

C. Development of a Mock Dispute Resolution Data Base

During Years 2 and 3 of the NASDSE subcontract with CADRE (2000 and 2001), a National Design Team was formed to determine data elements for an integrated database across complaint resolution, mediation, and due process. The National Design Team was composed of dispute resolution staff from Illinois, Texas, Indiana, Maine, Idaho, and Washington. The Design Team, convened via telephone and email, identified the data elements used and needed by SEAs that were compatible with a larger national interest.

Following the National Design Team work, Schrag and Schrag (2000) prepared a paper, Dispute Resolution Database Structure and Elements that describe the recommended data elements and linked data tables needed to construct a comprehensive database including the three IDEA dispute resolution systems (i.e., complaints resolution, mediation, and due process). This mock database was intended to facilitate the study of the relative use, satisfaction, and effectiveness of dispute resolution procedures for use by SEAs in adapting their existing dispute resolution data systems. This paper describing the components of the dispute resolution integrated mock database is available on the CADRE Website: .

Because it was found that only Maine and Iowa have implemented an integrated dispute resolution database, and because an integrated database would be necessary to conduct a national effectiveness study, NASDSE and CADRE entered a phase of promoting the use of integrated dispute resolution databases using the Design Team's recommendations. During Years 2 and 3, technical assistance was provided by NASDSE consultants for several SEAs interested in refining their existing dispute resolution databases.

D. Initial Pre-Study

During Year 3 of the NASDSE subcontract with CADRE, a pre-study was conducted that focused on a small sample of states integrating their databases so that cases could be followed through the entire dispute resolution process. States involved were Alabama, Maine, Iowa, and Colorado. A preliminary review of databases from these states showed that the ratio of dispute resolution cases per 10,000 special education students varied greatly across the states. Therefore, it was determined that it was necessary to obtain data from all states to determine the variations across states relative to dispute resolution cases per 10,000 special education students. These data would be used in the selection of states to participate in the National Effectiveness Study during Year 5.

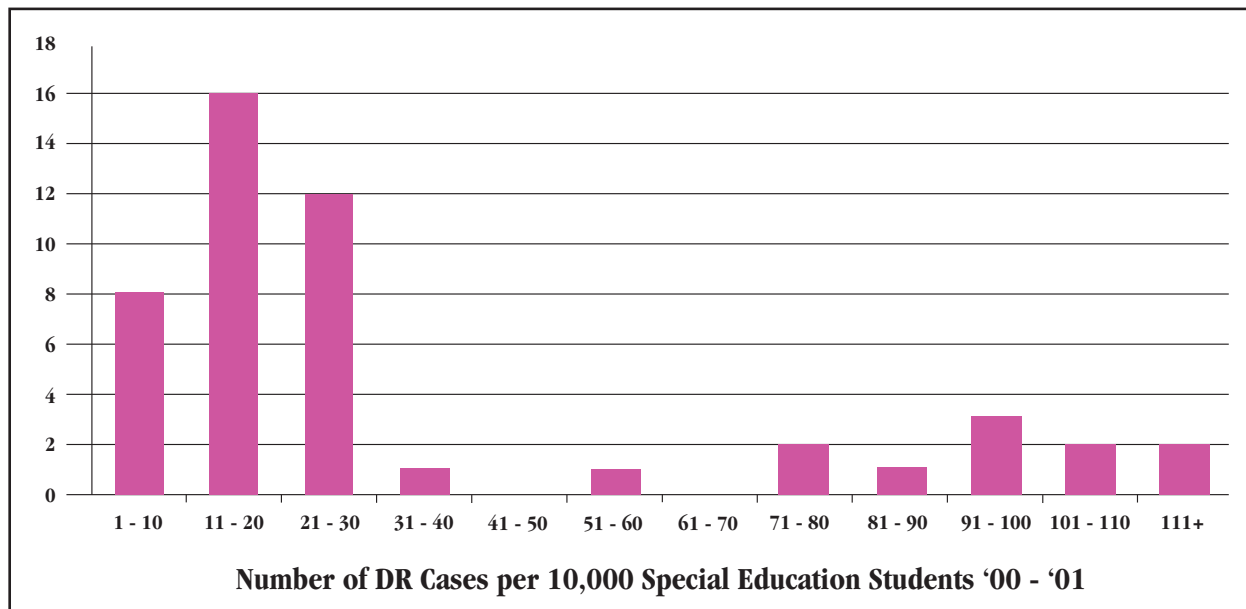
E. Year 4 National Profile of Dispute Resolutions Per 10,000 Students

Schrag and Schrag (2003) conducted an email inquiry of states in order to obtain a national profile of dispute resolution variations across the country. State directors of special education or their designee were asked to report the number of dispute resolution procedures requested or filed, the number held or conducted, and the number of decisions or agreements reached. SEAs also reported information regarding their procedures for handling cases, the nature of their databases, and satisfaction information gathered. Three data request waves and follow-up telephone calls were used to gather this information. Data were obtained from 49 states and the District of Columbia.

The results of data obtained regarding the ratio of dispute resolution cases per 10,000 enrolled special education students is shown in Figure 1. A bi-modal distribution of dispute resolutions exists across the country. Ten states were found to have a high rate of dispute resolution cases (more than 70 per 10,000 students), compared to 35 states with a low rate (40 or fewer per 10,000 students).

SEA respondents gave information on their efforts to provide early dispute resolution intervention that could resolve disputes before they get to the SEA. Sixty-nine percent of the states in the low ratio group had early resolution efforts, while 60 percent of the states in the high ratio group had early resolution efforts. The difference between the two groups is small and shows the trend that would be expected. This is confounded by the fact that early resolution efforts are relatively new and may not yet be showing an effect.

Figure 1. Distribution of states by their ratio of dispute resolution cases per 10,000 special education students in 2000-01.



States were also ranked by their median household incomes using the United States (U.S.) Census Bureau's 3-year median averages (1998-2000). The ranks of income were then compared to the ratio of cases per 10,000 students to determine if there was a significant relationship, thus testing if higher dispute ratios correspond to higher income. The Spearman rank correlation coefficient was determined to be .39. A significant relationship ($p < .01$) was found that accounted for a small amount of the factors causing the difference between the high and low ratio groups. Other study findings included the following:

- Only 13 SEAs showed 80 percent or more mediation cases ending in agreement.
- Due process hearings were 40 percent or greater of the total dispute resolution cases in 19 states.
- Half of the responding SEAs' databases contained fields that would enable them to link the information into an integrated database. The remaining cannot easily link their dispute resolution databases across formal complaints, mediations, and due process hearings.
- Thirteen SEAs reported the district or intermediate unit is involved prior to launching a formal investigation — that is, the SEA sends the formal requests for complaint resolution and/or mediation back for resolution prior to proceeding.

