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Special Education Advocacy:
Dispute Resolution in Three Districts

DISSERTATION

submitted in partial satisfaction of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in Education

by

Sara C. Young

Dissertation Committee:
Professor George Farkas, Chair
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DEDICATION

To my friends and family

for their unwavering support and lifelong encouragement.
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ABSTRACT OF THE DISSERTATION

Special Education Advocacy:

Dispute Resolution in Three Districts.

By

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Doctor of Philosophy in Education

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Professor George Farkas, Chair

Navigating the special education process in schools can be difficult. As families and districts work together to develop a student’s Individualized Education Program (IEP), conflict can arise. Unless collaborative discussions resolve conflict early, this conflict can escalate to the level of formal dispute and require informal or formal resolution. The law provides for avenues of formal resolution and some districts run internal “informal dispute resolution” (IDR) departments to resolve disputes with families early.

This case study dissertation utilized mixed-methods to answer questions including how special education dispute resolution is organized by districts, how parents are involved in the dispute resolution process, and to what extent the dispute resolution process serves the interests of participants. This research question was answered by looking deeply at three districts’ IDR departments, including document review, statistical analysis, participant interview, and observation. A rational choice framework, the idea that there are perceived benefits and costs in implementing a dispute resolution system by a district, which may include reduced litigation costs, improved relationships with families, and faster resolution of disputes, guided analysis. In engaging in dispute resolution, parents weigh benefits and costs that include financial costs,
emotional costs, and potential benefits to the student and the family. Findings demonstrate that while there are competing benefits and costs driving the interests of parents and districts, districts can make improvements in dispute resolution and educational systems to better serve the goals of all participants and ensure participation by families, positive experiences for participants, and successful outcomes for students. These changes should include improved systems of communication about the status of an ongoing dispute, increased staff training on conflict and on re-occurring issues, and increased parent training and public awareness of special education rules, dispute resolution options, and available programs and services.
Chapter 1: Introduction to the Study, Informal Dispute Resolution (IDR) in Special Education, and Selected Study Sites

The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried.

Supreme Court Justice Sandra Day O'Connor

Statement of the Problem

As intended and outlined in law, the development of a student’s Individualized Education Program (IEP) is a collaborative process, spearheaded by a group of knowledgeable individuals. This is based, in part, on the premise that “the larger the shared pool, the smarter the decision” (Patterson, Grenny, McMillan & Switzler, 2011, p. 21). In reality, the development of a student’s IEP is a complex and complicated process, rarely moving smoothly or quickly. The group of individuals having input may have different areas of expertise, and sometimes members of the team have diverging ideas about what is best for the student. For some parents, this process can be a trigger for conflict and dispute. Conflict is “real or perceived differences that arise from special education circumstances that engender negative emotion as a consequence” (Lake and Billingsley (2000, p. 240)). Researchers note “conflict is inevitable. Parents will continue to experience frustrations with the special education system” (Mueller & Piantoni, 2013, p 3.). This makes sense viewing the IEP development through a framework of rational choice in decision-making: parents and school teams are making decisions according to self-interested preferences and maximizing their perceived benefits or gains (Ostrom, 1998). In participating in the IEP development process, parents and district may not have the same goals, and may not see the same costs and benefits. These motivating factors may include minimizing fiscal impact, maximizing student progress, or including the student with general education peers.
to greater extents. These conflicts can be productive, in that they might instigate positive change, but they can also be detrimental, resulting in a full-fledged dispute about special education services and programming which can be costly, in terms of time and money, and may or may not improve student outcomes and well-being. Even without incredibly different and competing interests, conflicts may have significant costs.

Under a rational choice framework, various mechanisms may be motivating decision-making by parents and by districts in pursuing and resolving special education conflict and disputes. For parents, each day is an investment in their child. Advocating for services may have a cost (damaging school relationships, fees spent on attorneys), but parents are seeking a proposed benefit (increased student independence, higher student skills). For the district, there must be a careful balance of short-term cost and benefit with long-term impact. A higher cost educational program in the short-term may result in less per-pupil expenditure in the long term; alternatively, some programs sought may have high financial cost and yield limited benefits (See Sofko, 1997 (discussing system efficiency, etc.); and Halvorsen, Hunt, Neary, & Piuma, 1996. For individual district personnel, the benefits and costs may deviate from the interests of the district as a whole. For example, teachers may have personal interests in removing difficult students from a classroom, or in obtaining additional adult support or training, which is a benefit to the teacher at a cost to the District (Billingsley, 2004 (reviewing literature about special education teacher attrition and motives).

Conflict arising to the formal level of a dispute (a state-level due process hearing, state complaint, or IDR) can occur at many points during IEP development and implementation. Parents who engage in conflict with the system rising to the level of dispute are a “small, but significant, minority” (Leiter & Krauss, p. 141 (2004)). In many California districts, this level of
conflict occurs only once or twice per month, if even that frequently. However, the threat of these impending disputes hangs over the heads of many individuals on an IEP team, influencing collaboration and team problem-solving.

Resolution of disputes can be financially and emotionally costly (see Hanson, 2003, analyzing attorneys’ fees and financial costs of special education litigation). Additionally, conflict itself is challenging because it is packed with emotion. Emotions affect us physically, affect our thinking, impact our behavior, and can be contagious (Fisher & Shapiro, 2006). Resources spent in resolving disputes negatively influence what is available to support the needs of all students through programming and support. The budget for dispute resolution (settlements and attorneys’ fees) in one of the districts researched is approximately three million dollars each year. One case alone can cost $80,000 in attorneys’ fees, not including the cost of implementing the final judgement made by a judge in issuing a decision (e.g., OAH Decision 2015100209, in which the District spent $18,000 in defense and parent spent $63,990 in pursuing). In considering the benefits and costs in special education disputes, some large California districts and special education local plan areas (SELPAs) have begun employing alternative or informal dispute resolution (IDR) as an early option to work collaboratively with families in resolving conflict without resorting to more formal dispute resolution methods. A premise of the special education IDR process is that working collaboratively to resolve conflict improves student outcomes and well-being. This is coupled with district motivation to decrease litigation expenses while meeting student needs.

This study obtained information about special education informal dispute resolution, gathering information about dispute structure, perceptions, and outcomes. Through collecting and synthesizing this data, it may be possible to make positive changes in the dispute resolution
process that will better meet the needs of the participating individuals and groups. This information may support building systems that improve collaborative processes of dispute resolution in special education.

**Research Question**

This dissertation looked in depth at the following research questions:

1. How is the special education dispute resolution system (including informal dispute resolution (IDR)) organized and implemented by school districts? What are districts’ interests and goals and how does the organization support this?

2. How are parents in three districts involved in the special education dispute resolution process? How do parents perceive their interests and those of their child, including how these perceptions drive and affect decision-making in dispute resolution?

3. To what extent does the current system serve the interests of districts and parents? How might it be improved to better serve the interests and goals of all involved?

A key element of the research was to identify how the interests of parents and districts could be better served in the dispute resolution process. Prior to looking at this, information was gathered addressing components of a district’s conflict resolution system and process: the participants, the method, and outcomes and perceptions. This information illuminates who is engaging in conflict resolution, why, what the resolution method looks like, and the outcome of the resolution method. Data and observation in three large districts assisted in answering these questions.

**Research Setting**

Beach City School District (BCSD)\(^1\) was the primary research site. The observation of formal resolution methods occurred only at this district; other elements of the study occurred at

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\(^1\) Pseudonyms were developed for each of the school district. These are not their real names.
each of the three sites. BCSD is a K-12 district in southern California with just over 50,000 students at more than sixty schools or specialized programs/settings. According to publicly available information, the district is over 50% white, with other ethnicities represented; approximately 21.3% of students are considered unduplicated, meaning they are eligible for free/reduced-price meals, are English Learners, or are Foster Youth. BCSD students live in multiple cities within the county, and the district spans over two hundred square miles. Within the district, just over 5,200 students are eligible for and receiving special education services. BCSD has an established IDR department, which has been running for approximately a decade. The IDR department engages in anywhere from 60 to 100 IDR meetings per fiscal year and the district regularly has over 20 requests for due process hearings filed on behalf of students each school year. These numbers are climbing.

Coastal City School District (Coastal City) was the second study location. As a secondary site, interviews with site staff and review of available public records related to dispute resolution and special education occurred. Observation of formal dispute resolution did not occur at this location. Coast City participated minimally in this dissertation, providing publicly available information and answering some of the requested questions, but not agreeing to permit on-site interviews or data review.

Coastal City is a K-12 school district in southern California with just over 20,000 students at more than thirty schools or specialized programs/settings. According to publicly available information, the district is over 70% white, with other ethnicities represented. Approximately 48% of students are considered unduplicated. Coastal City students live in multiple cities, and the District spans approximately 60 miles. Coastal City has a small IDR department, recently formed. The IDR department engages in a limited number of informal
dispute resolution meetings each year, typically less than 20. Additionally, the district has over 20 requests for due process hearings filed on behalf of students each school year. As with BCSD, numbers of special education disputes are climbing.

California City School District (California City) was the final research site for this dissertation study. As a secondary site, observations of IDR and interviews occurred at this site. Observation of formal dispute resolution did not occur at this location. California City is a K-12 school district in southern California with just over 30,000 students at more than thirty schools or specialized programs/settings. The district is approximately 30% white and over 50% Asian, with other ethnicities represented. Approximately 28.6% of students are considered unduplicated. Within the district, just over 3,000 students are eligible for and receiving special education services. California City has a small IDR department formed in the last three years, with an express purpose of lowering the number of due process filings each year by students and decreasing settlement costs. Consistent with trends in the other two districts, in California City the numbers of special education disputes (formal and informal) are climbing.

These three school districts are in the same larger Orange County community. The individual communities are unique in ethnic makeup, special education program size, and in income. In each district, litigation is prevalent. Anecdotal reports identify that families frequently move between the three districts.

**Dispute Resolution Framework**

Families have options available to them when a special education dispute occurs. The chart below outlines, in brief, the options available to a parent (or a district) when a special education conflict arises to the level of a dispute.
Figure 1. Dispute Resolution Pathways. This figure illustrates the potential pathways to resolve a dispute in the area of special education.

Disputes resolved through the framework in Figure 1 begin as conflict during different points in the IEP team meeting and development process. At the first step, identification of students with special education needs and development of a student’s IEP, there are numerous potential points of conflict that can lead to the need for formal or informal dispute resolution methods. The figure below shows the common trajectory of identification for special education and special education services. In this pathway, potential points of conflict - which may or may not rise to the level of dispute - appear via boxes with a dotted outline.
Figure 2. Individualized Education Program (IEP) Development Pathway. This figure provides a roadmap of the IEP process, highlighting when disputes are likely to occur.

As noted previously, each of these dotted boxes represents a potential point of conflict in the special education IEP development process. At each of these potential conflict points, parents and districts have choices as to whether to engage in formal (or structured informal) dispute resolution methods, or to continue to work with school staff within the collaborative IEP development process. When conflict arises to such a level that it is resolved using a formal dispute resolution method, it can be costly (emotionally and financially) for both parties involved. Stakeholders in special education need more information about IDR processes, the impact of these processes, and the perceptions of these processes.
Purpose and Significance of the Study

Utilizing a case study, this dissertation explores how three districts, BCSD, Coastal City, and California City, implement IDR systems in attempts to reduce formal disputes and improve collaboration with families, potentially resulting in long-term system change by resolving conflict at a lower level than a due process hearing or other formal method. This dissertation provides demographic information about families and disputes, comparative information related to each type of dispute resolution, identifies participant-perceived positive and negatives in the process, and discusses those findings in these three identified in-district IDR programs.

Nationally, and statewide, special education litigation continues to rise. Districts continue to seek alternative methods for working collaboratively with parents prior to disputes reaching a formal level. Findings from this study, using information from multiple districts where litigation is prevalent and disputes are frequent, provide administrators, parent advocacy groups, and other stakeholders with vital information about necessary components in a successful IDR program and the impact of such a program on a district and a community.

Role of the Researcher in the Study

In exploring and analyzing the qualitative components of this study, the data are mediated through a human instrument, the researcher. As a result, it is important to identify, share, and explore relevant information about me, the researcher. My introduction to special education occurred over a decade ago, when I took a class in exceptional children as part of my undergraduate coursework. My interest was piqued and I majored in special education focusing on students who were deaf or blind. I obtained a master’s degree in special education while working within school programs in different capacities, including as an aide and as a teacher. I attended law school and worked in private practice as an attorney, first representing the interests
of individual students working at a student advocacy group, and then representing school districts, ensuring programs meet legal requirements.

I currently work for a school district that participated in this study. I am an Executive Director within the student services department, overseeing the IDR process and compliance with federal and state laws. Among other duties, I manage student records and respond to parent complaints related to special education programming, bullying, and discrimination. I regularly attend board meetings to provide updates to the school board, often providing updates on litigation and the informal dispute resolution program.

My career path demonstrates my core belief that IDR can be an effective way to work collaboratively with families and improve opportunities for students. However, as demonstrated both through my ongoing professional learning and through my motivation to complete this study, I believe information about what makes IDR successful - in practice, not theory - is limited and not widely reviewed or discussed. I also believe there is room in the IDR process for improvement. I have dedicated a large portion of my professional life to attending seminars and trainings about dispute resolution, negotiation, and mediation, and to studying IDR in schools.

As a district employee in one of the districts studied, acting as an observer, and an interviewer, my role in this study was one of an insider. I participate in the activity and program studied. While I am a member of the group at interest in this study, the goal in gathering and analyzing the information was to behave as an objective observer; asking probing questions, listening, thinking, reflecting, and then asking additional probing questions to move to deeper levels of conversation and understanding. Seeking to build a picture using ideas and theories from literature review, past experience, and participant input, this study was more than a description of what is currently in place. I believe that by being present for each portion of the
data collection, I was the appropriate “tool” to comprehend and explore the topic of interest (Lave & Kvale, 1995; Burgess, 1984). I appreciate that my role as a district staff member and researcher was difficult and may have had an impact on the information participants shared. I do believe staff and parents in all three districts were honest and forthcoming; many made clear but critical statements and asked, after reflecting, to come back and share additional information. All were offered the opportunity to work with a second researcher, the parent of a student with a disability, who did not work within the district. No participants shared that working with someone else was necessary to be honest. This second researcher acted as a sounding board during analysis. Her participation helped add to the viewpoint and lens through which information was gathered and reviewed.

To track and monitor my own biases, I maintained a research journal identifying and exploring personal reactions and reflections, as well as insights into myself and relevant past experience, attempting to keep them separate from the transcription of notes and analysis of the data presented; an attempt to be aware of my own goals and how they may be shaping my research and my analysis (Maxwell, 2013). Throughout data collection, reporting, and analysis, I reviewed these findings and biases through conversations with District leadership, peers and colleagues in other districts, and through review and response with participants, member checking, confirming their own input and my interpretation. While it is difficult to fully identify and explore my own biases as part of this process, my primary responsibility was, and continues to be, the protection of the participants in this study and in the honest retelling of their input. Keeping this singular focus in mind assisted in critically thinking about any impact my role had.

2 Janice Hansen has her PhD in Education. She is a published author and an accomplished teacher. She is the mother of two young women, one of whom has complex medical needs and participated in special education programming during her K-12 school years.
Overview of the Organization of the Study/Methodology

As noted previously, this is a case study dissertation. It focuses on how three districts work to resolve disputes resulting from conflict in the educational planning process of students with identified special education needs. The study zeros in on how conflict, arising in the special education IEP development process, is resolved either through a district-established IDR system or through the state-supported formal resolution methods.

