

A Qualitative Case Law Analysis Of New Jersey Public School Special Education  
Due Process Hearings and Rulings from 2010-2020

by

Michael T. Snyder

Dissertation Committee:

Dr. John Bormann

Dr. Thomas Costello

Dr. Christopher Huss

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## **ABSTRACT**

This study examined parents' motivations for filing for due process and the determining factors New Jersey Administrative Law Judges (ALJs) in the New Jersey Third Circuit court consider when they chair special education due process hearings regarding student placements. The researcher conducted a qualitative historical content analysis involving parents who unilaterally placed their children in more restrictive environment placements when compared to those proposed by the district. The use of frequency research, content analysis, and grounded theory allowed the researcher to identify and explore factors that ALJs consider when they rule on these placements. The researcher applied a case analysis format to a sample of 27 cases each from the New Jersey Third Circuit court then compared and contrasted the factors, represented by coded themes, that ALJs consider when deliberating over these due process hearings. Furthermore, this study evaluated the determining factors for choosing due process as the avenue for achieving FAPE, patterns within the hearing ruling related to demographics, and recommendations for practitioners and researchers of IDEA and the New Jersey Administrative Code.

## **DEDICATION**

This dissertation is dedicated with love and appreciation to my family. First and foremost, I want to dedicate this work to my parents, Lorraine and John, who devoted their lives to making sure my four siblings and I had everything we needed to become successful adults, even when it meant sacrificing so much of themselves. It is impossible to thank you adequately for everything you've done—loving unconditionally, instilling important values, and teaching us to celebrate and embrace life. I could not have asked for better parents or role models.

To my mother, Lorraine, on November 11, 1999, in your final written words to me, you told me to "pursue my dreams and be happy." You asked me to promise you that I will continue my schooling and finish my education. This dissertation is the fulfillment of that promise to you. You taught me to persevere and prepared me for the future. You remain a constant source of inspiration in my life decisions. To my father, John: You left us early, and I miss you every day. I strive to be the father you were and approach life with hard work, humbleness, and humor.

To my sister and brothers—Deborah, John, James, and William—who always supported me. Deborah and James, thank you for helping shape me into a young man, supporting and guiding me, and always being there no matter what. To John and William, thank you for taking me in and opening your homes to me. You provided me the opportunity to push forward in life, always see the light at the end of a long tunnel and pursue my dreams.

To my daughters, Kaitlyn and Emma—you are the lights of my life. Remember to pursue your dreams, be happy, and strive to be better today than yesterday. You have a full life ahead of you, and I know you can do anything you set your minds to. Finally, to my wife and best friend, Maura, who has been a constant source of support and encouragement to me. I am truly thankful for you in my life. You are my rock, and words cannot express how much I appreciate the love,

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## **CHAPTER 1**

### **INTRODUCTION AND BACKGROUND**

The New Jersey Administrative Code (NJAC 6A:14, Special Education) outlines specific laws and regulations governing special education to ensure that students with disabilities in New Jersey receive a free appropriate public education (FAPE). Through the development of policy and implementation documents, this code provides statewide leadership and guidance to school districts and parents in executing special education programs and services within the state of New Jersey and within the public school system (McGovern, 2015).

The National Center for Education Statistics (2020) estimates that approximately seven million students between age 3 and 21 currently receive special education and represent 13% of the students enrolled in public schools. Students with disabilities have distinct needs prompting their need for a tailored educational experience that provides them with similar education benefits as their same-aged peers. The Individuals with Disabilities Education Act (IDEA) governs and outlines the school districts' special education responsibility to eligible students with disabilities encompassing eligibility requirements, least restrictive environment requirements, continuum of placement and services, compliance timelines, and other legal mandates. At the center of these policies stands due process hearings and procedural safeguards.

IDEA requires due process, which lays down a legislative framework for the structured collection of policies and procedures to be adopted in special education systems by schools and districts for children in special education programs. Such policies and procedures are specified in the declaration of administrative protections of a school system and the local education policy (NJAC 6A:14). Under IDEA, a special education due process hearing is one of the three

principal administrative remedies available for parents to solve differences between themselves and school districts concerning the services provided to special needs students.

Rickey (2003) stated that special education placements are the most prevalent dispute between school districts and parents. In addition, Zirkel (2013) indicated that tuition reimbursement and compensatory education are the most common remedies sought in a study. In today's society, school districts often face many requests from parents to fund private out-of-state residential placements for students with disabilities. This historical case analysis examined the legislative provisions governing the funding and/or reimbursement by a school district of the cost of unilateral school placement and the factors used by administrative judges in the third circuit court system. It also examined the rulings and decision-making on the least restrictive environment (LRE) and continuum of placement requirements as set out in the New Jersey Administrative Code.

