

A CONTENT ANALYSIS OF DISABILITY DUE PROCESS CASES IN
MISSOURI FROM 2008-2018

by

Monica Erica Barnes

Liberty University

A Dissertation Presented in Partial Fulfillment

Of the Requirements for the Degree

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Graduate Division, School of Education, Liberty University

ABSTRACT

Students with disabilities are significant members of the American population; consequently, provisions for their inclusion in the learning community as outlined in the Individuals with Disabilities Education Act (IDEA) are relevant. The purpose of the study was to track disability trends in due process cases from 2008-2018 in Missouri for students in public schools from grades K-12. The researcher undertook a descriptive content analysis of archived data from the Missouri Department of Elementary and Secondary Education. Descriptive data collected for each case included the date of the case, the district case number, the age, gender, grade level, disability, and brief comment on the case petition and decision. The research involved charting, with Microsoft Word and Excel, the applicable federally-recognized disability diagnosed for each petitioner along with the demographics and other research elements. The categories of federally-approved disabilities were autism, deaf-blindness, deaf, emotional disturbance, hearing impaired, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech and language impairment, traumatic brain injury, and visual impairment. Pragmatism was the guiding concept for the trend analysis. Frequency tables and line charts indicated that autism was the fastest growing disability complaint category followed by emotional disability. Other health impairment was third in the number of cases filed followed by the multiple disabilities category. Additionally, parents and guardians filed more complaints on behalf of male students. The complaints originated from issues at the high school level more so than at the middle or elementary levels.

Key words: IDEA, Missouri, descriptive research, content analysis, disability trends, disability.

Copyright

Dedication

This research is dedicated to my parents. My mother's love of learning and insistence on my acquisition of a good education shaped my life. Her encouragement in academic challenges and sacrifice to ensure there was time for homework and study has left a model of giving which I emulate. Although she is now a memory, her closeness is palpable. My father had great hopes for me long before I conceived of them. The thought of being titled "doctor" did not cross my mind until he mentioned it while I was in high school. He inadvertently or purposefully set me on a course to achieve this goal. His confidence took root in my subconscious and grew. Today, I fondly and gratefully reflect on his generosity.

Thanks also to my sister Pauline who willingly edited chapters and listened to my wailing. Her calmness and fortitude kept me encouraged. I am especially grateful to my son, Richardson, who brought technical relief with a smile and hug. Without my family's contribution, the journey would have been more difficult. I will forever recall, with fondness and gratitude, the confidence you all displayed in me. Thank you God.

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List of Abbreviations

Autism (A)

Bureau for the Education of the Handicapped (BEH)

Deafness (D)

Deaf-Blindness (DB)

Department of Elementary and Secondary Education (DESE)

Due Process Hearing (DPH)

Education for All Handicapped Children Act 1975 (EAHCA)

Emotional Disturbance (ED)

Education of the Handicapped Act 1970 (EHA)

Elementary School (ES)

Elementary and Secondary Education Act (ESEA)

Free and Appropriate Education (FAPE)

Hearing Impairment (HI)

Intellectual Disability (ID)

Individuals with disabilities Education Act (IDEA)

Individualized Education Program (IEP)

Language Impairment (LI)

Least Restrictive Environment (LRE)

Local Education Agency (LEA)

Multiple Disabilities (MI)

Mental Retardation (MR)

Middle School (MS)

Missouri School for the Blind (MSB)

Missouri School for the Deaf (MSD)

Missouri School for the Severely Disabled (MSSD)

National Association for the Advancement of Colored People (NAACP)

No Child Left Behind (NCLB)

Other Health Impairment (OHI)

Orthopedic Impairment (OI)

Pennsylvania Association for Retarded Children (PARC)

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)

Supreme Court (SCOTUS)

State Education Agency (SEA)

Special Learning Disability (SLD)

Special School District (SSD)

Speech and Language Impairment (SLI)

Statistical Package for the Social Sciences (SPSS)

Society for the Psychological Study of Social Issues (SPSSI)

Traumatic Brain Injury (TBI)

Visual Impairment (VI)

CHAPTER ONE: INTRODUCTION

Overview

This research utilized archived data for a content analysis of due process disability cases resolved in Missouri for students in grades K-12 from 2008 to 2018. The background to this research is outlined in Chapter One and includes the history of disability education prior to its regulation by various laws. Discussion on the pragmatic conceptual framework as well as the problems pertaining to the growth in disability complaints are included in this chapter.

Documented in this section also are the objectives of the research and the significance of the study to the federal government's provision of FAPE in accordance with the Individuals with Disabilities Education Act (IDEA). Additionally, in this chapter are clarifications on the relevance of the study to parents of students with disabilities and local education agencies (LEAs). Chapter One concludes with the research question and special education definitions.

Background

Guardians and parents file for due process hearings when they perceive that the provisions under the IDEA have been violated by ineptitude. The IDEA protects the right of parents to seek due process to challenge the educational provisions for their children (Shaver, 2015). The administrative hearings and occasional eventual lawsuits hamper relationships between parents and schools (Shuran & Roblyer, 2012) as well as impact funding for schools. Litigation costs drain schools' budgets as special education lawsuits have become the most active sector of public education litigation (Zirkel, 2015).

Prior to the passage and implementation of federal statute P.L. 94-142, educators denied millions of children with disabilities access to public schools or provided substandard service from educational facilities even though some provisions existed for the children at the state level

(Martin, Martin, & Terman, 1996). Individuals with disabilities were considered inferior and accordingly were institutionalized when possible. However, in the nineteenth century changes in perspectives in medicine, scientific investigation, and economic pursuits engendered a more favorable attitude to the disabled (Spaulding & Pratt, 2015). Parents and advocates of children with disabilities filed several cases to challenge the limited resources provided to the disabled children and demanded that their constitutional right, equal opportunity, be granted (Turnbull & Turnbull, 2015). Advocates lobbied for a specific organization to administrate initiatives for the disabled.

The Bureau for the Education of the Handicapped (BEH), formed in 1966, had representatives pioneer federal programs, which benefitted specific groups among the disabled, the deaf and /or blind, multiple handicapped, and those with specific learning disabilities (Martin et al., 1996). Later, advocates for the disabled were successful in earmarking percentages of the general education fund from the Elementary and Secondary Education Act's (ESEA) Title III resources. Various agencies utilized the funds in endeavors, but the need for a unified comprehensive program for the disabled became apparent. At the BEH's instigation, the various programs were unified under the Education of the Handicapped Act (EHA) passed in 1970 (Martin et al., 1996). The law became effective eight years later.

The early 1970s were marked by a deluge of lawsuits, notably pertaining to the education of the mentally disabled, including infants. The assertive effort resulted in resolutions to improve education, funding, and protection of students who were displaced. In 1973, Public Law 93-112, the Rehabilitation Act, in Section 504, provided for state education agencies (SEA), and local education agencies (LEA) to end discrimination against individuals with disabilities, but neither funding nor monitoring were provided, so people ignored the law (Martin et al.,

1996). The implications were that children with disabilities were being denied not just education but the potential opportunity to live with autonomous economic success. Dissatisfied parents continued to lobby.

The Education for All Handicapped Children Act (EAHCHA) P.L. 94-142 passed in 1975. The Act provided for identification and evaluation of students with disabilities, determination of the impact of the disability on education, creation of an individualized education plan (IEP) for each student with disability, and education in the least restrictive environment (LRE) (Martin et al., 1996). Educators provided each child identified with a disability with an IEP to guide both attainment of academic goals and to facilitate the transition process from school to work or development of life skills (Cavendish & Connor, 2017). Parents, children, educators, and relevant service providers would contribute to the IEP expectations (Turnbull, 2005). The EAHCHA became the Individuals with Disabilities Education Act, IDEA, in 1990. The IDEA combined the legislations of P.L. 94-42 for ages 6 to 21 years with P.L. 99-457 which covered ages 3 to 6 years (Driscoll & Nagel, 2010). The amended IDEA had four major objectives. The objectives were the identification and education of children with disabilities; accountability of children, parents, and other stakeholders; extension of financial incentives for state and local education agencies to participate in the initiative; and the provision for due process (US Department of Education, 2010).

The IDEA emphasized that lessons were to be developed based on scientific evidence and students were to be instructed by highly-qualified teachers (Turnbull, 2005). Statistics indicated a shortage of special education teachers as far back as 2002 when 12.3% of the 13.6 million teachers working in special education lacked training (Brownell, Bishop, & Sindelar, 2018). The projection for the future is a continued shortage of teachers as the count of students with

disabilities continues to rise, and teacher attrition in special education remains problematic.

The IDEA introduced civil rights and welfare initiatives to assist families. The laws of the IDEA protected the civil rights of students with disabilities from random rejection by an educational institution as practiced previously. At least in theory, inclusion began in 1973 with Public Law 93-112. Two years later in 1975, under Public Law (P.L. 94-142, known as the IDEA) schools had to implement procedures to find and test students suspected of having disabilities (Martin, et al., 1996). As incentive, schools received financing based on the count of students with disabilities.

Students with disabilities were entitled to free appropriate public education (FAPE) outlined for the student's specific needs in an individualized education program (IEP) (Katsiyannis, Counts, Popham, Ryan, & Butzer, 2016). Legislators authorized the provision of lessons in the least restrictive environment (LRE) that allowed interaction with non-disabled peers in the regular classroom (Turnbull, 2005; Martin et al., 1996). The students with disabilities received IEPs created with yearly measurable academic objectives and services provided through the local public agency to alleviate deficits in their academic and medical needs (Center for Parent Information and Resources, 2010). Educators and support services providers collaborated in creating IEPs annually to provide educational benefits even though maximizing student potential was not a requirement (Katsiyannis et al., 2016). If a student showed growth or learning, the academic expectations were met.

Parents and their children with disabilities had civil rights protection by due process proceedings outlined in the Fifth and Fourteenth amendments of the Constitution (Martin et al., 1996; Turnbull & Turnbull, 2015). Caregivers could resolve disputes under the IDEA provisions by mediation, settlement, or with an administrative hearing provided at one level or two levels

depending on the procedures adopted by each state (Center for Parent Information & Resources, 2017). Petitioners could also appeal administrative results through civil litigation.

The welfare component of the IDEA included fiscal policies to provide families with early intervention services for medical and developmental needs if necessary in the home (Driscoll & Nagel, 2010). Further, the demand for expected high quality inclusion services in early childhood education (U.S. Department of Health and Human Services, (2015) & U.S. Department of Education, 2010) magnified conflicts between parents and teachers. Trying to meet the objectives of the provisions of the IDEA for qualification and retention of teachers in rural and urban education centers became a burden for the LEA. Contested civil rights and welfare provisions resulted in a plethora of petitions to settle differences of opinion on the execution of tasks (Shuran & Roblyer, 2012). Consequently, conflicts in due process may have been the most frequently litigated in the public-school system (Zirkel, 2015). The litigation dilemma in the public-school system is directly related to the size of the population with disabilities. In 2013, almost 6,000,000 students ages 6-21 received services under the provisions of the IDEA (Katsiyannis et al., 2016).

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) passed by Congress in 1996 held all citizens responsible for their behavior. The revisions to the IDEA of 2004 supported this perspective (Turnbull, 2005). Persons providing for the wellbeing of the disabled under the provisions of the IDEA were liable for the quality of the service they provided. Classroom teachers, medical service providers, bus drivers, paraprofessionals, and others providing services to the disabled assumed individual responsibility of paramount significance.

Causes of dissensions among parents, LEA's, and service providers were frequent, and

resolutions varied. Parents could seek recompense for perceived violations of FAPE. Options for resolving complaints begin with mediation (Zirkel, 2015) and settlement, which are less costly routes to resolution. Complaints not resolved at the initial levels may advance to an administrative hearing and appeal.

The epistemological approach to this study is practical in nature. The researcher obtained data from a convenience sample of due process cases on the Missouri Department of Elementary and Secondary Education (MDESE) special education website. Pragmatism was the guiding philosophy. The trajectory of the pragmatic approach was to generate new perceptions from the archived social behaviors (Danforth, 2006). Nungesser, (2017) concurs that human behavior is not purely instinctive, therefore learning, self-reflection, and objective interactions lead to an individual's ability to change his or her social circumstances. The new perceptions were anticipated since pragmatism engenders progress through the manipulation of results of investigation and application of the outcome of the research to social practice (Kitcher, 2015). The documented conflicts in the due process cases when analyzed revealed new realities for social promulgation.

Similar studies have been conducted in Texas between (2011-2015) (Schanding et al., 2017) where the methodology, analysis, and result procurement mimicked the research process implemented under the pragmatic concept. The researchers used the descriptive content analysis, coded the disabilities in their research in (2015), then charted and analyzed the data (Schanding et al., 2017). Sullivan and Bal (2013) conducted a descriptive analysis using demographic groupings and empirical calculations including multilevel logistic regression. While not stated, the pattern of theoretical conception guiding the research appeared to be pragmatism since the empirical methodology was equivalent to that implemented in this research. Unlike the content

analysis used by other researchers mentioned previously, Gelech, Desjardins, Matthews and Graumans (2017) used a case study along with pragmatic investigation to review relationships in disability partnerships and social change. The researchers used active participants offering rehabilitation services and solicited from them the foci of the research. The pragmatic process in the case study involved dialectical reasoning, critical thinking (Gelech et al., 2017) collection and analysis of statements.

Social change has resulted in millions of children no longer being denied access to education in public schools. The IDEA ensured children with disabilities aged 3 years to 21 years received FAPE. Infractions in academic or service provision though costly can be resolved by mediation, settlement, or due process if not appealed to a higher court. States have unique differences in administration of the due process system, so ascertainment of individual state's due process trends is significant to effective revision and administration of the IDEA provisions. Among researchers, the descriptive content analysis with empirical statistical and inferential conclusions is well utilized. While the guiding theory is often not stated, the analysis implies ratiocination and inferentialism, elements of pragmatism.

Problem Statement

Special education litigation is problematic (Katsiyannis et al., 2012) because of the provisions of Free Appropriate Public Education (FAPE). Free appropriate public education is integral to the effectiveness of the Individuals with Disabilities Education Act (IDEA) but it is the cause of disputes between schools and parents of students with disabilities (Martin et al., 1996). The term "appropriate" is subjective, and according to Shuran and Roblyer (2012), the IDEA has not provided "any substantive standards by which the adequacy of IDEA services can be measured" (p. 2). Mounting costs from increasing litigations and tense relations between

schools and their communities (Shuran & Roblyer, 2012) prompt scrutiny of the cases in dispute. Although national empirical assessments of resolved cases were conducted, results revealed mixed trends varying by regions, therefore not enabling needed strong inferences about an individual state.

Several factors inhibit data procurement or taint results. The subjectivity of the IDEA provisions compounds problems with parents obtaining desired results due to interpretations of the law. Statistics indicate that disability trend determination is under investigated and obscure; for example, students with disabilities seem to have experienced harsher expulsion measures (Gowdey, 2015). Unpublished outcomes from mediation further constrict data. Formerly, cases were released at the judge's discretion (Zirkelet al., 2012), and at the federal appellate level. Varying guidelines cause inconsistencies in publication timeframes (Shuran & Roblyer, 2012). Recent competition among internet publishing sources such as Google Scholar, West's Westlaw and Meade's Lexis have allowed more case decisions to be accessible to the public (Zirkel & Machin, 2012). More data from case decisions facilitate trend detection, which may foster attainment of the objectives of the IDEA so that liability to schools can be minimized (Katsiyannis et al., 2012). The problem is that Missouri has insufficient data on disability trends concerning students with disabilities in K-12 public schools and reliance on (limited) research findings have stymied data availability (Zirkel, Perry, & Machlin, 2012) and may have impeded social progress.

Purpose Statement

The purpose of the descriptive content analysis of the Individuals with Disabilities Education Act's (IDEA) due process case rulings over 15 years among local education agencies (LEAs) and parents of the population of K-12 students attending public schools in Missouri was

to determine disability case trends. According to Gall et al. (2007), a descriptive study is “intended to produce statistical information about aspects of education of interest to policy makers and educators” (p. 4). The researcher obtained archived data from the special education website of the MDESE for the period 2008 to 2018. During the investigation, the researcher collected the following data, decision dates, district case numbers, students’ ages, genders, grade levels, types of disabilities, and complaint comments from resolution reports. The researcher further illustrated the dependent variables or disability results using statistical tables and line graphs of disability trends. From the independent variables or cases the researcher obtained data on the following types of disabilities including autism (A), deafness (D), deaf-blindness (DB), emotional disturbance (ED), hearing impairment (HI), mental retardation (MR), multiple disabilities (MD), orthopedic impairment (OI), other health impairment (OHI), specific learning disability (SLD), speech or language impairment (SLI), traumatic brain injury (TBI), and visual impairment (VI), which includes partial sight and blindness. Other independent variables included demographics, and administrative ruling decisions.

Significance of the Study

This descriptive study was significant because it provided the data and trends, not previously obtained from research, on resolved Individual with Disabilities Education Act (IDEA) due process disputes in Missouri between parents of students with disabilities and LEAs of the K-12 public schools. The analysis replicated a previous study carried out in Tennessee with 106 cases for the 12-year period from 2004-2016. This researcher utilized cases acquired from 2008-2018. Both studies indicated an increase in complaints regarding autism. Since autism has associated symptoms of emotional and social interaction disorders, these studies draw attention to classroom management and the provision of free appropriate public education

(FAPE). National data on litigated decisions do not adequately reflect state activity (Bailey & Zirkel, 2015) so closer attention to the due process hearings at the state level is necessary.

Disability due process cases have unfavorable fiscal consequences. Patterns in due process resolutions may have implications for decisions to revamp the reimbursement of the costs of private school attendance by LEAs, which nationally amounts to approximately 90 million dollars annually (Schanding, Cheramie, Hyatt, Praytor, & Yellen, 2017). Further, due process is financially prohibitive, (and therefore unfair), for parents who want to hire an advocate and skilled service providers crucial to petition success (Shaver, 2017). Research in Tennessee in 2016 indicated that legal fees for a hearing exceeded \$10,000.00; attorneys' fees were approximately \$19,000.00 and the median settlement was \$24,000.000 (Beaudoin-Saunders, 2017).

Due process cases are emotionally draining. The expedited hearing is stressful and detracts from adequate preparation. Contravention is necessary since afflictions in time and emotions impact already burdened teachers leading to attenuation in staff (Mehfoud, Smith, & Sullivan, 2017; Schanding et al., 2017). Schanding et al. (2017) conducted research in which 24% of the superintendents surveyed indicated that on 10% to 25% of the occasions in which due process cases were held, teachers withdrew their services from the special education department. Congress in 2004 amended the IDEA by adding alternative resolution options to the administrative hearing (Shaver, 2015). The amendments of 1997 and 2004 may have contributed to a decline in litigations (Schanding et al., 2017) but the population with disabilities is increasing; consequently, it is necessary to determine what the disability trends are since the provisions of the IDEA serve as fiscal monitor, civil rights law, and welfare law. Trends can be used to legislate change since states have a choice of designing their own resolution system using

the single or two-tiered structure (Shaver, 2015).

The empirical findings may be limited in generalizability but the theoretical concept, pragmatism, is universally applicable which facilitates reproduction of the research locally and nationally. Diverse perspectives of pragmatism emerged but the enduring concept supported by John Dewey and William James is that reality is the result of human action (Kuklick, 2017). In this context, the collection analysis and interpretation of data is conducive to social reformation. The research process is employable where ever due process cases are documented and archived. Further, the analytic purview of pragmatism is buttressed by inferentialism. Conclusions are supported by data, not instinct.

Research Question

RQ1: What trends will emerge among the types of special education disability complaints brought to due process from 2008-2018 in the state of Missouri among K-12 public school students?

Definitions

1. *Autism* - A pervasive disability diagnosable by age three with symptoms that impede communication, social reciprocity, and learning but is characterized by repetitive behaviors (Morrier & Hess, 2012).
2. *Charter School* - A charter school (CS) is a public - school which students attend by choice ("National Charter School Resource Center," 2017).
3. *Deaf-Blindness* - A simultaneous auditory and visual impairment resulting in severe communication, developmental and educational needs ("Special School District of St. Louis County," 2017).