Initial review of federal, state, and local data related to dispute resolution in special education provides a backdrop for the case study of three districts. State level data for the past fiscal year is the foundation for comparison with current and recent district-level information. The first step of analysis included quantitative analysis related to types of disputes and participant. Attention focused on disputes within the past fiscal year, 2015-2016, in the three school districts. The study investigated these in depth and interviewed staff members in the special education department using a semi-structured tool. This interview explored each participant’s familiarity with dispute resolution, conflict, and perception about the special education and dispute resolution process. Following interviews with staff, observations of each type of dispute resolution occurred including a due process hearing, a mediation, a resolution session, and an IDR meeting. These observations occurred based on the timing and availability of such proceedings; the intent was to observe elementary proceedings (students from prek-5) rather than middle or high school proceedings, where families may have had more experience with conflict within the school system. The observations provide validation of perceptions identified in the interviews and allowed for comparing and contrasting each of the dispute resolution options.

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3 The formal dispute resolution process (resolution, mediation, hearing) facilitated by the state was only observed within BCSD. Observation of IDR occurred in BCSD and in California City.
Parent input is vital to the IEP development process, the IDR process, and this study. A sample of parents completed a short survey about the special education process. Then, three parents of elementary-aged students who are currently engaged in dispute resolution or have recently engaged in dispute resolution answered a semi-structured interview tool during a live interview. The participants represented parents who participated in IDR, one with a parent who participated in a formal due process hearing, and one parent who filed a state level complaint. Observation of parent participation in the dispute process occurred through observation of the methods of dispute resolution.

Completion of the district-level case study involved obtaining and reviewing dispute related documents. These include settlement agreements, district promotional material and internal tracking documents related to dispute resolution, along with information maintained as to outcomes and monitoring of disputes. To ensure a comprehensive understanding, at least one of each type of dispute resolution method (hearing, mediation-only, informal dispute resolution, and compliance complaint), was reviewed in depth, and tracked from initiation to conclusion.
Chapter 2: Special Education Law Background and Prior Studies in Special Education

Dispute Resolution

The special education system, from initial assessment to a student’s graduation from the educational program, is overrun with complicated terms, processes, and procedures. Understanding the foundational terms and concepts, in both special education programming and dispute resolution, is necessary to grasp the potential opportunities for conflict and motivations in resolution. Federal laws, state education code, and judicial decisions clarifying legal requirements define these terms and govern these processes.

Key Concepts and Terms in Special Education

A series of complex federal and state laws govern special education services and programming, supporting and protecting students with disabilities ensuring that each student receives an appropriate education, based on his or her individual needs. Without a foundational understanding of these laws and protections, resolution of conflict (and the development of appropriate programming through a collaborative process) can be nearly impossible. District-level staff often use acronyms and field-specific vocabulary when discussing special education, this can make it difficult for families and individuals unfamiliar with the system to follow a conversation or navigate a complex situation. To understand the process of special education programming and services, and to understand how disputes can arise in this otherwise collaborative process, knowledge of these terms and acronyms is required.

The Individuals with Disabilities Education Act (IDEA). The IDEA is a federal law and the cornerstone for the provision of educational services to students with disabilities in the United States. The IDEA governs how public agencies provide early intervention, special education, and related services to the millions of eligible students with disabilities. The IDEA is
Eligibility. To be eligible for special education services and the protections afforded by the IDEA, including the rights related to dispute resolution, a student must have one of the thirteen disabilities listed in the law and that disability must hinder the student’s ability to receive educational benefit from school in the general education setting (Cortiella, 2006). The IDEA provides that to be eligible as a student with a disability the student must both (a) meet the definition of one or more of the categories of disability and (b) by reason thereof, require special education and related services (34 C.F.R. § 300.8(a)(1)). The “eligible” disabilities include: intellectual disability, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, deaf-blindness, and multiple disabilities. State education code and regulations further define each area of eligibility. A student’s Individualized Education Program (IEP) team makes the determination as to whether the student has a qualifying disability and requires special education following a comprehensive assessment of all areas of suspected disability.

Individualized Education Program (IEP). Each student has an annual IEP document guiding the delivery of services and instructional focus each year. The IDEA outlines the requirements of a student’s IEP. These include: (1) a statement of the student’s present levels of academic achievement and functional performance, including how the student’s disability affects
involvement and progress in the general education curriculum; (2) a statement of measurable annual goals, including academic and functional goals designed to meet the student’s needs that result from the disability, to enable the student to be involved in and make progress in the general education curriculum, and meet each of the student’s other educational needs that result from the disability; (3) a description of how the student’s progress toward meeting the annual goals will be measured, and when the periodic reports on the progress the student is making toward the goals will be provided; (4) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to advance the student toward attaining annual goals, to be involved in and make progress in the general education curriculum, and to be educated and participate with other students with and without disabilities; (5) an explanation of the extent, if any, to which the student will not participate with general education peers in the regular classroom; (6) a statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the student on state and district assessments; (7) the projected date for the beginning of services, including frequency, location, and duration; and (8) for students turning 16 (and older), appropriate postsecondary goals and services (34 C.F.R. § 300.320). A student’s IEP is the blueprint for successfully formulating and achieving the goals of IDEA (Murray v. Montrose County School District, 51 F.3d 921, 925 (10th Cir. 1995)). A student’s IEP should provide a “basic floor of opportunity” consisting of services that are “individually designed to provide educational benefit” (Bd. of Educ. of the Hendrick Hudson Central Sch. Dist. v. Rowley, 457 U.S. 176, 201 (1982)). Annual review of a student’s IEP is required by a student’s IEP team and progress toward annual goals, including regular assessment, dictate a student’s educational programming until a student is twenty-two, has graduated from high
school, or is no longer eligible for special education (Yell, 1998). See Appendix A for a sample IEP, designed for a fictional elementary school student.

**IEP Team.** It is the intent of the law that the development of a student’s IEP be a collaborative process. Under federal law (34 C.F.R. § 300.321(a)) specific individuals are mandatory participants in the IEP development process and are considered members of a student’s IEP team. The IDEA requires the following people to attend and participate in IEP team meetings: (1) the parents of the student, (2) the student’s general education teacher, (3) the student’s special education teacher or provider, (4) a district representative who is qualified to supervise programming and knowledgeable of district resources, (5) an individual who can interpret the instructional implications of testing, (6) the student, if appropriate, and (7) other individuals with special knowledge or expertise, as requested by parents or the district.

**Parent Participation.** Both state and federal law require parents of a student with a disability be afforded an opportunity to participate in meetings with respect to the identification, assessment, educational placement, and provision of a free appropriate public education (FAPE) (Cal. Educ. Code §§ 56304, 56342.5; 34 C.F.R. § 300.501(a), (c)). Judicial decisions have clarified this legal point and determined a parent has meaningfully participated in the development of an IEP when he/she is informed of the student’s needs, attends the IEP meeting, expresses any disagreement the parent has regarding the IEP team’s conclusions, and requests revisions in the IEP (N.L. v. Knox County Schools, 315 F.3d 688, 693 (6th Cir. 2003); Fuhrmann v. East Hanover Bd. of Educ., 993 F.2d 1031, 1036 (3d Cir. 1993); Ms. S. ex rel G. v. Vashon Island School District, 337 F.3d 1115, 1131 (9th Cir. 2003)). The judicial test applied to determine parent participation is whether the school district comes to the IEP meeting with an open mind and several options, and discusses and considers the parents’ placement
recommendations and/or concerns before the IEP team makes a final recommendation (Doyle v. Arlington County Sch. Bd., 806 F. Supp. 1253, 1262 (E.D. Va. 1992)).

**Free Appropriate Public Education (FAPE).** A FAPE consists of special education and related services that (a) have been provided at public expense, under public supervision and direction, and without charge; (b) meet the school standards of the state educational agency; (c) include an appropriate preschool, elementary school, or secondary school in the state involved; and (d) are provided in conformity with a student’s IEP (20 U.S.C. § 1401(9)). In 1982, the United States Supreme Court rendered the key guiding decision in special education law, establishing a two-part test to determine whether an educational agency has provided a FAPE for a student in special education (Rowley, 457 U.S. 176 (1982); J.L. v. Mercer Island School Dist., 592 F.3d 938, 947 (9th Cir. 2010)). The Court identified that in making a determination of FAPE, judicial officers should ask, “Has the State complied with the procedures set forth in the Act?” And, second, “Is the individualized education program developed through the Act’s procedures reasonably calculated to enable the child to receive educational benefits” (Rowley, 458 U.S. at 206-207)? If these requirements are met, a state has complied with the obligations imposed by Congress and a judicial officer can require no more (Id. at p. 207). Schools must follow the procedures outlined in the law and ensure the education provided to a student is reasonably calculated to provide the student with educational benefit.

**Least Restrictive Environment (LRE).** Under 34 C.F.R. § 300.114(a)(2), a school district must, to the maximum extent appropriate, ensure that students with disabilities are educated with students who are non-disabled. Separate classes, schools, or other removal of students with disabilities from the regular education environment occurs only if the nature or severity of the disability is such that education in a regular education environment with the use of
supplementary aids and services cannot be achieved satisfactorily. Including students in a
general education setting as much as practicable is a central goal of the IDEA; however, districts
must achieve that goal in light of an equally important objective of providing an education
appropriately tailored to the student’s particular needs (P. v. Newington Bd. of Educ., 546 F.3d
111 (2nd Dist. 2008)). Four considerations support an IEP team’s determination of whether a
placement is the LRE: (1) the educational benefits of placement in regular education, (2) the non-
academic benefits of placement in regular education, (3) the effect the student has on the teacher
and other students in the class, and (4) the cost (Sacramento City Unified Sch. Dist. v. Rachel H.,
14 F.3d 1398 (9th Cir. 1994)).

Related Services. According to federal law, the term “related services” (called
designated instruction and services in California state law) includes transportation and other
developmental, corrective, and supportive services as may be required to assist a student to
benefit from education (20 U.S.C. § 1401(26); Cal. Educ. Code § 56363). Related services may
include counseling and guidance services, psychological services, speech/language services,
physical therapy, occupational therapy or others. Related services must be provided if needed
for a student to benefit from special education; a district satisfies the requirement to provide
them if adequate related services are provided such that the student can take advantage of
educational opportunities (Park v. Anaheim Union High Sch., 464 F.3d 1025, 2033 (9th Cir.
2006)).

Parent Rights and Consent. Under state and federal law, both parents and districts are
entitled to due process rights. Either party can exercise them before, during, and even after the
course of a student’s time in special education. Theses safeguards provide parents with specific
entitlements and rights (e.g., the right to request copies of a student’s file and receive it within
five business days). In California, and under the IDEA generally, prior to implementing any special education services (or changes to ongoing special education services), a district must obtain informed parental consent or seek a judicial order to implement programming when parents do not agree. A parent does not need to have an in-depth understanding of all the services a student’s IEP may provide or every aspect of a proposed assessment or educational plan; rather, for consent to be “informed” the parent must have a general understanding of the activity for which the parent is providing consent (Letter to Johnson, 110 LRP 73644 OSEP 2010). A district must make reasonable efforts to obtain informed consent from the parents for the initial provision of special education and related services, for an initial evaluation, or for a reevaluation (see 34 C.F.R. §300.300(a)-(c); See also City of Chicago Sch. Dist. #299, 114 LRP 2056 (SEA IL 2013) (finding that a district's inadequate efforts to obtain a parent's consent to evaluate a student resulted in a denial of FAPE). The IDEA mandates regarding parent involvement are intended to promote collaboration between parents and schools, encourage a working relationship between home and school, and foster a partnership with the overall goal of providing a student a FAPE (Comer, 1986; Turnbull, Thomas, Shank, & Leal, 1995; Turnbull & Turnbull, 2001). As identified in Figure 2 (page 8), this requirement for parent consent is frequently a trigger point for conflict that results in disputes. When there is lack of consent, the parties are at a stalemate in the student’s educational programming.

When the collaborative attempt at IEP development results in a dispute, the safeguards provide for dispute resolution options including: (1) the right to prior written notice before a school district initiates a change in eligibility, services, or placement, (2) the opportunity to receive an Independent Educational Evaluation (IEE) when a parent disagrees with a district assessment, (3) the ability to dispute the district’s offer of FAPE through a state complaint, (4)
the right to file a request for mediation to challenge any provision of FAPE, and (5) the right to file a request for a due process hearing.

**Conflict in Special Education and Pathways for Dispute Resolution**

Through the IDEA, parents are granted the opportunity for shared decision-making with school administrators related to the education of their child with special education needs (20 U.S.C. § 1400, et. seq., 2004). Researchers and policymakers have called the shared decision-making provision of the law one of the most celebrated and one of the most controversial pieces of this legislation (Leiter & Krauss, 2004). Over the years since its inception, the IDEA has undergone revisions and during this process, the role of a parent in a student’s special education program development has continued to grow and expand (for example, compare PL 94-142 (1975) with IDEA (1997) with IDEA (2004)). Public perception, demonstrated through media coverage in the area of special education, presents a dire portrait of the system and parent involvement in the IEP development process. Articles, news stories, and blogs paint parents as irate, school districts as financially unstable, and litigation battles as exhaustive and expensive (Andren, 2010; Dalton, 2012). The perception appears to be one that conflict is often central to parent and school interactions when planning and designing a student’s IEP. Perception is that special education is a system that needs improvement, but is difficult to improve.

Parent participation, including collaboration in the IEP development process, is a defining point of the IDEA; differing opinions between district staff and parents can mark the beginning of the conflict over student programming and services. In advocating for students attempting to resolve disputes within special education, Leiter and Krauss (2004) noted that parents adopt a more confrontational style with district staff differing from experiences with other service providing systems (e.g., Regional Center). However, this is not universal. Some
parents fall on the other side of the spectrum, hesitant to fully utilize their rights as they are “concerned about jeopardizing relationships with school personnel” (Allen & Hudd, 1987, as cited in Leiter & Krauss, 2004, p. 136).

The IDEA provides an organized and impartial mechanism for resolving disputes between parent and school administrators; however, some larger districts utilize their own internal IDR processes as a first step, or alternative step, for conflict resolution. Zirkel and Scala (2010) provide a comprehensive overview of the IDEA’s dispute resolution process. There are fewer published articles providing background, description, or illumination about in-district IDR programs. Blackwell and Blackwell (2015) outline the dispute resolution process mandated by the IDEA including the formal process of resolution meetings, mediation, and due process hearings. In responding to public opinion, the law requires alternative dispute resolution methods as a technique for resolving disagreements in the field of special education (IDEA, 2004). This dissertation focuses on the various types of disputes and avenues of dispute resolution, the perceptions of those involved in the disputes, and how the dispute resolution system meets the needs of the district and parent participants.

In the field of special education, there are various potential points for conflict. Figure 2, on page 8, identifies the common trajectory of identification for special education and special education services. In this pathway, potential points of conflict are identified through a box with a dotted outline. These dotted boxes represent key decision-making moments. When a classroom teacher or a student’s parents identifies the student as someone who has a suspected disability and may require special education services, the student is assessed using a mixture of standardized formal and informal measures (including observation and interview). Within 60 days of initiating this assessment, the IEP team - including parents and all assessment team
members - meets to review this assessment and gather additional input. The team then
determines a student’s eligibility for special education services. This initial IEP team meeting
provides the first opportunity for conflict. If the student is found not eligible for special
education, the process ends and the student does not receive special education services. A parent
may disagree with this determination. A parent may initiate any of the dispute resolution options
based on this disagreement. If the student is eligible for special education, the IEP team moves
forward with the development of the IEP.

IEP development is a lengthy, time-consuming, and emotional process. It includes
drafting individual goals in the student’s areas of need and making a recommendation for
placement and services addressing each of the student’s deficit areas. Again, this provides an
opportunity for conflict rising to a dispute level. The parents may disagree with (a) the area of
eligibility, (b) the placement, (c) the services, or (d) any other portion of the IEP document.

Annually, a student’s IEP team meets to review student progress and develop a new IEP.
At this meeting, decisions are made about services and placement for the following calendar
year. This meeting provides the opportunity for conflict to arise and to become a dispute. If a
student is not making expected progress - as determined by a teacher or parent using the IEP
benchmarks for growth - or if the parent or district requests, an IEP team meeting could occur at
much more frequent intervals. Additionally, every three years a full assessment and re-
determination of eligibility is made; again, this provides an opportunity for conflict and dispute.