### **Background**

According to Katsiyannis et al. (2001), before the 1970s, states restricted children with disabilities from accessing public education since they were not viewed as a protected class within the law. It was not until the mid-20th century that the treatment and understanding of people with disabilities started in the United States (McGovern, 2015). A significant milestone in the fight for equal education rights was realized following the *Brown v. Board of Education* ruling, in which the court argued that segregation was a widespread practice. Another significant step towards education equality was discovered in 1975 after the Education for All Handicapped Children Law (EAHCA) was ratified by Congress, which provided students with disabilities a free and appropriate education (FAPE). The law showed that American society was starting to recognize the need to safeguard the rights of students with disabilities.

EAHCA was renamed the Individuals with Disabilities Act (IDEA) in 1990, according to McGovern (2015), and it has since been modified multiple times. FAPE and LRE remained constant, however. The fundamental principles of the Act that influence one another must be understood to understand IDEA's purposes fully, said McGovern (2015). These principles include (a) a school must first determine a student eligible for special education and related services, (b) a personalized educational plan should be developed outlining FAPE, and (c), the school uses the program to assess the suitability of each student's placement (McGovern, 2015).

IDEA was first revised in 1997. It impacted parent rights to the Individualized Education Program for their child for the first time, including the child's placement. Through this amendment, parents became members of the IEP team, became decision-makers in their child's IEP, and were required to participate in their child's IEP development. In 2004 IDEA was amended and re-authorized as the Individuals with Disabilities Education Improvement Act (IDEIA). Although the fundamental framework existed, there were significant revisions in the legislation. With these changes and the newly granted parents' and school districts' rights, conflicts between the parties increased (Reiman et al., 2007).

### **Problem Statement**

In today's society, school districts often face many requests from parents to fund private residential placements for students with disabilities. This historical case analysis reviewed the statutory provisions governing when a school district may be required to fund and/or reimburse a parent for the cost of unilateral private school placement and the factors utilized by administrative law judges in the Third Circuit court system.

According to the Data Accountability Center (2012), over 2,000 court cases have been heard and settled in the United States over the 2009–2010 school year, mainly related to student

special education placements. Zirkel and McGuire (2010) indicated that each hearing costs approximately \$50,000 in court and other legal fees alone, with an escalation of up to \$100,000. Often these hearings lead to high levels of financial and emotional strain, as well as fractured parent-school relationships (Feinburg et al., 2002).

Special education educators often differ on the most appropriate approaches to offering FAPE, especially because special needs children have varying abilities and thus require different educational methods (NJAC 6A:14). Challenges, therefore, arise on how to incorporate all these different approaches within a classroom and still benefit all students. Individualized Education Plans (IEPs) that refer to programs that offer student-specific specialized instruction and services intend to counter the emerging differences within FAPE (McMurtrey, 2016). However, what parents believe is best for their children and should be included in IEPs, in many instances, differs from the school's recommendations. Therefore, the NJAC 6A:14 provides a dispute resolution procedure that allows all disputing parties to reach a favorable consensus.

Students with a disability may receive their education in various educational settings starting from the least restrictive to the most restrictive. According to Rozalski et al. (2010), although the NJAC 6A:14 requires school districts to integrate students with disabilities in general classrooms, certain disabilities may prevent optimum attainment of the required educational outcomes, thus requiring schools to re-evaluate the most appropriate program option.

Placement in LRE considers three distinct factors: first, the student's ability to satisfactorily achieve the education outcomes in a regular classroom with support aids; second, a weighted measure of the benefits the child would receive if in a general classroom compared to a special class; and third, the potential advantages or disadvantages the student's placement may have on the student and their classmates. According to Rozalski et al. (2010), the placements

often focus on the students' IEP needs based on where the learner can move forward and achieve the IEP objectives.

In New Jersey, due process hearings arising from clashing views between school districts and parents occur often. Zirkel and Gischlar (2008) suggested that New Jersey ranks second across the United States regarding overall due process hearings. IDEIA mandates that NJAC 6A:14 and all the relevant literature should be the baseline from which special education is collaboratively developed. Nonetheless, Crabtree (2006) mentioned that a significant source of conflict between school districts and parents of disabled learners arises from conflicting educational theories (inclusion vs. more intensive and separate school/services) and their use to develop learner's Individualized Education Plans.

Arguments about the design, its implementation, and special education centers' locations are often marred with conflicting opinions (Feinberg et al., 2002). Those who participate in planning educational initiatives for disabled learners are often more familiar with what the learners need in terms of location, implementation, and program. Lake and Billingsley (2004) argued that differences in opinion between parents and school officials during the designing and implementation phases are typical. According to Katsiyannis and Herbst (2004), the tension stemming from these differences in opinion could result in the contentious relationship between the school district and the parents, which ultimately hinders the learner's educational well-being. The judiciary has the power to offer relevant relief such as tuition fees under the IDEA. It is assumed that all parents who managed unilateral placement under IDEA apply for tuition reimbursement hoping that the school district will fund the process.