Early conflict resolution strategies included:

- Eighteen SEAs provide conflict resolution training of parents and/or school personnel.
- Twelve SEAs use students as IEP facilitators or coaches.
- Ten SEAs use resource parents or a similar person to provide support for parents in resolving conflicts.
- Seven SEAs use early case reviews, solution panels, or another early resolution process.
- Twenty-six states use other methods of less formal conflict resolution such as peer and staff mediation, facilitated IEPs, and increased partnerships with parents.
- Twenty-nine SEAs reported that they did not have any particular early resolution process or procedures available at the local level.
- A statistically significant difference exist was found to exist between states using early resolution versus those not using it with respect to the due process hearing caseload—31.4 percent vs. 40.3 percent of total dispute resolutions.
- When asked consumer satisfaction instruments are used to gather feedback from parents and/or other school personnel about dispute resolution procedures, two SEAs responded yes for complaints, 22 SEAs responded yes for mediations, and 8 SEAs responded yes for due process hearings.

Section 2. NASDSE/CADRE NATIONAL DISPUTE *Resolution Use and Effectiveness Study*

1. Methodology

A. Design

Based on the findings of the Year 4 study, it was determined that states selected for the National Dispute Resolution Use and Effectiveness Study must reflect the bi-modal national distribution of high ratio dispute resolution states and low ratio dispute resolution states (numbers of total complaints, mediations, and due process hearings filed or requested per 10,000 students). Theoretically, one could use a design that stratified by the ratios and then randomly select states within the strata for participation. In effect, this would produce a stratified – randomized design. In practice, there are sampling limitations to the random selection of states within the strata as there are limitations with further stratification. Because of the restrictions needed for sample selection as discussed below, it was impossible to randomly select states within stratified groupings.

B. Sample

In order to obtain information to complete the study, selected states needed to have databases that could be shared and were structured so that information could be extracted and manipulated to construct the analytical database.

To do this, state databases needed to meet the following criteria:

- Confidentiality issues could be resolved enabling databases to be shared,
- All three dispute resolution databases were built on records at the student case level, e.g., cases based on a case #, parent, or school), and
- All three dispute resolution databases have unique student identifiers for individual students (e.g., name, birth date, social security numbers, or another student identifier) so that all cases for the same student could be identified.

The above criterion of being able to link all three dispute resolution databases, thereby finding all cases for the same student, eliminated over half the states leaving a smaller pool from which selection could occur. Concerns with the confidentiality issue eliminated a few states; some states have laws that prohibit sharing of information, and, thus, precluded study participation. Having a database structure based upon individual student cases further reduced the number of states that could participate in this national study. With the available pool of states reduced, those asked to participate were selected so that state population size and geographic distribution of their strata would be representative.

Almost all of the high ratio states are in the Northeast. The rest of the nation contains the low ratio states. For the high ratio states Pennsylvania, Connecticut and Maine were able to participate. Participating low ratio states included Kentucky, Alabama, Colorado, and Arizona. Missing from the low ratio state sample is a large state such as Texas, Florida, or Illinois, all of which were unable to participate for various reasons.

C. Procedures

Following selection and agreement by the states, a confidentiality letter was provided to the state director of special education assuring that dispute resolution data obtained from each state would be utilized to construct the overall study analysis database and that state-specific data would not be reported in the study. This confidentiality letter also assured the participating SEAs that all student identifiable information would be held in a confidential manner, and only available to the study researchers. The SEAs were assured that once the study was completed, the state databases would be deleted from the study computer files.

With preliminary information available on the database contents, a group of study researchers reviewed the contents and determined what types of analysis could potentially be made with the reported availability of data variables across participating states. They developed a list of questions that the study could attempt to answer.

Following this, databases containing complaints, mediation, and due process hearing data for the years 1990, 2000, and 2001 were obtained from the participating states, with the exception of Arizona, which provided data on a school year basis from July 1, 1999 to June 2002. Complaints databases in Pennsylvania and Connecticut for 1999 were estimated based upon ratios from the following two years, 2000 and 2001. Each state's data sets were migrated into an integrated database for that state (Maine's database was already integrated). This process required matching cases across the individual complaints, mediation and due process databases. This was a time consuming process requiring visual verification of matches and identification of matches not found through automated techniques. Following this, the integrated databases were cleaned and fields that were missing data were completed as much as possible by reviewing other fields such as "Notes and Outcomes" for needed information, or telephone and/or email interaction with the State's dispute resolution personnel to obtain needed information.

Following the integration of each state's databases, analytical variables were constructed and placed into the analysis file. Some variables needed to be partially constructed, while others needed to be entirely constructed. For example, a partially constructed variable was age that was available in some databases, had to be calculated in others using the birthdate and first date of inquiry, or was not available at all. While each state had outcome, status, or final disposition variables in their database to describe the final status of each case, none of them used the same set of terms. Consequently, a field called "status" was constructed and the final status of each state's cases mapped into the status field using a common set of descriptors to encompass the varied descriptors used by the states. Once completed, the overall study analysis database contained 9,839 cases and the following variables:

- Disability
- Main Issue
- State
- Status of Dispute Resolution
- Type of Dispute Resolution
- Parent Choosing to Use Mediation
- School Choosing to Use Mediation
- Request Date
- Age
- Gender
- DPH Linked with Mediation
- Prevailing Party
- Attorney/Advocate Present
- Dispute Types (1 through 5)
- Outcomes (1 through 5)

Categories utilized with each variable will be explained as they are used to answer questions in Section 3. Results. Differences in variables, as obtained from each state, will also be included in the discussion of results enabling the reader to view the differences and definitions as they review the results.

To accompany the database analysis and answer questions with no relevant effectiveness data in the integrated dispute resolution database across participating states, a set of satisfaction questionnaires about consumer outcomes for each dispute resolution process were developed for parents and schools (see Appendix B). A combined group of 250 parents and schools were randomly selected across the participating states and the questionnaire mailed to them with a cover letter from their state director of special education requesting their assistance by responding to the questionnaire. Those schools and parents not responding within two weeks were contacted by telephone and encouraged to answer the questions over the telephone or complete the questionnaire and return it by mail. A 44 percent response rate was received from parents; and a 58 percent response rate was received from school officials with an overall response rate of 51.2 percent. Responses were keyed into a database and prepared for analysis.

Two types of outcomes were identified and used in the study. The SEAs had categories in their databases that identified the final disposition of the case. Dispositions included withdrawn, mediated, and dismissed. Throughout the study, these are referred to as state outcomes. The second type of outcome is a consumer outcome and centers around the effectiveness of the dispute resolution procedures in resolving the IDEA issues around which the dispute was centered.

D. Context

Telephone interviews were held with each state director of special education and/or staff responsible for dispute resolution within the SEA from the seven participating states to gather descriptive information regarding their complaints resolution, mediation, and due process hearing systems. A comparison of 31 features or dimensions of these dispute resolutions systems is found in Appendix A. Following is a brief summary of several of these features.