**Opportunities for Dispute Resolution in Special Education.** Each time an IEP team
meeting occurs presents parents an opportunity to agree with the IEP team consensus or to
disagree with the IEP document offered by district staff and engage in dispute resolution. There
are various avenues for dispute resolution provided by the state and by school districts. The
The chart below outlines the resolution pathways and explores how they begin, what can be discussed, who the participants are, and how long it may take for the parties to reach resolution.

**Table 1.**

*Comparison of Dispute Resolution Methods.*

<table>
<thead>
<tr>
<th>Who can initiate the process?</th>
<th>IDR</th>
<th>Mediation Only Request</th>
<th>Due Process Hearing - Resolution Session</th>
<th>Due Process Hearing - Complaint</th>
<th>State Compliance Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent or District</td>
<td>Parent or District</td>
<td>District schedules a meeting within 15 days of receipt of a parent-filed due process complaint</td>
<td>Parent or District</td>
<td><em>Any individual or organization, including those from out of state</em></td>
<td></td>
</tr>
<tr>
<td>Is voluntary for both</td>
<td><em>Is voluntary for both</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What is the time limit for filing?</th>
<th>IDR</th>
<th>Mediation Only Request</th>
<th>Due Process Hearing - Resolution Session</th>
<th>Due Process Hearing - Complaint</th>
<th>State Compliance Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>No defined time limit</td>
<td>No defined time limit</td>
<td>Within 2 years of when the party knew or should have known of the problem</td>
<td>Within 2 years of when the party knew or should have known of the problem</td>
<td>Within 2 years of when the party knew or should have known of the problem</td>
<td>1 year from the date of the alleged violation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What issues can be resolved?</th>
<th>IDR</th>
<th>Mediation Only Request</th>
<th>Due Process Hearing - Resolution Session</th>
<th>Due Process Hearing - Complaint</th>
<th>State Compliance Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>No limitation to issues that can be raised</td>
<td>Any matter under 34 C.F.R. § 300. et seq. with the exception of failure to consent to initial assessment</td>
<td>Any matter relating to the identification, evaluation, or educational placement or provision of FAPE</td>
<td>Any matter relating to the identification, evaluation, or educational placement or provision of FAPE</td>
<td>Any alleged violations of the IDEA, 34 C.F.R. § 300. et seq., or special education sections of the California Education Code</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What is the timeline for resolving the issues?</th>
<th>IDR</th>
<th>Mediation Only Request</th>
<th>Due Process Hearing - Resolution Session</th>
<th>Due Process Hearing - Complaint</th>
<th>State Compliance Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>No defined timeline</td>
<td>No defined timeline</td>
<td>Must be convened within 15 days of receipt of the parent’s complaint; resolution period is 30 days from the receipt of the due process complaint</td>
<td>45 days from the end of the resolution period unless specific extensions to the timeline are granted</td>
<td>60 days from receipt of the complaint unless an extension is permitted</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who resolves the issues?</th>
<th>IDR</th>
<th>Mediation Only Request</th>
<th>Due Process Hearing - Resolution Session</th>
<th>Due Process Hearing - Complaint</th>
<th>State Compliance Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent and the District together. The process is voluntary and both parties must agree to any resolution</td>
<td>Parent and the District together with the assistance of a public agency mediator. The process is voluntary and both parties must agree to any resolution</td>
<td>Parent and the District together. The process is voluntary and both parties must agree to any resolution</td>
<td>A hearing officer</td>
<td>An investigator from the state educational agency</td>
<td></td>
</tr>
</tbody>
</table>

*Note.* While there are many similarities among the dispute resolution methods, Districts, the state department of education, and the Office of Administrative Hearings each set timelines for resolution and have limitations on the types of disputes that can be resolved.
Dispute Resolution at the State Level: Formal Resolution. When initiating dispute resolution through the state, parents have three options outlined in detail, below.

Structure of dispute resolution: Compliance complaints. Under the procedural safeguards of the IDEA, parents have the opportunity to file “Compliance Complaints” with the state. Investigated by state agencies, these complaints are required to be resolved within 45 days, do not include hearing “testimony” or court proceedings - but instead focus on a review of documents and informal interviews conducted by a state investigator with staff and the complainant over the phone. In California, a sample form is available on-line to assist parents or parent representatives in filing this type of complaint (Appendix C). This complaint is a formal request that the California Department of Education (CDE) conduct an investigation in to an allegation of non-compliance with special education laws. The filing party must include facts supporting the complaint, and the complaint is limited to a period of one year prior to the filing date. CDE has 60 days to investigate the complaint and issue a finding of non-compliance or compliance with the law. This includes submitting a Request for Information (RFI) to the district and engaging in interviews, if necessary.

If CDE finds a district out of compliance with a procedural element of the IDEA, this likely results in requiring “corrective action” by the school district. States do not typically publish results of Compliance Complaints. Compliance Complaints may reflect lack of compliance by a school district with a basic legal provision (e.g., failing to provide records within legally required timelines, failing to respond to a parent request for an assessment, etc.) and are a way for parents to express disagreement and conflict with a school district without engaging in direct dispute. Complaints are filed directly with the state and are investigated by state employees without the parent confronting the district or district staff.
Structure of dispute resolution: Mediation only requests. In a 2015 article, Blackwell and Blackwell outlined the more formalized dispute resolution processes mandated by the IDEA including the resolution meetings, mediation, and due process hearings. The law requires alternative dispute resolution methods as a technique for resolving disagreements in the field of special education (IDEA, 2004). Through provisions as part of due process hearing proceeding and as a separate resolution avenue, the IDEA supports the use of mediation. The law recognizes mediation as a common conflict resolution process, and, while voluntary, mediation is strongly encouraged. In supporting mediation, Congress stated:

…in States where mediation is being used, litigation has been reduced, and parents and schools have resolved their differences amicably, making decisions with the child’s best interest in mind. It is the committee’s strong preference that mediation becomes the norm for resolving disputes under IDEA. The committee believes that the availability of mediation will ensure that far fewer conflicts will proceed to the next procedural steps, formal due process and litigation, outcomes of the committee believes should be avoided when possible (Congress report 105-17 at 26 (1997) as cited in Feinberg et al., 2002).

Mediation is an informal method of resolution where parties sit down together with a facilitator, trained in special education law, in an attempt to come to a collaborative compromise as a way to resolve the dispute. The power to dictate the settlement terms lies with the parties participating in the mediation and potential resolutions include those outside the authority of a judicial hearing officer. The settlement agreement that may result from mediation is enforceable in court as a contract. Important factors in mediation include: recognizing mediation is voluntary, that it does not deny or delay a parent’s right to a due process hearing, that it is scheduled in a timely
manner, that it is held in a convenient location, that a mediation agreement (if reached) is documented in writing, and that all discussions occurring in mediation are confidential and unable to be used in later legal proceedings (IDEA 2004; Yell & Drasgow, 1999).

In California, parents may pursue action with the California Office of Administrative Hearings (OAH), through requesting “Mediation Only” or requesting a “Due Process Hearing.” Sample forms to assist parents or advocates in this process are available on-line and a sample is included in Appendix D. When the filing party wants a voluntary mediation facilitated by a trained Administrative Law Judge (ALJ) but does not want the issue to proceed to a formal hearing, the party would request “Mediation Only.” OAH typically schedules the mediation about 15 days after receiving the request. Attorneys can only attend mediation in Mediation Only if this is included in the request and agreed to by both parties. Mediation Only cases typically result in a confidential settlement agreement. If no agreement is reached, the file is closed by OAH and the case does not proceed in any way unless a party files a request for Due Process Hearing. The number of Mediation Only cases filed has remained fairly consistent of the past six years (see Table 2).

**Structure of dispute resolution: Due process hearings.** The IDEA includes provisions permitting parents to file requests for a Due Process Hearing. In a request for a Due Process Hearing filed by a parent, the district must file a response to the filing within 10 days (M.C. v. Antelope Valley Union High School District, 117 LRP 11142 (9th Cir. 2017)). Within 15 days, the parties must meet in an informal Resolution Session meeting. If the parent does not agree to this meeting, the district may request to dismiss the case. This resolution session is the first opportunity for the district to ask questions about the filing and attempt a resolution. Informal, and hosted by the district, resolution sessions provide the first avenue for resolution of a dispute
when a parent utilizes the hearing process provided under the IDEA. It is up to the participating parties as to whether a resolution session is confidential, and, if a settlement agreement is reached at a resolution session, the law explicitly provides parents 3 days to change their mind, rescinding signature on the agreement, without penalty.

If the Resolution Session is unsuccessful, OAH sets a date for mediation, facilitated by a trained ALJ. This date is typically 20 to 25 days after the filing date. If the parties do not resolve the case at mediation, the matter will continue to a formal hearing. A different trained ALJ hears and decides the case. Due process hearings involve the traditional components of civil dispute resolution including discovery, presentation of evidence, sworn testimony (including that of expert witnesses), and cross-examination. Five business days before the hearing the ALJ contacts the parties via a conference call to confirm the issues, discuss the timing of the hearing (how many days will it take, what time will it start, etc.), and outline when the parties must exchange witness lists and evidence. The district is responsible for providing an accessible space for the hearing, typically a conference room.

Figure 3. Due Process Hearing Setting.
A hearing decision is required within 45 days of the date of filing of the complaint (or the date of the resolution session, whichever is later); however, in practice, this date is extended to be 45 days after the hearing is completed. The hearing officer is guided by statute, case law, or other hearing decisions in making a decision, ruling on each of the issues before the hearing officer. In either a one-tiered or two-tiered system, a due process hearing results in a formal written decision and entitles a parent’s attorneys’ fees to be funded by the district if the parent prevails. Pursuant to state law, hearing officers may be limited in the remedies that can be awarded to families and districts. A hearing officer decision may result in neither party obtaining the results sought; however, a hearing officer decision is binding on both parties absent an appeal to state or federal court. If a party disagrees with a decision, they can appeal the findings through a judicial filing in either state or federal court. The number of formal filings with OAH has increased every year for the past several years. Most of the disputes raised with OAH settle outside mediation, resolution, or through the issuance of hearing decision.

Table 2.

Formal Dispute Resolution Methods in California.

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Mediation Only Requests</td>
<td>200</td>
<td>175</td>
<td>228</td>
<td>273</td>
<td>224</td>
<td>239</td>
</tr>
<tr>
<td>Due Process Hearing Requests</td>
<td>2,745</td>
<td>2,939</td>
<td>2,966</td>
<td>3,384</td>
<td>3,670</td>
<td>4,125</td>
</tr>
<tr>
<td>Total Filings with OAH</td>
<td>2,945</td>
<td>3,114</td>
<td>3,194</td>
<td>3,657</td>
<td>3,894</td>
<td>4,364</td>
</tr>
</tbody>
</table>

(California Office of Administration, 2016).

Congress and researchers are beginning to recognize the importance of alternatives to due process procedures. This includes preventing conflict before mediation becomes necessary and resolving conflict faster, less expensively, and more informally; this area is new, however, and includes limited research. Table 1 outlines a comparison the types of dispute resolution options...
in detail, including how they are initiated, who organizes the process, what issues can be brought to which avenue, and how disputes are resolved.

**Literature on Dispute Resolution in Special Education.**

*Almost all conflict is a result of violated expectations.*


As outlined above, the shared decision-making provision of the IDEA leads to collaborative work between parents and districts in the development of an IEP for a student in special education. However, this process of designing and implementing an appropriate educational program, can give rise to differences of opinions and conflicting expectations about students and services resulting in conflict. This conflict can be productive and handled through IEP team consensus or this conflict may rise to the level of a special education dispute.

In 2007, the Consortium for Appropriate Dispute Resolution in Special Education (CADRE) completed a comprehensive review of research literature on the topic of dispute resolution in special education (Reiman, et. al, 2007). Other articles have also looked in depth at increased costs of adversarial procedures and the availability of more collaborative practices (Burke, 2013; Burke & Goldman, 2014; Mueller, 2009; Zirkel, 1994). CADRE’s review highlighted the absence of published literature or formal studies analyzing or reviewing current practices employed in special education informal and alternative dispute resolution. To advance capacity and implement best practices, this void in research must be filled (Reiman, et. al, 2007).

This study, reviewing the dispute resolution processes in three districts, sheds light on when parents elect to engage in formal litigation as opposed to informal methods, what IDR looks like, and what may make IDR successful. Information from this study can assist the
development of IDR departments within other districts by outlining positive and negative practices and describing effective program structures.

While the intent of the IDEA is one of collaboration and collective decision-making, in practice, parents and districts do not always agree regarding each aspect of educational programming. In situations when a parent disagrees with the recommended educational programming, the IDEA provides parents with a complicated set of procedural safeguards that can be initiated. As noted in the dispute resolution option framework presented in this study as Figure 1, on page 7, a parent can exercise the procedural safeguards provided in the IDEA, turning conflict with a district over whether an item of a student’s program is a FAPE at multiple different points in the IEP development process into a dispute. This dispute varies in its level of formality (from a request for prior written notice to a request for an impartial due process hearing). Many districts also offer IDR methods as alternatives or precursor to the more formalized state managed process in an attempt to resolve disputes earlier.

**Conflict in Special Education.** Mueller and Piantoni (2013) treat conflict in special education as a foregone conclusion, noting that in special education, “conflict is inevitable. Parents will continue to experience frustrations with the special education system” (p. 3). Lake and Billingsley (2000) highlight that conflict in special education follows a similar pattern in most instances, with opportunities to escalate or deescalate the conflict. The researchers highlight eight ways that conflict can escalate or deescalate, based on the perspective of parents, school administrators, and mediators, including: (1) holding a discrepant view of a child or a child’s needs, (2) knowledge, (3) service delivery, (4) reciprocal power, (5) constraints, (6) valuation, (7) communication, and (8) trust.
Reviewing conflict in special education is not a new idea. For more than a decade, researchers and policymakers have addressed conflict in special education. This has included considering the issues most frequently at the center of the conflict (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011; Rickey, 2003), the characteristics of the students at the center of the conflict (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011), and prevailing parties and the use of representation during conflict (Ahearn, 2002; Blackwell & Blackwell, 2015; Cope-Kasten, 2013; Mueller & Carranza, 2011; Newcomer & Zirkel, 1999; Rickey, 2003).

Research shows that conflict is often treated as a crisis, one accompanied by strong emotions (Fisher & Shapiro, 2006). As emotions escalate, the conflict can quickly rise to the level of a dispute.

Rational choice theory is one framework for understanding an individual’s behavior. The premise is that individual people make decisions in alignment with their preferences, make the best choice for the individual taking into account available information, probabilities of events, and potential costs and benefits (Levin and Milgrom, 2004). The rational choice framework does not describe the process of decision-making, but rather, provides a prediction for outcomes (Friedman, 1953).

Rational choice approach to dispute resolution in special education would align with the theory’s fundamental premise that the choices made by participants are the choices that best help them achieve their objectives, given all relevant factors that are beyond their control (Green, 2002). People do their best under prevailing circumstances; and attempt to get more as opposed to less. Another important element of the choice process is the presence of constraints, these constraints may be time, money, or required choices between alternatives. Frank (1997, p. 18) describes two general approaches to decision making in rational choice: (1) The self-interest
standard of rationality “says rational people consider only costs and benefits that accrue directly to themselves.” (2) The present-aim standard of rationality “says rational people act efficiently in pursuit of whatever objectives they hold at the moment of choice.”

This theory may provide a framework for understanding how parents are making decisions in pursuing and resolving special education disputes. Parents may make decisions that provide maximum funds to their families, provide greater flexibility in educational setting, or otherwise meet a perceived need. Several studies gathered input from parents regarding the dispute resolution process; parents reported mediation as a more favorable method to resolve a dispute as compared to a due process hearing (Lake, 1991; Regan, 1990; Vitello, 1990). Other researchers have considered the “cost” of conflict, including the financial, emotional, and relationship impact of a dispute in highlighting the importance of alternative methods of resolution (Burke & Hodapp, 2014; Fish, 1990; Goldberg, 1995; Newcomer & Zirkel, 1999). Vernock (2001) conducted a survey with sixty-six mediation participants and found mediation participants associated several benefits with the mediation process including feeling they were given an opportunity to discuss all issues of concern.