4. *Deafness* - A severe hearing impairment that impedes a child's auditory processing abilities ("Special School District of St. Louis County," 2017).
5. *Department of Elementary and Secondary Education* - The department promotes quality education by assisting local education organizations academically and financially. It also enables equality in obtaining education for the needy, disabled, second language learners, and other sub groups. It enhances education both at the local and state levels ("U.S. Department of Education," 2018).
6. *Due Process Hearing* - A procedure under the Individuals with Disabilities Education Act that safeguards parental rights to complain (Schanding et al., 2017).
7. *The Education for All Handicapped Children Act (EAHCA)* - Designated as (P.L. 94-142) passed in 1975. The law provides for each child with a disability to receive free public education in the least restrictive environment with an individualized education program collectively created by parents, teachers, and professionals providing support services. There are four major objectives of the law, namely: the identification and education of children with disabilities, assessment of the success attained through educational efforts, provision for due process to resolve disputes, and enablement of states to support the initiatives by providing them with financial incentives (Driscoll & Nagel, 2010).
8. *Elementary School* - Elementary school (ES) is also known as primary school. Grade levels vary from grade 1 to grade 4 and sometimes to grade 7 depending on the state or school district policy ("U.S. Department of Education," 2018).
9. *Emotional Disturbance* - A condition in which a child experiences, over a long time, personal fears, symptoms of depression, inhibitions in maintaining interpersonal relationships, and difficulty with cognition ("Special School District of St. Louis

County,” 2017).

10. *Free Appropriate Public Education* - Special education services provided at public expense, under public supervision and direction, and free of charge (“Special School District of St. Louis County,” 2017).
11. *Hearing Impairment or Deafness* - This is a permanent or fluctuating incapacity in hearing that is not a part of the definition of deafness and affects academic performance (“Special School District of St. Louis County,” 2017).
12. *High School* - Also termed secondary school; accommodates education for students in grades 9-12 in various educational tracks in the same school (“U.S. Department of Education,” 2018).
13. *The Individuals with Disabilities Education Act (IDEA)* - This act passed in 1990, replaced the Education of the Handicapped Act (P.L. 94-142 and P.L. 99-457). The new IDEA (P.L. 105-17) stated that children with disabilities have the right to free appropriate public education (Driscoll & Nagel, 2010).
14. *Individualized Education Program* - This is a written statement for each child with a disability that is developed in a meeting to reflect the child’s present academic and functional capability and measurable goals for the future (“Special School District of St. Louis County,” 2017).
15. *Local Education Agency* - A public organization which has legal rights to administrate or provide services in an elementary or secondary school in a political subdivision in a state (“Legal Information Institute,” 1992).
16. *Mediation* - Involves procedures established and implemented at the cost of the state so that disputing parties may voluntarily meet with a mediator, knowledgeable in laws

relating to special education, at a convenient location to discuss and resolve, if possible, the dispute (“Parent Information Resources,” 2017).

17. *Mediator* - A mediator must be knowledgeable in the laws and regulations relating to special education and related services, be impartial, and not have a personal or professional interest that impedes objectivity. Mediators have various professional backgrounds – psychology or speech/language pathology and have no ties to state or local education agency (‘Parent Information Resources,’ 2017).
18. *Mental Retardation* - This is low intellectual functioning co-existing with poor adaptive behavior. Under Rosa’s Law, 20 U.S.C. 1400, the term *intellectual disability* replaced *mental retardation* (Colvin, 2013).
19. *Middle School* - Attended by students in grades 5 to 9 but most MS have grades 6-8. Middle schools with grade range (7-9) may also be termed junior high schools (“U.S. Department of Education,” 2018).
20. *The Missouri School for the Blind (MSB)* - Operated by the Missouri Department of Elementary and Secondary Education in St. Louis. It accommodates legally blind children ages 5 to 21 years from the state and provides services 24 hours per day 7 days per week. Services offered include academic, social, psychological, daily living skills, and career preparation (“Missouri School for the Blind,” 2018).
21. *The Missouri School for the Deaf (MSD)* - Provides a comprehensive residential program for the deaf in grades K-12. Programs include academics, residential life skills, student services for all grade levels, and athletics (“Missouri School for the Deaf,” 2018).
22. *The Missouri School for the Severely Disabled (MSSD)* - Operated by the state for students who are severely disabled and are between the ages of 5-21 years (“Missouri

Department of Elementary and Secondary Education,” 2018).

23. *Multiple Disabilities* - Several impairments which occur at the same time, may not be treated independently, and cause severe educational needs (“Special School District of St. Louis County,” 2017).
24. *Orthopedic Impairment* - This is a severe orthopedic impairment caused by congenital dysfunction, disease, amputations, fractures and burns that cause disfigurement (“Special School District of St. Louis County,” 2017).
25. *Other Health Impairment* - Having limited strength, vitality, or alertness, including a sensitivity to environmental stimuli (“Special School District of St. Louis County,” 2017).
26. *Procedural Safeguards* - The rights detailed by the Individuals with Disabilities Education Act (IDEA) of 1975 to protect the rights of children with disabilities and their parents to FAPE and LRE and ensure that parents are advised of the creation of the IEP and any changes to it (“Special School District of St. Louis County,” 2017).
27. *Specific Learning Disability* - A disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written (“Special School District of St. Louis County,” 2017). Under Rosa’s Law, 20 U.S.C. 1400, the term *intellectual disability* replaced *mental retardation* (Colvin, 2013).
28. *Speech or Language Impairment* - A communication disorder that adversely affects a child’s speech quality in fluency, sound, and educational performance (“Special School District of St. Louis County,” 2017).
29. *State Education Agency* - Represents the interests of education at the state level by promoting academic excellence, equal to or exceeding world standards as well as

protecting equality in education (“U.S. Department of Education,” 2018.).

30. *Traumatic Brain Injury* - An acquired injury to the brain caused by external physical force (“Special School District of St. Louis County,” 2017).

31. *Visual Impairment* - Includes partial sight and blindness. An inability to see well which correction is unable to improve; hence learning is undermined (“Special School District of St. Louis County,” 2017).

CHAPTER TWO: LITERATURE REVIEW

Overview

Individuals with disabilities have historically been marginalized by a society baffled by the encumbrances of disabilities. Acts passed in the 1970s, particularly the Education for All Handicapped Children Act (EAHCHA) P.L. 94-142 passed in 1975, Titles I and V of the American with Disabilities Act of 1990, amendments in the 1990s, as well as the renaming and reauthorization of the Individuals with Disabilities Education (IDEA) Act P.L. 94-142 in 2004 shifted the focus from the blight of the dysfunction and social rejection to the normalization of social response to afford individuals with disabilities a chance at life experiences that approximate mainstream interactions. Landmark cases resulted in changes to the judicial system, teacher education, student education, civil rights, and welfare provisions. Court decisions for landmark cases influenced policy decisions at the federal level favoring funding and affecting relations among local education agencies, schools, parents, and federal agencies. The literature review in this section traced the historical development of legal rights and civil rights for students with disabilities with specific references to Missouri. Additionally, the philosophy of pragmatism which encompasses individual and social change from action, reflection, and inferential assumptions underscores the research methodology employed in the study.

Theoretical Framework

Pragmatism

Early 20th century philosophers debated the definition of pragmatism and several notable philosophers contributed to its contemporary definition. William James introduced the concept publicly in 1898 and credited Charles Peirce as the originator. Charles Peirce, the pioneering

philosopher, chose to distinguish his concept from that of others by naming it pragmatism. John Dewey termed his concept instrumentalism, and Richard Rorty focused his perspective of pragmatism around linguistic analytics or ratiocination (Kuklick, 2017). Robert Brandon, a contemporary scholar who has since the 1980s been recognized as a philosopher of repute contends that inference is a significant component of pragmatism.

Seemingly there are several versions of pragmatism; however, these several versions have been combined into a cogent philosophy with each aspect contributing to the effectiveness of the concept to epistemology. The philosophers, William James, Charles Peirce, and John Dewey have similar perceptions of pragmatism in that concepts of reality are determined by actions (Kuklick, 2017). Pragmatists philosophize that society is malleable, and its evolution is dependent on biological evolution, evolution of individual action, and change in human behavior or experience (Nungesser, 2017). However, Robert Brandon and Richard Rorty embrace the notion of “analytic pragmatism” (Kuklick, 2017, p. 567) in which language contributes to inferentialism in that through linguistic analysis of what is existing, assumptions may be made about the future. Although seemingly different, the perspectives are congruent since ideas evolve into action from which inferences may arise. Instinct is not the sole basis for decision making, rather “human behavior is based on learning, habits, and self-reflection” (Nungesser, 2017, p. 12) therefore individuals are able to think reflectively, collaborate with others, and so enable social transformation. Interaction among humans determine the progress of society as individuals respond to their perceptions.

The descriptive method in research has its foundation in the theory of pragmatism in which information immediately available is utilized for inferential purposes. This philosophical method is attributable primarily to Dewey, who theorized that the importance of work

experience lies in the attainable objective for which the work is undertaken (Howard, 1919).

The objective may be the inferential decisions drawn from data obtained through effort.

According to Howard (1919), individuals constantly act for various reasons including self-development, or maintenance. In practicality, the cases that have been heard in due process had objectives specific to the petitioner and the defendant, but also have bearing for the population of individuals with disabilities and their unimpaired peers. The inferential outcomes or abduction from the hearings have bearing upon future decisions for the parties in conflict and the population in general as progress is sought in relation to existing historical conditions and transformation of the conditions of a particular social group at a rung in the hierarchy of humanity's evolution (Kitcher, 2015). Pragmatism is indeed intellectual reconstruction (Dewey, 1910) in which the pragmatist infers new processes and ventures from actual examples, not mere creative thought; therefore, inferences are the result of description which encompasses thematic concepts and creation of ideas (Howard, 1919). Consequently, a society that embraces analysis invites transformation from inferentialism.

Dewey's pragmatism or philosophy of abduction incorporates revitalization or repurposing of existing information. In order to repurpose information, logical analysis is essential to arrive at inferences, and as Peirce contended, arriving at an inference or belief is not just intuitive but based on reasoning from which an observable pattern of the phenomenon leads to a relevant hypothesis (Stanford Encyclopedia of Philosophy, 2017). Dewey's pragmatic philosophy incorporated notions derived from individual "action, interaction, adjustment, response, adaptation and remembering" (Howard, 1919, p. 382). Each activity contributes to the creation of information; therefore, language should be used effectively in creating laws and in elucidating findings for administrative cases. Both the pragmatic and abductive philosophies

entail careful analysis of descriptive data such as statistics from the Missouri Department of Elementary and Secondary Education to arrive at inferences.

Other researchers concur that descriptive research is meritorious even though notions derived from the descriptions may be subjective and may reveal controversial conflicting trends (Zirkel et al., 2012; Howard 1919). Shuran and Roblyer (2012) utilized descriptive research to determine the disabilities most frequently brought to due process in Tennessee and the cases in due process which were most likely to succeed for the years 1996 to 2007. It is necessary to continue content analysis of cases throughout the nation to obtain current data and project future trends. Previous comprehensive research not dissected by state limited the usefulness of the data for addressing unique variations in social conditions at the state level. In fact, Shuran and Roblyer (2012) intimate the significance of knowing more about the individual causes of dissatisfaction aired by parents. Further, they imply the necessity for reasons pertaining to why many complaints are not able to be settled without due process and further litigation. The pragmatic theory supports the use of descriptive content analysis to infer trends in due process cases in Missouri.

Related Literature

History of Civil Rights Development for the Disabled

The years preceding the 1970s were characterized by abuse of millions of children with disabilities who were denied access to schools or received substandard service from their educational facility (Martin, Martin, & Terman, 1996). This occurred even though in some parts of the United States of America provisions for improved services were already in place due to rulings from litigations seeking constitutional rights for the disabled (Martin et al., 1996). The statutes were never enforced. Parents of children with cognitive disabilities initiated the legal

charge (Musyoka & Clark, 2015) and along with the clamor from the civil rights movement, propelled demands for educational rights and subsequently aroused criticism of the treatment the disabled received in the educational system (Martin et al., 1996). Various federal court cases pioneered by parents and advocates of children with disabilities demanded that improved resources be provided to their disabled children and that their constitutional right, equal opportunity, be granted (Turnbull & Turnbull, 2015). The implications were that children with disabilities were being denied equal access to education and the potential opportunity to live independently with autonomous economic success. The disabled functioned mainly in seclusion, separated from their peers and dependent on inadequate services (Silverstein, R., 2000). The pioneering thought at this juncture was that public school should allow access to all students (Martin, Martin, & Terman, 1996). However, the provision of schools for the deaf and blind in the early 19th century was the highlight of government's efforts to intervene in public schooling for the disabled.

The federal government in 1958 and 1965 exerted major effort to improve education, but these provisions excluded assistance for the disabled (Martin et al., 1996). Under the National Defense Education Act of 1958, elementary and secondary schools received funds to bolster the study of math and science in the face of scientific competition when the Soviet Union launched Sputnik (Martin et al., 1996). Within a week later, a minor act (Public Law 5-926) passed for the education of personnel in colleges and universities to teach children suffering from mental retardation now termed mental disabilities (Martin et al., 1996). Martin further expounded that this small act sparked further action, and in 1963 Public Law 85-926 was reauthorized to provide funds for training teachers and to facilitate research into various disabilities. In 1965 the Elementary and Secondary Education Act (ESEA) was passed, and it

signaled the first substantial federal effort to provide financial assistance to specific groups in public education at both the elementary and secondary level; the subsidy did not specifically accrue to children with disabilities, but later Public Law 89-313 enabled Title 1 monies to be granted to assist children with disabilities in public schools (Martin et al., 1996).

Advocates lobbied for a specific organization to administrate initiatives for the disabled. In 1966, the Bureau for the Education of the Handicapped (BEH) was formed, and it pioneered several federal programs which benefitted specific groups among the disabled; the deaf and/or blind; multiple handicapped; and those with specific learning disabilities (Martin et al., 1996). Advocates for the disabled were eventually successful in earmarking percentages of the general education fund from the Elementary and Secondary Education Act's (ESEA) Title III resources.

The need for a unified comprehensive program for the disabled became apparent. The BEH instigated the unification of various programs under the Education of the Handicapped Act (EHA) passed in 1970 (Martin, et al., 1996). The law became effective eight years later and ushered in the era of a new attitude to the disabled: a paradigm of human value.

In the early 1970s a deluge of cases, notably those pertaining to education of children with mental disabilities, including infants, resulted in resolutions to improve education, funding and protection in displacement. The 1971 case of Pennsylvania Association for Retarded Children (PARC) versus Commonwealth of Pennsylvania disputed the validity of a state law that enabled a public school to prevent admission of students who were mentally challenged (Martin et al., 1996). The ruling favored the advocates and parents and resulted in public schools admitting children with mental disabilities who could then as well as now attend school until they reached the age of 21.

Significant changes in public school attendance became imminent. The dispute between

Mills and the Board of Education was filed on behalf of seven students aged 8 to 16 years with various disabilities who sought to attend public schools in the District of Columbia but were denied access due to limited resources (Martin et al., 1996). The case rulings favored the parents and advocates indicating that under the Fourteenth Amendment to the Constitution, children with disabilities had equal protection so they could not be denied access to public school on the grounds of limitation in resources. The new paradigm on the treatment of the disabled ushered in changes to several statutes including changes in architecture on federal buildings, allocation of funds for vocational education for the disabled, provision of medical services for those pregnant women at high risk of bearing children with mental disabilities, and funded research into mental retardation (Silverstein, 2000). In 1973 Public Law 93-112, the Rehabilitation Act, in Section 504, provided for state and local education agencies (LEA) to end discrimination against individuals with disabilities, but neither funding nor monitoring were provided, so the law was ignored (Martin et al., 1996). Advocates and parents continued to lobby, and by 1973, more than 30 similar cases obtained favorable rulings in federal courts, and statistics from hearings before Congress revealed that 3.5 million children with disabilities were not being educated appropriately (Martin et al., 1996).

In 1975, under duress, Congress instituted a grant to fund education for the disabled. The regulations became part of P.L. 94-142, the Education for All Handicapped Children Act (EAHCA). In 1990, this law was renamed the Individuals with Disabilities Education Act, (IDEA). Children were now entitled to free appropriate public education (FAPE). The IDEA combined the legislations of P.L. 94-142, which covers ages 6 to 21 years with P.L. 99-457, which covers ages 3 to 6 years (Driscoll & Nagel, 2010). This fusion resulted in a wider age range of services for children with disabilities and their families under the authority of the

IDEA.

Four major objectives of the IDEA Law are the identification and education of children with disabilities, accountability of children, parents, and other stakeholders; extension of financial incentives for state and local education agencies to participate in the initiative; and the provision for due process (US Department of Education, 2010). Children with disabilities were to be mainstreamed and educated with their peers in the least restrictive environment. They were to be schooled with their peers unless the disability was such that even with the provision of supplemental aid, the disabled child would still not be adequately educated in the regular classroom. Over the years several amendments have been made to the IDEA. Initially, the federal government had limited involvement in assisting individuals with disabilities with education other than grants proffered for the establishment of housing for the deaf and dumb and the instruction of the blind (Martin et al., 1996).

Landmark Court Cases

The Supreme Court ruling on the case known as *Brown vs. Board of Education* initiated constitutional changes in education. The National Association for the Advancement of Colored People (NAACP) challenged the segregation of public schools in the United States which provided education for African American and Caucasian children under the guise of separate but equal edification (Hartung, 2004), upheld by the case of *Plessy v. Ferguson*, 163 U.S. 537 (1896) (Schulzke & Carroll, 2014). The NAACP embarked on a class action-suit to the Supreme Court (SCOTUS) level in defense of four petitioners. The case utilized evidence from social scientists largely contributed by the Society for the Psychological Study of Social Issues (SPSSI) and its related group, the Committee on Intergroup Relations (Hartung, 2004). In 1954, the Supreme Court ruled on the case noted as *Brown v. Board of Education*. It rejected as unconstitutional

separate but equal education but endorsed integrated education as constitutional for Americans, 347 U.S. 483 (1954). In subsequent years, particularly the 1960s and 1970s, the civil rights movement demanded that constitutional rights be nationally acknowledged and dispensed by social entities (Keogh, 2007).

The lawsuit known as *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania* was filed to attack discrimination against the disabled. Following the ruling on *Brown vs. Board of Education*, the desire for equal education reverberated through the households of families of children with disabilities. Early in the 1970s, the Pennsylvania Association for Retarded Children (P.A.R.C.) filed a suit against the Commonwealth of Pennsylvania to ameliorate the biases and exclusions to which students with disabilities were subjected in the public education system (Disability Justice, 2018). Advocates argued that every child had a right to free “appropriate public education” (Keogh, 2007). The Courts determined that it was unconstitutional to exclude students with disabilities from public education; in fact, children with disabilities had, according to the Fourteenth Amendment and the Due Process Clause, the right to public education (Disability Justice, 2018). Further, lack of financial resources was inexcusable for inadequately providing for the disabled. Insufficiencies were to be shared across all the elements of the public education student body and were not to be borne more heavily by one category of students, namely the disabled. All students with disabilities aged 6 to 21 years were to receive free public education, and those in preschool programs who were under age six years were also to be trained and provided education at the public’s expense. Parents of students with disabilities were also allowed special rights and privileges for due process and involvement in decision making regarding their children’s education. These rulings

were the foundation for PL 94-142, the Education for All Handicapped Children Act (EAHCA) which assured public schooling for the disabled regardless of incapacities (Keogh, 2007).