Complaint Resolution

With the exception of Maine, all of the participating states administer the formal complaints resolution system within the SEA's special education unit with internal complaints resolution investigators. Maine has a contractor that carries out this function. Although there is not a formal training program for complaint investigators within the seven states, training is either provided by the contractor (Maine) or through ongoing conferences such as those provided by the Great Lakes Regional Resource Center (GLARRC), the Mountain Plains Regional Resource Center (MPRRC), the LRP annual conference, or other in-state or out-of-state conferences and workshops. Pennsylvania also relies on training from the Pennsylvania Training and Technical Assistance Network (PaTTAN) for their complaint resolution investigators. Training and information gathering also occurs in weekly or monthly meetings in at least Pennsylvania and Arizona.

Internal or contracted complaints investigators from the participating states follow-up complaint resolution findings and required corrective actions through various tracking procedures, including written documentation by the parties regarding follow-up and compliance. The Colorado SEA carries out informal tracking of required actions and timelines and requires letters of assurance that corrective actions have been followed up and implemented. The Pennsylvania SEA carries out verification activities to determine follow-up by the parties and compliance with required corrective actions.

None of the seven states have formal reviews of their complaint resolution systems; however, informal, and internal reviews are carried out annually or periodically which inform needed changes and refinements. The Pennsylvania SEA used a stakeholder group to provide feedback regarding needed changes. The Colorado SEA administered a stakeholder survey to identify needed changes in their complaints resolution system. The Alabama SEA used the CADRE questionnaire as a self-assessment tool in order to review the status of their system.

Mediation

Mediation was started as early as 1975 (Connecticut) and during the 1980s and 1990s in the other six states. Within Connecticut and Alabama, the SEA special education unit administers mediation with internal mediators. In Maine, Kentucky, Arizona, and Colorado, the SEA's special education unit administers mediation with contracted mediators. In Pennsylvania, an intermediate unit is contracted by the state special education office to operate an Office of Dispute Resolution (ODR) for administering the SEA special education mediation system, including the selection or appointment of mediators for specific cases. Close communication exists between the ODR and the Pennsylvania SEA in the administration of the mediation system.

The backgrounds of mediators in the seven states include education, social services, counseling, and law. All of the participating states require mediators to have knowledge of special education laws and regulations and the needs of students with disabilities. The Kentucky, Connecticut, and Alabama SEAs require observation by an experienced mediator before solo mediation can occur. In Kentucky, mediators must become certified as an educational mediator and attend semi-annual training. The Justice Center of Atlanta provides training for mediators in at least Alabama, Pennsylvania, and Kentucky. The MPRRC and the LRP conference also offer mediation training, as well. The Alabama SEA requires 30 hours of training each year.

Compensation for mediators ranges from \$50/hour in Kentucky to \$75/hour in Colorado, plus expenses for contracted mediators. The seven participating states emphasize a flexible continuum of dispute resolution, allowing mediation to be offered at any time before or after formal complaints resolution or before due process for any IDEA

issue. Five of the seven participating states assign mediators on a rotational basis, and all include availability as an assignment factor. All states allow for rejection of any assigned mediator if a case can be made for a conflict or concern — although this rarely occurs.

In Pennsylvania, attorneys are not permitted in mediation. The Arizona SEA is considering making this change because of concerns to keep mediations informal. Advocates may attend mediations and support parents in all seven participating states. The Maine SEA requires a seven-day notice for the parties to notify each other regarding the participation of attorneys and/or advocates. Arizona requires the same notice — but not a specific timeline. Attorneys are the primary speaker within the mediation and/or represent the parents in Connecticut, Maine, and Arizona. In Kentucky, attorneys play a support role. In Colorado, the mediator works out the role for both attorneys and advocates. Advocates play a support role to families in all of the seven states.

Mediation discussions are confidential in all seven states. The parties are or may be asked to sign a confidentiality pledge prior to mediation in Pennsylvania, Maine, Colorado, and Kentucky. While not a separate confidentiality pledge, signing the mediation sign-in sheet within Alabama is a pledge to maintain confidentiality of mediation discussions. In Connecticut, the parties agree to confidentiality, but do not sign a formal pledge. At the beginning of mediation sessions, the parties within Pennsylvania agree to confidentiality, and the notes of the mediator are destroyed following the mediation session(s). In all of the participating states, mediation discussions are not admissible in due process hearings, although the mediation agreement may become a part of the due process hearing record, particularly if components of the agreement become a part of a revised IEP.

In Maine, parents complete a form at the end of the mediation session that is used for internal evaluation. Likewise evaluation forms are completed by the parties at the conclusion of the mediation session in Colorado and Kentucky. In Colorado, copies of these evaluation sessions are sent to the mediator for feedback. No formal follow-up to mediation agreements exists in the seven states unless agreement items become part of the IEP. It is assumed that the parties will implement the terms of the mediation agreement. If there are concerns by either party, The SEA is usually contacted, a formal complaint is filed with the SEA, or a due process hearing is requested to resolve differences.

All seven states maintain statistical data regarding mediations; however, formal evaluations of the overall mediation system are not routinely done. The GLARRC, recently provided an external review of mediation use for the Pennsylvania SEA. Periodic feedback is also informally sought by the seven states from outside parties such as consultants. The Alabama SEA uses a questionnaire developed by CADRE as a periodic self-study (usually annually).

Due Process Hearings

The Connecticut, Maine, and Alabama SEAs maintain a one-tier system of due process, while Pennsylvania, Kentucky, Arizona, and Colorado SEAs have a two-tier system. The SEA special education unit administers the Level 1 Hearing in Connecticut, Maine, Kentucky, Arizona, Colorado, and Alabama using contracted hearing officers who communicate with the parties and make arrangements for the due process hearing.

Pennsylvania and Kentucky due process systems are administered by an attorney. Pennsylvania used the contracted ODR to manage the due process system. Due process hearing officers are attorneys in all seven states—although in Pennsylvania, psychologists, college personnel, and retired educators/administers are also hearing officers. In addition to attorneys, lay hearing officers within Kentucky and Maine also have diverse backgrounds.

Attorneys serving as hearing officers in Connecticut must have experience in education and/or childcare. Compensation for hearing officers ranges from \$50/hour in Pennsylvania to an upper limit of \$250/hour in Arizona with varying flat fees in Connecticut for various due process activities. Attorneys represent the parties in hearings, while advocates play a support role in all states except Kentucky in which advocates can represent the parties. Connecticut is considering legislation to formalize the current lay hearing officer role.

As with mediation training, training for hearing officers is provided through participation in the LRP annual conference, Justice Center of Atlanta, and other in and out-of-state conferences. The ODR provides training for hearing officers in Pennsylvania twice a year, and the hearing officers attend other trainings throughout the year. Connecticut hearing officers receive eight days of training yearly and also receive \$400 to support other training and materials. The MPRRC provides training for hearing officers for Arizona along with other training arranged for or provided by the SEA.

Follow-up to or enforcement of hearing decisions varies within the seven states. For example, documentation regarding implementation of hearing decisions is provided to the SEA's special education unit by the ODR in Pennsylvania. The same kind of documentation is obtained by the SEA in Alabama and Maine. The Connecticut SEA sends a letter out to the parties two weeks after their hearing to determine whether implementation is occurring. The Kentucky SEA requires yearly submissions to the SEA of follow-up. Although there is no formal process in Arizona and Colorado to follow-up due process hearing decisions, the SEA relies on compliance by the parties. Appeals can occur and/or the SEA is contacted by either party concerned about follow-up and implementation of hearing decisions.