Districts may engage in behaviors that result in cost savings, minimize negative publicity, or provide the least disruption to most students. Individual district participants (e.g., school staff) may be more self-interested than district-level participants, and attempt to remove difficult students from a classroom, protect their own time or personal liability, or have interests at odd with districts. All participants would appear to have motivation to quickly resolve disputes at the lowest personal cost. Research has found that mediation has limitations including those occurring after a due process filing, which may be too late to resolve differences between disputing parties. If mediation requires the filing of a due process complaint, or a party threatens
a due process hearing prior to mediation, this may result in escalating a dispute rather than resolving it (Feinberg et al, 2002).

**Dispute Resolution Generally and in Special Education.** Researchers and policymakers have addressed conflict and dispute in special education between parents and schools. In a 6-year study on state and local implementation and impact of the IDEA, researchers reported the most frequent topics of concern in formal or informal disputes focused on education placement or programming, sharing that there was a perceived need by districts for excessive documentation of compliance to protect itself in case of a due process filing or litigation (Schiller, O’Reilly and Fiore, 2006, as cited in CADRE, 2007). In a prior study, CADRE identified three common causes of conflict in special education: (1) design of services, (2) delivery of services, and (3) relationships between school officials and parents (Feinberg et al., 2002). Leiter and Krauss (2004) describe parents in dispute with the system as a “small, but significant, minority” (p. 141). And, although the number of conflicts rising to the level of a due process hearing and formal judicial decision may be small, “the possibility of due process hearings hangs over most inclusive school environments like a mysterious and ever-present threat” (Bartlett, Weisenstein, & Etscheidt, 2002, p. 48). Litigation, even though it is rare, is a constant cloud over special education collaboration and proceedings.

Once conflict occurs, parents and districts have multiple avenues to utilize in pursuing resolution of the dispute, many outlined by the IDEA and others implemented internally. Zirkel and Scala (2010) provide a comprehensive overview of the IDEA’s dispute resolution process. This includes the state complaint system, the resolution system, mediation, and the due process hearing system. Figure 1, on page 7, provides an overview of the dispute resolution system and pathways for resolution. Each of which is described in more detail in the following sections.
California’s Office of Administrative Hearings (OAH), the agency that hears special education litigation in California, reported 3,670 formal requests for due process hearing in special education filed by parents and/or districts during the 2014-2015 fiscal year (OAH, 2015). This is not surprising as California frequently tops the list of states with the most special education due process hearing filings. Other states with comparable numbers of filings include Maryland, New Jersey, New York, and Pennsylvania (Reiman, Et. Al, 2007).

During the 2014-2015 fiscal year, California’s OAH issued 79 hearing officer decisions in special education matters with this “final decision” representing approximately 2% of the 3,902 special education Due Process Hearing cases closed during that fiscal year (Office of Administrative Hearings, 2015). The remaining disputes, the large majority, are resolved through resolutions sessions, mediations, or other informal meetings and discussions by parents and districts as the hearing is pending. Typically, by the time parents and districts have reached the impasse leading to a due process hearing request, there is considerable tension and animosity, resulting in a contentious climate which can make resolution difficult, but clearly still possible. Few families pursue dispute resolution through the issuance of a hearing officer decision.

A 1998 survey across 35 states found that educator or parent awareness of the ‘state complaint’ procedure in the law, incorporated in the 1992 amendments, had increased from prior levels (Suchey & Huefner, 1998). Awareness of the system could be one potential reason for increased litigation and formalized disputes in California and throughout the nation. Zirkel and D’Angelo (2002) used publicly available data to determine the frequency and occurrence, nationwide, of due process hearings in the special education system. Their analysis found an overall increase in the number of due process hearing decisions and court decisions over time, particularly between 1992 and 2000 – indicating increased awareness and use of these dispute
resolution procedures. One study found that rural districts were particularly vulnerable to parent-initiated due process hearings (Scheffel, Rude, & Bole, 2005). Another study found annual increases in the number of hearing requests, a decline in hearings held, and an increase in mediations as a resolution method (Ahearn, 2002). A third study found states to vary considerably in implementation of complaint procedures, mediation procedures, and hearing procedures, including to what extent they operate within the recommended or required timelines (Markowitz, Ahearn, & Schrag, 2003). It is clear that special education disputes are on the rise (in California this number has risen from 2,945 to nearly 4,000 in five years); it may be in the best interest of parents, districts, and children, to resolve the dispute quickly and in a fiscally responsible way.

Individuals who engage in conflict. Parents approach the IEP process with varying perspectives and histories. It is possible that parents may feel unprepared with regard to their legal rights, or may be intimidated by the culture of the special education system (Kalyanput & Harry, 1999; Westling, 1996). Research indicates that school districts typically treat parents of special education students in planned ways, utilizing general responses and policies for interactions (Lake & Billingsley, 2000). As a result, parents may find the special education system to be impersonal, frustrating, negative, and unsupportive (Lake & Billingsley, 2000; Turnbull & Turnbull, 1978). If all parents receive similar information and treatment, there may be other factors influencing which types of families engage in particular dispute resolution methods at various points in the IEP development process. It is clear that many individuals seek assistance in the dispute resolution process.
Table 3.

Legal Representation in Disputes.

<table>
<thead>
<tr>
<th>Representation by Attorneys</th>
<th>State (2015-16)</th>
<th>Beach City School District</th>
<th>Coast City School District</th>
<th>California City School District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Formal</td>
<td>Formal</td>
<td>Informal</td>
<td>Formal</td>
</tr>
<tr>
<td>Represented/filed by attorney or advocate</td>
<td>4,504 (85%)</td>
<td>38 (90%)</td>
<td>20 (45%)</td>
<td>11 (100%)</td>
</tr>
</tbody>
</table>

**Detail of individual participants in due process hearings.** Parents representing students of varying disability categories initiate disputes. Within the districts participating in this study, over the past two years, formal and informal disputes have been initiated by the families of several students with different types of identified disabilities. This is consistent with state data. California’s OAH presents annual reports about dispute resolution in special education. At the state level, over the past two years, in terms of the disability of the student in the filing, students with autistic-like behaviors are represented the most frequently in the disputes (31-32%). This is followed closely by students who are not yet identified for special education (24%), where parents are seeking special education eligibility and services not offered by the district. The most frequently raised issues are disputes related to special education services or special education placement. This has remained consistent over the past two years. This state level dispute resolution data can be compared to the district information as to the special education identification of students in disputes.

The three districts mirrored state findings that students with autistic-like characteristics were most likely to engage in the dispute process; however, students not yet eligible for special education were almost completely absent from the local dispute resolution process (particularly informal dispute resolution). This may be because these parents are less aware of the dispute resolution process or because these parents seek more formal methods for resolution.
Table 4.

Area of Disability by Dispute Type (2015-2016)

<table>
<thead>
<tr>
<th>Disability Area</th>
<th>State</th>
<th>BCSD</th>
<th>California City</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>District</td>
<td>N = 5,299</td>
</tr>
<tr>
<td>Autistic-Like</td>
<td></td>
<td>21%</td>
<td>23%</td>
</tr>
<tr>
<td>Deaf/HOH; VI</td>
<td></td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>ED</td>
<td></td>
<td>3%</td>
<td>17%</td>
</tr>
<tr>
<td>ID</td>
<td></td>
<td>3%</td>
<td>17%</td>
</tr>
<tr>
<td>MD</td>
<td></td>
<td>&lt;1%</td>
<td>2%</td>
</tr>
<tr>
<td>OI</td>
<td></td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>OHI</td>
<td></td>
<td>15%</td>
<td>3%</td>
</tr>
<tr>
<td>SLD</td>
<td></td>
<td>11%</td>
<td>13%</td>
</tr>
<tr>
<td>SLI</td>
<td></td>
<td>41%</td>
<td>7%</td>
</tr>
<tr>
<td>TBI</td>
<td></td>
<td>&lt;1%</td>
<td>3%</td>
</tr>
<tr>
<td>Not Identified (child find)</td>
<td></td>
<td>0%</td>
<td>9%</td>
</tr>
</tbody>
</table>

Note. The areas of eligibility include: Autistic-Like; Deaf/Hard of Hearing/Visually Impaired/Blind (Deaf/HOH; VI); Emotionally Disturbed (ED); Intellectual Disability (ID); Multiple Disabilities (MD); Orthopedic Impairment (OI); Other Health Impairment (OHI); Specific Learning Disability (SLD); Speech/Language Impairment (SLI); and Traumatic Brain Injury (TBI).

Perceptions of dispute resolution. As a dispute resolution process, the special education due process hearings system has been identified as having several limitations including: (1) further straining relationships between schools and parents, (2) high financial costs, and (3) high emotional strain (Dussault, 1996; Feinberg, Beyer & Moses, 2002; Markowitz, Ahearn, & Schrag, 2003; Opunda, 1999). Common themes in presentations and policy papers include that mediation in special education is time effective and cost effective, resulting in better outcomes for all individuals involved (Kuriloff & Goldberg, 1997). Papers on this topic lack in-depth analysis and interviews with participants in making these findings as to the positives of mediation. Zirkel (1994) and Goldberg & Kuriloff (1991) highlight the adversarial nature of due
process hearings promoting mediation as a meaningful alternative. Cope-Kasten (2013) focuses on the perceived unfairness of the due process hearing process and the lack of meaningful change for students’ programing, supporting mediation as an alternative. As part of gathering and reviewing participant input, this study reports perceptions of individuals utilizing mediation and IDR to resolve special education disputes.

**The Effectiveness of Dispute Resolution in Special Education.** As noted previously, researchers have highlighted positive perceptions of the mediation process and mediation outcomes, particularly when both parties seemed open to compromise (Forbis, 1994; Hansen, 2003). Past research compared mediation with due process hearings, finding mediation to be less costly and foster more cooperation. Parents, however, continued to feel some dissatisfaction with outcomes in mediation. This is true even if parents are more satisfied with mediation outcomes than with hearing outcomes (Kerbeshian, 1994; Lake 1991). Symington (1995) found that even when mediation was not held prior to hearing, a dispute was often resolved prior to the formal litigation stage of the due process hearing. Informal resolution was occurring and was a potential area for expansion and study; this is consistent with statistics from the California Office of Administrative Hearings documenting the various ways cases are resolved each year. Ahearn (1994) identified that state personnel favored the use of mediation as a mechanism under federal special education status. In considering whether a due process hearing (as the method of resolution) is fair (or more fair than mediation where one party could have increased bargaining power), Cope-Kasten (2013) challenged the process as failing in “outcome fairness.” Cope-Kasten (2013) found that mediation, as the process for dispute resolution, is not an ideal vehicle for guaranteeing student success or improving any aspect of a parent-school relationship (what they define as “outcome fairness”) challenging the idea that it is voluntary or that the power of
the individual participants is on equal planes. If the purpose of dispute resolution is to improve student well-being, alternative methods or changes to the current system must be considered.

Welsh (2004) found that in effective IDR systems, participants identified the following factors as supporting the resolution process: dignity, thoroughness, fairness, progress toward resolution, and adherence to procedural justice. Meuller and Piantoni (2013) were able to identify some successful strategies employed by district administrators in reducing formal conflict within select districts and highlighted that further research was needed to continue to identify effective and efficient strategies to address conflict and improve relationships between district and families. In developing a proposed blueprint for a successful alternative/IDR system, Falsetto (2002) highlighted the importance of monitoring agreements after they were reached, explaining the process clearly to participants and training facilitators, and including participants in creating a solution. In identifying best practices at a local level, Shaw (2001) noted the importance of creating an IDR team, committing resources to the resolution process, and including parents in panels, committees, and training activities.

**Summary and Implications for This Study.** As described above, the IDEA provides parents and districts with formalized dispute resolution methods, but not without costs. Under a rational choice theory framework, parents and districts *should* be making decisions in how to pursue conflict and resolve conflict in a way that provides the greatest benefit or satisfaction given their own self-interest. Policymakers, districts, and parents alike recognize the importance of developing and utilizing informal methods to resolve disputes and build long-term collaborative relationships, resolve conflict quickly, and minimize fiscal costs. While research has been conducted as to various dispute resolution methods, this remains an area ripe for investigation and analysis. This study adds additional information to the field of research about
how dispute resolution is organized (both informal and formal) and publicized. It also provides meaningful information about how participants are involved in the process and their perceptions of the process - how the current system meets the needs of participants.
Chapter 3: Study Methodology

Through an in-depth case study of three mid-size to large school districts (BCSD, Coastal City and California City), this study described and analyzed how special education dispute resolution is organized by the three districts (including informal dispute resolution (IDR), how parents are involved in the dispute resolution process, and to what extent the dispute resolution process serves the interests of participants. In doing so, it sheds light on when parents elect to engage in different types of dispute resolution, what the processes look like, and what may make IDR successful. To accomplish these goals, this dissertation utilized a mixed approach, blending qualitative and quantitative elements. Quantitative measures outlining participants, the process, and effectiveness complemented qualitative information from surveys, interviews, and observations. By gathering information from three districts, each with varying levels of experience with the IDR process and dispute resolution system, multiple perspectives were considered and included in this systems analysis.

Research Questions in Detail

To provide a comprehensive discussion of dispute resolution in special education, including highlighting the impact of dispute resolution and the potential avenues of resolution, this dissertation first focused on how dispute resolution is organized and implemented in the school districts, specifically, what are the districts’ interests and goals, and how does the organization support this. Information was similarly gathered and reviewed as to how parents are involved in the special education dispute resolution process. Here data and analyses focused on how parents perceive their interests and those of their child, including how these perceptions drive and affect decision-making. Finally, the overall effectiveness of the informal dispute resolution process was investigated through looking at to what extent the current system serves
the interests of districts and parents, including how it might be improved to better serve the interests and goals of all involved.

**Overview of the Data Gathering Process**

The methods in this study were a means to answer the research question and provide a coherent overview of dispute resolution. Figure 4 shows a graphic description of this process.

*Figure 4. Data Gathering Process. This figure illustrates how the researcher approached the observation and interview process.*

The first step of this mixed methods approach included a descriptive review of the methods of dispute resolution. This was followed by analysis of due process hearings, mediations, informal disputes resolutions, and state complaints filed over the prior fiscal year in each of the three school districts. Gathering statewide information permitted comparison among districts and with the state. Descriptive data provided meaningful demographic information, taking a step toward answering the research questions, supplemental information supporting understanding, and direction and identification of the elementary school cases reviewed in more
detail. Much of this descriptive information is included in Chapter 2, providing foundational understanding for the qualitative information gathered in the study.

Next, an in-depth investigation into each participating district was completed. This included gathering information about the various forms of dispute resolution offered in BCSD, Coastal City, and California City and the structure of the IDR systems within the districts. Of key interest was how each district shared this information with families, advocacy groups, staff, and the greater community. Review of the three districts’ web pages, public documents, and materials provided in response to researcher requests as part of the study shed light on the outreach and education completed by the districts related to IDR. An anonymous survey geared to gather additional information about perception of and experiences with dispute resolution was provided to parents of students in special education. This input guided interviews and observations.

During the interview process, staff members in each of the school districts were asked questions regarding experience with conflict and conflict resolution in special education, how information about IDR is shared with parents, their perception of the IDR program, their training in dispute resolution, and their motives and interests when they engage in dispute resolution. All interviews were completed using the structured interview tool as a guide for gathering information (copies can be found in Appendix B). Parents who volunteered also participated in interviews and similar questions (familiarity with dispute resolution, interests and perception of the process) were discussed with parents.

To supplement and validate information gathered through the surveys and interviews required observations of dispute resolution options in action. Due process hearing disputes are convened by a state agency, and operate the same without regard to district; thus, this was only
observed only once in BCSD. Because there is more variance in the processes and procedures in mediation and resolution sessions, observations of these interactions occurred in both BCSD and California City. Finally, multiple IDR meetings were observed, as these are district-led processes with differences in structure and style. Again, this observation was limited to BCSD and California City as staff at Coastal City did not consent to observation of the process. Observations were restricted to elementary-aged students in special education to maximize the ability to directly compare and contrast findings. These dispute resolution methods are described as part of the study findings.