Mills v. Board of Education was another landmark case filed to end inequality and in support of the constitutional rights of the disabled. The PARC 334 F. Supp. 279 (E.D. PA 1972) court ruling benefitted students who were developmentally incapacitated, but the Mills lawsuit brought on behalf of seven children with disabilities who were purposefully excluded from public education, sought remediation for children who were allegedly mentally, physically, behaviorally, and emotionally disabled (Disability Justice, 2018). The class action lawsuit was brought against the District of Columbia because the petitioners' rights to due process were violated. A settlement was achieved on December 20, 1971, which the school board could not fulfill; consequently, a summary judgment was entered on August 1972 in favor of the Mills class action suit, and the ruling also increased financial assistance to programs provided to special education students and teachers (Arocho, 2012). The Mills class ruling reiterated the ruling in Brown v. Board of Education that education should be accessible to all equally. Bulleted below are several other SCOTUS case rulings which have impacted legislation and amendments to the EAHCA now termed the IDEA. Some of the names below are abbreviated but a more complete list of landmark cases is in Appendix A.

- Board of Education v. Rowley 458 U.S. 176 (1982), 458 U.S. 176 (1982)
- Irving Independent Sch. Dist. v. Tatro, 883 U.S (1984)
- School Committee of Town of Burlington, Mass. v. Department of Educ. of Mass., 471 U.S. 359 (1985)
- Honig, v. Doe, 484 U.S. 305 (1988)
- Florence Co. Dist. v. Carter, 510 U.S. 7, (1993)

- Cedar Rapids Community School Dist. v. Garret F. ex rel. Charlene F., 526 U.S. 66 (1999)
- Florence County School Dist. Four v. Carter, 510 U.S. 7 (1993)
- Schaffer v. Weast, 546 U.S. 49 (2005)
- Arlington Cent. School Dist. Bd. of Educ. V. Murphy, 548 U.S. 291 (2006)
- Winkelman v. Parma City School Dist., 550 U.S. 516 (2007)
- Brown v. Board of Education, 3347 U.S. 483 (1954)

Due Process and the IDEA

The Education for All Handicapped Children Act, Public Law 94-142 has, from its inception in 1975, included the provision for both parents and local education agencies to have a thorough and impartial hearing before an administrative officer when conflicts surface (Newcomer & Perry, 1999). The process for the resolution of conflicts has been amended on occasions to facilitate justice. The process and the amendments need to be scrutinized for aiding or prohibiting wins or losses for parents or the schools. The hearing process stipulated that the parties in conflict could be represented by attorneys and, in similar convention to the judicial system, counsels could present evidence in support of their case and cross examine witnesses as necessary (Mehfoud, Smith, & Sullivan, 2017). The resolution of the cases is deemed final unless appealed successfully. The administrative hearing should be taken seriously and must be convened in not more than 15 calendar days of the filing of the due process complaint, 20 U.S.C. 1415(f)(1)(B)(i)(1) (Mehfoud et al., 2017). Parties to the complaints who must be present at these meetings include the parents, members of the IEP team as determined by joint agreement of the school district and the parents, and a representative from the LEA who has the power to make decisions; the school district's attorney can

participate in the proceedings only if the parents are represented by an attorney (Mehfoud et al., 2017).

There is a multiple tier excrescence to the resolution of IDEA complaints (see Appendix B). The tiers include mediation or administrative hearings. A written agreement may be drafted to preclude the resolution session, and in fact, the parties may elect to utilize mediation which became an option in 1997 (Newcomb & Perry, 1999). The written agreement is legally binding and acceptable in court. Agreements reached in due process administrative hearings may be nullified in court in no more than three days after the agreement document is executed (Mehfoud et al., 2017). When mediation is unsuccessful or is circumvented, then the next step in the resolution process is the impartial administrative hearings (Newcomb & Perry, 1999). Approximately half of all states provide a two-tier administrative process in which an initial administrative hearing, if unfavorable, may be processed in another administrative hearing at the state level (Newcomb & Perry, 1999).

Reauthorizations of the IDEA, for example that of 2004, added requirements to the provisions. At the administrative level hearings or due process hearings, the time for completing cases was lengthened, and procedures for hearings were made more complicated (Bailey & Zirkel, 2015). School districts may derive substantial benefit from a provision in the statute which allows written offers to settle the case to be submitted ten days before commencement of a hearing, 20 U.S.C. 1415(i)(3)(D)(1), (Mehfoud et al., 2017). Parents are at a disadvantage in this regard because the time frame between the filing and the hearing is compressed. School districts may also benefit from obtaining award of attorney's fees from parents who filed suits which were not based on pertinent details or for suits which were inadequately prepared and presented.

Other factors from amendments encourage litigation such as the reimbursement for parents who are favored in the administrative rulings (Schanding et al., 2017; Bailey & Zirkel, 2015) but there is compensation for attorneys by reversing fees from parents who file facetious cases (Bailey & Zirkel, 2015). Further, the amended IDEA 1998 stipulates that primary decision makers for the services individuals with disabilities receive are the family members and the individuals with disabilities (Silverstein 2000); such wording empowers families and students with disabilities to demand the services they desire thereby contributing to conflict with decisions of service providers. Additional service expected may be in the form of concerted effort to accommodate minorities efficaciously in programs to enhance the growth of the disabled (Silverstein, 2000). Minority groups appear to have special consideration which has been afforded through early intervention services but this exceptional service has created controversy with later intervention, particularly in the SLD classification.

The number of cases in mediation, due process hearings, and litigations pertaining to conflicts between teachers and parents of students with disabilities is increasing. In the 1990s, court rulings on IDEA noncompliance increased by almost tenfold by comparison to the numbers of IDEA rulings published for the 1970s (Newcomber & Zerkel, 1999). Additionally, while educational lawsuits declined generally, litigations related to students with disabilities increased substantially (Newcomber & Zerkel, 1999). Yell, Ryan, Rozalski, and Katsiyannis (2009) noted that conflicts which led to due process cases averaged 3,000 annually with about a 90% resolution rate. The number of cases and the resolution rate attest to the belief in the protection under the IDEA. This protection lies predominantly in the Constitution's Fifth and Fourteenth Amendments. The Legal Information Institute at Cornell Law School explained the significance of the Fifth Amendment in that it guarantees that individuals at the federal level in

due process will receive justice through an orderly proceeding (1992). The Fourteenth Amendment guarantees the right of due process to be fair to individuals at the state level so that no one is deprived without due process of the stipulations of the law (U.S. Const. amend. XIV). Individuals with children with disabilities have access to fair and just treatment by airing complaints in mediations, administrative hearings or due process, and in litigations.

Effect of Litigation

Attrition of instructional staff, financial burden, and diminished social interaction are a few of the numerous effects of due process litigation. Research has substantiated that due process is unpopular (Mehfoud et al., 2017). Exceptional education professionals and service providers involved in due process hearings have described the process as very stressful. Indication of teacher attrition began to appear as far back as in 1997 when it was suspected that due process hearings were adding to the increasing stress of special education teachers. The United States loses nearly \$2.6 billion to teacher vacancies annually (Gujarati, 2012). As much as twenty-five percent of principals indicated that teachers involved in due process either left the district or transferred out of exceptional education after a due process hearing (Mehfoud et al., 2017). The attrition rate for regular education teachers is astounding as well. One-third of all teachers left within the first three years. This high rate of attrition detracts from the development and maintenance of an erudite academy (Gurati, 2012).

The focus of litigation has changed from cases demanding the constitutional right to education for the disabled, to resolution of individual conflicts and class action law suits. Law suits maybe regarding issues such as the type of education, extensiveness of the instruction, the relationship between a student's behavior and diagnosed disability, and the appropriate related support services the student with disabilities should receive. Parents may revert to filing civil

suits once they have exhausted the appeals process unsuccessfully. Alternately, cases may be resolved through written settlements known as consent decrees (Noonan, McCarthy, Shea, Marcus, & Mandell, 2016).

In 2002, the Presidents' Commission on Excellence released a 27-year review of IDEA cases indicting that litigations were about process rather than educational instruction and lessons (Noonan et al., 2016). The Senate committee on Health, Education, Labor, and Pensions (2002) recommended reemphasis on student outcomes. Subsequently, reauthorizations in 2004 reemphasized student achievement as focal and that disabled students should share goals similar to those of non-disabled students. Academic goals created for an IEP should, therefore, be drafted using peer-reviewed research whenever possible thereby authenticating the effectiveness of the strategies to be implemented. In 2005 there were twice as many administrative hearings as in 1991, and data from 2002 support the notion that current cases stemmed from procedural ineptitude rather than from dissatisfaction with the content of instruction as occurred in earlier years. Further, litigations especially in class action lawsuits indicate a change in precedence where the group benefits from the litigation, not individual students. This does not preclude individual benefits when individual cases are filed. What is supported is that litigation has bearing on decision making that affects the students with disabilities as a group and on policy decisions at the federal and state levels.

Financial Cost of Due Process Hearing

The due process hearing is convened like a court with petitioners having attorney representation. Both the public school and the parents utilize the services of attorneys resulting in expensive fees. The parents in due process hearings are probably financially solvent, as costs would prohibit the undertaking for parents with low incomes (Mehfoud et al., 2017). National

data indicate that school districts spend \$90 million annually to resolve complaints, and that most of that money is spent on cases involving special education conflicts (Mehfoud et al., 2017; Shuran & Roblyer, 2012).

Parents still question the fairness of due process and legal assistance; statistics reveal that parents assisted by attorneys prevailed more frequently in due process than those who did not use attorneys (Blackwell & Blackwell, 2015). In a study carried out by Cope-Kasten (2013) none of the parents in due process who did not use the services of an attorney were successful in their petition (Schanding et al., (2017). In contrast, a study by Blackwell and Blackwell (2015) revealed that parents represented by attorneys were successful 30.8% of the time; with help of an advocate they were successful 20.5% of the time, but unrepresented parents were successful only 10.7% of the time. The success ratio clearly suggests that it is sage to continue with attorney representation in due process. The costs associated with due process are expected to escalate and the demand for attorneys for this process will remain consistent unless mediation becomes the more effective resolution alternative. Newcomer and Zirkel (1999) citing Maloney (1995) indicated that Between 1978 and 1989 there were 1200 litigations, 60% of which had rulings after 1989. The 1980s and 1990s reflected significant increases in special education litigation such that there were 613 documented decisions in the 1990s representing ten times more cases than in the 1970s (Newcomer & Zirkel, 1999). Notably, litigation cases are those which were unsuccessfully resolved in administrative hearings. Increased numbers of litigation seem to be the trend of the future as parents seek FAPE for their children and restitution for attorney's fees. In section 615(i)(3) of the IDEA law, there is outlined the provisions for the award of attorneys' fees to parents and for the local education agency (LEAs) to charge their fees for parents who fail to proceed with the case after filing and while the hearing is pending.

Factors other than attorney's fees, notably governmental incentives, also contribute to high costs to the state. Schools creatively and concertedly used incentives offered by the government to identify and assist students with disabilities. The total number of special education students in the United States of America rose by 8% between 1987-88 and 2001-2002. Government funding increased by 14% between 1967 and 1996 because schools modified student placements (Kwak, 2010). In Texas, a 35% increase in the number of disabled students from 1991 to 1996 was attributable to financial incentives (Kwak, 2010). Fiscal policies rewarding total enrollment of students with disabilities rather than per student with disability incentive increased savings for the government while still encouraging testing and identifying provisions under the IDEA. In Vermont reformation in the funding process realized a 17% reduction in funding by the government (Kwak, (2010): Governmental efforts to assist students with disabilities may be realized in fiscally responsible ways if state scrutiny of research data on conflicts in due process are given the level of significance they deserve. Statistical indications are that state data on changes in levels of enrollment of students with disabilities vary (Kwak, 2010); hence state patterns of disability growth, complaints, and funding are as relevant if not more so than national data.

Mediation

Amendments to the IDEA in 1997 included the use of mediation with an impartial mediator knowledgeable in the law to resolve complaints before their descent into emotional disputation requiring due process administration (Mills & Duff-Mallams, 1999). The mediator's role is assistive, neither fault-finding nor judicious. Mediation is the first step in the private, confidential, three-level process to justice, the cost of which is borne by the state (Mills & Duff-Mallams, 1999). Missouri was one of the first states to offer mediation as a collaborative

voluntary effort between parents and schools to settle disputes; the Department of Elementary and Secondary Education in 1996 put this arrangement into effect the year prior to mediation becoming mandatory (Mills & Duff-Mallams, 1999; Newcomer & Zirkel, 1999).

Mediation is the intervention intended for parents and schools to utilize to avoid expensive litigations and poor community relations. Should issues not be resolved in mediation, parents may seek assistance from a due process administrator at one or two levels depending on the state (Newcomer & Zirkel, 1999). Dissatisfaction with the due process decision may be fought through the appeals courts. Two of three studies with mediation conducted in 1994, 1995, and 1996 resulted in renewed confidence in the process. The National Association of State Directors of Special Education conducted the studies and in 1996 reported that mediation was an effective form of dispute resolution but suggested that the due process option should continue (Mills & Duff-Mallams, 1999). More than a decade later with mounting costs, increasing cases of students with disabilities, and new social challenges from disabilities such as autism, it is necessary to weigh the import of mediation again and review the IDEA provisions.

Missouri's mediation practices are in alignment with the stipulations of the IDEA's 1997 prescription of the elements for acceptable mediation. Prescribed details for mediation listed a 30-day window for completion of mediation from the parties' agreement to the mediation to the completion of the review; further, once a mediator is chosen, the mediation must begin no later than 15 days from the date of the mediators' selection (Mills & Duff-Mallams, 1999). Because mediation is a faster and less stressful process, it remains a contender for increased utilization in case resolutions. The trends resulting from the research data should lead to evaluation of the functionality and effectiveness of due process practices in terms of time expended, community emotional upheaval, and financial cost.

Highly Qualified Teachers

The No Child Left Behind (NCLB) act passed in 2001 mandated that schools receiving awards from Title I funds should employ teachers who were highly qualified; a “highly qualified” teacher was deemed to be responsible for instruction in core subjects at a school primarily attended by minorities or students from low income families (Schuster, 2012). Teachers were to acquire the designation “highly qualified” no later than the end of the 2005-2006 academic year. The IDEA like the NCLB held educators accountable for the wellbeing of children with disabilities. To foster academic growth and responsibility, the IDEA emphasized utilization of highly qualified teachers for instruction, and development of lessons based on scientific evidence (Turnbull, 2005). Local education agencies (LEA’s) were required to report to the NCLB and to disseminate to schools, parents, and the public in easily-understandable reports the number of classes in public schools that were not taught by “highly qualified” teachers; the data should also compare low income to high income schools (Schuster, 2012).

The IDEA attempted to raise the standard of education and accessibility of all children to quality education without neglecting children with disabilities due to financial constraints. In fact, the appearance of extra care in teaching the disabled was desired but the acquisition and retention of highly qualified teachers became problematic. The continuation of difficulties in acquiring highly qualified teachers may impact case outcomes in due process. For new middle and high school teachers, highly qualified means that the teacher has obtained full state certification or passed the applicable state licensing examination, holds a license to teach in the state, “holds a bachelor's degree or higher, and demonstrates content knowledge of the subject she teaches by passing the state's subject test or having majored in the subject” (Schuster, 2012, p. 153).

Determination of who was certifiable to be a “highly qualified” teacher was the cause of unwanted complaints and the Elementary and Secondary Education Act, first introduced in 1965 to stimulate education for the poor, prohibited the hiring of teachers who were not “highly qualified.” Cases ensued, resulting in states such as California amending the definition of highly qualified teacher (Katsiyannis, Losinski, & Prince, 2012). Teachers were responsible to acquire the level of accreditation needed to perform in their role as “highly qualified” instructors. The growth in the number of students with disabilities is rapid, while the number of teachers with the exceptional education designation is inadequate. The subsequent gap between the inadequate supply and the intense demand for “highly qualified” teachers created the potential for parent and school conflict since there is difficulty with conforming to the provisions of the NCLB and IDEA. Alternate certification was introduced to facilitate individuals with professional experience in content areas to become teachers, bypassing extensive training (Schuster, 2012).

Persistent issues with the use of unqualified teachers may surface in IEP or other complaints under the IDEA, revealing the pockets of non-conformity with the IDEA and NCLB requirements. Efforts to spur teacher qualification began, but only 22 states have financed new teacher training policies which encourage the development of professionalism in teaching (Gujarati, 2012). Varying opinions have been aired elucidating new teachers or existing educators to acquire the skills to build the resilience, content knowledge, and instructional expertise necessary to perform as “highly qualified” having both emotional efficacy and academic expertise, prerequisites for working with students with disabilities. One approach is in teacher preparation courses which have been considered as responsible for training “highly qualified” teachers (Schuster, 2012) while teacher-initiated training with the National Board Exam (Richardson, 2016) has been suggested as an option. There are available teacher education

courses which provide a merged program, allowing certification in general education and exceptional education courses (King-Sears et al., 2012). The race is ongoing to mold effective teachers for the students with disabilities to prevent costly due process hearings and retain teachers with the confidence and willpower to withstand the demands of IDEA procedures and conflicts while optimizing knowledge acquisition in the inclusive or restrictive classrooms. California introduced a Beginning Teacher Support and Assessment program which increased teacher retention by approximately 67% (Gujarati, 2012).

Researchers compiled Statistics which contain evidence of attenuation among professionals with alternative certification. These individuals acquired their teaching experience while in the classroom, not necessarily as student teachers (King-Sears, 2012). The alternate certification teachers may not have enough time to develop the self-efficacy necessary for the duress in inclusive classrooms. As many as 60% of those who worked in communities with low income left the education profession, and 50% of other teachers leave within five years (Gujarati, 2012).

Researchers King-Sears, Carran, Dammann, and Arter (2012) examined the preparedness and self-efficacy of general education teachers and special education teachers who work with students with disabilities. This research was in response to the request by the National Council for Accreditation of Teacher Education and the Interstate New Teacher Assessment and Support Consortium and other organizations. The research assessed new teachers' ability to demonstrate the acumen and emotional versatility to educate every student under their authority (King-Sears et al., 2012). In the research conducted by King-Sears et al. (2012), teachers prepared in special education programs had higher self-efficacy than their general education counterparts. Since children with disabilities are spread throughout inclusive classrooms, general education teachers

need also to acquire the skills to teach students with disabilities, and this skill acquisition should begin as early as during student teaching experiences (King-Sears, 2012). This raises the question of whether complaints by parents of students with disabilities are more likely to originate against teachers who are inadequately trained. This study will be extensive and one of the most comprehensive for the state of Missouri to date. The causes of complaint and the outcomes are potent for inferences regarding expectations for academic content, teacher training, finance and classroom supervision in the future.

Individualized Education Program

The Individualized Education Program (IEP) is an integral element of the Individuals with Disabilities Education Act denoted as Public Law 94-142. The act was designed to assist students with disabilities using an individualized education plan (IEP) to attain goals within their capabilities (Musyoka & Clark, 2017). Numerous complaints have arisen from dissatisfaction with goals in the IEP because academic staff, service providers, and parents disagree on the goals, diagnosis, and capabilities of the disabled students for whom the IEP is created. Blackwell and Blackwell (2015) support the requirement by the IDEA for parents to participate in the creation of the IEP. School entities must provide each child with a disability with an IEP to guide attainment of not just academic goals but also life skills (Turnbull, 2005). It is through the effective execution of the IEP procedures that free appropriate public education (FAPE) is achieved (Katsiyannis et.al., 2015). While the services and procedures are designed for academic enhancement, it is not a requirement for the student to optimize learning, but the student should show substantial improvement academically (Katsiyannis et al., 2015). Additionally, the student's IEP should advance the concept of accommodation in the least restrictive environment by including objectives for involvement in the regular curriculum and

nonacademic pastimes (Turnbull, 2005).

The Individualized Education Program services begin as early as age three following diagnosis and continue until age twenty-one. All children who are diagnosed as disabled should have their IEP reviewed annually in the presence of parents, teachers, and service providers to determine if the goals are adequate for the needs of the student. An IEP usually includes the students' current skill level, measurable goals for the ensuing school year, when and how attainment of the goals will be assessed, as well as the provision of necessary medical, psychological, cognitive stimulation and procedures for the attainment of objectives mutually agreed on by parents, students and teachers. When students become teenagers, the IEP must also incorporate life skills and transitional academic instruction for independent living (Peterson, Burden, Sedaghat, Gothberg, Kohler, et al., 2013). The IDEA dictates specifically what should be included in the IEP, but states are able, in accordance with federal law, to design the IEP and its procedures to meet the state's preference (Musyoka & Clark, 2017). The IEP guides the acquisition of life skills and the achievement of academic growth (Musyoka & Clark, (2017). Considering the collaborative effort involved in the IEP creation and its relevance to basic attainable remediation, mastery of life skills for successful transition to independent adult living, and participation in state curriculum assessment such as the Common Core State Standards (Peterson et al, 2013), it is necessary to dissect the frequency and outcomes of the various complaints to ascertain whether more issues in conflict may not be resolvable with stronger IEPs thereby avoiding undue costs and professional duress from due process.