Although statistical information is maintained and internal reviews are held in all seven participating states, no formal external evaluation of the seven due process hearing systems exists. Internal informal reviews are carried out by the states; however, with feedback sought from external consultants in Arizona and the State Special Education Advisory Councils in Pennsylvania and Alabama. Pennsylvania is currently developing satisfaction surveys to be used at the end of both mediations and due process hearings. The Alabama SEA is considering an independent review of its dispute resolution system.

The continuum of dispute resolution processes has been expanded in all of the participating states. The Pennsylvania SEA has implemented IEP facilitation, a ConsultLine for parents and educators, and is considering other early resolution strategies such as solution panels similar to those used in California. Pennsylvania and Kentucky SEAs have implemented pre-hearing conferences and the Connecticut SEA has implemented advisory opinions. Maine, Kentucky, and Arizona SEAs have implemented early resolution procedures. Colorado, Arizona, and Alabama SEAs work with advocacy and parent organizations to provide support to parents in resolving issues and provide state-sponsored workshop presentations on conflict resolution.

E. Results

Results Related to Descriptive Study Questions

The large complaints, mediation, and due process hearing analytical database for the seven participating states, and the consumer satisfaction surveys were structured to gather information regarding a set of 19 descriptive and analysis questions. The study findings are presented and discussed within this section of the Report for each of the questions. The number of cases available for analysis is different by variable because not all of the sample states had data for each variable studied.

1. How many complaints, mediations, and hearings have been filed or requested?

What is the trend line over time (e.g., reductions or increases over a 1-3 year period)?

As can be observed in Table 2, there was a modest rise in the number of requests for dispute resolution activities between 1999 and 2000; however, in 2000 and 2001, the increase was smaller. The growth in overall dispute resolution activity appears to be slowing and may represent mature state and local policies and practices that are well known and fully implemented. If this is correct, little growth other than that accompanying population growth should be expected in the future, given no changes in federal and/or state policies, or other circumstances. Due process hearings appear to be growing modestly, while complaints and mediation may be in the process of stabilizing.

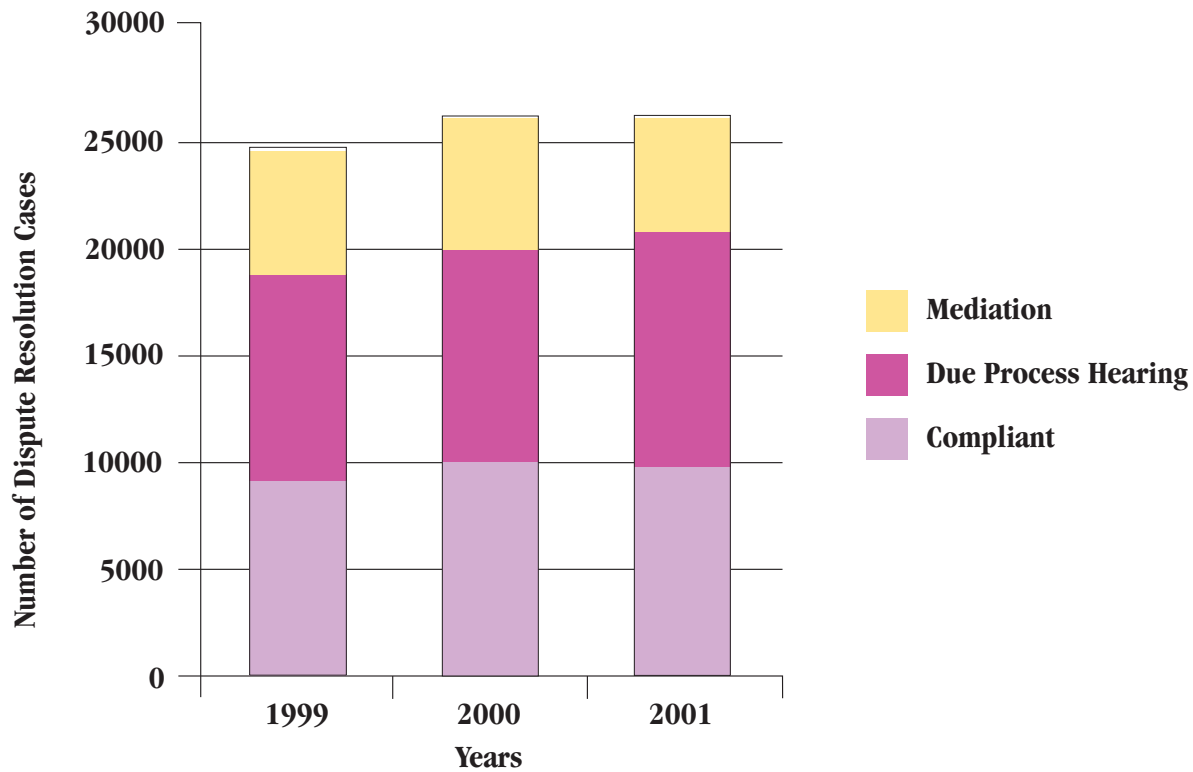
Table 2. Number of requests for dispute resolution efforts.

| Year | Type of Dispute | Estimated Count for All Low Ratio States | Estimated Count for All High Ratio States | Estimated National Totals |
|-----------------|---------------------|--|---|---------------------------|
| 1999 | Complaint | 1,931 | 6,869* | 8,800 |
| 1999 | Due Process Hearing | 2,903 | 6,829 | 9,732 |
| 1999 | Mediation | 1,383 | 4,412 | 5,795 |
| 1999 | Unknown | | 141 | 141 |
| Subtotal | | 6,217 | 18,251 | 24,467 |
| 2000 | Complaint | 2,891 | 7,217 | 10,108 |
| 2000 | Due Process Hearing | 3,006 | 6,929 | 9,935 |
| 2000 | Mediation | 1,977 | 4,901 | 6,878 |
| 2000 | Unknown | | 147 | 147 |
| Subtotal | | 7,874 | 19,195 | 27,068 |
| 2001 | Complaint | 3,474 | 6,400 | 9,875 |
| 2001 | Due Process Hearing | 2,834 | 8,275 | 11,109 |
| 2001 | Mediation | 1,874 | 4,285 | 6,159 |
| 2001 | Unknown | | 141 | 141 |
| Subtotal | | 8,182 | 19,101 | 27,283 |
| TOTALS | | 22,273 | 56,546 | 78,819 |

* To make the 1999 complaints numbers a full year for Pennsylvania and Connecticut numbers were adjusted using ratios from the 2000 and 2001 years, where all complaints for the year were available.

The actual total count for 2001 based on information from all states except New Hampshire was 28,858, which indicates that projections developed from this sample will be conservative, perhaps underestimating national totals by about 5 percent. Figure 2 below provides an overview of national estimates provided in Table 2 (Schrag and Schrag, May 2003).