Observation began a more in-detail case study of the two primary resolution avenues, formal (due process hearing) and informal (IDR) commenced. Following observation of the due process hearing and one IDR meeting, more information about the observed case was gathered through additional interviews, review of supporting student documents, and outcome documents. This information expanded the potential analysis and supported a comprehensive understanding of the dispute and resolution method.

Chapter 4 includes a comprehensive review of findings and results.

**Selection of the Research Settings**

This study was completed within three school districts: Beach City, Coastal City, and California City. Each district is in Southern California. California was selected for analysis due, in part, to its proximity to the researcher. It was also appropriate to use California districts as California is one of the states with the highest number of due process hearings (Ahearn, 2002; Zirkel & Scala, 2010). Here, special education disputes are common and frequent – even more so than you would expect given the size (Zeller & Hawkins, 2016). In selecting the districts for this study, consideration was given to these three districts as the researcher has professional
connections with each, each district has an IDR department, each has a comparable number of special education litigation, and each has frequent formal and informal disputes. While the size and history of the IDR departments vary, each of the three districts has history of dispute and dispute resolution with families. Each district is part of the same local cooperative, discussing and analyzing IDR as a method to collaborate with families, minimize special education litigation liability, and build programs that address concerns quickly.

Portions of this study were completed on-site at each school district’s main office. These on-site activities included observing dispute resolution methods in action and interviewing stakeholders (families and district staff). Gathering publicly available information about disputes (e.g., frequency, common topics, resolution amounts, budgets, etc.) and reviewing protected student records and dispute records occurred on-site at the school district’s main offices. To provide longitudinal information and review trends, records related to dispute resolution were accessed as far back as five years ago; however, the focus was on the current process, procedures, the frequency of dispute in the IDR departments, the current perception of participants as to process and outcomes.

Structure of Disputes Resolution

The first research question addresses how dispute resolution is organized and implemented. It highlights what may be some of the district interests and goals in the process. This required investigation in to the state level and district level structures, and the participants. Information about interests and goals, and how those drive the IDR structure was obtained in interviews. Additional data gathered to support this analysis included the demography of students in special education, how many disputes occur at the various “conflict points” in the special education IEP development process, the type of disputes and resolution methods utilized,
and characteristics that may to contribute to the selection of which dispute resolution method is selected. Information to answer these questions was gathered from a variety of sources including publicly available district student demographic information, interviews with parents and staff, and review of public and confidential records.

To learn more about how each district structures IDR, the researcher engaged in a comprehensive review of documents (including documents used in the process of notifying the district of the complaint), investigated the public website of each district and all pamphlets provided to parents, interviewed staff who complete the IDR meetings and special education dispute resolution, and completed targeted observations of the process in action.

Information to describe and analyze which methods of dispute resolution were utilized within the districts involved a review of publicly available information about disputes. The type of disputes identified prior to review included: (1) IDR meetings, (2) mediation–only requests filed with OAH, (3) due process hearing requests filed with OAH (4) IEE requests not resulting in litigation, and (5) state compliance complaints filed with CDE. There are other avenues to engage in dispute in special education, which include federal complaints or other complaints (e.g., complaints to board members, personnel, and/or senior administration). These were not evaluated as part of this study. Through document analysis, information about disputes was obtained as to frequency of dispute types. District-level data was compared to state-level data. Additional information supplemented analysis and review including historical documentation, educational law and policy reflecting public values, trends in local and state dispute numbers, and media documentation that provides information about perception of policies and disputes in special education.
BCSD and Coastal City both maintain information about special education in SYNERGY®, an online student information system and database. California City utilizes a similar data management software, SEIS®. These databases contain information about every student in special education within each district. Queries of the system can provide data sets including the number of initial assessments and the number of IEP team meetings held during a two-year period. Additional information includes disability type, student programming, service type or method, and more. Data from these sources, along with information gathered from interviews with site principals and special education administrators, guided analysis as to the number of potential conflicts that could arise during the special education process within the participant districts.

Further data was gathered from state sources (e.g. Office of Administrative Hearings, California Department of Education) as to hearings/complaints filed and hearings/complaints resolved. The state maintains information about formal disputes, including student demographics and how the dispute was resolved. Districts were asked to provide information about disputes, families/students involved in disputes, and the topics of each dispute. The information obtained is publicly available through the California Public Records Act. Analysis of the data provides answers to this first set of research questions.

Understanding how individuals utilize dispute resolution methods, including IDR, was obtained primarily through observation and interview. Interviews occurred with staff in the special education departments about program implementation, training, outreach, and how decisions are made about the use of the IDR process. Interviews occurred with parents about the IDR process and experiences with the process.
How Parents are Involved in the Process

The second research question addresses how parents utilized the dispute resolution system and what interests parents pursued in dispute resolution. Information about interests and goals, and how those drive the IDR structure were obtained through the anonymous survey, in interviews, and through observation. Data gathered included quantitative information about the frequency of issues raised in dispute, the utilization of advocates or attorneys in disputes, and the outcomes. Qualitative information obtained included observational input about key areas of focus and interview input from parents and staff about topics and motivation. This information supported analysis of motivating interests and parent perception of the dispute resolution process.

Effectiveness of Dispute Resolution

The research question focuses on the extent that dispute resolution systems are meeting the needs and interests of the participants. District-level data was reviewed to determine how each district measures and monitors the effectiveness of the IDR process. Gathering this data involved review of publicly available information related to budget impact, numbers of disputes, ongoing agreements and settlements, and other data accessible to the public. Again, information gathered through document review of policies and procedures was supplemented with structured interviews.

To further analyze how resolution structures are monitored and affect participants, documentation was gathered about students involved in these disputes. Specifically, student records data and settlement agreements, including whether student placements or programs were changed, and if the student remained in the district following the dispute, were all explored. District practices and policies were reviewed and observed to determine if any district
monitoring occurs of students after an agreement, and staff was probed for additional information about any monitoring. Any available documents related to this were reviewed and analyzed.

Parents who had participated in dispute resolution methods were invited to be interviewed as part of this study; supplementing prior information gathered about parent perception gathered from the anonymous paper surveys. These parents were asked questions through a semi-structured interview tool about their experience in the dispute resolution process and post-resolution process. The parent population in the selected setting have typically been free and open in giving information through Community Advisory Committee meetings and community engagement meetings, even when district administration is present; there was minimal concern that parents might be unwilling to fully disclose their thoughts related to the resolution process. Parents were offered the opportunity to complete the interview with the second researcher; however, all were willing to share with the primary researcher. To compare parent perceptions with actual circumstances, any district monitoring of student outcomes post-dispute was reviewed. This included triennial or annual testing of students or post-agreement testing of students. These data were compared, quantitatively, to available prior student data to explore any academic progress the student may have made (e.g., comparisons of standardized test scores on tests such as the Woodcock-Johnson IV), as well as noting any reports of non-academic progress. Finally, parents and district staff were interviewed to provide information about ongoing relationships with schools. Answering this group of research questions involved interviewing parents who have engaged in informal dispute methods, parents who have engaged in more formal methods, and staff members who have been through both type of dispute
resolution. The focus of all conversation and record review was on the change to the relationship during and after the dispute, if any change occurred.

**Reliability and Validity Checks**

In analyzing the data, this study compared findings with existing theories related to parent advocacy and dispute resolution, including prior studies on advocacy and hearing outcomes. The findings of this study were further validated via member-checking discussions with participants; they were asked to confirm findings during the document gathering, data analysis, and throughout the entire study period. This respondent validation was ongoing and helped shape the next steps in the data-gathering process. At the conclusion of the study, findings regarding district programs were reviewed with district personnel for a final cross-check and confirmation. These multiple points of member-checking served to validate that the researcher credibly reflected the opinions and perceptions of the participants and fairly interpreted the findings of the study.

During the study, discussion occurred with colleagues in the fields of both education and law (who have experience in special education dispute resolution) to audit the procedures used in this study. This input was used to determine if holes were missing in data gathering or analysis, and to make decisions as to whether data were correctly interpreted. These layers of review and response were used to further mitigate any researcher bias in reflection and self-report.

Finally, there are a limited number of prior studies, including dissertations, available that look at small portions of the dispute resolution process (e.g., traits of effective dispute resolution). Portions of the findings from this case study overlapping with any previous research were compared to that prior research to ensure that the procedures used were consistent with those employed by other researchers, and to identify points where findings converged or
diverged. This served to confirm findings and to clarify new findings that may not have been considered in prior studies.

**Method of Analysis**

While a focus on this study was gathering large amounts of information from meaningful sources, having a substantial amount of data does not guarantee an original contribution to the field (Baker & Edwards, 2012). Instead, a researcher must “have enough interviews to say what you think is true and not to say things you don’t have that number for” (Baker & Edwards, 2012). To provide for meaningful review and analysis, interviews were transcribed as soon as possible after interview completion, but never more than one week later. This permitted an initial analysis of the interview while responses were still fresh in the researcher’s memory. This prompt transcription permitted frequent and regular immersion of the data and provided multiple opportunities to confirm the accuracy of the information. As described by Seidman (2012, p. 100), in completing analysis, the researcher came “to the transcript prepared to let the interview breathe and speak for itself” with as much of an open mind as possible.

Existing theories and prior research informed initial coding. However, additional themes, related to conflict resolution and special education, and were also identified in this fluid process. The process used was an iterative one, with new codes arising and being refined as the data were collected and analyzed. To further support immersion in the data, analyses were conducted manually, rather than employing the use of available computer coding software. The fluid analysis process utilized discourse analysis, coding, and matrices for comparison across interviews and observations as ways to summarize and retain the context of the data gathered during the investigatory process.
Road Map of the Process of Qualitative Data Analysis

The analysis of the data followed the process described in Figure 4. Information was gathered and big ideas or themes were identified as they emerged. Information from observations, interviews, and document review was placed in data summary tables, and regular reliability checks with participants occurred. Interpretation, including revisions and coding, was an ongoing process. This paper outlines the findings, limitations, and support for those findings.

Figure 5. Data Analysis Process. This figure outlines, in detail, the process of gathering and analyzing data as part of this dissertation.

In reviewing the quantitative measures, including information about the number of disputes, types of resolutions, costs, and information about outcomes, basic statistical
information was obtained and reported. When possible, statistical analysis measures identified correlations. Graphs or charts provided visual support and assisted in understanding.

**Limitations, Ethical Considerations, and Implications in Analysis**

To the extent possible, this study was completed carefully and in a manner that was ethically responsible. In interviews with district and family participants, the researcher’s dual role as an employee and researcher was fully shared and discussed. If a parent or staff member expressed concern about the ability to be completely honest, but wanted to continue to participate in the study, an alternative researcher was available to complete these interviews. This alternative researcher was not needed to complete interviews as all participants shared that they felt comfortable with the researcher. Several individuals noted they desired to be part of a positive solution and the improvement of district systems and programs, benefitting their family and other families.

This study supports better understanding of the interactions during and following conflict between districts and parents of students with special education needs. For school administrators, it is impossible to ignore the pressure and responsibility of facilitating successful, fiscally sound, special education programs. Failure to do so effectively can result in conflict between parents and the districts serving the students. By delving further into these ongoing disputes, strategies for prevention and resolution are recommended. Utilizing these strategies can assist districts in the future in managing budgets responsibly, in building better relationships with families, and in helping students reach more positive outcomes. Fostering long-term cooperative relationships with families is in the best interest of all involved, and it is hypothesized that a successful IDR program can support a school district in doing this.
Chapter 4: Findings

Research suggests that disputes in special education are increasing (Zirkel & D’Angelo, 20020); informal dispute resolution methods, whether district-facilitated or state-run, are the future. Resources lost in resolving conflict are resources lost to support the needs of all students. Districts should take great steps to minimize conflict, preserving already strapped budgets for use in instruction and program improvement. This dissertation summarizes trends in dispute resolution, including perceptions of the costs and effectiveness of the IDR process.

Summary of Findings

To complete this study, twenty staff members within three districts participated in interview. Their experience ranged from four years to twenty-five years. Staff included program specialists, psychologists, principals, and assistant superintendents. Fifteen parents completed anonymous surveys. Seven parents participated in interviews about their experience.

From data gathered as part of this study, it is clear each of the three districts is experiencing an increase in special education dispute resolution. All three see attorneys and advocates involved in both formal and informal dispute resolution (IDR). Additionally, students of all ethnicities and with all disabilities are utilizing both methods. In two districts, almost half the disputes are informal, however, in the third, informal disputes represent a small number. In all three districts, IDR meetings touch on a variety of topics, however “child find,” or initial eligibility of students for special education, seems less frequent in this informal resolution as compared to formal resolution.

District staff in all three districts shared positive perceptions of the IDR process, stated that they expected this process to continue to grow, but requested more training and more transparency about the process. Parents shared frustration with the dispute process, but
expressed desire to obtain additional supports for their child. Both parents and district staff shared that they believed positive intentions among all participants, but still felt that resolution was a difficult process.

Each of the study’s research questions delve into a unique aspect of special education and dispute resolution – from structure, to perception, to effectiveness. Answering required utilizing different methods of data collection and analysis. The data provides a comprehensive overview of special education dispute resolution.

**Structure of Dispute Resolution**

This first question focuses on how dispute resolution is structured. Earlier chapters describe in detail the state formal dispute resolution process and the informal dispute resolution (IDR) process in general. Within each district, the IDR process varies. Unlike state process, IDR is organized, publicized, and facilitated differently in each district.

**Structure of the IDR system in Beach City, Coastal City, and California City School Districts.** The three studied school districts operate both formal and informal dispute resolution systems. At the formal level, parents have access to the process described previously. Each of the three districts have unique informal resolution systems that vary in how frequently they are used, how they are structured, and how they are publicized. As part of this study, these informal methods were investigated in further detail and observed.

*Beach City’s IDR system.* Beach City has been engaging in IDR meetings with families for over ten years. The department includes a district leader who oversees informal and formal litigation as well as state reporting and general compliance with student laws, two legal specialists (paralegals) and one teacher on special assignment (TOSA). The IDR brochure is available on the public website (Appendix E). Yearly, the IDR team provides a training on IDR
to multiple groups. The training is optional for site administrators (principals), required for new assistant principals, and offered to both the Community Advisory Council (a group of parent representatives) and the district’s Board of Directors/Trustees. The pathway to an IDR, shared with staff and parents, includes holding an IEP team meeting where issues are refined (Appendix F). Once an IDR request is made by a parent, site leader, or district leader, the IDR team reviews the request to determine if it is an appropriate issue for IDR, if something more formal (e.g., a Mediation Only) should occur, or if the issue is one that cannot be resolved informally and requires a more formal process (e.g., Due Process Hearing request). Staff promptly notifies parents and schedules the IDR. The IDR meeting, held in a conference room at district office, is facilitated by either the district leader or a legal specialist. Attendees representing the district include a site program specialist and a site administrator. Frequently, another member of the IEP team (teacher, school psychologist, or other service provider) also attends. Parents attend alone, with advocates, or with attorneys. The meeting starts with an overview of the process and an offer to make the meeting confidential. Staff reports that while a meeting will continue even if the parent does not sign the confidentiality form, less information is shared and the meeting is less of a collaborative problem-solving meeting if parents do not sign the confidentiality agreement. Following the IDR, an IDR team member communicates with the site team to inform them of the outcome. If the parents and district reach an agreement, IDR staff provides a notice of the agreement and ongoing support in meeting the agreement terms to the site staff. IDR staff present all agreements to the Board of Directors/Trustees in closed session for ratification or approval even if there is no financial impact to the district.