## **Purpose**

The purpose of this case analysis was to review the statutory provisions governing when a school district may be required to reimburse a parent for the cost of unilateral residential school placement and the factors utilized in the 3rd Circuit court system by hearing officers to determine whether it must. This study investigated several Pre-K-12 public school students' due process cases in New Jersey to determine the frequencies and factors of due process cases from 2010–2020 in New Jersey school districts. Factors considered were related to due process wins and losses for the local education agency (LEA) and the parents of a student with a disability, the frequencies of special education court cases related to unilateral placements specifically residential in nature in the state of New Jersey, placement requests that move beyond the continuum of placements model, compliance with least restrictive requirements, and the trends noted in court cases of students receiving services under IDEA.

## **Research Questions**

**RQ1:** What are the frequencies of due process wins and losses for the local education agency (LEA) related to unilateral residential placements from 2010 to 2020 in the state of New Jersey?

**RQ2:** What are the frequencies of due process wins and losses for the parents related to unilateral placements specifically residential in nature from 2010 to 2020 in the state of New Jersey?

**RQ3:** What are the determining factors and trends noted within these court cases related to tuition reimbursement and/or funding?

**RQ4:** What was the continuum of placements considered as set forth in the code in terms of least restrictive requirements?



**RQ5:** What are the demographics, including the student's age, grade level, disability, the size of the school system, and placement outcomes within these proceedings?

### **Significance of the Study**

Previous research on special education due process trials has shown student placements in the most serious conflicts (Mueller & Carranza, 2011). Two further studies are consistent with this finding: Cope-Kasten (2013) studied 210 due process hearings and found that 35% of the cases involve placement. Rickey (2003) also noted in a study that 46% were linked to 50 due-process hearings.

Given the high volume of due process hearings in New Jersey, this researcher recognizes the importance of further examining the research on due process case rulings. The researcher was interested in examining due process hearings relative to unilateral residential placements over 10 years (2010–2020) to determine if there were any trends in the types of factors raised in due process hearings and the characteristics of the students who were the subject of these hearings. Specifically, the researcher focused on the frequencies of special education court cases related to unilateral residential placements in the state of New Jersey. Furthermore, perceptions exist that ALJs have supported parents searching for placements that may step outside the scope of the NJAC placement model and the least restrictive environment protocols in the Act. The final judgment comes from the hearing officer, and the researcher looked to find if there were statistically significant decisions in favor of parents where LRE placements have not been explored before placement in more restrictive environments. In addition, this researcher examined the trends to evaluate whether or not LEA's have rightly tried to follow the continuum of the placement model as set out in the NJAC in most of these decisions.

### **Limitations**

The limitations of this study are as follows. First, since this study only examined cases through New Jersey's third circuit court system, the findings may not correlate to other state rulings. Second, the case analysis format only covered unilateral placements to residential facilities, and the results may not apply to due process rulings for other placements. Third, this study analyzed a small sample of rulings, so the findings may not represent the entire state's rulings regarding unilateral placement decisions. Fourth, the case study involved an analysis of case law rulings, and the outcomes and explanations of these rulings rely solely on the accurate interpretation of the researcher. Finally, the decisions and rulings examined in this study involved different administrative law judges, the experiences and overall knowledge base of whom may vary, which can impact the final rulings.

### **Delimitations**

The study's results may not be generalizable because it was not determined whether the investigated case rulings represent the same factors in all examined instances. In addition, because the study was based on qualitative data analysis, much depends on the researcher's interpretation of the acquired information. Furthermore, due to the nature of this researcher's current position as a district-level special education administrator, this researcher's subjective feelings, experiences, and perceptions may influence this case study.

### **Definition of Terms**

**Student:** A person who is domiciled within a public school system and is classified or suspected as a student with a disability.

**Individualized Education Program (IEP):** A written plan detailing existing levels of academic success, organizational results, observable overall targets, and short-term expectations

or milestones that details an organized, systematic system of specifically planned educational programs and associated resources needed to meet the specified goals and objectives (NJAC 6A:14).

**Unilateral placement:** Occurs when a child is enrolled in a more restrictive educational environment by a parent, and the parent seeks compensation from the school board for the costs of such placements.

**Due process hearing:** An administrative hearing conducted by an administrative law judge. A parent requests due process when there is a disagreement regarding educational placement and the provision of a free, appropriate public education (NJAC 6A:14).

**Parent prevail ruling:** A prevailing parent ruling is defined as the ALJ's order that the student either remain or be placed in the unilateral placement and orders the school district to fund and/or reimburse the parent for such placement.