Significant differences exist between IEPs with early intervention focus and the goals of IEPs created for students in preparation for exiting the academic program. The difference is understandable and expected; however, at each annual IEP recreation, the content of the IEP

must be legally defensible (Peterson et al., 2013). This presupposes that the goals should be in alignment with IDEA procedures and instructional efforts to eradicate or improve the deficits evident or known to be associated with the diagnosis and symptoms of the disability. The goals of IEPs for early intervention mainly encompass the following priorities: deficiencies in language learning, reading comprehension, and socio-affective development (Kwon, Elicker, & Kontos, 2011). The IEPs created for the early years of the youths with disabilities included care for the physical and psychological well-being of the student (Kwon et al., 2011). The IEP for students transitioning from high school to independent living and career pursuits has federally mandated content which strongly indicates the need “to triangulate student’s future postsecondary goals with state standards as well as with the skills and knowledge requirements for the student’s desired postsecondary career and living situation” (Peterson et al., 2013, p. 46). The transition IEP requires more intense monitoring and overlaps the goals of improved socio-affective behaviors required of the students with disabilities in the early years.

Musyoka and Clark (2017) discovered that IEPs for young children who were deaf did not include a universally accepted plan specifically for the enhancement of communication. The Commission on the Education of the Deaf (1988) identified specific learning skills for students who were deaf, but the incorporation of these ideas in IEPs was lacking (Musyoka & Clark, 2017). This flaw required correction, and data from my research may reveal trends from complaints and resolutions that bolster the need for an amendment for this and other correctable issues. In fact, Musyoka and Clarke (2017) found that IEP goals were too unspecific and did not persistently enhance the achievement of the academic goals of students with disabilities.

Deficits in social and effective communication are a conjunct of several disabilities, notably autism, which has exploded in occurrences in the twenty-first century. Research

revealed that the necessary teacher intervention to foster social communication at the early stages is absent or insufficient in many classrooms. Where direct practice in social communication is taught or modeled student social communication behaviors are appreciably improved (Kwon et al., 2011). Researchers at the Centers for Disease Control and Prevention (CDC) indicated that in 2016 alone almost 45,000 children 10 years or younger committed suicide (Stone et al., 2018). Further, among those who committed suicide, 67.2% were related to ascendants with a family history of mental illness (Stone et al., 2018). Knowing the trends in mental disability enables provisional and procedural improvements to the IDEA.

Interventions in early childhood may pave the way for reduced conflict between families and school communities in later years. In the early years, children learn from the important social, emotional, and academic environment created by the interaction within the family (Cavendish, Connor, & Rediker, 2017) and the collaboration between the family and the practitioners with whom the children with disabilities interrelate (Boavida, Aguiar, & McWilliam, 2014). Through these interactions, decisions are made for IEP goals. Doctor Benedict (2013) president of American Sign Language and mother of two deaf daughters noted that children with deafness impairment need early language intervention skills even more so than speech skills so while audiologists encourage audio devices such as implants, sign language may be even more beneficial to language and social development. It has been theorized that expertise in required daily functions beneficial to the individual and his or her support group is the greatest asset to the development of the parties (Boavida, Aguiar, & McWilliam, 2014). Proactive IEP creation should, therefore, reflect goals for social communication and normalized daily routines. Contravention to conflicts under the IDEA may arise from resolving problems in IEP creations; consequently, efforts have been made, though limited, to train individuals in the creation of IEPs.

The content of the IEP is substantive, legally binding, life-changing, a source of conflict and prosperity and should be researched as an indicator or prognosis of trends in conflicts under the IDEA.

In a comparison of IEPs in Portugal and America, both countries' IEP goals were too unspecific and needed retooling to adequately translate expectations into practice for students with disabilities to achieve a level of normalcy especially in social interactions. Further, studies in Portugal resulted in conclusions that family contributions to IEP creation are trivial (Boavida, Aguiar, & McWilliam, 2014) even though families need to accept the IEP that is created. Lack of substantive family contribution to the IEP creation could engender complaints of teacher ineptitude, poor placement or disagreements in IEP goal creation at various stages of the growth and development of students with disabilities.

Early detection and diagnosis are crucial to remediation of biological and cognitive developmental detriments. There are frequently delays in diagnosis due to a variety of reasons including comorbidities and ineffective systemic procedures. In a survey using the Head Start Family and Child Experiences Survey which sampled nationally, 33% of those surveyed met one or more benchmarks which could have facilitated diagnosis with a developmental delay or disability. On the other hand, 33% of those surveyed revealed two or more criteria which could have resulted in a diagnosis of developmental delay or disability (Barton, Spiker, & Williamson, 2012). Despite these statistics, only 8% of the children in the Head Start Program which caters to early prevention services had IEPs (Barton, Spiker, & Williamson, 2012). One can hypothesize that issues in diagnosis and early intervention care are unresolved and may contribute to systemic conflicts in the future. Parent and student self-efficacy may deflect observable symptoms, but training for parental ideation of symptoms, remediation through goal

setting, and alignment with family practice is a realistic asset to development of IEPs (Boavida, Aguiar, & McWilliam, 2014).

The amendments to the 1997 IDEA included provisions for inclusion of students 14 years or older to be active participants in the creation of their IEPs (Wagner, Newman, Cameto, Javitz, & Valdes, 2012). Transitional IEPs should not be implemented later than the age of 16 years. The Individuals with Disabilities Education Act (IDEA, 2006) stipulates that the IEP must comprise measurable goals and assessments reflective of academic, social, and career skills befitting that age range (Cavendish, Connor, & Rediker, 2017; Peterson, Burden, & Sedaghat, 2013); IDEA 614(d)(1)(A)(i)(VIII). Student participation in IEP creation is integral to the collaborative goals of the document (Wagner et al., 2012) and the development of self-directed decision making necessary for independent living. Just as early intervention IEPs necessitate collaborative effort between parents, educators, and service providers, transition IEPs require collaboration but with greater input from students who may not be educated to utilize the opportunity afforded them. Parents criticize the IEP process for allowing negligible caregiver contribution to its creation then feel compelled to endorse the content even when there may be a disconnect between the character and personality of the child as depicted by the content of the IEP (Cavendish, Connor, & Rediker, 2017).

Longitudinal investigations supported by the US Department of Education, the Special Education Elementary Longitudinal Study, and the National Longitudinal Transition Study-2 researched the parent and student contribution to IEP creation and their level of satisfaction with the process (Wagner et al., 2012). Results indicated that students' level of social interaction was directly correlated to parents' satisfaction with the IEP process. Most parents were satisfied with their parental involvement; however, attendance at IEP meetings varied with the ethnicity of the

parents. Older students were more likely to attend IEP meetings, but attendance was affected by the type of disability associated with the student. The complexity of the issues involved in the IEP process demands the continuity of a strong bond between community service providers and the education system from the very early stages of diagnosis to transition. Further, as population demographics vary by state, ethnic conflicts affecting IEP goal attainment and other debilitating social issues which impact IDEA provision fulfillment may be uncovered in the due process hearings and rulings. For these reasons, the data on wins and losses and to whom the success or failure of a case is attributable is an indication of flaws or fruitfulness in the execution of the IEP. The need for state level statistical data is even more relevant because of conflicting data on parent participation and ethnic responsiveness to IDEA procedural mandates.

Strategies for effective transition IEPs have arisen. Strategies include a review of transition assessments for academic readiness, career choice, suitability, and skill readiness for the job chosen, and adaptability for social demands of the work environment and social interactions (Peterson, Burden, Sedaghat, Gothberg, & Kohler et al., 2013). Peterson et al, (2013) suggested 7 steps to IEP creation, which are listed below.

Step 1. Conduct and review transition-related assessments.

Step 2. Write the postsecondary goals.

Step 3. Identify postsecondary goal skills and knowledge.

Step 4. Identify student skill and knowledge baseline.

Step 5. Conduct a gap analysis.

Step 6. Identify state standards.

Step 7. Write triangulated annual goals.

The data derived from the review of the assessment would form the nucleus of the goals for the

transition IEP. Transition assessments, career goals, anticipated living conditions, and state standards should be triangulated for effective transition planning (Peterson et al., 2013; Wagner, et al, 2012). However, recent research revealed that there are still 13 states which have yet to comply with IDEA amendments of 2004 which stipulated the inclusion of state standards in the IEPs (Caruana, 2015). Educators are still preparing flawed IEPs which open the door for costly adjudication. Exclusion of state standards on IEPs is equivalent to excluding the provisions of the IDEA which are designed to bulwark knowledge for college and employment opportunities (Wagner, et al., 2012 & Caruana, 2015).

The weight of the preparation of transition IEPs seems to bear on the school's staff, but this preparation should be shared by parents, students, teachers, and related organizations for a binding agreement which should not arrive at a conflict resolvable in due process. Educators ought to work in partnership with the Vocational Rehabilitation Agency, which is federally acknowledged in the Individuals with Disabilities Education Improvement Act (IDEA-04) (PL 108-446; 20 U.S.C. § 1401) and the Workforce Investment Act (WIA) (PL 105-220) (Steere & DiPipi-Hoy, 2013). The schools must seek the assistance of these agencies to affect operational transition plans for the student with disabilities. The magnitude of the effort involved in the creation and effective execution of a transition IEP demands attention and focus from school staff who may be engaged in the creation of several IEPs of similar nature and be otherwise engaged with academic duties. The opportunity for dubious inclusions or errors is magnified under duress and collaboration across agencies. Schools are, therefore, required to use the services of a vocational rehabilitation agent in transition planning to assume future responsibility for training and employment (Steere & DiPipi-Hoy, 2013). This research is necessary to infer detrimental practices as well as identify factors which may be used by legislators to enhance free

appropriate public education (FAPE).

It is also important to consider whether complaints are being fairly adjudicated in due process hearings knowing that there is an imbalance in knowledge power concerning awareness of IDEA provisions that favor the school system. Litigation deference has shown that appealed cases generally favor the victors in administrative hearings, which is usually the school district. A system that best addresses the needs of children with disabilities and their families ought to proceed with alliance between the families and caregivers. In a study by Newcomer and Zirkel (1999) no change was made to appeal IDEA administrative decisions in 52.5% of the cases heard while courts overturned decisions to favor parents in 14% of cases appealed.

Behavior Program

Regulation and control of the behavior of students with disabilities is controversial because some disabilities such as autism occur with comorbidities. Under those circumstances, determination of the extent of the student's ability to control the behavior is subjective. Other controversial impairments are speech and language disability (SLD), intellectual disability, speech language impairment, emotional disturbance, and other health impairment. Diagnosis of speech and learning disability is subject to the observer's opinion; hence, diagnosis is by educational professionals not by the medical expertise (Thorius & Maxcy, 2015). Trends in conflicts affecting SLD are significant because the symptoms are comparable to those experienced by regular students in general education classes; therefore, conflicts do occur over whether these students are disabled or not. There has also been a preponderance of minority students who have been diagnosed within the SLD category of disabilities. Due to the conflicts surrounding the diagnosis of SLD, the IDEA allowed early intervention programs to combat the effect of poverty on development and learning in the early years (Center for Parent Information

& Resources, 2015b). It is crucial to federal funding and to political peace for the frequencies of conflicts in controversial categories to be monitored regularly. The results of scientific or descriptive research will provide vital data for federal review.

Disproportionality in the ethnic diagnosis of disability has emerged and has been noted to even be regional. Disparities in the diagnosis of disabilities are most evident, particularly in the SLD category. These disparities in diagnosis have resulted in amendments to the IDEA. Since 1997 the IDEA has allowed the response to intervention (RTI) to be used in disability diagnosis (Thorius & Maxcy, 2015) but states are mandated to monitor inequity in disability determination and assignment as well as analyze data by race to determine if there is disproportion and to revise the methodology used for identification and placement of students with disabilities if the disproportionality is confirmed (Thorius & Maxcy, 2015). Descriptive disaggregation of data does provide useful information for authoritative decision making at the highest levels of government.

The Response to Intervention (RTI) assessment replaced IQ and poor academic performance in the diagnosis of disability. States can now use the RTI approach to eliminate incorrectly-diagnosed disabilities (Thorius & Maxcy, 2015), but it cannot be used to prevent or delay the evaluation of a child suspected of having a disability (Zirkel, 2014). Both the RTI and IQ diagnosis options have been criticized as being “pseudo-science” (Zirkel, 2014) but the RTI technique remains as the state required that research-based performance scales be used to determine whether a child has SLD (Thorius & Maxcy, 2015). As an added benefit, the IDEA provided 15% of IDEA Part B funds for early intervention services as soon as cognitive failure was detected (Thorius & Maxcy, 2015). State level frequency research focuses on conditions specific to that region and will reveal tendencies in demographic changes and concentrations

which could impede a cultural group or negatively impact a community. Such was the case in research by Thorius and Maxcy (2015), which uncovered details to the effect that African Americans and Latinos more so than whites were likely to be considered for placement in special education classes.

The IDEA provisions with the accountability concept outline duties for parents to execute. Children could be held responsible for their behaviors and teachers were to hold students to high expectations and facilitate their achievement (Turnbull, 2005). Despite the described expectations, there are differences of opinion on the execution of provisions (Shuran & Roblyer, 2012). The personal responsibility and work opportunity reconciliation act (PRWORA) passed by Congress in 1996 is supported by the revisions to the IDEA of 2004 (Turnbull, 2005). Integral to PRWORA and shared by the IDEA is the notion that individuals are responsible for their actions. Provisions for the disabled were to be used and executed effectively; hence, parties to the provisions were held accountable. Students are responsible for their actions as upheld by the response to intervention (RTI) strategy.

The IDEA assumed both civil rights and welfare components. Students with disabilities could no longer be randomly rejected from an educational institution (Turnbull, 2005) and the IDEA implemented fiscal policies to assist families. Welfare assistance in the form of early intervention services for medical and developmental needs was to be made available if necessary, in the home (Driscoll & Nagel, 2010). Changes brought dissension, and in Missouri between 1999 and 2017, disgruntled parents and guardians initiated 430 cases for due process. Options for resolution of disputes include mediation or legal recourse with specific procedures to be followed to dispute any issue (Parent Information Resources, 2017).

Summary

Numerous factors fuel disputes between caregivers, state, and local education agencies. Some of these factors include inadequate provision of supplementary services or differences of opinion on expectations of specific requirements for delivery and creation of IEPs. The availability of qualified mediators, procedures for filing a complaint, evaluation of children, obtaining medical services, and the continuation of these services provide reasons for dissension. Since disabilities are not heterogeneous, particularly specific learning disabilities, discretionary decisions may result in conflict. To facilitate due process, complaints must be filed accurately, revisions are not allowed, and parents must reveal documentary support for a grievance which must be filed within two years of the violation (Turnbull, 2005). There is more pressure on parents to prove their cases.

While children with disabilities have academic and medical gains from litigations, the legal costs are rising, and the process is time consuming for teachers. Parents continue to seek the best education and services for their disabled children whether by litigation or mediation. The number of disputes continues to rise due to the increase in the population of students with disabilities particularly with symptoms related to autism. Parents may seek the assistance of litigators to resolve cases, thereby increasing costs to school districts and fiscal provisions at the state and federal levels.

The research revealed the disability data not previously available in Missouri. Additionally, the disabilities that are more prone to conflict than others became apparent from the statistical data. Identification of these trends will impact future provisions for the IDEA, related fiscal decisions, educational policies in the school system and teacher training. Further, the PRWORA may require closer scrutiny of its effectiveness in enabling acceptable learning

environments after students with disabilities are mainstreamed. The usefulness of response to intervention as an efficient and effective tool for holding students with disabilities to reasonable expectations in behavior will also need to be addressed. Complaints relating to punishment resolved in due process will be useful to a critique of RTI and its demographics. The research process is clarified in chapter three. Details relevant to the organization and execution of the research are outlined. The design is explained while the participants, and the setting are described. Additionally, the research procedure, the measuring instrument, and the strategy for data analysis are discussed.

CHAPTER THREE: METHODS

Overview

This chapter includes the methodology for collection, coding, and analysis of disability data for students in the K-12 levels of the public-school system in Missouri. The researcher analyzed due process case rulings on conflicts in the K-12 public school settings rendered in Missouri from 2008 to 2018. The types of disabilities in conflict were described and summarized along with the associated demographics of age, grade level, and gender. Data including case numbers, decision, dates, and comments from the administrative rulings were also summarized. Additionally, this chapter outlines the research design, states the research question, describes the participants and setting, outlines the procedural steps, and explains the layout of the instruments for collating and illustrating the data.

Design

The researcher used a quantitative descriptive content analysis involving the collection and scrutiny of a large quantity of primary data consisting of administrative hearing reports from due process cases. The researcher collated and graphed the results to identify trends. The descriptive content analysis research design was appropriate because it necessitates careful examination of data and categorizing of the statistics to facilitate evaluation of the findings relative to the research question (Gall, Gall, & Borg, 2007). Archived data on resolved administrative cases in Missouri under the Individuals with Disabilities Education Act (IDEA) was disaggregated then analyzed for disparate disabilities and demographics. The resultant data should be of significance to federal policymakers concerning academic goals and provisions for free appropriate public education (FAPE) for the disabled. Content analysis (Gall, Gall, & Borg, 2007) has been used in similar studies by Shuran and Roblyer (2012), Schanding et al. (2017),

and Beaudoin-Saunders (2017). These researchers used descriptive design to investigate disabilities frequently brought to due process. For this study, the researcher obtained copies of actual cases from the Missouri Department of Elementary and Secondary Education (MDESE's) special education website. The case resolutions lacked bias because the administrators reported their findings verbatim; further, the data was valid since it is verifiable by other sources (Marrelli, 2007). To determine the trends, the researcher analyzed descriptive statistics including the year, decision date, district code, age, gender, grade level, decision dates, comments, and types of disabilities in due process cases.

The due process cases obtained from the MDESE website included the following disabilities: autism, deafness, deaf-blindness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including partial sight and blindness. The researcher coded the disabilities to facilitate charting and line graphing using Microsoft Excel. The descriptive research method has been practiced by other notable researchers: Zirkel (2014); Bailey and Zirkel (2015); Schanding et al., (2017), and Beaudoin-Saunders (2017) who used charts to represent data on due process hearings while Bailey and Zirkel (2015), as well as Schanding et al., (2017), used percentages to represent the number of case decisions by state and the number of cases by disability category respectively.

Research Question

RQ1: What trends will emerge among the types of special education disability complaints brought to due process from 2008 to 2018 in the state of Missouri among K-12 public school students?

Participants and Setting

The researcher obtained relevant data for this descriptive analysis from the special education webpage of the MDESE which is in Jefferson City, Missouri. The researcher extracted the statistics from a sample dating from 2008 to 2018 for this research. Of the 62 cases, gender data was available for 16 female students and 46 male students with disabilities. The appropriateness of a sample size varies with the type of research being undertaken. Correlational research may have 30 participants while for a content analysis a specified sample size has not been recommended. Gall, Gall, and Borg (2007), however, suggest that sample sizes be large enough to obtain adequate data from subgroups. The average age for all student participants was 11 years, and the age range was 5 years to 19 years old. Complaints originated from various grade levels, but some administrative reports did not always include the grade level. The available data from the 22 cases with recorded grade levels indicated that most disability cases, seven, came from the ninth-grade level; three came from the eighth-grade level; two came from third, fifth, and tenth grades, none from fourth and seventh grade, and one complaint from each of Grades K, 1, 2, 6, 11 and 12.