Figure 2. National estimates for numbers of dispute resolution cases for 1999, 2000, and 2001 (unknown cases are small and not depicted).



2. Has the state changed its dispute resolution system during the period under study? In what ways (procedural changes, tracking, parent awareness, and staffing)?

As indicated earlier, telephone discussions were held with the state director of special education or dispute resolution staff members from the seven participating states to gather contextual information about the nature of the complaints resolution, mediation, and due process hearing systems (e.g., how the systems are administered, data collected, and the extent of follow-up to dispute resolution decisions).

A number of changes have been made in the participating states' dispute resolution systems during the past three years. An outcome of these changes has been an increased professionalism and improved procedural competency. Through a contract with the ODR, the Pennsylvania due process and mediation systems have been revamped and two attorney directors have been hired to administer these systems. The ODR and the Bureau of Special Education, Pennsylvania Department of Education, have worked with a stakeholder group during the past two years to identify changes needed in the mediation system to encourage its use and to identify early resolution systems that could be implemented to expand the continuum of dispute resolution procedures. As a result, they will be implementing various procedures such as solution panels, implemented within California, as well as facilitated IEPs and other early resolution strategies found to be effective.

The Connecticut SEA has revamped its dispute resolution system and revised their state regulations. The SEA is also revising its complaints resolution system. Currently, advocates represent parents in due process hearings. The SEA is considering state legislation to expressly allow and formalize this practice.

The Maine SEA has improved its due process hearing database as well as tracking and reporting procedures. Additional staff members have been hired to manage the dispute resolution systems. The SEA is also investigating improvements in its dispute resolution data management procedures by adding a relationship database. This change would provide the SEA with additional management information regarding the effectiveness of its dispute resolution systems.

The Kentucky SEA has increased parental awareness regarding the state dispute resolution system through more information and training. Tracking forms within the complaints and due process systems have been improved. The SEA will also be implementing facilitated IEPs as an early conflict resolution strategy and a way to improve the overall IEP process. To better balance the due process training both hearing responsibilities and special education content are now included.

As a result of a Consent Decree, the Arizona SEA has changed its dispute resolution policies, improved its tracking, increased information available on its Website, trained school personnel in conflict resolution and dispute resolution, and hired more complaint investigators. An Early Dispute Resolution program has been introduced. The SEA is concerned that mediation sessions should be informal forums of discussion and conflict resolution. Therefore, the SEA is considering a policy change that would ban attorneys from participating in mediations. A shift to a 1-tier rather than a 2-tier due process hearing system is also being explored.

Subsequent to OSEP monitoring, the Colorado SEA revised its state special education rules and completed the OSEP eligibility documents and a stakeholder survey. A special education law website has been created and dispute resolution databases created and maintained. The SEA is not anticipating changes in the near future within its dispute resolution system unless IDEA reauthorization requires changes.

During the past three years, the Alabama SEA has made ongoing refinements to make its dispute resolution system more efficient. The SEA mediators will continue to refine the process in the future. The SEA has used the CADRE survey to help identify areas of system refinement. The internal complaint investigators and dispute resolution coordinators meet annually to identify needed changes (e.g., use of the CADRE survey as a self-assessment). The SEA is also considering an independent review of its dispute resolution systems.

3. What kinds of students (type of disability, age, and sex) are involved in dispute resolution?

Type of Disability

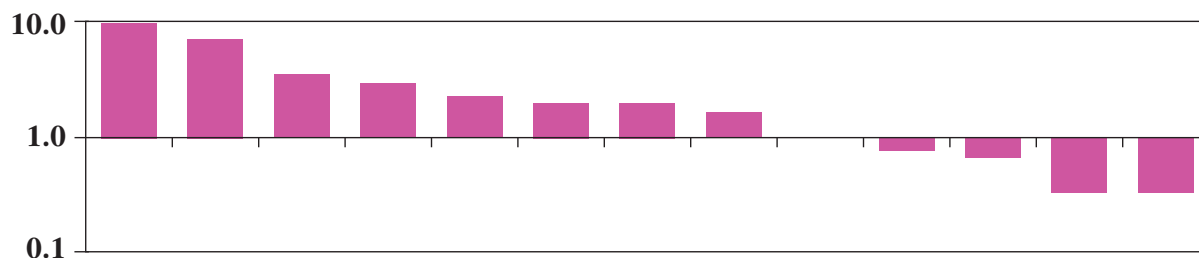
Table 3 provides an overview of the types of disabilities associated with dispute resolution requests from four of the seven participating states (three high ratio and one low ratio). It gives the sample frequency for the student's disability in each dispute resolution case and the national prevalence in special education enrollment for each disability. As can be observed from Table 3 and Figure 3 disputes more frequently involve students with autism, deaf-blindness, emotional disturbance, hearing impairment, multiple disabilities, and traumatic brain injury. The disabilities of specific learning disabilities and speech/language impairment are under-represented in the use of dispute resolution, when compared to their prevalence in the overall population.

Table 3. Type of disability, count, percent requesting dispute resolution assistance, and national disability category prevalence.

| Type of Disability | Count for Sample States | Sample Frequency - Percent | National Prevalence - Percent ² |
|--------------------------------|-------------------------|----------------------------|--|
| Autism | 528 | 11.7 | 1.1 |
| Deaf-Blindness | 12 | 0.3 | 0.1 |
| Developmental Delay | 4 | 0.1 | 0.3 |
| Emotional Disturbance | 879 | 19.6 | 8.2 |
| Hearing Impairments | 117 | 2.6 | 1.3 |
| Mental Retardation | 463 | 10.3 | 10.8 |
| Multiple Disabilities | 308 | 6.9 | 2.0 |
| Orthopedic Impairments | 42 | 0.9 | 1.3 |
| Other Health Impairments | 326 | 7.3 | 4.5 |
| Specific Learning Disabilities | 1437 | 32.0 | 50.5 |
| Speech/Language Impairments | 272 | 6.1 | 19.2 |
| Traumatic Brain Injury | 62 | 1.4 | 0.2 |
| Visual Impairments | 45 | 1.0 | 0.5 |
| Total | 4,495 | 100.0 | 100.0 |

² OSEP Annual Report for 1999-2000 child count (ages 6-21) from 50 states.

Figure 3. Ratio of dispute resolution cases (DRC) to national incidence (NI) – DRC/NI.