**Placement:** Location of special education services for a student, including services provided in general education settings and specialized settings that give the student access to the general education environment to the appropriate extent; includes unilateral placement of student by parent (NJAC 6A:14).

**LEA prevail ruling:** A prevailing ruling for the school district is described as the ALJ's order that the parent's petition be rejected and dismissed and that the school district be not liable for payment or repayment.

**Least restrictive environment (LRE):** The requirement in federal law that students with disabilities receive their educations, to the maximum extent appropriate, with non-disabled peers and that they are not removed from their local public schools to the greatest extent (NJAC 6A:14).

**Complaint:** A signed, written grievance of sufficient detail to indicate that an education agency may have failed to comply with the Individuals with Disabilities Education Act requirement and/or with a requirement of the New Jersey laws regarding special education (NJAC 6A:14).

**Individuals with Disabilities Education Act (IDEA):** The federal special education law (NJAC 6A:14).

**Education agency:** The entity against which a complaint may be filed includes local public schools and boards of education (NJAC 6A:14).

### **Acronyms and Associated Terms**

<b>Acronym</b>	<b>Term</b>
ALJ	Administrative Law Judge
EAHCA	Education for All Handicapped Children Act
FAPE	Free and Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IDEIA	Individuals with Disabilities Education Improvement Act
IEP	Individualized Education Plan
LEA	Local Education Agency
LRE	Least Restrictive Environment
NCES	National Center for Education Statistics
NJAC	New Jersey Administrative Code

## **Organization of the Study**

Chapter 1 provided an introduction to the New Jersey Administrative Code (NJAC 6A:14, Special Education). It included brief research statements related to special education and due process hearings, the significance of the study, definitions of terms, limitations, delimitations, and research questions. Chapter 2 includes a review of related special education literature, a review of research and theory related to the least restrictive environment, continuum of special education services, and an exploration of the research and theory about the special education judicial system and pertinent case law. Then, Chapter 3 explains the research design and methods used in this study.

## **CHAPTER 2**

### **REVIEW OF RELEVANT RESEARCH, THEORY, AND LITERATURE**

#### **Introduction**

This chapter provides an overview of the research related to special education, the Individuals with Disabilities Education Act (IDEA), the New Jersey Administrative Code (NJAC), Individualized Education Plans (IEP's), continuum of placements and services, special education due process resolution processes and disputes, and the frequent issues that initiate due process hearings. For school districts to have a firm grasp of special education litigation, it is crucial to better understand the complaints and concerns related to special education disputes. Newcomer and Zirkel (1999) claimed that education litigation serves two primary purposes: offering guidance to litigants about whether they should pursue cases and informing policy. In particular, Newcomer and Zirkel (1999) stressed placement as a dominant force in the field of special education litigation. In 63% of the cases, parents were requesting a more restrictive environment than the placements suggested by the school district. In addition, Newcomer and Zirkel (1999) found that placement was the primary litigated factor in 76% of the cases examined.

This chapter explores the research related to the statutory requirements of least restrictive environments, continuum of services, procedural safeguards available to parents and school districts linked to a review of comprehensive studies on due process hearings and the frequent issues that initiate these disputes.

Prior research in this area has illustrated possible problems with the due process system overall. Therefore a closer look and critique of the State of New Jersey might highlight the issues and supportive recommendations for system change. By taking a closer look into the nature of

these practices, the researcher identified the problems with the current design and implementation of these procedural safeguards to promote such change. Research may theoretically encourage state policymakers and writers of the next re-authorization to identify ways to facilitate more interactive models for student program growth and inherently lead to fairer dispute settlements for parents and school districts (Kavale & Forness, 2000).

### **Background on the Individuals with Disabilities Education Act (IDEA)**

The New Jersey Administrative Code (NJAC 6A:14, Special Education) outlines various policies and procedures to ensure that all students with disabilities in all public schools in New Jersey receive a free appropriate public education (FAPE). The code is a source of state leadership as it creates legislation, enforces documentation, and offers guidance on special education program development, design, and service delivery to parents and school districts (McGovern, 2015).

The Individuals with Disabilities Education Act (IDEA) describes the policies and procedures for special education programming with which the New Jersey Administrative Code follows. IDEA was initially recognized as the Education of Handicapped Children Act, a statute passed in 1975. Its amendments in 1990 realized the current name IDEA. IDEA's first amendment occurred in 1997 and affected the rights of parents to their child's Individualized Education Plan (IEP), including placement. Smith (2005) noted the specific focus of the reauthorization included clarification on student eligibility, the evaluation process, programming, private school placements, discipline, attorney's fees, dispute resolution, and procedural safeguards. With these changes, parents became active members of the IEP team, resulting in decision-making in the development of their child's programming and placement.