Coastal City’s IDR system. Coastal City has the smallest of the three IDR departments and the least frequently used. A district leader who oversees operations and budgets within the
special education program also oversees information resolution and formal resolution. Many of
the IDR meetings are facilitated by an outside attorney, supporting the district. The district
representatives include this attorney and district level administrator (a director), along with a
program coordinator supporting the site or program at issue. Parents attend, and frequently bring
attorneys. As with the IDR meetings at both BCSD and California City, the meeting is held at
the district office in a dedicated conference room. Agreements with financial impact are brought
to the board on the consent agenda and background is given to the board through a confidential
written report.

California City’s IDR system. California City has had an established IDR system for
under five years. California City used the program at Beach City as model, modifying processes
to fit district culture. California City describes IDR as a “process where after the IEP team
members have exhausted all options of resolving disputes related to a student’s program”, and
staff hold “a meeting in an effort to seek resolution to outstanding issues in a voluntary and
confidential setting.” The IDR process is described on-line on a public website and a brochure
(Appendix G) is available to families. Site staff complete and facilitate IDR referrals. Staff must
complete a formal IDR request prior to moving a situation forward to IDR (Appendix H). The
IDR meetings are held at the District Office within the special education department. An IDR
Program Specialist (a special education staff member) facilitates the meeting. The site’s program
specialist and school psychologist both attend the IDR to provide additional information. Parents
are provided with a confidentiality agreement to sign and the IDR meeting does not occur if this
is not signed.

Observation of IDR, Mediation-Only, and Due Process Hearing. The three studied
school districts operate both a formal and informal dispute resolution systems. The formal
system is consistent between the three districts. As described above, each of the three districts have unique IDR systems that vary in how frequently they are used, structured, and publicized.

Observation of Due Process Hearing. The hearing observed as part of this study involved an elementary student attending a charter school. Due to scheduling conflicts with another hearing, the hearing was held in a slightly small room. This was possible because the elementary school student was represented by the parent, not an attorney/advocate, limiting the number of people in the hearing room. The hearing was held six months after the initial request for due process was filed and testimony took six days. The student’s case included six issues, all related to whether the district had provided him with a free appropriate public education while attending an in-district charter school. The district cross-filed to defend the appropriateness of its assessments, as the family of the student had requested independent educational evaluations.

The hearing was audiotaped by parent and the district to assist in writing the closing briefs, and by the Administrative Law Judge presiding over the hearing. As the parent represented herself, 20 to 45 minutes each of the six mornings was spent reviewing procedural rules and requirements and describing the process to the parent. This included the looser rules of evidence and how parent would be able to question herself when she took the stand as a witness. The parties also agreed on the order of witnesses and the amount of time each witness would take.

On the first morning, shortly after the procedural items were completed, the parent presented a 10-minute opening statement. The district followed with a 5-minute opening statement. The parties then took a short break. It was consistent that approximately every two hours, or when each witness was finished testifying (whichever occurred first) the parties would take a break to re-focus, use the facilities, and have snacks. The hearing began between 8:30 and 9:30 each day and concluded just before 6 p.m., daily. Over the six days, approximately ten
witnesses testified as to their education, experiences, and opinions as they related to the student. According to participants, this hearing was slightly longer than usual given the amount of questioning by the Administrative Law Judge, but fell within normal length of time for each day and number of days.

On August 16, 2016, ten days after the parties filed closing briefs, the Administrative Law Judge issued a 79-page decision. The decision determined that the district did not fail in child-find, appropriately assessed the student, and provided appropriate services. The decision did find that the district failed to provide appropriate accommodations and services at the initial Individualized Education Program (IEP) team meeting, though this was remedied about one month later. Therefore, the district was to offer 30 hours of compensatory education through 1:1 tutoring and was to fund a parent-provided assessment as an equitable remedy.

As of May 2017, the parent had not accessed either the reimbursement or the compensatory education tutoring. The parent removed the student from the district and charter school. The parent has filed another lawsuit against the district and charter school seeking funding of the parent-selected private school.

*Observation of IDR in BCSD.* As part of this study, the researcher observed an IDR meeting within BCSD. About 30 minutes prior to the IDR meeting at BCSD, IDR staff held a pre-IDR meeting. Participants included the site administrator (principal), the site psychologist, the program specialist, and the IDR team member who would be facilitating the IDR meeting. The team reviewed the issues they believed would be raised by the parent (concerns with placement and service levels given student’s progress to date) and brainstormed options that might be available for resolution. When a question arose in this pre-staffing that the team did not know the answer to, the team called the teacher at the school site to get additional information.
At the time of the IDR, the IDR team secretary brought the parent up to the IDR room and district staff entered shortly thereafter. The group sat around a conference table with the parents and advocate on one side, the IDR team member at the head of the table, and school staff on the other side. The IDR team member began the IDR by facilitating introductions and then reviewing the confidentiality guidelines. Once everyone had signed in, the IDR team member facilitated the IDR with thanking the parents for attending, recognizing they were the experts on the student, and asking the parents what they hoped to accomplish moving forward from the IDR. The parents used this opportunity to share some of the past concerns about consistency in staff support (use of substitutes, temporary personnel, and missed sessions) and about the student failing to reach potential. Parents then made a demand for moving forward that included an increase in services, private services, and guarantees about substitute staff. The request from parents was substantial and represented a one-time cost of about $10,000 in private services, and a long-term increase in speech services (doubling the current level).

After about 20 minutes of back and forth discussion about the student, the IDR team member facilitating the conversation asked if the groups could take a break. The BCSD staff members returned to the office and engaged in a “caucus.” In this small group meeting, without the parent, the staff dissected the issues as raised by the parent, discussed liability if parents were indeed correct (considering potential truth to parents’ claims), and talked about a refined plan moving forward. The group determined that making a proposal was appropriate. The caucus meeting lasted about 5 minutes. Returning to the room with the family, the IDR team member discussed that the district would like to move forward with a settlement. The IDR team member shared the settlement offer, which included some level of increased services (an increase of one-third) and some level of reimbursement for services obtained privately by the parents (about 10
hours of services, representing a cost of $1,350), verbally with the parent and advocate. The parents and advocate asked clarifying questions about the offer including whether services would be added to the Individualized Education Program (IEP) and how the settlement would be written. Then, the IDR team member offered them time alone to discuss. The BCSD staff left the room again, this time for about 10 minutes, to permit the parents and advocate to discuss the offer. When the BCSD staff returned, the parents and advocate had additional clarifying questions about funding options (direct funding versus reimbursement) and the amount of time the student had to obtain the private services. The parent and advocate agreed, in large part, to the district offer of settlement. The advocate and IDR team member agreed to finalizing negotiations over e-mail and phone through the remainder of the week. The secretary provided copies of the signed confidentiality agreement to everyone in attendance, and the parents and advocate left.

BCSD staff returned to the caucus room, where they discussed what to share with staff, any small changes to the agreement, and how the site staff could be supported so the same issue did not arise again. In total (not including the pre-staffing) the IDR meeting lasted about 45 minutes. It took approximately one week to finalize each of the agreement terms in to a contract and following signatures, BCSD staff met with the staff at the student’s school site, discussing the parents’ concerns, the settlement agreement, and the potential liability.

Observation of IDR in California City. Like the IDR meeting at BCSD, the California City staff arrived at District Office for a pre-IDR meeting. Attendees included the program specialist, the site school psychologist, the IDR program specialist, and the Director of IDR. The Director of IDR facilitated a discussion about the issues, as outlined in the IDR request form. The team reviewed the issues, reviewed documents, and outlined together a settlement proposal...
prior to meeting with the family. Once the family arrived, the Director of IDR did not attend the meeting; the IDR Program Specialist facilitated the IDR. As with the meeting at BCSD, IDR staff began by thanking the family and reviewing the parameters of the meeting (confidential, issue-centered, and potential outcomes). The IDR program specialist invited the family to share their concerns, and listened intently.

The parents spoke passionately about their elementary-aged child who has significant and multiple disabilities, including deafness. Parents were seeking the district build a specialized program for their child that included hiring multiple new staff members. Parents requested to be part of an interview panel of new staff, to provide a deaf mentor for their child, and to permit their child to be on a modified day. Parents shared a belief their child had a higher level of performance than was being demonstrated at school because, in their opinion, the student did not have the appropriate staff members supporting her and she required more intensive instruction in sign language to receive educational benefit. Parents also requested a modified school day that would permit the student to receive services outside the school day, and that these outside services be funded by the district in lieu of classroom attendance.

After about 10 minutes, the IDR program specialist asked the psychologist to share her perspective on some of the same items. This included information about the staff training, the use of sign language by staff and student, describing the student’s school day, and sharing assessment reports that highlighted the student’s abilities and needs. Once the psychologist shared perspective, the IDR program specialist outlined that the district would be interested in resolution, and provided an initial settlement offer. Rather than provide additional staff as requested by parents, the settlement offer included a full school day, some additional 1:1 time during the school day (one hour per day), and providing a small amount of reimbursement for
parent-obtained private services (approximately $1,500). Parents had questions about the 1:1 services, including who would provide these services and the goal of these services as well as questions about the private services. Parents then asked for some time alone to consider the offer. California City staff left for about 10 minutes. After this short break, IDR staff returned to the room and invited the family to respond to the IDR offer.

The family did not agree with the level of reimbursement and requested higher levels of reimbursement ($5,000). Parents did not agree with a full school day, but wanted to move forward with a modified day and would continue to access private services. Parents also did not agree to additional 1:1 time from a school staff member rather than the hiring of a new, parent-identified staff member. The California City staff responded to the family’s counter offer by making a few changes to the IDR proposal, specifically, California City staff shared that they did not believe that the student needed more adults during the school day, as the student already has a full-time aide and a teacher. The student is also in a small classroom. Thus, staff responded to parents’ concerns for more intense instruction with the ongoing offer of 1:1 services, but did not agree to provide a mentor or to permit the parent to hire district staff. The district agreed to increase the reimbursement to $2,500, but required that all services occur outside the school day. The family did not agree to the district’s office but agreed to consider it and get back to the IDR program specialist the following day. The IDR was concluded, an in whole took about one hour. The IDR program specialist confirmed that she had the correct contact information to connect with the family the following day. As of the date of the conclusion of this study, this IDR meeting had not resulted in a settlement agreement.

Participants in Disputes. While the three districts are located in the same geographic area, their size, ethnic make-up, and experience with special education dispute resolution varies.
BCSD has an enrollment of approximately 53,000 students and includes two charter schools operating as part of the district’s special education local plan area (SELPA). Using data reported to the state in December 2015, approximately 5,280 students receive services from the district’s special education program. The District also operates a program for infants. Coastal City has an enrollment of approximately 22,000 students. 2,288 of Coastal City’s students are identified as having special education needs. California City has an enrollment of approximately 32,300 students. Of these 32,300 students, 3,013 are identified as having special education needs. This percentage, near 10 percent, is consistent with state and national information, identifying that approximately 10% of students have identified disabilities requiring special education.

Table 5. 
*Ethnicity in Districts and in Dispute*

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>BCSD</th>
<th>Coastal City</th>
<th>California City</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>District (SPED)</td>
<td>Dispute N = 86</td>
<td>DPH N = 42</td>
</tr>
<tr>
<td>White</td>
<td>60.2% (54.4%)</td>
<td>76%</td>
<td>79%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>25.1% (32.1%)</td>
<td>14%</td>
<td>17%</td>
</tr>
<tr>
<td>Asian</td>
<td>5.46% (3.6%)</td>
<td>4.6%</td>
<td>2%</td>
</tr>
<tr>
<td>African American</td>
<td>1.3% (1.6%)</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>Native American</td>
<td>0.1% (0%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Pacific Islander</td>
<td>0.1% (0%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Multiple / decline to state</td>
<td>7.3% (8%)</td>
<td>3.4%</td>
<td>0%</td>
</tr>
</tbody>
</table>

*Initiation of Disputes.* Disputes can arise at different conflict points within the IEP process and can involve a variety of different areas of disagreement. For example, disputes may

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4 SPED is a commonly used abbreviation for “special education.”
be centered on the offer of placement or services, on a particular service (e.g., transportation), or be about the assessment, or outcomes (e.g., certificate of completion or diploma).

Review of the disputes during the 2015-2016 school year documents that disputes do, in fact, originate at various points in the IEP development and review process, and vary as to the issue raised in the dispute. This is further demonstrated in the tables below. Coastal City does not maintain information about origin, nor does the state of California. Thus, this is not included in the table. Coastal City also does not maintain information about the issue raised.

Table 6. 
*Origin of Dispute.*

<table>
<thead>
<tr>
<th>Point of Initiation</th>
<th>Beach City School District</th>
<th>California City School District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Formal N = 42</td>
<td>Informal N = 44</td>
</tr>
<tr>
<td></td>
<td>Formal N = 36</td>
<td>Informal N = 47</td>
</tr>
<tr>
<td>Initial Assessment/eligibility determination</td>
<td>4 (9%)</td>
<td>8 (19%)</td>
</tr>
<tr>
<td></td>
<td>4 (11%)</td>
<td>2 (4%)</td>
</tr>
<tr>
<td>Initial IEP recommendation of services</td>
<td>3 (7%)</td>
<td>5 (11%)</td>
</tr>
<tr>
<td></td>
<td>2 (6%)</td>
<td>2 (4%)</td>
</tr>
<tr>
<td>Annual IEP recommendation of services</td>
<td>27 (64%)</td>
<td>19 (43%)</td>
</tr>
<tr>
<td></td>
<td>26 (72%)</td>
<td>41 (87%)</td>
</tr>
<tr>
<td>Triennial assessment (reviewing eligibility/placement)</td>
<td>8 (19%)</td>
<td>12 (27%)</td>
</tr>
<tr>
<td></td>
<td>4 (11%)</td>
<td>2 (4%)</td>
</tr>
</tbody>
</table>

Table 7. 
*Issue at Dispute.*

<table>
<thead>
<tr>
<th>Primary Issued Raised</th>
<th>State 2015-16²⁵</th>
<th>Beach City School District</th>
<th>California City School District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment/eligibility determination</td>
<td>2,530 (48%)</td>
<td>6 (14%)</td>
<td>2 (5%)</td>
</tr>
<tr>
<td></td>
<td>1 (3%)</td>
<td>4 (9%)</td>
<td></td>
</tr>
<tr>
<td>Aide support</td>
<td>925 (17%)</td>
<td>2 (5%)</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>2 (6%)</td>
<td>1 (2%)</td>
<td></td>
</tr>
<tr>
<td>Implementation issues/concerns</td>
<td>2365 (47%)</td>
<td>4 (9%)</td>
<td>2 (5%)</td>
</tr>
<tr>
<td></td>
<td>2 (6%)</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Placement</td>
<td>5,209 (98%)</td>
<td>13 (31%)</td>
<td>22 (50%)</td>
</tr>
<tr>
<td></td>
<td>20 (55%)</td>
<td>26 (55%)</td>
<td></td>
</tr>
</tbody>
</table>

²⁵ The state includes all issues raised in a case, thus a single case may have more than one “primary” issue raised.
Resolution of Disputes. In considering what dispute resolution looks like, it is helpful to consider the length of disputes (how long does it take to resolve) and how they resolve. Many of the cases the districts bring to the IDR process resolve through a settlement contract or agreement.

Table 8.
Case Closure.

<table>
<thead>
<tr>
<th>Resolution</th>
<th>State (2015-16)</th>
<th>Beach City School District</th>
<th>Coast City School District</th>
<th>California City School District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision Issued/hearing</td>
<td>111 (3%)</td>
<td>10 (24%)</td>
<td>--</td>
<td>2 (6%)</td>
</tr>
<tr>
<td>Settlement Agt.</td>
<td>3247 (74%)</td>
<td>30 (71%)</td>
<td>40 (90%)</td>
<td>9 (69%)</td>
</tr>
<tr>
<td>Back to IEP/withdrawn</td>
<td>741 (17%)</td>
<td>2 (5%)</td>
<td>4 (9%)</td>
<td>4 (31%)</td>
</tr>
<tr>
<td>No resolution/ongoing</td>
<td>265 (6%)</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

Perceptions and Effectiveness of Dispute Resolution in the Study Districts

Information gathered focused on the perception of dispute resolution participants. Including, how parents perceive their interests and those of their child are met in the process; and how do interests drive or affect dispute resolution.

