outcomes for parents versus schools included district enrollment and environment. In the three hearings involving districts with an enrollment of between 4,000 and 4,999, the district was successful. This three-to-zero advantage was unchanged after the appeal opportunity.

Districts with enrollments of 10,000-14,999 were successful in six

of ten hearings at the hearing level; after the appeal opportunity, the final outcomes were favorable to the district in eight of the ten cases. In one of these ten cases, neither parents nor school could be determined the winner at the hearing and the appeal levels. Parents, who were sucessful in three of the ten cases at the hearing level, were successful in only one of the ten cases after the original decisions were appealed.

Parents were successful in four of the seven hearings involving the largest school districts, those with enrollments of 20,000 or more; however, after appeals, two of the parent decisions were reversed, which gave the districts a five-to-two advantage.

Parents did win more hearing decisions when the enrollments of the schools involved were between 1,000-1,999, 2,000-2,999, and 5,000-9,999, but in each grouping, decisions favorable to the parents outnumbered those favorable to the district by only one case.

School districts located in urban and suburban environments were each able to change two hearing decisions as a result of the appeals process. Therefore, in urban and suburban settings, the final outcomes strongly favored school districts, whereas in towns and rural areas, the favorableness of the final outcomes split almost evenly between parents and schools.

The location of the school district in one of the various geographical regions of the state did not correspond to a marked advantage for either party.

When hearings concerned students whose handicapping condition was mental retardation, hearing decisions favored school districts in

sixteen of the twenty-nine cases; parents were favored in eleven cases. This school advantage was improved as a result of three reversals after appeal, with the final count being nineteen decisions in favor of the district, eight in favor of the parents, and two not clearly in the favor of either. None of the other categories of handicapping condition corresponded to more than a single case advantage for either party.

A factor which corresponded to a marked difference between the numbers of favorable outcomes for each of the parties was that of school representation. When schools were represented by an attorney, the district won in twenty-four of 40 hearings, with the outcome favorable to parents in thirteen of the cases and to neither party in three of the cases. At the appeal level, the record of the schools improved to twenty-seven favorable outcomes, while cases with outcomes favoring the parents dropped to ten. This significant school margin was almost reversed in those cases where the schools were represented by an administrative official rather than an attorney. The parents' choice of representative did not relate to a marked advantage for either party.

Neither the sex, the age, nor the occupation of the hearing officer corresponded to a clear advantage for either party. A difference did appear based on the education level of the officer. Hearing officers with master's-level degrees ruled more often for schools than parents, while doctoral-level officers decided for parents with greater frequency. However, these differences are not large and are not considered important in view of the relatively small number of cases heard by doctoral-level officers.

General issues cross-tabulated by the successful party indicate

that parents were more successful at the hearing level in FAPE questions but lost this advantage after the appeal process, while schools, at both the hearing and the appeal levels, won more cases involving placement.

Only six hearings were requested by school districts, and at both the hearing and the appeal levels the district was successful in four of the cases, with parents successful in one case and neither party successful in one case. Hearings requested by parents were split at the hearing level and favored schools after appeals.

When the twenty-four concerns expressed as either the first or second specific issue in the various hearings are cross-tabulated with the case outcomes after the hearing and the appeal opportunities, clear differences between the favorableness of the outcomes to parents and schools can be seen with regard to some issues. The trends are not always discernible through observation of the total hearing and appeal outcomes, but in many instances are a result of the later hearing and appeal decisions which have been influenced by court decisions, state Attorney General opinions, and/or the passage of laws and regulations.

School districts were instructed to provide physical therapy, occupational therapy, catheterization, and pre-school services to students who by necessity required these services. Parents were informed that schools may transfer students to another public school or provide an appropriate program within the district. Private services were not granted unless there were no existing services or there was an unwillingness on the part of the responsible school district to service the student's bonafide needs. The student's school residency was determined by his or her current living location; however the fiscal

responsibility for the student's education and related services was determined by a county superintendent. Summer school was not required if the loss of functioning ability--whether cognitive, psychomotor, or affective--could be reasonably recooped in the Fall; however, summer school did not necessarily mean an in-school program of five days per week. The summer school or summer program was determined by the specific needs of the individual child. In cases requesting schooling beyond the age of eighteen, the student was found to be entitled to twelve years of free appropriate public education, which was not to include years prior to age six or years of failed grades. Schools were instructed to issue diplomas to students who had completed twelve satisfactory years of schooling.

The question of payment for private services was treated as a separate category, since the request for payment of private services might not be the first or second issue. In hearings where parents were requesting such payments, school districts were successful most of the time, winning fourteen of nineteen cases at the hearing level and thirteen of nineteen cases after the appeal opportunity. At each level, parents won only four of these nineteen cases. In hearings when payment was not an issue, parents were successful more often than schools at the hearing level, with the outcome favorable to paaprents in 34 cases, to schools in 27 cases, and to neither party in six cases. After appeal, the favorable outcomes split evenly beteen the parents and the schools at thirty cases each, with the outcome of seven cases not clearly favoring either party.

Every case is still unique and does not actually set a precedent;

however, the wisdom of these prior experiences indicates to parents and schools the previous resolution to disagreements which they are encountering or which they might encounter.

## Conclusions

This study documents a due process system which is providing both parents and school districts with an opportunity to bring forth differences concerning the identification, evaluation, placement, and free appropriate public education of students with handicapping conditions. The fact that seventy percent of the requests for hearing have been resolved by either conference between the parties or in mediation indicates the desire of parents and schools to cooperate in polarized situations. For those situations in which hearings were necessary, the virtually even success rate for parents and school districts seems to suggest, from a gross perspective, a lack of bias in the procedure.