Another revision occurred in 2004 that realized a change in name from IDEA to the Individuals with Disabilities Education Improvement Act (IDEIA) that retained the statute's initial structure and significant amendments to the law itself. Although the Act is still known as IDEA, several changes were made to it during the amendment in 2004. The major change was the shift from a focus on process to a philosophical focus on the results and student achievement. Other changes emphasized developing an early intervention model and increased focus on learner achievement instead of overemphasizing compliance. According to Zirkel (2005), five main changes were in the amendment: (a) inclusion of intervention model, (b) minimizing the liability of a district to reject consent issues, (c) restructuring the manifestation determination process, (d) enabling IDEA funds for pre-referral approaches, and (e) putting into law a statute of limitations on filing for a legal hearing. The transformations enhanced the conflicts between parties, especially between the rights afforded to parents and school districts (Reiman et al., 2007).

The key assurances in the current IDEA version are the right to FAPE for students with disabilities in the LRE (IDEA, 2004). IDEA gives parents with disabilities the opportunity to collaborate with teachers and school district child study team members to create IEPs that address the child's varied needs and provides educational advantages (Pudelski, 2016). Under IDEA, parents also have the right to challenge whether their child is excluded from in-district programming or does not obtain adequate education (Kerr, 2000). The goal of IDEA includes protecting the rights of students with disabilities and their parents, assisting the state, local, and federal agencies to provide education, and ensuring educators have sufficient resources to achieve the various education requirements of these students.



## **Individualized Education Plans (IEPs)**

An estimated 14% of all school-aged children receive IDEA services for a wide variance of disabilities through IEPs that foster their academic success (NCES, 2020). IDEA mandates all public schools to establish an IEP for each student with an eligible disability. Any disability that directly or adversely impacts academic success after an extensive evaluation qualifies a student for an IEP (IDEA, 2004). The Individuals with Disabilities Education Act (IDEA) defines a child with a disability as one whose evaluation under the district's child study team reveals a specific learning disability, neurological difficulties or other health impairment, visual impairment, autism, speech/language impairment, hearing impairment, emotion regulation impairment, orthopedic impairment, or intellectual disability. It is possible to classify the disability categories that occurred most and least in schools with federal data. Learning disabilities are the most common student disabilities, representing 39% of all disabilities, including physical, neurological, and developmental disabilities. Diagnoses of these disorders include an estimated 7.6% and 6.7% of all disabilities (U.S. Department of Education, National Center for Education Statistics, 2009).

An IEP is a document created and agreed upon by a student's child study team specialist, teachers, parents, and, in some cases, the student themselves. The IEP outlines the effect of the disability on the student's educational performance, the student's current levels of academic achievement and functional performance, the academic year's measurable goals, how the child's progress toward meeting the annual goals are measured, and the special education support and related services needed for achieving those goals (NJAC 6A:14).

Smith (2000) defined an IEP as a binding relationship, directing, coordinating, and recording the unique instructional design of the student based on their social, emotional,

academic, and behavioral needs. It is crucial for IEP partners to extensively evaluate what the student can and cannot do to accomplish the most successful programming, services, strategies, and resources to define and personalize the learning.

According to Wright and Wright (2004), the IEP is immensely significant as it serves as "the centerpiece of special education law" (p. 7). Despite ongoing cooperation with many parties, the application of the IEP is often challenging, however, often resulting in lawsuits (Katsiyannis & Herbst, 2004). The essential purpose of an IEP is to reduce or eradicate the academic gaps of the student by regularly evaluating the child's developmental success against expectations and using the knowledge to guide teaching. Wright and Wright (2004) suggested that the lack of student advancement has led to extensive revisions of minimal development within academic areas dependent on the IEP. IDEA 2004 advocated a stronger focus on the educational performance of children with disabilities and how they meet national accountability standards (Skrtic, 2005). The resulting changes to the law's IEP legislation clearly express the lawmakers' expectations that special education instruction must be rooted in the least restrictive environment to the fullest degree possible.

### **Least Restrictive Environment**

According to the New Jersey Department of Education (2009), consistent with federal and state guidelines, all local education agencies are required to educate students with disabilities in the least restrictive environment (LRE) to the greatest extent possible. Therefore, it is critical that the school IEP team be mindful of in-district curriculum opportunities to improve the education of students with disabilities in-district and with their non-disabled peers. Given the extent of statewide out-of-district student placements throughout New Jersey, school districts must ensure that in-district placements take first consideration.

According to the NJDOE Office of Special Education Programs (2014), New Jersey public school attendance increased to about 1.3 million. According to the percentage of special needs pupils in state public schools, in 2012–2013, 202,850 of the state students were offered special education services. As of June 2013, more than 96,309 students were enrolled in the general education program about 80% of the time; 55,031 students were enrolled in the general education program between 40% and 80% of the time, and 35,483 students were enrolled in the general education course less than 40% of the time. Most special education pupils are students with unique cognitive difficulties (NJDOE, 2014).