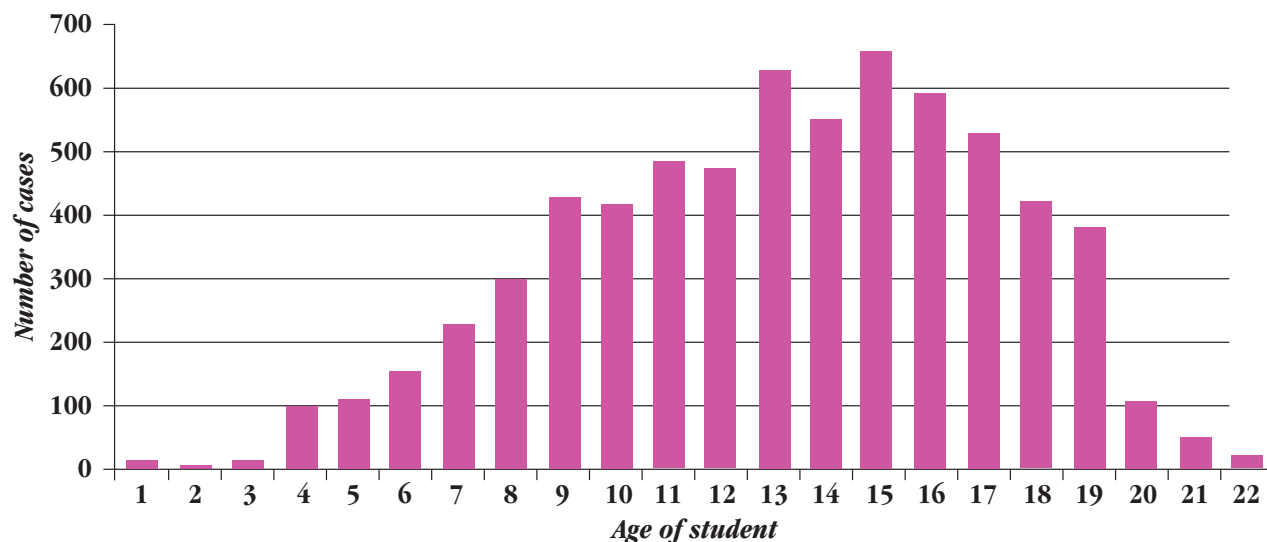
Age of Student

Table 4 shows that the dispute resolution cases are distributed across the age of students so that the maximum numbers occur between 11 and 15 years of age. Approximately one third of the total dispute resolution cases involve 7 to 11 year old students (32 percent) as well as 12 to 15-year-old students (37 percent). This compares to 9.6 percent of the total dispute resolution cases occurring in children birth to 6, and 21.3 percent involving students 16 to 21 years. The three high ratio states contribute to these totals. The low ratio states did not have age data in their databases. Figure 4 provides a graphic presentation of the age data.

Table 4. Age of students involved in dispute resolutions.

| Age | Count | Percent |
|--------------|--------------|----------------|
| 0 | 16 | 0.2 |
| 1 | 3 | 0.0 |
| 2 | 17 | 0.3 |
| 3 | 101 | 1.5 |
| 4 | 111 | 1.7 |
| 5 | 153 | 2.3 |
| 6 | 231 | 3.5 |
| 7 | 300 | 4.6 |
| 8 | 429 | 6.5 |
| 9 | 422 | 6.4 |
| 10 | 483 | 7.3 |
| 11 | 477 | 7.2 |
| 12 | 635 | 9.6 |
| 13 | 547 | 8.3 |
| 14 | 662 | 10.1 |
| 15 | 593 | 9.0 |
| 16 | 532 | 8.1 |
| 17 | 421 | 6.4 |
| 18 | 284 | 4.3 |
| 19 | 104 | 1.6 |
| 20 | 39 | 0.6 |
| 21 | 25 | 0.4 |
| Total | 6585 | 100.0 |

Figure 4. Number of dispute resolution cases by age of student.



Sex of Student

Special education programs have typically had more male than female students. Consequently, more male students than female students with disabilities are involved in disputes. Nearly three-fourths (73 percent) of the dispute resolutions within the sample states involved male students, compared to 27 percent for females.

4. What kinds of issues [subject(s)] of complaint, allegations, and violation have been addressed by dispute resolution (i.e., complaints, mediations, and due process hearings) over time?

Is there a trend in the kind of issues raised?

Dispute issues were found in the database for 6,888 cases (1,230 in 1999, 2,624 in 2000, and 3,030 in 2001). The issues involved are listed in Table 5 for each of the three years with a numerical ranking. The issue rankings for 2001 are in ascending order beginning with #1 as the highest frequency or ranking. Dispute issues that tied in frequency have the same ranking. As can be seen by this information, Evaluation Process, Multiple Issues, and IEP Implementation have consistently ranked #1, #2, or #3 over the three years. FAPE – General ranked #4 in 1999 and 2001 and #6 in 2000. IEP/Multiple ranked #29.5 in 1999, #9 in 2000, and #5 in 2001. Another issue that has increased in prevalence is Placement – Multiple Issues, which ranked 46.5 in 1999, #7 in 2000, and #7.5 in 2001. Compensatory Education ranked #41 in 1999 and has increased to #17 in 2001. Appropriate Placement ranked #5 in 1999, #2 in 2000, and #9 in 2001. Least Restrictive Environment ranked #6 in 1999, but moved to #12 in 2000 and #14 in 2001 as a dispute resolution issue. IEP - General has gone down from a dispute resolution issue ranking of #15 in 1999, #14.5 in 2000, to #32.5 in 2001.

Table 5. Number and rank of issues within disputes for 1999, 2000, and 2001.

| Issues | 1999 | | 2000 | | 2001 | |
|--|-------|------|-------|------|-------|------|
| | Count | Rank | Count | Rank | Count | Rank |
| Evaluation Process | 85 | 3 | 168 | 4 | 303 | 1 |
| Multiple Issues | 170 | 1 | 288 | 1 | 293 | 2 |
| IEP Implementation | 90 | 2 | 172 | 3 | 204 | 3 |
| FAPE - General | 84 | 4 | 142 | 6 | 181 | 4 |
| IEP/Multiple Issues | 8 | 29.5 | 96 | 9 | 168 | 5 |
| Identification - General | 58 | 7 | 83 | 10 | 138 | 6 |
| IEP Process | 37 | 11 | 152 | 5 | 132 | 7.5 |
| Placement - Multiple | 2 | 46.5 | 133 | 7 | 132 | 7.5 |
| Appropriate Placement | 79 | 5 | 205 | 2 | 115 | 9 |
| Location of Placement | 28 | 14 | 36 | 22.5 | 102 | 10 |
| Private School Placement | 43 | 9 | 39 | 20.5 | 99 | 11 |
| Discipline, Behavior, Truancy, Manifestation Determinations | 51 | 8 | 59 | 16 | 93 | 12 |
| Extended School Year | 23 | 17 | 55 | 17 | 90 | 13 |
| Least Restrictive Environment | 70 | 6 | 73 | 12 | 87 | 14 |
| Other (including gifted, school policies, classroom observations, and school policies) | 42 | 10 | 109 | 8 | 85 | 15 |
| Eligibility | 32 | 12.5 | 42 | 19 | 78 | 16 |
| Compensatory Education | 4 | 41 | 29 | 27.5 | 64 | 17 |
| Procedural Safeguards | 25 | 16 | 78 | 11 | 57 | 19 |
| Appropriate Program/ Services | 16 | 20 | 61 | 14.5 | 58 | 19 |
| Placement/Multiple Issues | 3 | 46.5 | 9 | 39.5 | 58 | 19 |
| IEP Content | 14 | 22 | 37 | 22.5 | 48 | 21 |
| Funding/Tuition Reimbursement | 32 | 12.5 | 40 | 20.5 | 45 | 23 |
| Evaluation Timeliness | 12 | 24 | 49 | 18 | 44 | 23 |
| Evaluation - Independent | 7 | 33 | 21 | 31 | 45 | 23 |
| Related Services | 11 | 25.5 | 28 | 27.5 | 40 | 25.5 |
| Suspension/Expulsion | 7 | 33 | 30 | 27.5 | 40 | 25.5 |
| Related Services – Transportation | 13 | 22 | 33 | 24 | 35 | 27 |
| Student Records/Record Transfer and Release/ Record Access and Loss | 6 | 36 | 20 | 31 | 28 | 28 |
| Unilateral Placement, Stay-put, Expedited Alternative Education | 11 | 25.5 | 22 | 31 | 26 | 29 |
| Transition | 13 | 22 | 9 | 39.5 | 24 | 30 |
| Related Services – Multiple | 0 | 57.5 | 7 | 39.5 | 16 | 31 |