An in-depth analysis largely supports the suggestion of a balanced picture between parents and schools. Schools have been much more successful when utilizing attorneys and when payment for private services was an aspect of the hearing. The results, as previously indicated, are exactly even after the appeal opportunity when cases for payment of private services are excluded. The hearing process has lead to an increase of services for students in small and rural school districts by the addition of new programs, transfers to other districts with existing programs, or cooperative efforts between more than one small school district.

Special education due process hearings were intended to provide a forum for parents and schools to resolve differences concerning the

education and related services for students with handicapping conditions. The hearing system and decisions continue to evolve as laws, regulations, and litigation are accumulated. At present the system appears to be viable and responsive in an unbiased vigil over special education.

## Recommendations

The first recommendation for further research is that a review of hearing cases which have been disposed of prior to an actual hearing be conducted to indicate a possible procedure through which even greater numbers of disagreements could be resolved without hearings and appeals.

The second recommendation for further research is that individuals in other states replicate this study for their own state procedures. Studies from across the country could provide a national perspective on special education due process.

The third recommendation for further reserach is that in-depth studies be conducted on individual cases or on a number of like issue cases to indicate the disposition of specific concerns.

The fourth recommendtaion for further research is for additional study of hearing officer and appeal officer training and selection. This research could lead to better trained officers.

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U.S. Congress. Rehabilitation Act of 1973. P.L. 93-112; 87 STAT. 355, (93rd Congress, September 26, 1973).

NOTES

1. Zimmerman, W.W. and Robinson, M.F. A Survey of Due Process Hearings, paper presented at the meeting of Region V American Association on Mental Deficiency, Bossier City, Louisiana, October 1980.

2. Zimmerman, W.W. Due Process Hearings: State of the Art Survey. Paper presented at the meeting of the American Association on Mental Deficiency, Detroit, June 1981.

3. Catron, F. Personal Communication, June 19, 1982.

4. Meeks, B. Personal Communication, June 20, 1982.

5. Robertson, M.F. Personal Communication, June 23, 1982.

6. Llewellyn, E. Personal Communication, June 23, 1982.

7. Van Osdol, R. Personal Communication, June 26, 1982.

# APPENDIX A

Due Process Hearing Data Sheet

1-3 _____ _____ _____ Case Number

4 _____ Sex (1) male (2) female

5 _____ Age (1) 0-2 (2) 3-5 (3) 6-11 (4) 12-14 (5) 15-18 (6) 19-21 (7) 22 & over

6 _____ Race (1) Caucasian (2) Black (3) Am. Indian (4) Hispanics (5) other

7 _____ Handicapping Condition (1) MR (2) PH (3) ED (4) LD (5) Visual (6) Hearing (7) Other Health (8) Multi

8 _____ School size (1) under 1000 (2) 1000-1999 (3) 2000-2999 (4) 3000-3999 (5) 4000-4999 (6) 5000-5999 (7) 10,000-14,999 (8) 15,000-19,000 (9) 20,000 and larger

9 _____ School location (1) NE (2) SE (3) C (4) NW (5) SW

10 _____ School Environment (1) Urban (2) Suburban (3) town (4) rural

11 _____ Parent Representative (1) self (2) advocate (3) public attorney (4) private attorney

12 _____ School Representative (1) administrative official (2) attorney

13 _____ Request for Hearing (1) parent (2) school

14 _____ Hearing Officer's sex (1) male (2) female

15 _____ Hearing Officer's age (1) 40 and under (2) over 40

16 _____ Hearing Officer' ace (1) Caucasian (2) Black (3) Am. Indian (4) Hispanic (5) Other

17 _____ Hearing Officer's occupation (1) special education teacher (2) special education administrator (3) higher education faculty (4) attorney (5) parent of handicapped (6) other

18 _____ Hearing Officer's education level (1) BS (2) MS (3) PhD or EdD

19 _____ General Issue (1) identification (2) evaluation (3) placement (4) FAPE

20 _____ Payment for private services as an issue (1) no (2) yes

21 _____ Type of school requested (1) private (2) public
(3) transfer to another public school

22-23 _____ First Specific Issue (1) MR (2) PH (3) ED (4) LD
(5) Visual (6) Hearing (7) Other Health (8) Multi
(9) Speech (10) PT (11) OT (12) PT/OT (13) catherization
(14) New IEP (15) summer school (16) school beyond 18 years
of age (17) residency (18) self-contained special class
(19) lab (20) regular class (21) establish program
(22) transfer (23) additional evaluation (24) transportation
(25) private services (26) home services (27) physical
environment (28) pre-school services

24-25 _____ Second Specific Issue (1) MR (2) PH (3) ED (4) LD
(5) Visual (6) Hearing (7) Other Health (8) Multi
(9) Speech (10) PT (11) OT (12) PT/OT (13) catherization
(14) New IEP (15) summer school (16) school beyond 18 years
of age (17) residency (18) self-contained special class
(19) lab (20) regular class (21) establish program
(22) transfer (23) additional evaluation (24) transportation
(25) private services (26) home services (27) physical
environment (28) pre-school services

26 _____ Decision (1) parent (2) school (3) neither

27 _____ Appealed by (1) parent (2) school (3) both (4) neither

28 _____ Appeal (1) not appealed (2) upheld (3) reversed
(4) significantly modified

29 _____ "Winner" (1) parent (2) school (3) neither