According to Yell (2012), students with disabilities have the fundamental right to learn using strategies that meet their individual needs and allow them to progress in the general education curriculum. As Osborne and Russo (2014) highlighted, FAPE demands that every learner have equal education access, irrespective of disability. It is the role of the IEP team to determine FAPE. IDEA asserts that learners with disabilities need to be placed in the same classroom as their non-disabled peers to the maximum extent possible. The process is referred to as offering educational services in the least restrictive setting.

As school districts have faced the pressures of dealing with the LRE provision, there has been heated discussion surrounding school districts' procedures. Although IDEA does not directly demand integration, it implies that schools would make a "significant effort" to include children with disabilities in the least restrictive environment within their district of residence (McGovern, 2015). On all sides of the continuum, the integration controversy has attracted supporters, ranging from those who are wary of inclusive schooling in some way to those who endorse complete inclusion of all pupils, regardless of the severity of the disabling condition. Therefore, while the assumed starting placement is in the general education classroom, more

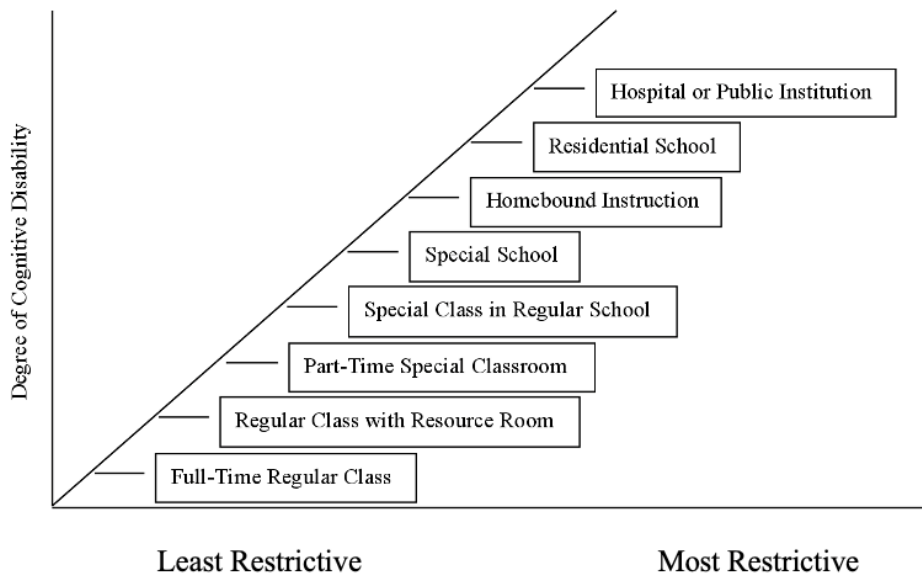
restrictive settings might be considered suitable depending on the needs of each student. If education in the regular classroom cannot be satisfactorily accomplished, school districts must have a continuum of alternative placements to be considered. However, school districts also have a responsibility to ensure that they are integrating students with disabilities with their non-disabled peers during times of the day, even when students are placed in more restrictive settings (McGovern, 2015).

Educational programming and placement tend to be crucial decision points in the IEP process, given the legal provisions of FAPE and LRE. For disabled students, these choices are incredibly critical in ensuring access to and engagement in an atmosphere that best facilitates positive outcomes. According to Becker et al. (2014), it is essential to analyze the planning process and how IEP teams decide on student programming needs and placement. Lawsuits can considerably affect all parties—learners, parents and/or guardians, and school district personnel. Consequently, in teaching children with special needs, fractured relations between parents and schools undermine effective strategies. Courts are usually mandated to interpret the law and provide a way forward on what is appropriate, and the school districts are expected to implement the law as interpreted.

### **Continuum of Placements and Services**

A continuum of placements should be offered for all learners under the special education umbrella (Yell et al., 2013). IDEA highlighted that the individual differences of the students should drive the placement recommendation. According to Bouck and Park (2016), the arguments about placements should be based on the student's needs, wants, and what their teacher and parents view to be best for them socially, emotionally, and academically. In addition to this, the law specifically notes that removing a student with a disability from LRE should only

come after the learner has failed to make meaningful progress despite having the support and services needed within in-district programming.



Adapted from "Caught in the Continuum: Critical Analysis of the Principle of the Least Restrictive Environment," by S. J. Taylor, 2004, *Research & Practice for Persons with Severe Disabilities*, 29, p. 220.

*Figure 1.* The special education continuum.