CONTINUED

| Issues | 1999 | | 2000 | | 2001 | |
|---|--------------|------|--------------|------|--------------|------|
| | Count | Rank | Count | Rank | Count | Rank |
| IEP – General | 27 | 15 | 60 | 14.5 | 13 | 32.5 |
| Reading | 2 | 46.5 | 2 | 49.5 | 12 | 32.5 |
| Class Size and Composition | 7 | 33 | 7 | 39.5 | 10 | 34.5 |
| Preschool | 3 | 46.5 | 2 | 49.5 | 11 | 34.5 |
| Procedural Safeguards/ Appropriate Services | 6 | 36 | 5 | 45.5 | 7 | 36.5 |
| Personnel – Appropriate and Sufficient Numbers | 5 | 38.5 | 3 | 49.5 | 7 | 36.5 |
| IEP/FAPE | 17 | 19 | 3 | 49.5 | 5 | 40.5 |
| IEP/Placement | 9 | 29.5 | 9 | 39.5 | 5 | 40.5 |
| FAPE/Evaluation | 9 | 29.5 | 3 | 49.5 | 5 | 40.5 |
| Evaluation/Program Placement | 3 | 46.5 | 69 | 13 | 4 | 40.5 |
| Evaluation - Re-Assessment | 2 | 46.5 | 8 | 39.5 | 6 | 40.5 |
| Related Services – Assistive Technology | 2 | 46.5 | 6 | 45.5 | 6 | 40.5 |
| FAPE/Appropriate Services | 19 | 18 | 12 | 34 | 3 | 45 |
| Identification/FAPE | 10 | 27 | 4 | 45.5 | 3 | 45 |
| Graduation/Exit Requirements | 4 | 41 | 6 | 45.5 | 2 | 45 |
| Evaluation/Appropriate Services | 8 | 29.5 | 10 | 35.5 | 1 | 53.5 |
| Placement/IEP | 6 | 36 | 28 | 27.5 | 0 | 53.5 |
| Evaluation/IEP Process | 5 | 8.5 | 31 | 25 | 0 | 53.5 |
| FAPE/Transition | 4 | 41 | 1 | 56.5 | 0 | 53.5 |
| Extended School Year/ Appropriate Placement | 2 | 46.5 | 15 | 33 | 0 | 53.5 |
| IEP/Evaluation | 1 | 52.5 | 10 | 35.5 | 1 | 53.5 |
| FAPE/Appropriate Placement | 1 | 52.5 | 0 | 56.5 | 0 | 53.5 |
| FAPE/Procedural Safeguards | 1 | 52.5 | 0 | 56.5 | 0 | 53.5 |
| LRE/Evaluation | 1 | 52.5 | 0 | 56.5 | 0 | 53.5 |
| IEP/Procedural Safeguards | 0 | 57.5 | 3 | 49.5 | 0 | 53.5 |
| FAPE/Placement | 0 | 57.5 | 1 | 56.5 | 0 | 53.5 |
| Identification/Related Services - Transportation | 0 | 57.5 | 1 | 56.5 | 0 | 53.5 |
| Appropriate Services | 0 | 57.5 | 1 | 56.5 | 0 | 53.5 |
| Evaluation/Eligibility | 0 | 57.5 | 0 | 56.5 | 1 | 53.5 |
| Totals | 1,230 | | 2,624 | | 3,030 | |

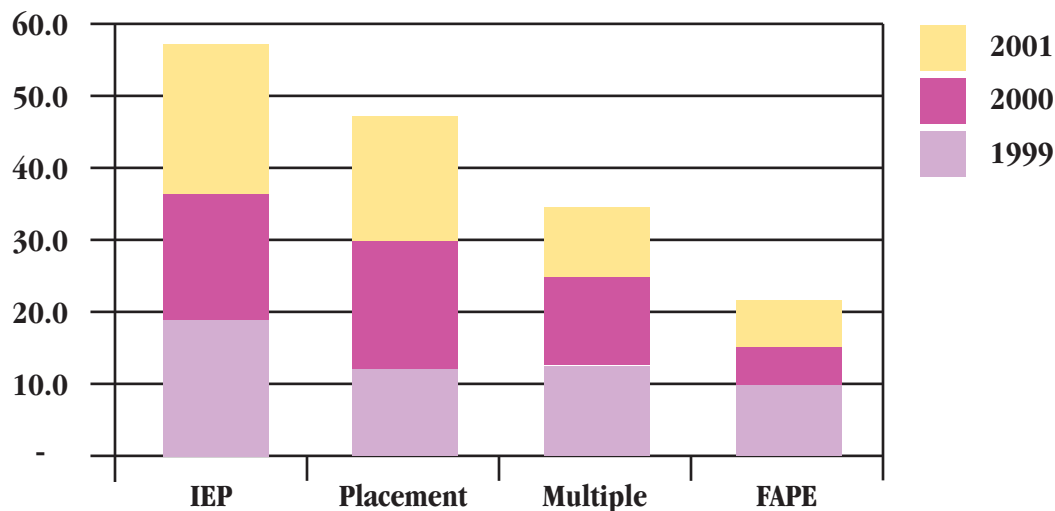
In order to determine the trends in dispute issues for 1999, 2000, and 2001, all of the dispute resolution cases were tallied using broader categories and percentages were calculated for the five most frequent dispute areas. Table 6 shows that the most frequent overall disputes issues (i.e., at least 9 percent of the total disputes for at least

one year) for 1999, 2000, and 2001 were: IEP, Identification and Evaluation, Placement, Multiple Issues, and Free Appropriate Public Education (FAPE). In all three years, these overall dispute issues were about 70 percent of the total dispute cases. A review of the percentages of the most frequently found issues identified for the three years shows that there is a slight increase in IEP, Identification/Evaluation, and Placement issues from 1999 to 2001. A decrease was found in FAPE and Multiple Issues. Figure 5 gives a pictorial of these percentages for the years examined.