Effectiveness: Ways the Districts “value” it. District staff at three districts provided perceptions of the IDR process through interviews. Staff experience ranged from less than five years in special education (and in their current position for less than six months) to more than twenty-five years in special education. Categorical coding of answers provided for a conceptual grid of items and themes. These responses aligned with many of the initial terms in the grid;
however, the grid concepts did change over time. The tables below highlight participant statements and interests shared as it relates to IDR. All staff made statements about the positive value of the IDR process. Some staff in Beach City School District made statements that demonstrated a concern with perception of IDR. Specifically, one staff member shared that IDR is a “catch-22” noting that, in her opinion, if IDR did not exist in the District, there would be more formal disputes, but some staff take advantage of the opportunity of an IDR to “clean up” their mistakes or to resolve disagreements with families, and pass the situation on to IDR without trying to resolve concerns at the school site. Across the three districts, staff frequently commented on the lack of meaningful formal training but the vast opportunities of “on the job” training. Each staff member shared opportunities for improvement in communicating with parents. Staff at California City mentioned that building positive relationships at the entry level (whether the student/family entry in to special education or a new staff member’s entry to a student’s team. These relationships can support difficult conversations in the IEP process and build ongoing trust.

Table 9.

<table>
<thead>
<tr>
<th>Theme/Concept</th>
<th>Description</th>
<th>Participant Statements</th>
</tr>
</thead>
</table>
| Formal Training       | Whether or not staff attended formal training session in IDR, Special Education Law, or Conflict strategies | • I haven’t had much since college and that wasn’t very helpful. It was the theory.  
• The district brought in law firms and that helped see the bigger picture and get out of the “our way.”  
• I’ve been in education 25 years and have never gotten any training in conflict or conflict resolution. |
| On-the Job Training   | How on-the-job experiences have shaped their outlook, perceptions, or abilities | • For the first three years, all I did was staff with teams about conflict. This was not sustainable.  
• Our professional learning community is a place where we talk and get mini-trainings.  
• The preparation for the first time I testified was some of the best training. |
| Communication and/or Trust | Values placed on open and honest communication between parents and sites and between sites and district officials | • We want more information after; to understand why decisions are made or not made.  
• Conflict results from communication – a message comes out and it needs clarification, better messaging would help. |
| Parent Involvement    | The role parents play in the IEP and dispute process                          | • Be prepared. Have an agenda, draft goals, be ready. |
| and/or Partnership | könnte parent perception and attempt to understand.  
|                    | My prior district was very family-focused. There were parent info series and a parent center. Here, there is a whole culture of distrust. I think having a venue where parents feel we are being collaborative would help that.  
|                    | I encourage parent participation. I listen, make good eye contact, and don’t come off as I know it all.  
| Conflict | Views on conflict, frequency of conflict, and where conflict happens  
| Conflict | Conflict is worse at the IEP, before and during. In IDR, there is a clear hope for a solution.  
| Conflict | There is not a clear “district picture” of how to handle conflict – what you get depends on who you ask.  
| Conflict | Our staff need to remember boundaries. We promise things that we cannot do or plan things that are impossible, but get surprised when families get upset.  
| Outlook | General views on special education, on IDR, on their district and their role  
| Outlook | I want to know more. I feel like I’m missing the next step.  
| Outlook | I thought I would stay in special education but I’m looking at site administration. They typically have lower knowledge of special education, so that could be a good experience.  
| Outlook | I want to do more as a program specialist. I want to be more proactive.  
| Outlook | I would imagine the same problems are everywhere.  
| Outlook | I’m disappointed in how staff view students. I wish that we moved away from deficit-model and celebrated student success.  
| Improving the process | How IDR could be improved  
| Improving the process | There is a lot of team feeling of “it won’t happen to me” – teachers do what they know and do not stretch.  
| Improving the process | I would like more trainings for site teams to understand the process – people take advantage of the process and need to know about the impact.  
| Improving the process | We should share statistics and costs with the school sites after the resolution.  
| Improving the process | Make it clear that IDR is a bridge to cross over a difficult time, but it is a temporary bridge.  

**Effectiveness of Dispute Resolution: Monitoring.** Agreements are only as effective as execution. If parties reach agreements, but the district does not implement the promises, the district is open for another lawsuit (breach of contract) and any newly built trust is ruined. Interviews with staff demonstrate that the districts vary in the level of focus spent on monitoring the execution of the agreement.

BCSD has three staff members in the IDR department who have different levels of responsibility as it relates to execution of agreements. First, a legal specialist is tasked with notifying the IEP team of the agreement and the terms impacting the student’s education.
(including deadlines), a second legal specialist begins the process of facilitating any reimbursement and monitoring that checks are issued within the settlement agreement’s stated timeline. A third staff member, sometimes a teacher on special assignment (TOSA) and sometimes a program specialist, is tasked with holding a face to face meeting with the school team that will implement this agreement. This face to face meeting serves multiple purposes, including reviewing why the agreement was reached, some of the options that had been discussed, what the team has to do, and the timeline for follow up. If during the implementation, the IEP team has questions, this person is the first stop in seeking assistance. During interviews, staff at BCSD shared that implementation of agreements is a strength; however, they wished more time was spent on sharing the analysis that went in to the compromise. BCSD administration shared that in the last several years, they can only recall one agreement that was not implemented with fidelity. This was due largely to staff resistance, and the staff member was disciplined for refusal to implement the agreement terms.

Coastal City and California City rely on the director of the IDR program to monitor and support implementation of the agreement. In California City, there is a post-IDR meeting at the school site facilitated by the school psychologist to go over the IDR terms. An office assistant in the Special Education department does any administrative paperwork (reimbursement requests, setting up transportation, facilitating changes in schools), and the IDR program specialist does ongoing follow up on current agreements. Staff does not yet have an in-depth spreadsheet or tracking system for monitoring on-going settlement agreements. In Coastal City, the Director who facilitates the IDR completes a post-agreement notification and sends it to the team. On a case by case basis the Director provides in-person assistance and monitoring of the agreement. A checklist, with the file, is completed by district office staff to ensure compliance at each step.
of the agreement. The program coordinators are provided a copy of this document and asked to monitor the efforts of site teams.

**Perception of outcomes.** As outlined in the statements shown in Table 9, the general staff perception of IDR is that it is a positive option and helps bridge conflict. Staff shared concerns that the process should be more transparent (“would like more trainings for site teams to understand the process – people take advantage of the process and need to know about the impact”), and that more information should be shared with site teams about outcomes and statistics to better prepare them. One staff member shared without IDR, litigation would increase, but some parents know about IDR and use that to further concerns and issues that they might otherwise resolve with school sites.

Parents who were interviewed shared that they appreciated the district had an IDR department that they could use without the cost of legal representation needed in filing a lawsuit. Parents did share that they wished more information was available on-line or at the school site about the process, and that they did not have to wait for a “request” for IDR to be approved for a meeting to be scheduled. One parent shared that even though the process is informal and designed as an alternative to litigation, it felt formal and pressured to her. This was due in part to the number of participants, the standard confidentiality agreement, and the large conference room. Another parent shared that she valued the change to speak in a smaller setting about her concerns related to school staff without “having to sue.” Of the fifteen parents who returned the anonymous survey and had participated in an IDR, ten shared they heard about the IDR process from an administrator or teacher at their schools site. The remaining five heard about IDR from other parents (e.g., at a Community Advisory Council meeting or parent support group). All fifteen shared that they obtained some sort of support in the IEP or IDR process. Generally, the
parent perception of those interviewed and in the survey was positive, sharing that they believed that the IDR process demonstrated that the district wanted to work with families and avoid costly litigation.

**Summary: Interest and Outcomes**

The final question relied on parent and staff input along with all data gathered to answer questions one and two, to consider to what extent the current system serve the interests of districts and parents? Analysis of the information gathered as part of this research provided guidance as to how the system might it be improved to better serve the interests and goals of all involved. Analysis is included in Chapter 5.
Chapter 5: Discussion, Conclusion, and Implications

Review of study findings and implications of findings

This study looked at three areas of special education informal dispute resolution (IDR) in schools: how dispute resolution is structured, participant perceptions, and how it can meet the needs of participants.

Structure of Dispute Resolution. Data from three sites demonstrates that the students participating are representative of various ethnic groups. In two of the three districts (BCSD and California City) white students are overrepresented in disputes as compared to the special education population of the district. In BCSD, 54% of students in special education are white, whereas 79% of disputes involve white students; in California City the increase is from 37% to 47%. In all three districts, formal disputes are more likely to involve an advocate or attorney. IDR has decreased advocate or attorney participation. Parents and staff both shared a desire for an increase in publically accessible information about IDR – reporting that most of the information about dispute resolution comes from social capital (connections, friends, social groups). It is possible that more information, presented in a variety of ways, will provide more equity in the individuals participating, and will continue to provide families without access to paid advocates or attorneys the opportunity to advocate strongly on behalf of their students. This aligns with Trainor’s (2010) findings about capital resources parents perceive necessary for supportive and effective participation in the IEP process. Advocacy of any sort, in special education, requires levels of capital (financial and social) that not all parents may have, limiting who accesses dispute resolution services.

The students involved in the disputes represented many of the areas of disability within the District. In both California City and BCSD a greater percentage of students with Emotional
Disturbance participated in formal or informal dispute as compared to the special education population of the District. The highest percentage of disputes (23% in BCSD and 55% in California City) involved students eligible under the category of Autistic-Like. Neither of these appear surprising and this is consistent with prior research sharing who participates in dispute resolution (Blackwell & Blackwell, 2015; Mueller & Carranza, 2011). Students with autism vary in their educational programs, but frequently have significant related services (such as speech/language therapy, occupational therapy, or intensive behavioral instruction) increasing the components of the educational program. There are also many private schools for students with autism in the local area, which provide a safe, supportive alternative to the larger public schools, which many parents seek and request district-funding for attending.

Data as to the point of origin of the dispute highlights that, consistent with the research theory, disputes arise throughout the Individualized Education Program (IEP development and implementation process). In both BCSD and Coastal City, most of the formal and informal disputes were related to the IEP team’s recommendation of placement and services at an annual IEP team meeting. Parents frequently requested an IDR meeting when the school-based members of the team were either (a) reducing levels of related services, such as speech/language therapy or occupational therapy, or (b) were increasing the restrictiveness of the student’s educational setting (e.g., from a learning lab model to a self-contained program). These disputes frequently occurred at natural transitions (preschool to elementary school, elementary school to middle school). The issues raised in the disputes also spanned many areas, and consistent with state level information, the most frequent issue was placement. Thus, as outlined by Mueller and Piantoni (2013), in sharing that parents will always be frustrated with the IEP process, every IEP
is a potential opportunity for conflict, or a potential opportunity for parents to collaboratively participate in the process and the team to reach consensus.

In making a decision to pursue dispute resolution, families weigh the potential cost of litigation (emotional and financial) with the perceived benefit. Comments from parents and staff both indicate that broken trust is a key factor in escalating conflict to the level of a dispute. Parents share a lack of faith in District staff, and, in one case, engaged in over one year of litigation at the cost of over $60,000, to receive no more than the educator’s had initially recommended in an IEP team meeting. Looking at informal dispute resolution, BCSD reports that “settlement and litigation” costs have not increased in the past years, but rather, the money has shifted from funding attorneys to implementing programs for students. BCSD staff and parents both shared that contact early in a dispute increases trust and supports resolution. Increased information about IDR and exposure to IDR processes through parent training, staff training, and parent outreach may further improve the effectiveness of this system.

In describing and analyzing the structure of the process, Parent and staff interviews both expressed a desire for increased trust and communication. By working to build this at annual IEP team meetings, starting with the first IEP when a student enters special education, it might be possible to reduce conflict. Staff also expressed a strong desire for training in dispute resolution, conflict management, and legal requirements. Improving staff training to support sites in these initial meetings could reduce litigation and IDR. Stakeholders should consider piloting increased training with feedback to determine if collaborative strategies improve the IEP development process and decrease disputes.

The three districts are part of the same cooperative within the county. As a result, there are many similarities in the IDR process. All three districts have at least one staff member
dedicated to IDR. Additionally, all three districts require the participation of a site representative. Staff interviewed shared a desire for more site input in the IDR process and more transparency of information with the site. In all three districts, most IDR meetings result in a resolution and typically do not resolve on the same day; there is some additional back and forth discussion and “think time” after the meeting.

It would be beneficial for districts to consider a dedicated, friendly space for the IDR meeting. In all three districts, the conference room was used for other purposes and was not set up in a way that invited equal participation. If the IDR process is truly facilitated by the district but is not an “us v. them,” staff should consider round conference tables or other alternative set-ups in the room instead of long rectangles (see Purvis, 2012, on outlining the importance in room set up for consensus building). Participants shared that they benefitted from the clear setting of expectations and from taking a break during the meeting. These practices should be continued.

Resolution of disputes is a costly process. Provisions of the IDEA outline that a prevailing party parent can recover attorneys’ fees expended in a due process hearing - these can sometimes be very large (e.g., at least $50,000 to $60,000 for a single hearing in Orange County, California). In one local district, the dispute resolution and settlement budget for the 2016-2017 school year was 3 million dollars; representing funds paid to families’ attorneys, district attorneys, and in settlements. Special education litigation in California is a multi-million dollar business and money spent in this process is money that cannot be spent on systemic changes that may support all students. District staff members, as stewards of public funds, have an obligation to ensure funds are spent prudently. In Aguirre v. Los Angeles Unified School District (2006), the Ninth Circuit stated, in discussing attorneys’ fees litigation, “all children suffer when the schools’ coffers are diminished on account of expensive, needless litigation.” Even more than
this direct financial cost is the emotional cost on staff forced to testify and defend everyday work and the ongoing relational cost between parents and districts. Staff has reported additional stress, emotional frustration, and feelings of anxiety related to participation in due process hearings.

District should continue to take steps to lower litigation costs through quick outreach and training. If money can be spent more strategically – preventing disputes and supporting students – more money might be available for staff training, parent outreach, and student programming.

**Effectiveness of Dispute Resolution.** All staff and parents interviewed made statements about the positive value of the IDR process. Some staff in Beach City School District made statements that demonstrated a concern with perception of IDR; that parents might take advantage of the process. Parents, however, demonstrated a desire for more knowledge and awareness. There is tension in the competing interests. Staff wants to avoid the perception of being taken advantage of, while parents seek more information about how to best advocate for their students. Both parents and staff shared a common perception of an increased need for empowerment. For parents, it was increased access and understanding of district resources.

Across the three districts, staff showed this need by the frequent comments as to lack of meaningful formal training in conflict resolution. While staff have vast opportunities for “on the job” training and a willingness to engage in IDR meetings, they desired more formal training to feel more confident in performing their jobs. Staff frequently commented on the need for more information after the IDR to make positive improvements in school programming. Parents similarly expressed desires for “more answers” at the IEP team about the services available for students, the options that can be considered, and clear answers (“yes” or “no” when something is requested as opposed to “we’ll get back to you”) and for earlier levels of dispute so a formal dispute method or an IDR is not necessary. Staff shared that a frequent trigger to conflict is
when site teams promise activities upon which they cannot deliver. This is frustrating to parents and clear communication about expectations and priorities could avoid this conflict.

Staff consistently made requests for constructive feedback during interviews. The districts should consider more formalized “post-staffings” after IDR meetings to dissect the issues and make determinations about how targeted training can be provided on a larger scale to improve programming.

**Improvements and Modifications.** Cope-Kasten’s (2013) study presented findings that special education due process hearings are unfair and a new system should replace special education due process hearings. The study, focused in Wisconsin and Minnesota, identified outcomes such as damaged relationships and “hollow victories” (where no change is made to a student’s actual program) are commonplace. Trainor (2010) highlighted the need for social and financial capital in special education, further influencing the perceived fairness of the dispute resolution system. This current study identifies the need for parent training about special education, the process, and conflict resolution techniques; more information is better. The information gathered here also supports staff training and system improvements to communicate more clearly with families about the special education process, outcomes, and resolution methods. Continuing to increase the self-efficacy of parents and staff may support strong educational programs and dispute resolution progress for students.