School districts are expected to offer a range of programs to guarantee LRE for disabled students, including general classrooms with supplementary aids and supports, resource rooms, special class programs, individualized and supplemental instruction, special education in a local public schools, out-of-district placements in approved private schools for students with disabilities, residential care or treatment facilities, and homebound instruction. Typically, the least restrictive setting for any learner is an in-district general education setting with supplementary aids and supports, and any other environment would be viewed as more restrictive. According to Yell (1995), LREs are challenging to create for students with special needs. Therefore, the New Jersey Administrative Code offers a continuum of placement and services for IEP teams to consider when deciding a student's most suitable learning environment.

For example, if the inclusive classroom setting has been examined and the school believes that it cannot provide sufficient education in that setting, maybe the school can contemplate another, more restricted placement choice.

The general education environment is the first choice for LRE placement, and how the placement is structured is unique to the student's specific needs. According to NJAC 6A: 14, the continuum of placement options include

- general education classes,
- general education classes with support services and/or modifications,
- a combination of general education and special education classes,
- self-contained special education classes,
- placements outside of a school district,
- home instruction, and
- residential care or treatment facilities.

As Smith (2005) mentioned, "The basic requirement of IDEA is to provide a free, appropriate public education to children with disabilities" (p. 318). Educators must offer FAPE to all learners, including disabled students, irrespective of their disabilities. Despite this, school systems face an increasing number of occurrences leading to court processes resulting from conflicts between the parents and schools. The IEP team must determine what the Least Restrictive Environment (LRE) is when evaluating an educational placement and where the child can progress towards the objectives of the IEP.

Antecedent court rulings may result in placement decisions beyond the continuum of placements model. However, in all situations, placements should be in an appropriate educational setting near the student's home and one which the student would have attended if not

disabled. Similarly, IDEA requires that the placement considers any potential adverse effects of the learning environment on the student or the quality of services they will receive (NJAC 6A:14). Parties involved in the placement process need to understand the student's strengths and weaknesses, the meaning of the student's assessment results and current IEP goals, and be knowledgeable of the various placement options.

Even though parents and child study teams collaborate hard and cooperatively to arrive at an acceptable IEP and placement for a child, there will be differences. Discrepancies can arise at any point in the process: whether or not an assessment of a child is to be undertaken; the types of assessments to be carried out; if a child is disabled; if so, which disability; what program and related services are required and how much learning; and if a child advances appropriately in a curriculum and placement. A parent has the right not only to disagree with the representatives of the school board but also parental rights to do something (Smith, 2005).

### **Unilateral Placements**

A unilateral placement refers to transferring a student from a public to a private institution searching for better special education. IDEA provides a parent with the right to seek reimbursement from school districts by declaring that the public school failed to offer the student FAPE. The administrative law judge (ALJ) has the right to give school districts an injunction to reimburse the parent for the enrollment cost if the ALJ determines the school district failed in providing FAPE and that the new placement is appropriate. In addition, the code requires that parents inform the district of residence of their intent to enroll their child in an alternative facility at public expense. The administrative judge may reduce or deny the reimbursement cost if the parents failed to inform the IEP team during the most recent meeting of their intent to reject the school district's IEP proposal and if the parents were unable to provide the school district with a

written notice detailing their concerns and plan to re-enroll the child within 10 days before the transfer of the child from the public institution.

Students with disabilities are often put in residential environments by a myriad of distinct public institutions or unilaterally placed by their guardians for many different reasons. Consequently, there is sometimes uncertainty as to which agency is responsible. This friction results in a breakdown of co-existence between schools and parents and expensive lawsuits. Parents will position their children unilaterally in residential placements and then petition for judicial oversight, arguing that the placement is educationally appropriate and the school district is financially liable, even when other least restrictive environments have not been explored. Cases requiring the location of children in out-of-district schools are costly for public school systems. In Katsiyannis and Herbst (2004), the judges claimed that school systems would be held responsible for financing unilateral placement if they decided that the placement suggested by the board was insufficient. The cost of residential placements at residential schools is nearly five times higher than the nationwide average for in-district special education services (Mayes & Zirkel, 2001).

### **Special Education Placement Disputes**

Identifying a child's eligibility for special education services may result in several disputes concerning the most appropriate interventions. Other than conflict, these differences in opinion often lead to broken relationships between the involved parties (Katsiyannis & Herbst, 2004). The violation of a parent's rights, including their voice in IEP meetings and decisions, heightens the chances of disputes between parents and the school district (Getty & Summy, 2004). The procedural safeguard rights of parents provide them with the ability to act when their conflicts with the school districts are beyond resolution at the district level (Getty & Summy,



2004). Parents have the right to pursue mediation and/or due process when in disagreement with school districts about their child's educational program and placement (NJAC 6A:14). The procedural protections of the IDEA provide parents with the ability to file concerns about their child's school education with local public schools. Disputes can be settled through arbitration, mediation, or due process administrative proceedings. According to Edwards (2004), while a formal hearing remains an initial proceeding under IDEA, changes of the law further emphasize alternate means of dispute resolution (Edwards, 2004). The subsequent two segments will evaluate the statutory mandates within mediation and due process.