The MDESE has specific procedures for filing due process complaints. The procedures adopted are guided by the provisions of the Individuals with Disabilities Education Act (IDEA) 2004. A complaint should be filed on paper or electronically with the MDESE. The department then acknowledges the complaint by sending letters to the petitioner, respondent, and the Administrative Hearing Commission. Within 15 days of receiving the due process complaint, a meeting must be convened between the IEP team and the complainant (MDESE, 2018). The parties have the option to mutually waive the meeting or go to mediation. If these options are not considered alternatives, then the 45-day timeline for hearing the complaint and rendering a

decision begins and may be extended to as many as 24 months. The outcomes of the due process hearings are legally binding unless appealed through civil litigation. Once cases have been finalized, rulings are made public without personally-identifiable demographics. The cases that were retrieved from the MDESE and included in this study were those with administrative hearing decisions.

Missouri has 522 regular school districts, 75 of which are K-8 schools. Some of the districts are quite small; however, the largest 10% of school districts enroll more than 57% of the students (Podgursky, Smith, & Springer, 2008). The variations in district sizes have caused challenges to the mechanism for funding education as parents seek equity in the distribution of resources to schools. One form of resource, the First Steps Program receives federal financial support and is administered through the MDESE. The MDESE reported that infants and toddlers who received early intervention services as stipulated in part C of the IDEA for the 2016-2017 school year were 6,453 students aged 3 years old and under as of December 1, 2016. The services of First Steps were designed to assist families with children who are disabled. In nine of the last 10 years, statistics from the MDESE have shown an annual increase in new births with disabilities. In 2011, data from the IDEA indicated that 13% of the enrolled student population in Missouri was identified as disabled (MDESE).

Instrumentation

Beaudoin-Saunders (2017) utilized a 22-column data collection chart in her research. The chart displayed 13 disabilities acknowledged by the IDEA along with demographics and other related data. The data collection chart was utilized in this study but was modified to separate gender data. The researcher used the letter M or F in separate columns to indicate the male or female gender; and included on the chart were the age and grade level of the child at the

time the case was filed. The researcher copied the decision date of the case onto the data collection chart as it was written on the administrative officer's ruling report. Additionally, the researcher extracted the district case number from the actual case document (see Appendix D). The data collection chart included the following 13 coded disabilities recognized by the IDEA; autism (A), deaf-blindness (DB), deaf (D), emotional disturbance (ED), hearing impaired (HI), intellectual disability (ID), multiple disabilities (MD), orthopedic impairment (OI), other health impaired (OHI), specific learning disability (SLD), speech or language impairment (SLI), traumatic brain injury (TBI), and visual impairment (VI) (see Appendix D). The headings at the top of the chart in sequence included numeration, year, decision date, case number, F, M, grade, and disabilities coded as A, DB, D, ED, HI, ID, MD, OI, OHI, SLD, SLI, TBI, VI. The researcher used the data to create statistical tables and line graphs of the disability trends. The data collection chart also contained the coded disabilities at the bottom of each page for easy reference.

Procedures

Prior to commencing the study, the Institutional Review Board (IRB) at Liberty University gave permission for the investigation to commence. The IRB safeguards ethics in procedures. See Appendix G for the IRB letter of approval. The MDESE enables access via its website located at <https://dese.mo.gov/special-education/due-processchild-complaint>. Accessing the Due Process Decisions heading to the right of the web page revealed a Due Process Decisions page with Hearing Decision Summaries and Hearing Decisions to the left of the screen. Each subheading contained a list of years in a range, according to the academic year rather than the calendar year, for example, 2016-17. A link on each year range opened to reveal a list of cases by district name or school name. Categories of the cases included hearing

decisions, part C infant and toddlers' hearing decisions, dismissals, and settlement order; parties settled. Dismissed and settled cases opened to a one-page announcement; however, pages for hearing decisions contained published details of the hearings. The researcher extracted the pertinent demographic, details, and the various disabilities, charted the information, and created tables and graphs for trends, using Microsoft Word and Excel. If a student had multiple disabilities but the due process was regarding a single impairment, the researcher recorded that disability. If more than one disability caused the due process arbitration, the researcher recorded the primary disability to prevent skewing the data even though other researchers documented the three most important disabilities in similar studies (Schanding et al., 2017). The researcher recorded all cases in which final decisions were given in the years under study, even if the case originated in a prior year.

Data Analysis

The researcher utilized records from the finalized disability due process cases heard from 2008-2018 in Missouri for the study. The cases were accessible from the MDESE web page. The researcher examined the cases for associated demographics, types of disabilities, and the frequency of each type of demographic and due process disability case. The researcher used data from the instrument to create a line graph for each group of disability and for individual disabilities. The line graphs indicated trends in the complaints. This form of content analysis usually results in uncomplicated displays of findings (Gall, Gall, & Borg, 2007), which for this research was the frequency charts and trend graphs.

Summary

The descriptive content analysis was conducted using archived primary data regarding due process cases from the MDESE special education website. Missouri has 522 school districts

but due to redacted information, the sample size for the research was 62 cases from 2008-2018. The analysis referenced thirteen coded special education disabilities which were further grouped into physical, emotional and intellectual categories to infer trends. The main instrument of measurement was a chronological chart of case dates, district codes, demographics, disabilities, and administrative decision summaries. Data was manually recorded then charted and graphed using Microsoft Word and Excel.

Prior to commencement of the research, the IRB reviewed the proposal for the study and approved its undertaking. The researcher, likewise, put in place procedures to safeguard information that was obtained. Issues of credibility and trustworthiness were minimal because of the nature of the content analysis. The participants were legal documents archived and available with redacted personal information. The researcher's experience as both a teacher of students in mainstreamed classes attended by students with disabilities and occasional caregiver of a relative with a disability may have resulted in some bias in judgment or may have enabled a more accurate assessment of the trends implied by the results of the research. The results are illustrated by tables and figures with descriptive data and are explicated in terms of trends by years, demographic trends, grade level trends, and disability case trends in chapter four.

CHAPTER FOUR: FINDINGS

Overview

The research entailed a descriptive content analysis of archived disability due process cases in the state of Missouri among K-12 public school students. After the cases with insufficient data were excluded, the study commenced with cases from the years 2008 to 2018. The objective of the research was to determine trends that would emerge from the due process cases involving the thirteen disabilities that are federally recognized by the Individuals with Disabilities Education Act (IDEA). Chapter four of this study includes the research question and overview of the findings.

Research Question

RQ1: What trends will emerge among the types of special education disability complaints brought to due process from 2008 to 2018 in the state of Missouri among K-12 public school students?

Results

The researcher used a sample size of 62 cases for this study (see Table 1). The disabilities recognized by the Individuals with Disabilities Education Act (IDEA) that were analyzed for this study were autism (A), deaf (D), deaf-blindness (DB), emotional disturbance (ED), hearing impaired (HI), intellectual disability (ID), multiple disabilities (MD), orthopedic impairment (OI), other health impaired (OHI), specific learning disability (SLD), speech or language impairment (SLI), traumatic brain injury (TBI), and visual impairment (VI). The various charts reflect case trends, demographic trends, and disability trends.

Due Process Cases by Year (2008-2018)

The researcher charted the 62 due process cases from the study. Once analyzed, the

garnered data indicated that disability case frequencies fluctuated from a low of 1 to high of 11 in a year (see Table 1). Due process resolutions averaged approximately six per year with the highest number of cases per year resolved between 2008 and 2011. The number of cases declined by over 50% in 2012 then declined further in 2013. The fluctuations continued until 2018.

Table 1

Due Process Cases by Year (2008-2018)

Years	Cases (N=62)	Percent
2008	11	17.74
2009	8	12.90
2010	10	16.13
2011	9	14.52
2012	4	6.45
2013	2	3.23
2014	7	11.29
2015	1	1.61
2016	2	3.23
2017	6	9.68
2018	2	3.22
Total	62	100

Due Process cases by Gender (2008-2018)

The frequency of petitions by gender reflected disproportionality favoring petitions on behalf of male students. The differences in petition rates by gender were such that 16 disability

petitions were attributable to female students, while 46 concerned males (see Table 2). The ratio of due process petitions filed on behalf of male students relative to those filed for female students was almost 3:1.

Table 2

Due Process Cases by Gender (2008-2018)

Sex	Frequency	Sample % (N=62)
Male	46	74.19
Female	16	25.81
Total	62	100

Due Process Cases by Age (2008-2018)

The number of cases petitioned for disability due process varied across age groups. Not all complaints included the age of the participants. Therefore, the sample size of the subgroup of cases analyzed by age is smaller than the sample size of all the participants in the research. Recording personnel for the administrative officers listed the ages of the petitioners in 22 of the 62 filed complaints. Findings from listed cases with ages indicated that for students who were 8 years old and 18 years old, the same number of complaints (18.17%) or four complaints were filed in each category. The nine-years-old age group filed three complainants or 13.64% of the total petitions with listed ages. Students aged 11, 12, and 16 years each filed two complaints or 9.09% of total complaints with ages. Students who were 6, 7, 10, 15, and 19 years old each participated in 4.55% of due process complaints with ages listed (see Table 3).

Table 3

Due Process Cases by Age (2008-2018)

Age	Case	% (n=22)	% (N=62)
5/K	0	0.00	0.00
6	1	4.55	1.61
7	1	4.55	1.61
8	4	18.17	6.45
9	3	13.64	4.84
10	1	4.55	1.61
11	2	9.09	3.23
12	2	9.09	3.23
13	0	0.00	0.00
14	0	0.00	0.00
15	1	4.55	1.61
16	2	9.09	3.23
17	0	0.00	0.00
18	4	18.17	6.45
19	1	4.55	1.61
20	0	0.00	0.00
21	0	0.00	0.00
Total	22	100	35.48

Due Process Cases by Grade (2008-2018)

The personal information in due process cases is redacted to maintain the privacy and protection of the students. During the research, it became evident that different districts have slightly different approaches to documentation and redaction, so not all districts included grade level details in their reports. Due process administrators' reports included the grade level in the administrative summaries of 22 cases, which is approximately 35.48 % of the 62 petitions analyzed in the research. One petition was filed for each male and female student in Grades K, 1, 2, 6, 11, and 12 (see Table 4). The frequency of due process cases varied across grades levels with high school having 11 cases, the highest number of administrative hearings. The research data revealed four complaints at the middle school level and seven at the elementary school level.

Table 4

Due Process Cases by Grade (2008-2018)

Grade	Case	% Listed (n=22)	% Total (N=62)
<u>Elementary</u>			
K	1	4.55	1.61
1	1	4.55	1.61
2	1	4.55	1.61
3	2	9.09	3.23
4	0	0.00	0.00
5	2	9.09	3.23
<u>Middle</u>			
6	1	4.55	1.61
7	0	0.00	0.00
8	3	13.63	4.84
<u>High</u>			
9	7	31.80	11.29
10	2	9.09	3.23
11	1	4.55	1.61
12	1	4.55	1.61
Total	22	100	35.48

Note. Grades K-12 represent Missouri public school grade levels.

Disabilities by Grade Level

Not all administrative case reports included the grade level of the student. Administrative

case reports listed grade levels in 22 of the 62 due process cases. The parents of students in the ninth grade filed the most petitions for due process resolution. The total of the ninth-grade petitions amounted to 31.82% of the disabilities with listed grade levels. The dominant disability in the ninth grade was A followed by OHI, and ED (see Table 5). The disabilities most prevalent in the third grade were SLD and ED. The disability category ED was recorded in Grades 1, 3, 8, 9, and 12). The OHI disability was evident in petitions from Grades 5, 9, 10, and 12, but mainly in the latter three grades which are part of the high school level. The next highest number of petitions by listed grade was 13.64% in the eighth grade concerning ED and MD. The most recurring disability with 27.27% of listed disabilities by grade level was the A category. The chart includes the grade levels of due process complainants and the number of times the grade level was associated with a disability. The disabilities A, MD, and OHI were the only disabilities with multiple complaints at one grade level. Grade levels not associated with disability petitions were in the elementary and middle school divisions.

Table 5

Disabilities by Grade Level (2008-2018)

Disability	Grade	Frequency	Listed % (n=22)	Sample % (N=62)
A	9	4	18.18	6.48
	10	1	4.55	1.61
	11	1	4.55	1.61
DB	2	1	4.55	1.61
ED	1	1	4.55	1.61
	3	1	4.55	1.61
	5	1	4.55	1.61
	6	1	4.55	1.61
	8	1	4.55	1.61
MD	K	1	4.55	1.61
	8	2	9.09	3.23
OHI	5	1	4.55	1.61
	9	3	13.64	4.84
	10	1	4.55	1.61
	12	1	4.55	1.61
SLD	3	1	4.55	1.61
Total		22	100	35.48

Disability in Due Process Cases (2008-2018)

The researcher charted data obtained from the MDESE to illustrate the disability trends in the cases brought to due process for students in grades K-12 of the public-school system in

Missouri from 2008-2018. The disability trend analysis incorporated the use of Microsoft Word and Excel software. The disability categories about which complaints consistently arose were autism, emotional disability, multiple disabilities, and other health impaired. For 7 of the 11 years in the study, there were complaints regarding free appropriate public education to students with autism and multiple disabilities. Other health impairment and emotional disability were included in petitions for 6 of the 11 years (see Figure 1). The disability cases were grouped into physical, cognitive, and emotional categories for further identification of patterns arising from the Missouri due process cases. The physical disability group consisted of D, DB, HI, OI and OHI. As the ailments associated with OHI are mainly physical or behavioral, the researcher included OHI in the physical disability category.

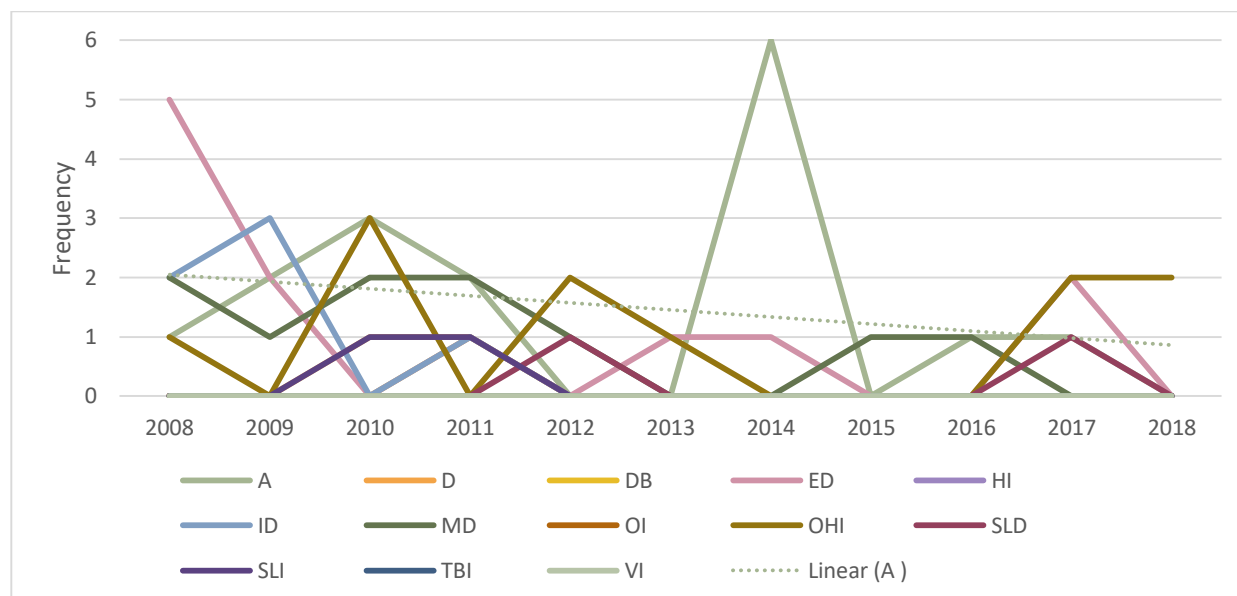


Figure 1. Disabilities in due process cases. The figure illustrates the trends for the 13 federal disability categories and their frequencies for the years 2008-2018. A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID- Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury and VI-Visual Impairment. Dotted line indicates disability cases trend line.

Disability Trends by Grade (2008-2018)

The due process cases from 2008-2018, when analyzed, revealed that the highest number of complaints clustered around the eighth-grade and the ninth-grade levels). Autism was most frequently the disability included in due process petitions concerning students in the ninth grade. The second most frequently included disability in petitions was OHI at the grade nine level and it was followed by multiple disabilities at the grade eight level.

Disability by Gender (2008-2018)

Disabilities in complaints filed on behalf of males were greater in 6 of the 13 categories investigated. Further, the number of disabilities filed in petitions on behalf of male students in the A, ED, ID, MD, and OHI categories were twice or more times greater in each category for male students than for female students. Both male and female students with disabilities

evidenced high disability frequencies in categories concerning emotional and behavioral disabilities (A, ED, OHI). The number of petitions pertaining to the A, ED, and OHI categories for males were greater than the petitions for females for the same disability categories.

Caregivers filed six cases on behalf of male students who were intellectually disabled compared to one filed on behalf of females. Other health impairment disability frequencies were nine for male students compared to a frequency of only two for female students. A clear distinction in the pattern of disability frequencies indicated that disabilities in petitions brought on behalf of female students were at a consistently low level varying from a frequency of zero to five in a disability category. Due process disabilities included in petitions filed on behalf of males fluctuated significantly from a frequency low of 0 to a high of 12 disabilities in a category.

Due Process Autism Disability Trend (2008-2018)

Examination of due process case statistics for the years 2008-2018 revealed a pattern of fluctuations in petitions which included autism as the disability in conflict. The number of petitions with autism rose steadily from 2008 to 2010, declined in 2011 and flatlined between 2012 and 2013. In 2014 petitions with autism peaked then declined substantially. The trend analysis suggests consistent increase in due process disability occurrence between 2008 and 2010, but fluctuations are evident after 2010. See Figure 2.



Figure 2. Due process complaints concerning autism filed for the years 2008-2018. A-Autism.

Due Process Deafness Disability Trend (2008-2018)

Examination of due process case statistics for the years 2008-2018 revealed a pattern of minimal activity in petitions concerning deafness. Complaints rose from 0 in 2009 to 1 in 2010 and 2011. Data indicated that petitions flatlined from 2012 until 2018. See Figure 3.

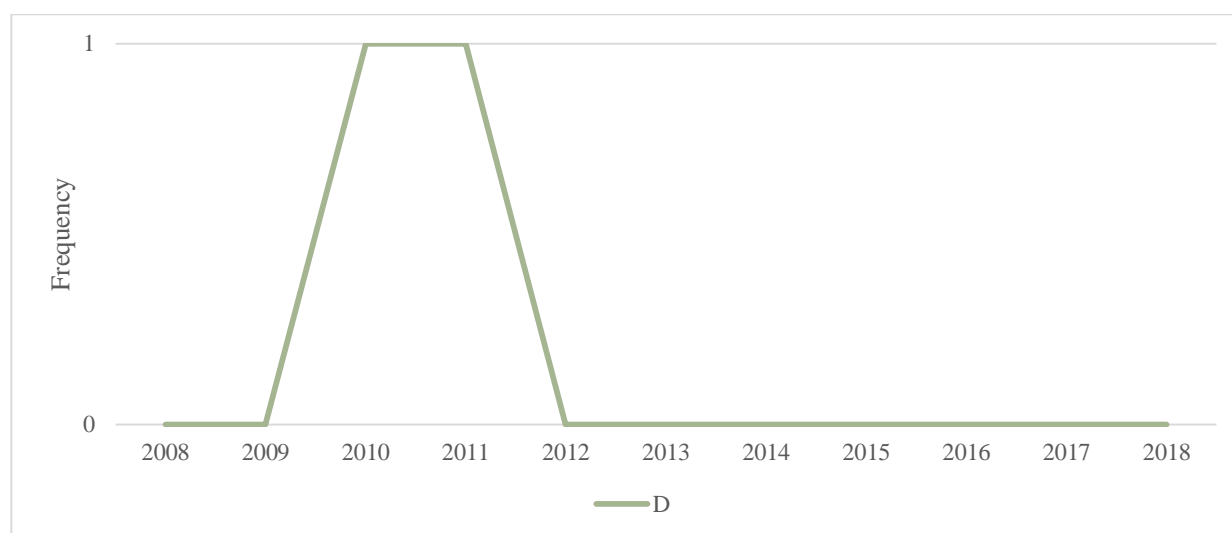


Figure 3. Due process case filed concerning deafness for the years 2008-2018. D-Deafness.