Table 6. Frequency counts of dispute issues during 1999, 2000, and 2001.

| Issue | Frequency Counts | | | | | | |
|-------------------------------|------------------|-------------|--------------|-------------|--------------|-------------|-----------------|
| | 1999 | | 2000 | | 2001 | | Total - 3 Years |
| | # | % | # | % | # | % | Total # |
| Identification and Evaluation | 222 | 18.0 | 486 | 18.5 | 623 | 20.6 | 1,331 |
| IEP | 203 | 16.5 | 542 | 20.7 | 576 | 19.0 | 1,321 |
| Placement | 161 | 13.1 | 450 | 17.1 | 506 | 16.7 | 1,117 |
| Multiple Issues | 170 | 13.8 | 288 | 11.0 | 293 | 9.7 | 751 |
| FAPE | 118 | 9.6 | 159 | 6.1 | 189 | 6.2 | 466 |
| Total | 874 | 71.0 | 1,925 | 73.4 | 2,187 | 72.2 | 4,986 |

Figure 5. Percent of dispute resolution types by year.



5. How extensive is the State's mediation system? Is there a continuum of mediation offered (i.e., before and following due process hearing request, including conciliation, conflict resolution, etc.)? -[This is a context variable].

The respondents were asked whether the continuum of dispute resolutions has been expanded beyond the traditional formal complaints resolution, mediations, and due process hearings. Table 7 displays the range of additional dispute resolution options that have been implemented within the seven states.

Early Resolution Strategies

Pre-hearing conferences have been implemented in both Pennsylvania and Kentucky. Early resolution strategies have been implemented in Pennsylvania, Kentucky, and Arizona. For example, the Pennsylvania SEA has focused on identifying and implementing early resolution strategies such as the ConsultLine, which is a telephone service for parents and educators to provide information and assistance to facilitate resolution of differences. IEP facilitation, informal conferences, conflict resolution training, and early resolution of disputes with a facilitator have also been implemented. The Arizona SEA contracts with facilitators to resolve conflicts within the first 10 days of complaint investigations. Staff in the Maine and Colorado SEAs perform this function with parental contacts to help resolve issues. Kentucky and Alabama provide conflict resolution workshops for parents and school personnel using statewide conferences.

Parent Support Strategies

The Arizona SEA has implemented a number of activities to support parents in resolving issues with school personnel. For example, Arizona's Parent Training and Information Center (PTI) and the Arizona Center for Disability Law make concerted efforts to assist parents in conflict resolution. Advocacy organizations within Colorado also provide conflict resolution assistance for parents. The Arizona SEA has also implemented a Parent Information Network to provide information for parents to assist in resolving concerns. A second parent resource (Enhancing Arizona's Parent Network or EAPN) has been implemented.

Table 7. Description of Expanded Dispute Resolution Strategies.

| State | Expansion of Dispute Resolution Continuum |
|---------------------|--|
| Pennsylvania | <ul style="list-style-type: none"> • ConsultLine's call resolution process for parents and educators. • Informal conferences. • Pre-hearing conferences. • Early resolution of disputes with facilitator. • IEP facilitation. • Training available in dispute resolution techniques for parents and educators. |
| Connecticut | <ul style="list-style-type: none"> • Advisory opinions. |
| Maine | <ul style="list-style-type: none"> • Early resolution by SEA staff through contacts with parents or LEA. |
| Kentucky | <ul style="list-style-type: none"> • Expedited due process hearings. • Pre-hearing conferences. • Early complaint resolution system. |
| Arizona | <ul style="list-style-type: none"> • Early resolution is encouraged by the SEA. • The PTI and Arizona Center for Disability Law help parents resolve concerns. • Early Dispute Resolution provides contracted facilitators to help resolve differences within the first 10 days of complaint resolution. • SUPPORT Cadre provides peer assistance on issues such as dispute resolution. • Parent Information Network provides information for parents. • Enhancing Arizona's Parent Network (EAPN) to provide collaboration across organizations, parent groups, and agencies. |
| Colorado | <ul style="list-style-type: none"> • SEA works with advocacy and parent organizations to get parents in touch with them for information and assistance. • Parents encouraged to work with their LEA to resolve the dispute. |
| Alabama | <ul style="list-style-type: none"> • State sponsored workshops/conferences with presentations on legal issues and conflict resolution. |

6. Are there differences in mediations that are held independent of due process hearing requests compared to those offered as an alternative to due process hearings (e.g., types of issues involved, number of mediations resulting in agreements, and who requested and who rejected mediation)?

All of the seven participating states indicated that mediations are administered in the same manner, whether or not they are linked to due process hearing requests. Some states indicated that mediation cases were linked to due process hearings in their databases and others did not. For purposes of this study, mediation cases that were filed the same day as a due process hearing or within the following 30 days were considered linked. A review of the mediation cases that were filed after hearing requests found that the 30-day cut-off appeared to identify almost all of the cases that were identifiable as linked to a due process hearing with very few cases falling beyond the 30-day range.

State outcomes for mediation were placed into five categories. Declined cases are those when parents or the school at the outset decide not to mediate. Dismissed cases occur when the state decides the case is not a valid issue for IDEA dispute resolution, the plaintiffs do not respond, or the case is not legally constituted. Mediated cases culminate in agreements. Unsuccessful cases occur when mediation fails to produce an agreement. Withdrawn cases are initiated by the plaintiffs and reflect the discontinuation of the mediation case. Reasons for withdrawing include reaching a local agreement outside of mediation, obtaining a due process hearing or complaints decision, dissatisfaction with the process, and/or the perception that the issues are not viable.

Table 8 shows that the dynamics involved in mediation cases linked and not linked to due process hearing requests appear to be somewhat different. Both have about a 40+ percent chance of reaching agreement. Fewer linked cases are withdrawn and more are unsuccessful. Linked cases also appear to have a greater chance of being declined.

Table 8. Outcomes for mediation cases linked and not linked to due process hearing.

| Relation to Due Process | State Outcome | Estimated Count for Low Ratio States | Estimated Count for High Ratio States | Estimated National Totals | Percent |
|-------------------------|---------------|--------------------------------------|---------------------------------------|---------------------------|--------------|
| Not Linked | Declined | 286 | 1,372 | 1,658 | 11.8 |
| Not Linked | Dismissed | 126 | 20 | 146 | 1.0 |
| Not Linked | Mediated | 1,908 | 4,138 | 6,046 | 43.0 |
| Not Linked | Unsuccessful | 274 | 1,018 | 1,292 | 9.2 |
| Not Linked | Withdrawn | 1,029 | 3,890 | 4,918 | 35.0 |
| Subtotal | | 3623 | 10438 | 14060 | 100.0 |
| Linked | Declined | 286 | 475 | 761 | 14.7 |
| Linked | Dismissed | 11 | 7 | 18 | 0.3 |
| Linked | Mediated | 651 | 1955 | 2,606 | 50.2 |
| Linked | Unsuccessful | 137 | 723 | 860 | 16.6 |
| Linked | Withdrawn | 240 | 703 | 943 | 18.2 |
| Subtotal | | 1,326 | 3,863 | 5,189 | 100.0 |