**Study Limitations**

While this dissertation study included three school sites, the level of involvement of each site varied. One site permitted full access to all information, one site provided controlled interviews and observations, and the other only permitted interviews. Additionally, while the sites varied in size, ethnic makeup, and familiarity with IDR, the sites were still very similar.
The three communities are highly litigious, as demonstrated by the frequency of formal disputes, known for strong special education programs, and have involved parent populations. Staff within the three districts have worked in the others within the past three years and the districts belong to an IDR collaborative where information is openly shared and discussed to improve practices. These factors all limit the generalizability of findings to other districts in other areas. Even with this limitation, the information is valuable in understanding parent perception, staff needs for training, and potential opportunities for improvement, particularly in these three districts.

**Researcher Comments**

As a member of the leadership team at one of the study sites, I wanted my district to show positively in the research. However, almost immediately upon interviews it was clear that in looking at the IDR program and dispute resolution with a critical eye, there were many practices and procedures that needed to be questioned and evaluated. I found that my impressions after the interview were confirmed in respondent cross-checks, and that these impressions were not always in alignment with my perception prior to the interview.

I believed that all three districts provided significant staff training (from internal staff, external specialists, and on-line opportunities). In interviews, a common theme was the lack of staff training and the need for more staff development, targeted to this area. Also, prior to diving deep into the data, I felt that staff would share that they did not have a voice in the process (based in part on a recent state report of one of the districts). Surprisingly, staff seemed more focused on wanting a greater post-training and dissection than having an increased voice in the resolution.
In completing this study, I focused on remaining open and listening to the answers; listening to understand and not to reply. I believe that staff felt my openness and responded honestly. By being willing to adjust my frame and lens, I received valuable information and insight. While I am pre-disposed to support IDR as it is supported by research (Lake, 1991; Regan, 1990; Vitello, 1990), I was pleased to find it was also supported by input from all stakeholders.

**Conclusion**

As expected, the general perception of the IDR process by parents and staff was one of cautious optimism. Staff wished that they were better trained, had a more significant voice, and had an opportunity to improve programs and services through training after IDRs. Parents wished the process was more available, better publicized, and that they had more opportunities for support. Both parents and staff wanted to be empowered as participants in the IEP development process and in the resolution of disputes.

Demographic information as to participants could support a recommendation that the process be more equitable, as ethnicity and disability category of individuals in IDR does not mirror that of the special education population. Districts should work harder to be transparent in sharing information about IDR as an available option and sharing information with staff on which situations are appropriate. IDR settlement agreements are a great learning opportunity. Districts should ensure that significant follow up occurs with staff to improve service delivery and procedures following an IDR and can use this as an opportunity to remind staff of the importance of collaboration early in the IEP development process to avoid costly litigation.
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Cal. Educ. Code §§ 56304, 56342.5; 56345.1; and 56363.

*City of Chicago Sch. Dist. #229*, 114 LRP 2056 (SEA Ill. 2013).


*Fuhrmann v. East Hanover Bd. of Educ.*, 993 F.2d 1031 (3d Cir. 1993).


*J.L. v. Mercer Island School Dist.*, 592 F.2d 938 (9th Cir. 2010).


*Letter to Johnson*, 110 LRP 73644 (OSEP 2010).


*Ms. S. ex rel G. v. Vashon Island School Dist.,* 337 F.3d 1115, 1131 (9th Cir. 2003).


*Murray v. Montrose County School District*, 51 F.3d 921 (10th Cir. 1995).

*N.L. v. Knox County Schools,* 315 F.3d 688 (6th Cir. 2003).


*Park v. Anaheim Union High Sch.,* 464 F.3d 1025 (9th Cir. 2006).


*Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398 (9th Cir. 1994).


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might-11-years-national-data-reveal). *Consortium for Appropriate Dispute Resolution in Special Education (CADRE)*.


Appendices
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<td>Communication</td>
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<td>Student</td>
<td>Time Line</td>
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<td>EDUCATIONAL GOAL</td>
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<td>Individual Education Program</td>
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<td>Progress on IEP</td>
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**Progress on IEP**

- Communication

**Assessment Unit Block (S/D)**
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<td>Teaching</td>
<td>Math</td>
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Semi-Structured Interview Guideline for School District Staff

Introduction to Staff Member:

As part of completing my PhD in Education, I am completing a case study in the area of special education, focusing on special education dispute resolution. I am studying this district because it has an established Special Education Informal Dispute Resolution department. I am interested in your role in this process and your role in the district.

I have several questions to discuss with you. Our interview should take about 30 minutes. I am going to record what you say so I can go back and listen to it again later. I also do not want to miss anything you say as I take notes.

1. Background: Before we get started, I need to get to know a little bit about you and your role in the district.
   a. Can you tell me about yourself, your education, and your training?
   b. What is your current position in the district?
   c. How long have you worked in your current position?
   d. How long have you worked in the current district?
   e. What training, if any, have you received about conflict and pre-mediation practices?

2. Conflict in the district: As I mentioned, I am studying this district because the use of Informal Dispute Resolution (IDR) in the district.
   a. Can you tell me about your experience with conflicts, in the area of special education, in the district?
   b. In your current role, have you participated in different types of resolution methods or avenues (for example, mediation, resolution meetings, IDR meetings, hearings)?
      i. Which ones/can you describe them?
   c. What is your role in special education conflict resolution?
   d. What do you think is the district’s current philosophy on special education conflict prevention and resolution?
   e. What practices do you think your district promotes and applies to conflict prevention in special education?
   f. Can you describe situations or times when you have had to apply these practices or strategies?

3. Role in conflict resolution: I am very interested in learning more about your perception of and experience with the conflict resolution process in the district.
a. What has been your experience with the conflict prevention and dispute resolution practice employed by your district?

b. What have you learned because of your participation?

c. Are you content with the special education conflict prevention and dispute practices your district employs?
   i. If no, what do you think could be changed?

d. Can you give me some examples of your role in the conflict prevention practices?

4. **Training:** I want to know more about your experience and training. This will help me understand your answers and help guide me as I move forward in talking with other individuals.

   a. Have you attended trainings or in-services that pertain to conflict prevention and informal dispute resolution?
      i. How many?
      ii. Can you describe them?

   b. Have you attended trainings or in-services that pertain to collaborating with families?
      i. How many?
      ii. Can you describe them?

   c. Have you implemented any strategies you have learned from these trainings?
      i. How have you implemented these strategies – can you describe for me what has changed in your practice because of these trainings?

5. **Parents-School relationships and the IEP process**

   a. Can you describe for me the typical IEP development process?

   b. What does a typical IEP look like?

   c. How does IEP planning and practice fit in to conflict prevention practice?

   d. What practices are used, if any, to promote parent participation at IEP team meetings?

   e. What types of resources are available to parents at IEP team meetings?

   f. What do you think is your district’s philosophy, resources, and practice with regard to parent involvement?

   g. What is your own philosophy, recourses, and practices with regard to parent involvement?

   h. Can you give me some examples of your experiences with parents?

6. **Future plans:** Conflict resolution in special education is a field that growing and changing. I am interested in its evolution.
a. Have your plans for job development or career advancement changed since you have been exposed to conflict resolution practice?

b. Are you content with how things are done in the area of special education conflict resolution and prevention?
REQUEST FOR COMPLAINT INVESTIGATION

PLEASE NOTE: A complaint may be filed through the use of this form or by a written letter sent by fax or postal mail. E-mails cannot be accepted as formal complaints because they do not meet signature requirements under 34 C.F.R. 300.153(b)(3). If upon analysis of a request, a complaint is opened, a complaint investigation will be completed within 60 days of receipt in the California Department of Education (CDE) Special Education Division Procedural Safeguards Referral Service (PSRS) of all required information.

The written complaint must specify at least one alleged violation of state and/or federal special education laws that occurred not more than one year prior to the date the complaint is received by the CDE. The party filing a complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files a compliance complaint with the CDE. [34 Code of Federal Regulations (CFR) 300.153(d)]

Please return the completed form to: California Department of Education; Special Education Division; Procedural Safeguards Referral Service; 1430 N Street; Suite 2401; Sacramento, CA 95814; Phone: 800-926-0648; FAX: 916-327-3704

Name of School District or other Public Educational Agency that allegedly violated state and/or federal special education laws:

____________________________________________________________________________________________________________________________________________________________

Complainant Contact Information:

Name ____________________________________________

Address ________________________________________________________________________________________________

City ___________________________ , CA Zip Code ____________________________

Phone Numbers (Please note the best time to call):

(day) ___________________________ (evening) ___________________________

(work) ___________________________ ext. ___________________________ (fax) ___________________________

Parent/Guardian Information (if different from above):

Name(s) ____________________________________________

Address ________________________________________________________________________________________________

City ___________________________ , CA Zip Code ____________________________

Parent/Guardian Phone Numbers (if phone contact is permitted, please indicate the best time to call):

(day) ___________________________ (evening) ___________________________

(work) ___________________________ ext. ___________________________ (fax) ___________________________

Student Information (If alleging violations with respect to a specific child):

Name ____________________________________________

Date of Birth ___________________________ Current Grade Level ___________________________

Address Where Student Resides (If different from Parent/Guardian information):

Address ____________________________________________

City ___________________________ , CA Zip Code ____________________________

School of Attendance (required) ____________________________
Pursuant to 34 CFR 300.153(b)(1), I would like to file a complaint because I believe that the public education agency listed on page one has violated state and/or federal education laws. Here are the facts of what happened:
(Include a specific statement of each alleged violation and the dates when the violation occurred, if necessary use additional pages (CFR 300.153(b)(2))


Who have you contacted regarding the above issue(s)? What was the outcome?


Proposed Resolution (34 CFR 300.153(b)(4)(v)):
A complaint investigation would not be necessary if:


Has your child been referred for special education? Yes______ No______

Was your child ever identified for special education? Yes______ No______

Does your child have an individualized education program (IEP)? Yes______ No______ If yes, please include a copy of the most recently signed IEP.

Include copies of any other documents that apply to this request for complaint investigation, such as assessment plans, written correspondence or mediation and settlement agreements.

Signature of Complainant ___________________________ Date ___________________
Mediation Only Request Form

**Important information to know before requesting a Mediation Only case:**

Participation in mediation is voluntary. If one of the parties declines the opportunity to participate, the mediation cannot occur. However, if the mediation only does not occur, either party may still file a request for due process hearing.

For a mediation only case, the law provides that attorneys and other independent contractors who provide legal advocacy services shall not attend or otherwise participate in a "prehearing request mediation conference." However, they may otherwise participate during all stages of the hearing process if a party later files for due process hearing. This means that by requesting a mediation only case you may not have an attorney or advocate present at mediation.

The Office of Administrative Hearings (OAH) will assign your request to a mediator who is knowledgeable about non-adversarial dispute resolution. All mediators are also experienced in the area of special education law and mediation.

Attached is a form that you may use to request Mediation Only on behalf of a particular child. If the information requested is incorrect, incomplete or not provided, your request for mediation only may be delayed until that information is provided to OAH. All required information must be provided for the request to be processed. As soon as the completed request has been processed you will be notified by mail.

Your request must be sent to **all** of the parties you have identified and a copy provided to the Office of Administrative Hearings.

If you need assistance in completing this form or have questions about the due process hearing and mediation process, assistance is available by contacting the Office of Administrative Hearings at the numbers identified below.

Office of Administrative Hearings, Special Education Unit
2349 Gateway Oaks Suite #200
Sacramento, CA 95833
Phone: (916) 263-0880
Fax: (916) 376-6319
Mediation Only Request Form

This Request is being initiated by the [ ] Parent  [ ] School District (or other LEA)

<table>
<thead>
<tr>
<th>Student Information (all fields required)</th>
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<tbody>
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<td>First and Last Name</td>
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<tr>
<td>Street Address</td>
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<tr>
<td>City, Zip Code</td>
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<td>School of Attendance</td>
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<table>
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<th>District of Residence</th>
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<table>
<thead>
<tr>
<th>Parent Information (all fields required if student is under 18 years of age)</th>
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<tbody>
<tr>
<td>First and Last Name</td>
</tr>
<tr>
<td>Street Address</td>
</tr>
<tr>
<td>City, Zip Code</td>
</tr>
<tr>
<td>Email Address</td>
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</tbody>
</table>

Parties to Be Named

INSTRUCTIONS: please list the parties to be named in the Request for Mediation Only.

If this request is being filed by a parent, this includes any school district, county office of education or other public agencies involved in any decision regarding the student that you feel should be a party in the mediation.

If this request is being filed by the district or any public agency involved in any decision regarding a student, this would be the parent or student as appropriate.

(Use additional sheets if necessary)
Mediation Only Request Form

Brief Summary of Reason For Request (Required) (Describe the nature of the problem including all relating facts.) Attach separate page if additional space needed.

Proposed Resolution of Problem Stated Above (Required)
Mediation Only Request Form

Necessity of Interpreter

Person(s) needing interpreter services: ____________________________

Language: ____________________________

Signature of Party Requesting Mediation

Please Print Name in this block

Email Address

Date

Please Sign Name in this block
Mediation Only Request Form

Statement of Service

INSTRUCTIONS: Federal and state law require you to send or deliver a copy of this Request to each of the named parties. Additionally, you must send or deliver a copy to the Office of Administrative Hearings. Retain a copy for yourself. Please indicate your compliance with this requirement by checking the appropriate box, signing and dating below.

I have provided a copy of this Request for Mediation Only to all the named parties and to the Office of Administrative Hearings by:

☐ First Class Mail

☐ Facsimile Transmission

☐ Messenger Service (UPS, FedEx, Other courier service) Please attach proof of service

☐ Personal Delivery (If other than requestor please name person who made service)

______________________________
Signature of person completing this Statement of Service

______________________________
Date of service
Resolution
Informal Dispute
REVIEW OF COSTLY RESOURCES

There is no cost to parents to participate in an IEP meeting. When both parent and district cannot agree on a plan of action, mediation is available at no cost.

TIMELY RESOLUTION

Steps that will collectively resolve the issue

- Education-related issues in a confidential setting, where all educational work together to define problem-solving techniques.
- The IEP team in an opportunity for collaboration and non-adversarial meeting to review and recommend an appropriate program of instruction to the student's needs.
- Special Education staff available to assist the IEP team meetings prior to the scheduling of any informal dispute resolution or IEP.

Why Choose Informal Dispute Resolution (IDR)?
Request for Informal Dispute Resolution on Individualized Education Program (IEP) Issues

INTERNAL DOCUMENT

Student: ________________________________   DOB: _____________   School of Attendance: ____________

Date of last signed IEP: ____________   Offer of FAPE IEP Date: _________   IEP Reconvened Date: __________

Eligibility: _________________   Placement: ___________________ Student

Language: _________________   Services: (circle):   SAI   S/L   OT   PT   APE   AT   BIS

Counseling   Other: _______________________

Parent(s)/Guardian Name: ________________________   Language of Parent: ______________   Interpreter: ________________________

Please attach IEP At A Glance

List the issues that are in dispute from the IEP:

1. ______________________________________________________________________________________
2. ______________________________________________________________________________________
3. ______________________________________________________________________________________
4. ______________________________________________________________________________________

List possible resolutions to the dispute:

1. ______________________________________________________________________________________
2. ______________________________________________________________________________________
3. ______________________________________________________________________________________

School Psychologist/ Site Administrator Signature/Program Specialist                Date

For District IDR Office Use Only:

Program Specialist: ________________________

Date Parent Contacted: ______________   Staff Person Who Contacted Parent: ________________________

Date Issues Clarified: ______________   IDR Meeting Recommended: Y  N

Date IDR Meeting Scheduled: __________

Fax to: contact removed or E-mail in pdf to contact removed

Please ensure that the IEP signature page and all assessments are uploaded in SEIS for our access.