Due Process Deaf-Blindness Disability Trend (2008-2018)

Examination of due process case statistics for the years 2008-2018 revealed a pattern of minimal activity in petitions concerning deaf-blindness. The first complaint was filed in 2011. No additional complaints were filed after 2011. See Figure 4.

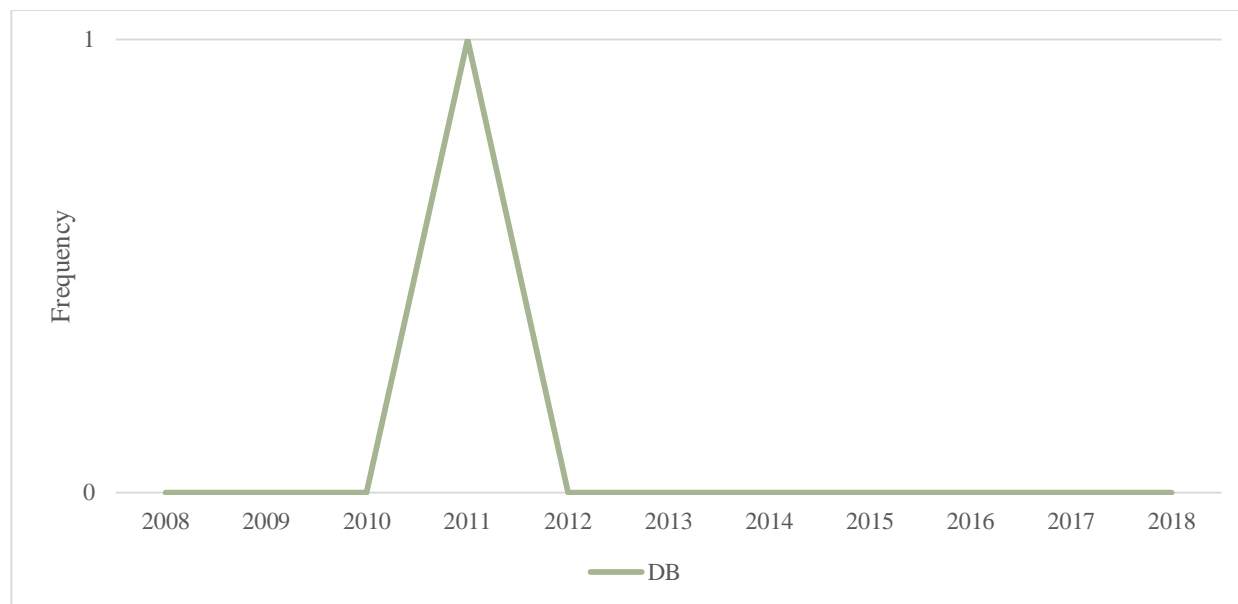


Figure 4. Due process complaints filed concerning deaf-blindness for the years 2008-2018. DB-Deaf-blindness.

Due Process Emotional Disability Trend (2008-2018)

The chart reflects emotional disability trends from 2008 to 2018. Disability case statistics for the years 2008-2018 revealed a pattern of inconsistency in filed petitions concerning emotional disability. There were five petitions in 2008 which declined to zero in 2010. The fluctuations continued between zero and one until 2016. The number of complaints rose to two in 2017 then declined to zero in 2018. See Figure 5.

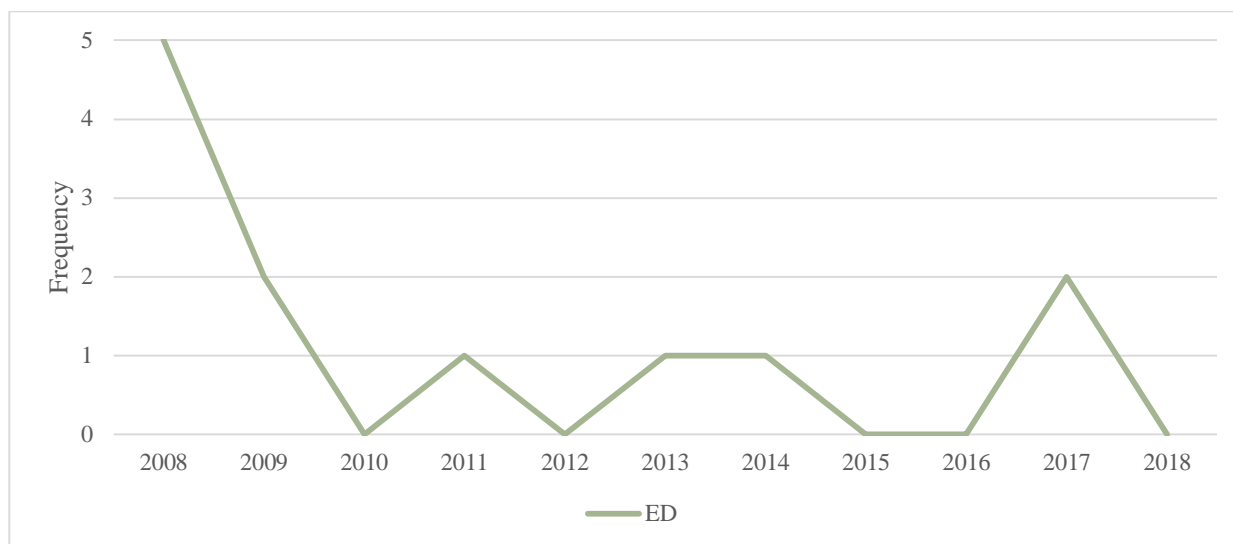


Figure 5. Due process complaints filed concerning emotional disability for the years 2008-2018. ED-Emotional disability.

Due Process Intellectual Disability Trend (2008-2018)

The figure reflects due process Intellectual Disability petition trends for 2008 to 2018. Petition filings fluctuated from 2008 to 2018. The number of petitions increased from 2008 to 2009. Petitions plummeted to zero in 2010 and rose again in 2011. From 2012 to 2018 petition filings flatlined. See Figure 6.

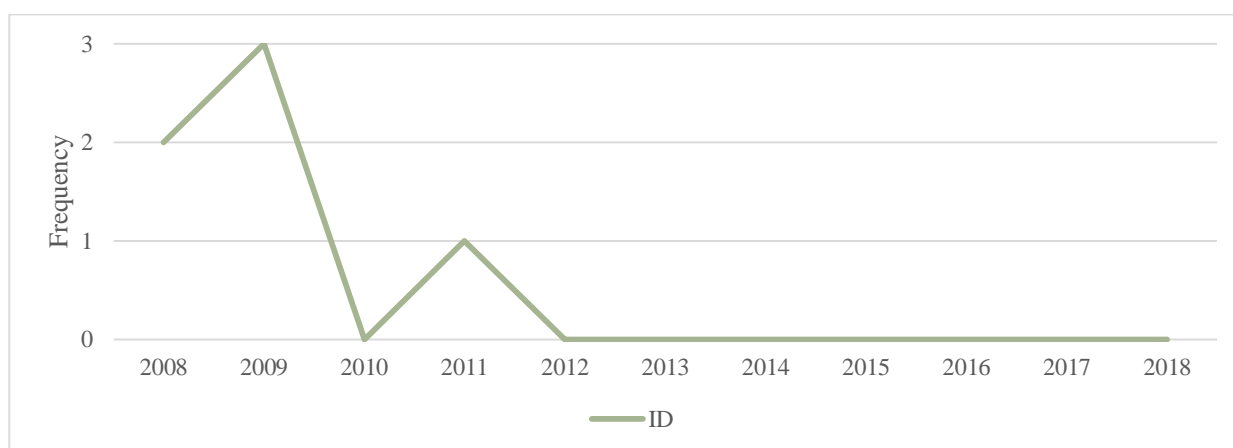


Figure 6. Due process complaints filed concerning intellectual disability for the years 2008-2018. ID-Intellectual Disability.

Due Process Multiple Disability Trend (2008-2018)

The figure reflects due process multiple disability petition trends for 2008 to 2018. Petition filings fluctuated from 2008 to 2018. The number of petitions decreased from 2008 to 2009 then rose in 2010. Petitions flatlined from 2010 to 2011 and then declined. Between 2012 and 2018 there was an inconsistent pattern of low activity ranging from zero to one petition per year. See Figure 7.

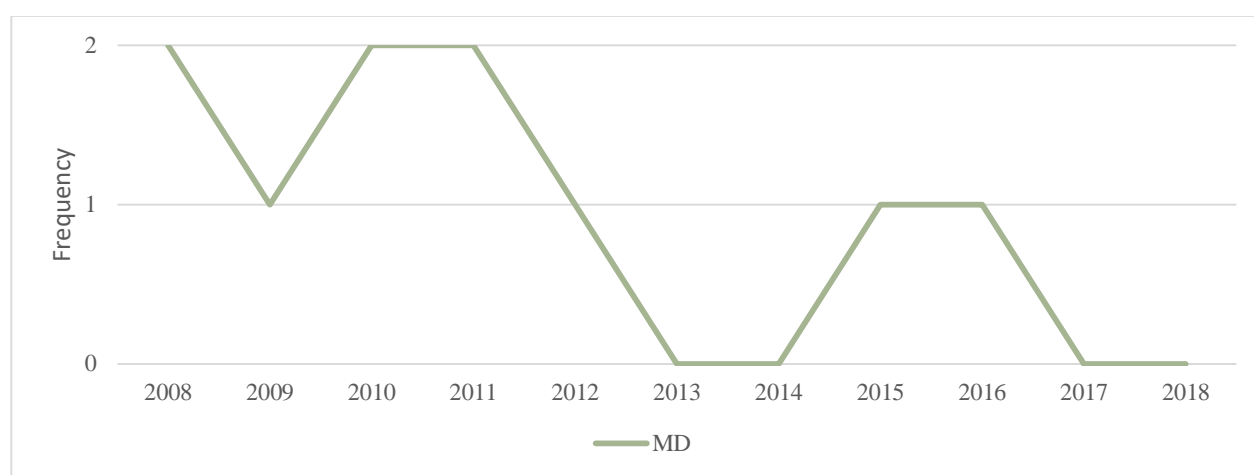


Figure 7. Due process complaints filed concerning multiple disabilities for the years 2008-2018. MD-Multiple disabilities.

Due Process Other Health Impairment Disability Trend (2008-2018)

Due process disability petition trends from 2008 to 2018 are illustrated in Figure 8. Petition filings fluctuated from 2008 to 2018. The number of petitions were erratic initially. Petitions rose one year then declined the next repeatedly from 2008 to 2013. Petitions flatlined from 2014 to 2016 then rose to two and remained the same until 2018. See Figure 8.

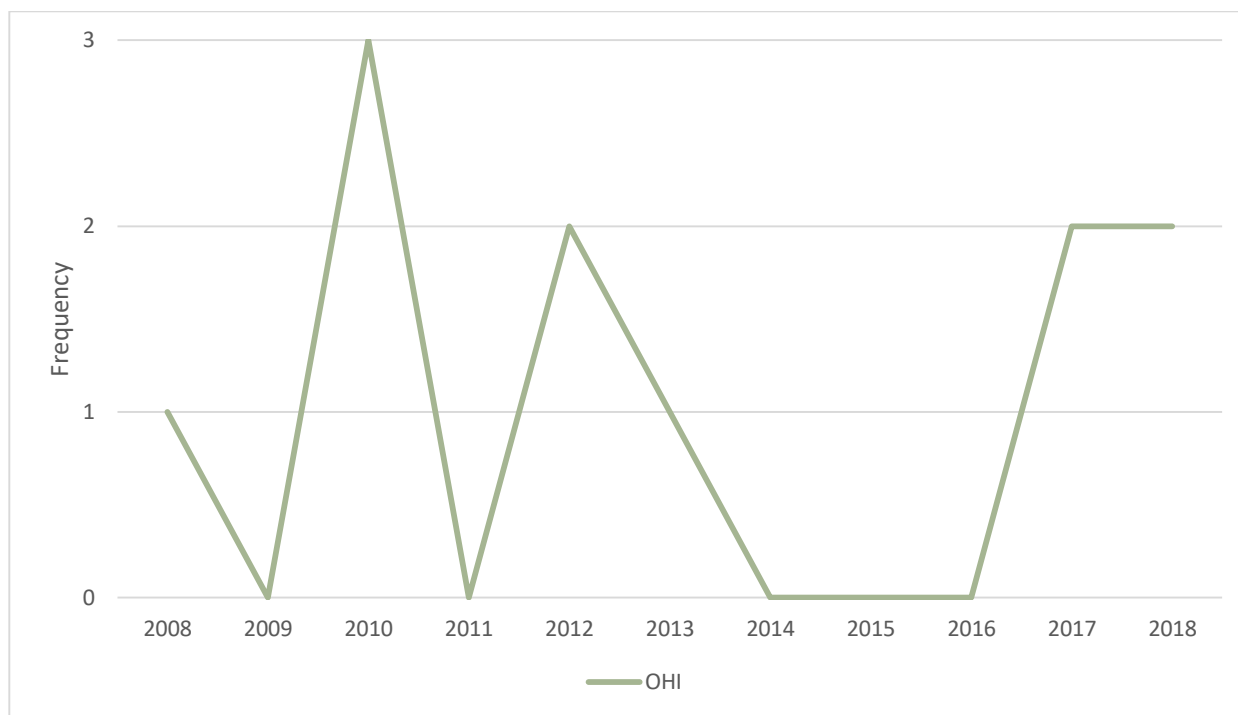


Figure 8. Due process complaints filed concerning other health impairment for the years 2008-2018. OHI-Other health impairment.

Due Process Specific Learning Disability Trend (2008-2018)

The chart reflects due process case trends for specific learning disabilities petitions from 2008 to 2018. Petition filings fluctuated from zero to one per year. Cases increased to one in 2010, 2012, and 2017. Petitions flatlined in nine of the eleven years. See Figure 9.

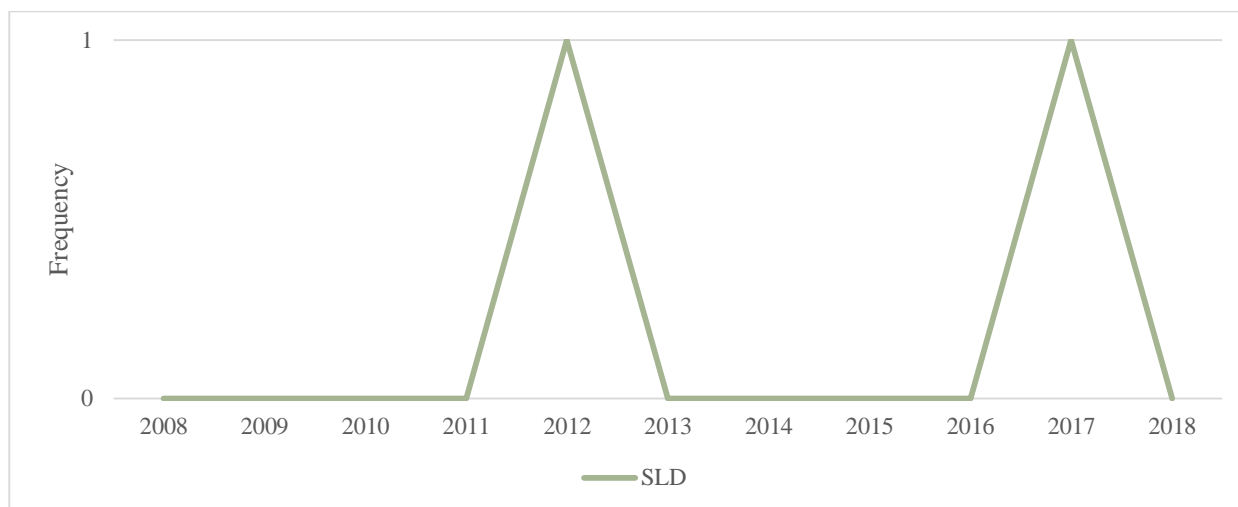


Figure 9. Due process complaints filed concerning specific learning disability for the years 2008-2018. SLD-Specific Learning Disability.

Due Process Speech and Language Impairment Disability Trend (2008-2018)

The chart reflects due process case trends from 2008 to 2018 for speech and language impairment. There was minimal activity in the disability due process case petitions filed. The number of cases administrated fluctuated from zero to one. Cases were heard in 2010 and 2011. Cases flatlined from 2008 to 2009 and from 2012 to 2018. See Figure 10.

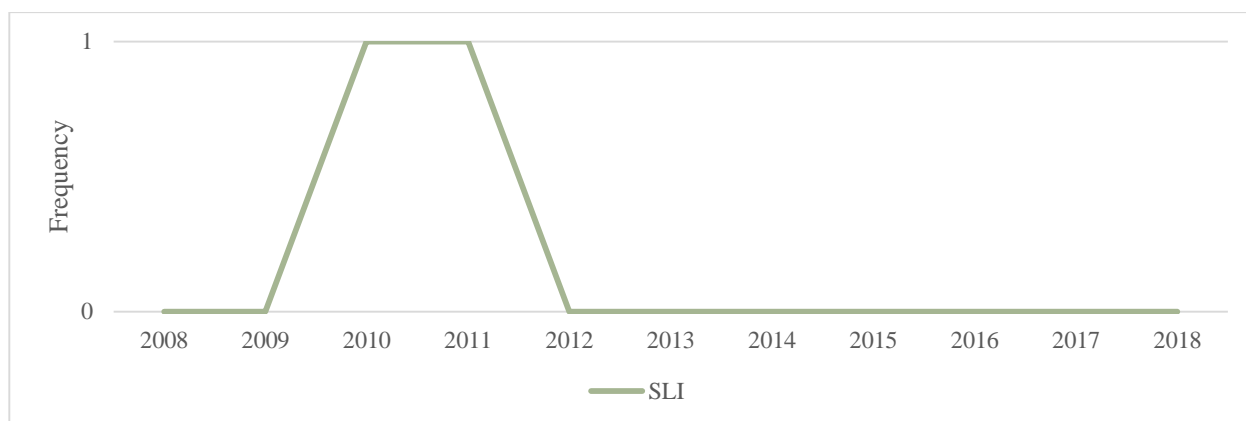


Figure 10. Due process complaints filed concerning speech and language impairment for the years 2008-2018. SLI-Speech and language impairment.

Due Process Hearing Impairment Disability Trend (2008-2018)

Due process petitions were not filed from (2008-2018) in some disability categories. The disability categories in which no petitions were filed are HI, OI, TBI, and VI. Figures 11-14 indicate the disability trends for HI, OI, TBI, and VI.

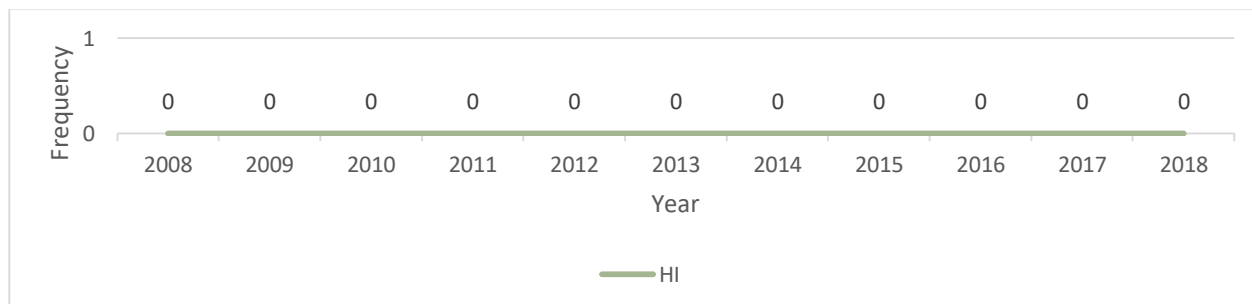


Figure 11. Due process complaints filed concerning hearing impairment disability for the years 2008-2018. HI-hearing impairment.

Due Process Orthopedic Impairment Disability Trend (2008-2018)

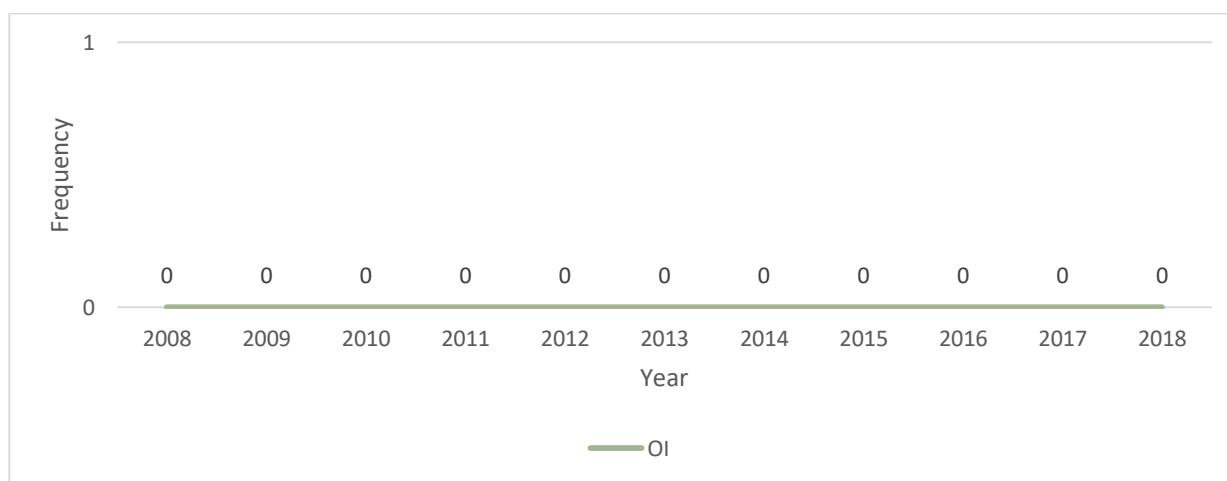


Figure 12. Due process complaints filed concerning orthopedic impairment disability for the years 2008-2018. OI-orthopedic impairment.

Due Process Traumatic Brain Injury Disability Trend (2008-2018)

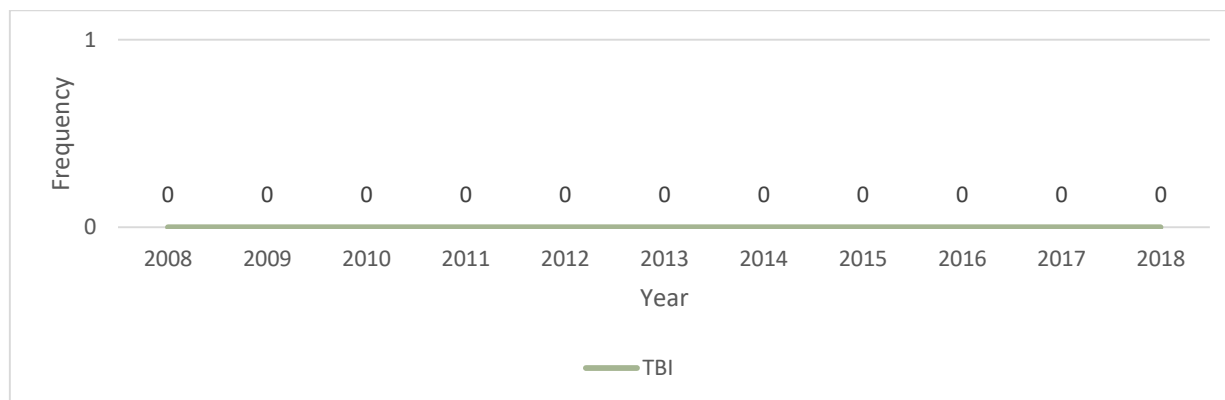


Figure 13. Due process complaints filed concerning traumatic brain injury disability for the years 2008-2018. TBI-traumatic brain injury.

Due Process Visual Impairment Disability Trend (2008-2018)

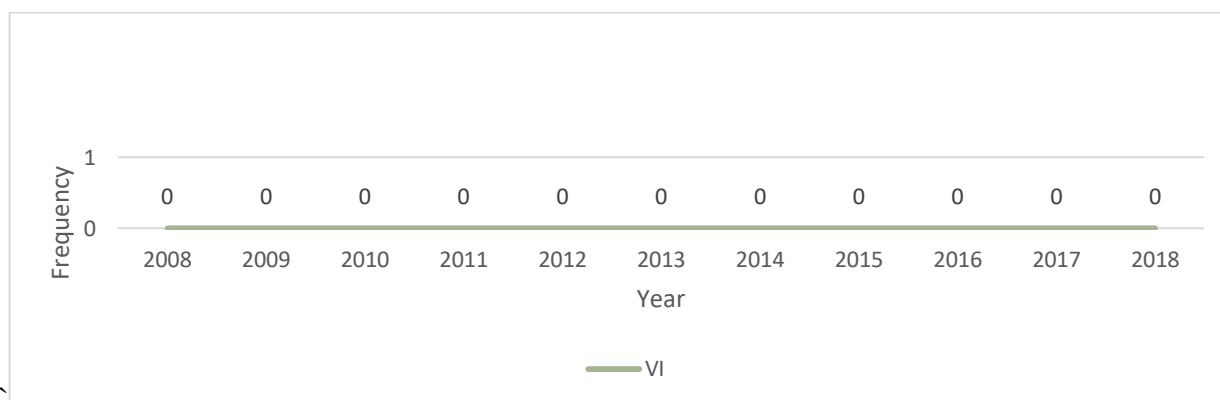


Figure 14. Due process complaints filed concerning visual impairment disability for the years 2008-2018. VI-visual impairment.

Summary

The number of new complaints overall decreased from 2008 to 2018. In 2018 all due process cases had not been filed or resolved at the time of the research. The completed due process cases indicated that autism complaints increased steadily between 2008 and 2010, declined, and then rose significantly in 2014. Autism was the only category that reflected consistent increases for any period. Emotional disability and intellectual disability had the

highest number of complaints between 2008 and 2009 respectively, and then both categories declined before the ED category surged in 2017. Parents and guardians filed the highest number of complaints in 2010 followed by 2008, 2009, 2011, 2014, and 2017. In summary, the years 2008 to 2011 accounted for most of the due process cases that were filed. The determined trend is that fewer cases are being submitted for administrative hearings, but the categories A, ED, MD and OHI are more frequently listed in due process cases than other disabilities. Categories with minimal activity were those associated with physical impairments.

CHAPTER FIVE: CONCLUSIONS

Overview

Chapter Five orients the reader to the significance of the research results. This chapter contains a discussion of the number of disabilities, genders, ages, grade levels, and types of due process disability complaints filed under the Individuals with Disabilities Education Act (IDEA) for students with disabilities in K-12 public schools in Missouri. The researcher compared the findings to previous research for similarities or contradictions in outcomes. The researcher considered the implications of the results for possible impact on the modification of the IDEA provisions, free appropriate education, the relationships between parents of students with disabilities and the local education agencies, as well as the possible effect on classroom management and instruction. The analysis of the research findings included the import of the guiding theory for the study. The limitations of the research methodology on the study was discussed in this chapter along with recommendations for future research.

Discussion

Results from the research reflected varied growth patterns for the physical, emotional and intellectual disabilities groups. Frequencies were inconsistent among the various disability groups. Most complaints concerned autism; the disability referenced in the most due process petitions in one year. Although cases about students with autism had a pattern of increase over time, there was no consistent increase each year, instead, the petitions fluctuated from year to year. A preponderance of complaints was petitioned on behalf of male students. The data indicated a direct relationship between gender and autism diagnosis. Statistics supported the inference that autism affects more males than females. Emotional disabilities, other health impairment, and multiple disabilities were the categories closest in petition frequency to that of

autism but they lacked the gender dominated pattern of occurrence attributable to autism.

Demographic data from the research indicated that middle and high school grades were the most likely to generate complaints, many of which may concern behavior. Intellectual disability, specific learning disability, and speech and language impairment were categories with minimal complaint activity although they exceeded the physical complaints group in frequency.

Intellectual disability was the most dominant malady among petitions of students having cognitive disorders.

The researcher undertook a descriptive content analysis of data archived on the Missouri Department of Elementary and Secondary Education Special Education (MDESE) website to uncover what trends would emerge among the types of special education disability complaints brought to due process from 2008 to 2018 in the state of Missouri among K-12 public school students. The researcher determined trends in this quantitative descriptive content research by analysis of the due process cases under the Individuals with Disabilities Education Act (IDEA) brought by parents of K-12 students attending public schools in Missouri from 2008-2018. Complaints were disaggregated and compared for fluctuations from 2008 to 2018. Disaggregation included analysis by gender, grade level, age, and disabilities.

The number of due process cases filed on behalf of male students exceeded filings on behalf of females. Forty-six petitions were filed on behalf of male students compared to sixteen for females. The preponderance of males with disabilities over females in this research is in accord with the statistics from Missouri's Employment and Disability Institute at Cornell University (2013), which indicated that males with disabilities regardless of age amounted to 14.3% compared to 13.8% for females of all ages with disabilities in the entire population. The results from this study indicated that in all but two categories of disabilities, where the number of

complaints was equal, the due process cases of male students outnumbered those of females. The ratio of male complaints to female complaints was approximately 3:1. The greatest discrepancy was in the autism category where 11 of the 16 cases with autism pertained to males. Twelve cases involved emotional disability, ten of which were attributable to male students. Of the six cases involving intellectual disability only one pertained to females. In the multiple disability category, seven cases were petitioned on behalf of males compared to three on behalf of females. Nine of the cases with petitions including other health impairment concerned male students, while two were on behalf of female students.

Discrepancies in due process case filings may be due to the inter-relatedness of disability symptoms and the prevalence of autism. Autism impedes social, emotional, and affective communication as well as learning. A student may, therefore, qualify for emotional disability when autism is a more appropriate medical diagnosis (Pennington et al., 2014). In this study, autism and emotional disability were the categories with the most complaints. Autism is defined by the IDEA as follows:

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are: engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria are satisfied. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of IDEA. (Harker & Stone, 2014,

p. 5)

The diagnosis of autism is not assigned if the primary illness is emotional; therefore, students with a mild form of autism may be diagnosed as having an emotional disability. According to Harker and Stone (2014), the IDEA's diagnostic criteria for autism emphasizes stereotypical behaviors more than social maladjustments, and the symptoms identified must impact academic performance. Cases of autism have increased annually. The data from the Missouri Department of Elementary and Secondary Education (MDESE) implies that autism increased by 1.35% for the academic period 2008-2009 to 2017-2018 (MDESE, 2017-2018). Data from the MDESE special education website indicated an increase of .33% in diagnosed cases of autism from the academic year 2013-2014 to 2017-2018. Indications are that for every 68 healthy children there is one with autism (Katsiyannis et al., 2016).

The results of this research indicated that autism increased from 2008-2010, declined, and then increased to its highest level between 2013-2014. Reported cases of autism declined in 2015 and rose again in 2016-2017. Data for 2018 is incomplete. Several factors have been suggested as the cause of the rise in the number of cases of students with autism. Contributing factors may include reclassification from another disability, babies being born of late pregnancies from women having abnormal chromosomes, environmental hazards, and the side effects of vaccines affecting the unborn infant (CDC, 2016).

The MDESE website included data indicating that other health impairment disability (OHI) increased by .51% for the academic period 2008-2009 to 2017-2018 (DESE, 2017-2018). The OHI category steadily increased and may have included the students with behavioral characteristics like autism but whose disability characteristics do not impair academic growth. The OHI category of disabilities may also include students with autism if they do not meet the

criteria for autism stipulated by the IDEA. According to statistics from the MDESE, other health impairment disability is consistently the category with the second-highest number of identified disabilities.

Findings from this research enabled inferences supporting OHI as the third largest category of disabilities in petitions. The other health impairment category is a collection of several disabilities which affect educational progress by contributing to a student's lethargy and limited alertness. The federal definition for OHI includes contributing health issues such as "asthma, attention deficit disorder, attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome" (20 U.S.C. 1401(3); 1401 (301). Complaints involving the OHI category constituted 17.74% of the cases in due process. Emotional disability and behavioral problems have become more prevalent. Alimovic (2013) supported findings that complaints of emotional disability and behavioral problems have escalated to levels seven times higher than usual in the 10 years since 2008 and that children with Intellectual Disabilities (ID) tend to be more aggressive, have higher attention deficits, and have difficulties with social communication. In this research, there were six due process cases involving ID and 12 involving Emotional Disability (ED). The findings from this research support that of other researchers that there is a tendency for statistically-high numbers of diagnoses of ID and ED and resultant high numbers of complaints concerning these categories.

The high numbers of complaints may indicate difficulties with managing these disabilities in the home and in the school environment. Several complaints in due process were related to behavioral issues stemming from parents seeking reimbursement for placement in private schools and disagreements over hearings sought by LEAs for manifestation

determination review (MDR) of the relationship between the student's behavior and disability. Parents often counter by questioning whether the student was given a functional behavioral assessment and whether a behavioral intervention plan was in place and properly executed. The inter-relationship between the ID and ED categories is not substantiated by the difference in the number of complaints from those categories in this research. The ED cases exceeded the ID cases by 14 to 7 respectively. The National Center for Education Statistics reported that in the 2015-2016 school year, ID constituted 6% while ED constituted 5% of the students served by the IDEA (2017).

Multiple disabilities (MD) implies a group of disabilities occurring simultaneously. The IDEA defines multiple disabilities as “concomitant [simultaneous] impairments (such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness” (Center for Parent Information & Resources, 2015a). The student with MD is severely impaired by more than one disability; thus, the IDEA offers services to meet the needs of all the disabilities diagnosed. The MD category of this research reflected 10 complaints. The MDESE reported 0.16% of its student population was receiving services from the IDEA for multiple disabilities. Compared to other disability categories, this is numerically small; however, this category is prone to complaints because of the number of cognitive and medical services provided simultaneously and the severity of the disabilities.

Complaints regarding physical disabilities were low in occurrence. Improvements in health care and welfare may have contributed to a reduction in physical disabilities such as deaf-blindness (DB), deafness (D), hearing impairment (HI), orthopedic impairment (OI), and visual

impairment (VI). The Individuals with Disabilities Education Act (IDEA) (1975) regulation under part B provides for early childhood services to more than 6.5 million children from infants to youths with disabilities. Cases with ID and DB were rare. One petition for DB was filed on behalf of a female student, while one petition for D was filed on behalf of a male student and another for a female student. The petition for DB disability was filed in 2011 while the petitions for D disability were filed in 2010 and 2011. The infrequent occurrences of DB and D disabilities are mirrored by the University of New Hampshire's *Annual Report* for 2016, which indicated that 0.5% of children less than five years old and 0.6% of children between the ages of 5-17 years were hearing disabled.

Complaints were not filed for disabilities of HI, OI, VI or TBI for the period under study. Traumatic brain injury (TBI), which is an injury acquired by external force, was minimal. The zero statistic may be due to eligibility under other categories such as OHI, SLI, SLD, ED, or MD since the injury can cause intellectual, physiological and emotional damage within the mild to severe range (National Association for State Head Injury Administration (NASDIP), 2014). Deafness differs from hearing impairment (HI) in severity and even though these disabilities vary along a range of intensity, their occurrence was minimal.

The reduction in specific learning disabilities (SLD) may be due to technological innovations in academic instruction available for use from infancy at home. These technological innovations may facilitate early intervention learning strategies which improve rudimentary cognitive functions, thereby diminishing the diagnosis of SLD. Further, the shift from the discrepancy method, diagnosing SLD based on the difference between intellectual ability and achievement, to student response to scientific research-based interventions using response to intervention (RTI) and other scientific assessments and instruction (McGill, Styck, Polomares, &

Hass, 2015) may have reduced the number of diagnosed disabilities in this category. Statistics from this research revealed that two administrative hearings from 2008 to 2018 were conducted with SLD as the complaint in conflict in 2012 for a student in grade three and in 2017 for an eighteen year old student in an undisclosed grade level.

Cortiella and Horowitz (2018), in their report for the National Center for Learning Disabilities included the notion that most students with SLD are diagnosed early in their school years with 23% being diagnosed in kindergarten and 53% between grades 1-4. The low SLD percentages in this research may be in keeping with the idea that early detection results in effective early intervention. The number of students with learning disabilities who are dropping out of school has decreased from 35% in 2002 to 19% in 2011 (National Center, 2014).

Speech and language impairments are disabilities in communication which affect learning. The disabilities may impair articulation, fluency, voice, or language expression and comprehension. The IDEA served 1.1 million children with speech or language impairment through early intervention in the 2005 to 2006 academic year (Speech & Language, 2015). Early intervention allows the parents to work along with IDEA staff to create an Individualized Family Services Plan to provide support and care for the child with the disability. These services may have positively impacted the students with SLI by providing remarkable services since the statistics for this study indicated that only three cases were in due process for 2008 to 2018 in Missouri. It is estimated that 1.5% to 1.7% of children with disabilities between the ages of six and 21 have disorders of speech or language (Speech & Language Disorders, 2016). This SLI category of disability remained constant and low for 2008-2012 (Speech & Language Disorders, 2016).

Implications

The objective of the content analysis in this study was attainable because the theoretical concept was not only foundational to the organization of the research but to the culminating phases which impinge on using obtained data to facilitate future growth. The guiding philosophical concept, pragmatism, may be considered a holistic approach to social research since it is a convergence of theories for maneuvering data, using language to craft inferences, and utilizing the results to modify existing practices for social improvement. The research can be duplicated for comparative assessment and data is available from the state education website.

Pragmatism encourages the creation of new processes for improvement of those existing. The researcher discovered that there was no standardization in reports, stemming from administrative hearings; neither were there standardized practices in redacting personal information. Pragmatism focuses on process and result, therefore not only did the investigation provide the benefit of learning about the disability trends but also the necessity for improvement in the documentation processes of petitions and due process hearing reports. The research result indicated that specific disability groups were interrelated and as such their frequencies were directionally similar. Federal legislators need therefore to revise the provisions concerning the interrelated disability groups for statistical clarity on individual disability growth. Further, as pragmatism implies scrutiny and awareness broker knowledge useful for social enhancement of welfare and educational needs.

The inferences were substantiated by the available data. The conclusions were attained from analysis of data conducted by the sole researcher. The various tables and line graphs reflecting disability trends according to case frequency, age, grade, gender and in summary of

the research comments were appropriate to enable attainment of the objectives of the research. Missouri now has access to increased data on disability patterns. The statistics expressed in percentage, comparative ratio, and average calculations further elucidated the findings.

The results of this research have practical social value for ascribing urgency to reforms for free appropriate education based on the findings and statistical ranking of the various disability complaint frequencies. The other health impairment (OHI) disability category ranked third in disability complaint cases. The associated issues encountered such as academic disruption, self-abuse, and physical abuse of others including public school employees and students pose new challenges for the provision of FAPE in the integrated classroom. The provisions of the Individuals with Disabilities Education Act (IDEA) require that students with disabilities receive free appropriate education unique to their needs but does not require that a school district “either maximize a student’s potential or provide the best possible education at public expense,” (Rowley, *supra.*, 102 S. Ct. 3034, 3049). Student focus may, therefore, be dependent on self-motivation, the absence of which quickly transforms an instructional atmosphere from focused to chaotic.

The increasing number of students with autism and OHI who are mainstreamed into the classroom change the classroom atmosphere. It will be necessary to reconsider the percentage of time allotted for students with behavioral disabilities to be in the mainstreamed classroom either in core or elective subjects. The number of students with OHI, ED and A mainstreamed together should also be regulated. It is likely that several students with these disabilities may be mainstreamed to core classes and will be placed in the same rooms. The disabilities OHI, ED, and A have symptoms involving uncontrollable physical actions and emotional inhibition. The combination is conducive to learning inefficiency from repeated disruption or lack of

participation.

Parental involvement in behavior management modification will of necessity need to be a priority. Greater collaboration between local education agencies and parents will become necessary particularly in training parents to control problem behaviors and to provide supportive instruction and monitoring at home. Alternately, there will be the need to ensure adequate infrastructure for private or optional public facilities to handle the increased number of students with behaviors associated with autism and behaviors of attention deficit hyperactivity disorder labeled as OHI. The emotional disability category had the second highest number of cases, with the most being at the high school level.

The obtained disability trend has practical implications for training school personnel. In the classroom, children copy each other's behavior; therefore, instructional techniques and technological aids for classroom management may require greater innovation. Service providers for psychiatric and emotional care will grow in demand particularly at the high school level. Teacher training should incorporate more courses on the psychology of behavior and the principles of subsistence through, faith, hope, forgiveness, courage, and wisdom. While FAPE facilitates the education of students with disabilities, a FAPE for regular students may become necessary to protect their academic progress because of the increasing number of students with behavioral deficits sharing the classroom. Since parents desire the best possible education for their children with disabilities, they will continue to file due process complaints ignorant of the fact that while FAPE holds no promise of excellence in education for their children, parental contribution to cognitive and behavioral development is crucial.

Delimitations and Limitations

The Missouri Department of Elementary and Secondary Education (MDESE) 2017 special education website was the source of the convenience sample of archived data utilized in this study. The MDESE was considered to house reliable primary data appropriate for the investigation. The information was appropriately located on the special education website of the public-school system for the entire state. The data's reliability stemmed also from the legal context in which cases are conducted such that the participant's data including demographics and disabilities and case resolutions can be considered authentic.

Several factors impacted the findings, possibly limiting the validity of the findings. The sample size was small ($N = 62$). The researcher initially hoped to use 109 due process cases over 15 years; however, 47 cases or approximately one-quarter of all the cases from 2003 to 2008 lacked validation due to the absence of case numbers from the listings on the website or lack of inclusion of a diagnosed disability. The excluded cases may have diminished the significance of the results. The excluded cases reduced the sample size thereby impacting inferences regarding demographics and disability trends.

Further, there were possible errors in coding disabilities which were not stated directly in the petitions. Coding some disabilities required analyzing statements and comparing symptoms to assign federally-recognized disability codes. There was no standardized format for reporting administrative hearings, so not all cases included all pertinent demographic details. The researcher was required, as necessary, to calculate demographic data based on the details included in the report.

The limitations preclude the generalization of all findings to populations with disability in other states with similar populations. Historically, the emotional disability (ED) and the specific

learning disability (SLD) categories of archived data have been dominated by a minority ethnic group, and consequently, tracked ethnic and socio-economic data would be reflective of the effectiveness of the welfare program in early education. Finally, the Missouri DESE data is archived by academic year, not the calendar year, so all administrative cases for 2018 would not have been updated on the website at the time of this study.

Recommendations for Future Research

Future research should be conducted with more complete data. There were too many cases with redacted demographics which were vital to the determination of some disability trends.

1. The due process petitions should be researched and coded to derive the causes of the conflicts.
2. Due process complaints should be analyzed by the district in terms of ethnicity and socioeconomic status.
3. There should be research into the wins and losses of petitioners by their socioeconomic status and education levels.
4. Further research should be conducted into the types of disabilities and the complaints that are not resolved in due process but are tried in the appellate court.
5. A comparative research of the number and types of disabilities that are resolved by settlement, mediation, and administrative hearings should be undertaken.
6. Reassessments should be made of the criteria for placing students in the disability categories of A, ED, and OHI.

Summary

The descriptive content analysis was appropriate for this research and enabled the pragmatic assessment of due process cases from the MDESE website. The convenience of the location of the data facilitates future research into disability categories which are already generating intense awareness due to rapid growth. The increasing numbers of students with disabilities have a potential impact on fundamental social programs, educational structure, and academic reform. Disability trends in Missouri reflected similarity to national trends indicative of increasing cases of students being diagnosed with autism; however, unique differences were also evident.

The disabilities autism (A), emotional disability (ED), multiple disabilities (MD), and other health impairment (OHI) which may have overlapping symptoms, were statistically greater than all the other categories. Male students were affected by disabilities in these dominant categories more so than females. This suggests a need for further medical research into the causes and their effect on the different genders. The disabilities labeled for cognitive deficiencies reflected significantly higher numbers of cases than disabilities due to physical abnormalities. Medical science may be better able to control the physical causes of some disabilities, but other disabilities characterized by cognitive deficits may be due to welfare needs such as diet, which impedes learning, the lingering effects of drug abuse or genetic aberrations.

Parents of students in upper middle and high school were more prone to file due process complaints to procure FAPE for their children. The middle school and high school levels coincide with the period where preparations for state exams become significant, and parents may more desperately seek assistance to improve academics by filing complaints or by seeking disability evaluations for their children. A closer examination of the types of complaints beyond

their disability designation as well as the frequencies associated with the methods of complaint resolution will be of fiscal and social benefit to the federal government and the LEAs.

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Appendix A: Landmark Legal Cases

Name of Case	Case	Decision/Importance
1. Board of Ed. of v.	458 U.S.	Free and Appropriate Education defined
2. Rowley 458 U.S. 176	176(1982)	
3. (1982)		
4.		
5. Irving Independent Sch.	883 U.S.	Medical treatment is a related service under PL 94-142 and
6. Dist. v. Tatro	(1984) -	must be provided by school officials
7. School Committee of the	471 U.S.	“The grant of authority to a reviewing court under § 1415(e)(2)
8. town of Burlington,	359(1985).	includes the power to order school authorities to reimburse
9. Mass. v. Department of		parents for their expenditures on private special education for a
10. Educ. of Mass.		child if the court ultimately determines that such placement, rather than a proposed IEP, is proper under the Act.”
11. Honig v. Doe	484 U.S. 305(1988)	Students with disabilities may not be unilaterally disbanded from the classroom for dangerous and disorderly conduct however regulations allow the use of temporary suspensions for not more than 10 schooldays for students considered a threat to others. Interim placements may be made where parents and school officials agree.
12. Florence County Dist.	510 U.S. 7,	Parents may be reimbursed for expenses incurred for
13. Four v. Carter,	(1993)	withdrawing a child from public school providing inappropriate education and placing the child in a private school that provides proper education according to IDEA regulations even if it does not meet all the requirements under § 1401(a)(18)'s requirements. Pp. 12-16.

14. Cedar Rapids Community School Dist. v. Garret F.	526 U.S. 66 (1999).	The IDEA's "related services" definition broadly encompasses those supportive services that "may be required to assist a child with a disability to benefit from special education," § 1401(a)(17), and included within the statute's coverage is "medical services" if they are "for diagnostic and evaluation purposes. These services include those to be performed by a physician, and not to school health services. 468 U.S. at 892-894.
15. ex rel. Charlene F.,		
16. Schaffer v. Weast,	546 U.S. 49 (2005).	"The burden of persuasion in an administrative hearing challenging an IEP is properly placed upon the party seeking relief, whether that is the disabled child or the school district. Pp. 6–12.
17. Arlington Cent. School Dist. Bd. of Educ. v.	548 U.S. 291(2006)	
18. Murphy,		"Section §1415(i)(3)(B) does not authorize prevailing parents to recover expert fees. Pp. 3–12."
19. Murphy,		
20. Winkelman v. Parma City School Dist.,	550 U.S. 516(2007)	The "IDEA grants parents independent, enforceable rights, which are not limited to procedural and reimbursement-related matters but encompass the entitlement to a free appropriate public education for their child Pp. 4–17."
Brown v. Board of Education	3347 U.S. 483 (1954)	

Case names are shortened in the table but the full name of each case is in the references.

I

Appendix B: Comparison of the IDEA Complaint System Options

Comparing the systems	Mediation	Child Complaint	Due Process
Format?	Informal Confidential	Formal Confidential	Formal Confidential
Who decides?	Supports mutual problem solving	Assistant Commissioner of SpEd makes final determination	Solution ordered by hearing officer from the Administrative Hearing Commission
How long does it take?	Mediation session less than a day	Process may take several weeks	Hearing may last several days and process may take several months
How is information gathered?	Supports open communication	Communication with investigator	Witnesses testify under oath
How is decision made?	Agreements made jointly	Determined by allegations	Law-based solution
Comparing the Systems	Mediation	Child Complaint	Due Process
Agreement?	If no agreement reached, can pursue other complaint systems	Decision of Assistant Commissioner of SpEd is final	Decision binding; however, can be appealed to state or federal court
Timeline to complete process?	Must be completed in 30 days	Must be completed in 60 days unless an extension is needed to determine the facts	Can be completed in 45 days but usually takes approximately 6 months

Appendix C: Cases Rejected 2008-2018

Nos	Case Nos.	Reasons
1	N/A	Oral judgement no details included.
2	672	No demographics, no disability data. Student did not qualify for IDEA services.
3	760	No disability data.
4	850	No disability data. Case dismissed as LEA not responsible for improper IEP.
5	1039	Student not diagnosed with a disability.
6	1109	504 Plan. District had no jurisdiction. No disability data.
7	1210	No disability data. Dismissed – Case filed after student enrolled in another district.
8	1233	No disability data. Dismissed. Relief given prior to hearing.
9	N/A	38 Cases without authenticating case numbers

Appendix D-1: Due Process Data Cases 1-11 (2008-2018)

Nos	Date	Decision Date	District	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
1	2008	06/09/2008	640		X	12					X										LEA proved student needed alternative placement for 45 days due to inappropriate behavior.
2		08/06/2008	624		X									X							Dismissed as IEP was appropriate. Parent wanted services and video surveillance.
3		08/08/2008	610		X	16	10	X													Dismissed as IEP was appropriate. Helmet to be provided and behavior intervention to be implemented.
4		08/19/2008	648		X	11	5				X										LEA granted 45-day alternative accommodation for violent student.
5		08/29/2008	617		X								X								IEP appropriate; need to build relationship with parents.
6		08/01/2008	534	X			9									X					No failure to evaluate student. No reimbursement.
7		09/26/2008	590		X						X										Gap in provision of FAPE. Academic relief provided.
8		11/03/2008	643		X		6				X										Manifest determination finds behavior not related to disability. Favor LEA.
9		11/13/2008	675		X						X										Student danger to self and others so alternative placement from homebound.
10		12/08/2008	623		X									X							Remedy for failure to execute IEP appropriately.
11		12/23/2008	613		X								X								IEP appropriate. Parent wanted more time in regular class.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-2: Due Process Data Cases 12-19 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
12	2009	MAILED 02/04/2009	621	X		16								X							IEP appropriate and FAPE provided. Mother felt student was not progressing academically.
13		02/09/2009	592		X						X										IEP appropriate and FAPE provided
14		05/21/2009	651	X			8				X										District to offer 25 hours of instructional service
15		06/18/2009	504	X		11							X								FAPE not given for 2006-2007 only. Parent to be reimbursed for that year.
16		06/30/2009	679		X								X								Dismissed. No personal aide or video surveillance to be provided.
17		08/04/2009	608		X	8							X								FAPE provided when student moved from public to private school. Parent did not want to place student in public school.
18		09/06/2009	217		X			X													IEP OK. Student not entitled to change of placement.
19		12/04/2009	682		X			X													Dismissed. IEP and FAPE provided. Dismissed. Student enrolled in a timely manner, IEP appropriate, no need for assistive technology. FAPE provided.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-3: Due Process Data Cases 20-28 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
20	2010	01/29/2010	752		X									X							IEP inadequate. LEA violated communication requirements.
21		04/01/2010	767		X			X													LEA violated procedure. Five- year re-evaluation not conducted. Annual IEP complaint dismissed.
22		04/08/2010	822		X				X												Student to be placed in alternate facility and be in regular class 40% of the time.
23		04/30/2010	776	X		10	5									X					Decision favors lea except for issues with behavior.
24		07/02/2010	745		X	19		X													FAPE provided. No inadequate services or procedural violations.
25		09/03/2010	680		X	15	9									X					Favors LEA. School had no reason to suspect child was disabled.
26		12/15/2010	733		X	9		X													FAPE provided. No reimbursement.
27		09/11/2010	561	X														X			FAPE provided. Parents requested money damages for placement in alternate school.
28	2011	01/03/2011	686		X	18	11	X													FAPE provided. Home based program denied. Goals in IEP parents did not agree to were beneficial.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-4: Due Process Data Cases 29-37 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
29	2010	09/29/2010	801		X	8										X					Favors LEA. FAPE could not be offered without secure observation room due to behavior issues.
30		12/28/2010	857	X			8							X							FAPE provided. Claims of procedural and substantive inadequacies denied.
31	2011	03/02/2011	832	X					X												LEA favored. Student did not require transportation, service providers adequately trained, parents knew of auditory-oral communication approach.
32		05/26/2011	953		X						X										Cessation of special education services after withdrawal. FAPE provided.
33		06/10/2011	908		X	6	K							X							Classes changed to 100 % special ed. from 50/50 regular.
34		07/20/2011	882		X									X							Dismissed. FAPE provided in transfer procedure and parent reimbursed for transportation cost.
35		08/26/2011	937	X			2			X											Dismissed. FAPE provided. IEP properly terminated Braille instruction.
36		09/06/2011	875		X	8							X								FAPE provided. Student in class in regular class less than 40% of the day is appropriate. IEP and services are appropriate.
37		09/23/2011	839		X	12		X													FAPE provided. Stay put placement, IEP and behavior plan. Use safe area not safe room. Adequate reason for transfer to new school.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-5: Due Process Data Cases 38-45 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
38	2011	11/02/2011	966		X	18													X		Dismissed. Student received copy of educational file.
39	2012	01/31/2012	944		X	8										X					Dismissed. IEP ok. Student needs more one on one than regular ed.
40		07/12/2012	1000-0995		X		8							X							Dismissed. IEP and re-evaluation were appropriate.
41		09/21/2012	1041		X		9									X					Dismissed. FAPE provided. Student behavior not a manifestation of his disability.
42		12/03/2012	1036		X		3										X				IEP adequate. Student functioning on grade level.
43		03/12/2013	1057		X						X										Dismissed. Student does not reside in school district
44		08/29/2013	1053		X	18	12									X					Dismissed. Student given diploma.
45	2014	01/22/2014	1096		X			X													Dismissed. FAPE provided. IEP appropriate so placement and transportation for private school denied.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-6: Due Process Data Cases 46-53 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
46	2014	05/06/2014	1139		X	9		X													Cancelled. Parents did not give notice of withdrawal.
47		03/31/2014	1127	X			9	X													Dismissed. District provided FAPE but communication goals should be added and a behavioral intervention plan should be considered.
48		06/05/2014	1149		X		9	X													Child did not meet eligibility for (SLI).
49		07/11/2014	1166	X			9	X													Dismissed, Behavior not related to disability.
50		07/31/2014	1155		X	7	1				X										Placed at residential facility without parent involvement.
51		08/04/2014	1146	X				X													FAPE not offered. Took too long to create IEP.
52	2015	04/03/2015	1182	X										X							Dismissed. FAPE provided. Student's cognition and behavioral issues suited for special school.
53	2016	04/29/2016	1245		X									X							FAPE not provided. Student did not receive appropriate transportation.

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix D-7: Due Process Data Cases 54-62 (2008-2018)

Nos.	Date	Decision Date	Case No.	F	M	Age	Grade	A	D	D	E	H	I	M	O	O	S	S	T	V	COMMENTS
54	2016	08/15/2016	1272	X				X													No FAPE IN 2016. Student to receive full day instruction and eval. for occupational therapy for 2016-2017.
55	2017	04/04/2017	1305		X	18											X				No FAPE. Policer officer at meeting without parents' knowledge.
56		05/09/2017	1292		X											X					Dismissed. FAPE provided. Student diagnosed as OHI instead of Autism.
57		06/23/2017	1319	X			9	X													Dismissed. FAPE provided but consideration will be given for private placement.
58		06/27/2017	1309		X											X					Manifest determination review revealed behavior not related to disability. Dismissed.
59		09/08/2017	1334	X							X										FAPE provided. 504 Plan. Mom was not denied participation in IEP plan.
60		12/07/2017	1337		X	9	3				X										FAPE provided. Student not suitable to be in regular ed.
61	2018	01/18/2018	1310		X											X					Student not diagnosed as in need of exceptional services.
62		06/27/2018	1373		X		10									X					Split decision. No FAPE was given to the student during his eleven days suspension.
Totals			Cases 62	16	46	22	22	16	2	1	12	0	6	10	0	11	2	2	0	0	

A-Autism, D-Deaf, DB-Deaf-Blindness, ED-Emotional Disturbance, HI-Hearing Impaired, ID-Intellectual Disability, MD-Multiple Disabilities, OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability, SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury, VI-Visual Impairment.

Appendix E: Disabilities by Year (2008-2018)

Disability.	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total	%
A	1	2	3	2	0	0	6	0	1	1	0	16	25.80
D	0	0	1	1	0	0	0	0	0	0	0	2	3.23
DB	0	0	0	1	0	0	0	0	0	0	0	1	1.61
ED	5	2	0	1	0	1	1	0	0	2	0	12	19.35
HI	0	0	0	0	0	0	0	0	0	0	0	0	0.00
ID	2	3	0	1	0	0	0	0	0	0	0	6	9.68
MD	2	1	2	2	1	0	0	1	1	0	0	10	16.13
OI	0	0	0	0	0	0	0	0	0	0	0	0	0.00
OHI	1	0	3	0	2	1	0	0	0	2	2	11	17.74
SLD	0	0	0	0	1	0	0	0	0	1	0	2	3.23
SLI	0	0	1	1	0	0	0	0	0	0	0	2	3.23
TBI	0	0	0	0	0	0	0	0	0	0	0	0	0.00
VI	0	0	0	0	0	0	0	0	0	0	0	0	0.00
Total	11	8	10	9	4	2	7	1	2	6	2	62	100

Note. Dis.- Disability, A-Autism, DB-Deaf-Blindness, D-Deaf, ED-Emotional

Disturbance, HI Hearing Impaired, ID- Intellectual Disability, MD-Multiple Disabilities,

OI-Orthopedic Impairment, OHI-Other Health Impairment, SLD-Specific Learning Disability,

SLI-Speech and Language Impairment, TBI-Traumatic Brain Injury and VI-Visual Impairment.

Appendix F: Missouri School Districts

Blue Springs R-IV	Missouri Schools for the Severely Disabled
Brookfield R-111	Newton Harris R-111
Camdenton	Nixa R-11
Cameron R-1	North Kansas City
Crocker	North St. Francois County R-1
Dunklin R-V	Portageville
Excelsior Springs	Rolla
Festus State School for the Severely Handicapped RV1	Santa Fe R-X
Fort Orange R-1	Savannah R-111 C-8
Grandview C-4	Senath-Hornersville
Francis Howell R-111	Smithton R-VI
Independence 30 School District	Special School District of St. Louis County
Kansas City	St. Joseph School District
Lathrop R-11	St. Louis School City
Lee's Summit R-V11	Van Far R-1
Liberty 53 Shool District	Westran R-1
Midway R-1	

Appendix G: Liberty University IRB Approval

June 20, 2018

Monica Barnes IRB Application 3378: A Content Analysis of Due Process and the IDEA in
Missouri: Trends from 2003-2018

Dear Monica Barnes,

The Liberty University Institutional Review Board has reviewed your application in accordance with the Office for Human Research Protections (OHRP) and Food and Drug Administration (FDA) regulations and finds your study does not classify as human subjects research. This means you may begin your research with the data safeguarding methods mentioned in your IRB application.

Your study does not classify as human subjects research because it will not involve the collection of identifiable, private information.

Please note that this decision only applies to your current research application, and any changes to your protocol must be reported to the Liberty IRB for verification of continued non-human subjects research status. You may report these changes by submitting a new application to the IRB and referencing the above IRB Application number.

If you have any questions about this determination or need assistance in identifying whether possible changes to your protocol would change your application's status, please email us at irb@liberty.edu.

Sincerely,

G. Michele Baker, MA, CIP Administrative Chair of Institutional Research, The Graduate School