### **Mediation**

Mediation has been an essential part of the conflict resolution processes since the IDEA analysis in 1997 (Feinberg et al., 2002). Mediation is a discretionary procedure for all sides to agree to first participate in the mediation process (NJAC 6A:14-2.6). For example, the New Jersey Department of Education has mediation to address disputes regarding eligibility, placement, evaluation and classifications, and the delivery of special education services (NJAC 6A:14-2.6). Mediation is a mechanism where neutral mediators, including individuals involved in the conflict, help parties settle their disputes and gain a deeper understanding of the issues involved (Fritz, 2008). The mediator neither takes sides nor advises the disputants but simply analyzes the problem and helps the parties reach a mutually acceptable solution. Standard solutions are legally binding. Mediation is less costly than an administrative law hearing since the mediator is borne by the state and attorneys are not required. The court promotes presumption at the beginning or at any point of proceedings where parties wish to settle the matter. To conduct the case, the complainants must provide ample evidence and aim to settle through mediation. Mediation must be done within 30 days, although lawsuits about due process

should be completed within 45 days from the complaint to the hearing about due process, which typically takes up to about 6 months (Fritz, 2008).

The first step to mediation entails the submission of an official proposal for mediation to the Department of Education through the Office of Special Education Policy and Dispute Resolution (SPDR). The Office of Special Education Services shall then arrange a mediation meeting no more than 15 days after receipt of the original request for mediation and ensure that the parties conclude no more than 30 days after the initial request for mediation has been made (NJAC 6A:14). The parties then negotiate the most suitable time and location to conduct the mediation session. Throughout the mediation process, the mediator guarantees that the parties participate in a thorough dialogue on the problems of the conflict and consider a wide variety of alternative solutions.

NJAC 6A:14 provides a series of distinct functions for the mediator to arrive at an optimal conflict settlement. The code demands that the mediator remain neutral when chairing the mediation session, thereby promoting their interpretation of the problems for realistic problem-solving. The mediator supports the parties in reaching a negotiated settlement, after which they prepare a document outlining the agreement. The mediator must also ensure that federal and state laws and rules are compiled within the prepared agreement. The Code also requires the mediator to delay the mediation conference to a later date within 45 days from the date of the original submission, at the demand of the parties, for more clarification on the problem and to suggest alternative remedies. Finally, the code grants mediators the power to end the mediation process in the light of their decision that the parties are not making progress (NJAC 6A:14). New Jersey orders the Special Education Services Division to administer the mediation process on behalf of the State Department of Education (NJAC 6A:14).

Parties shall stop proceeding with due process if a firm consensus is reached at the mediation table. Reaching consensus is beneficial given the detrimental impacts of due process, including emotional runoff, time-consuming, complex, and expensive design, and numerous formalities. Requests for mediation in the presence and assistance of a third party are often due to the parent's commitment to mending broken relationships during the disagreement and their hope of improving future communication. The belief that an agreement that will benefit the child will result from mediation outside formal structures of IEP meetings pushes most parents into first opting for the mediation process (Feinberg et al., 2002). Mediation is not a static approach as the disputants and the impartial third parties can review the strategy maintaining accordance with the values, practices, and policies laid by IDEA to ensure its effectiveness in handling the dispute.

### **Due Process Hearing**

Due process incidences have seen a dramatic increase despite mediation as the first option for dispute resolutions (Newcomer & Zirkel, 1999). One major factor contributing to this rise includes the insufficient knowledge of special education law among parents and school district staff (Katsiyannis & Herbst, 2004). In addition, poor problem-solving and communication skills among the involved parties contribute to the frequent conflicts during hearings. Similarly, the IDEA amendment stating all parents prevailing in due process hearings as qualified for any or all of the incurred expenses from the losing school district shaped the current evidenced rise in due process. Chambers et al. (2003) acknowledged that the amendment made more parents request due process hearings, making it very expensive for school districts to lose.

The first step to a due process hearing includes the remittance of an official request to the Department of Education through the Office of Special Education Policy and Dispute Resolution (SPDR). The plaintiff then sends a copy of the request to the defendant. The code requires that the defendant responds to the issues raised in the due process request within 10 days. The School district must provide a clear description of the options provided, reasons behind their rejection, a description of the evaluation criteria used, the assessment results considered, and the factors informing its refusal of the due process hearing within 10 days (NJAC 6A:14).

The special education due process hearing entails a formal legal setting similar to a court trial. A due process hearing plea occurs when parents and the school district disagree on issues such as identification, evaluation, educational placement, the support services offered to a student with a disability, and the child's provision of FAPE (NJAC 6A:14). The complexity and technicality of due process contribute to its expensive, time-consuming, and adversarial nature. While most due process requests arise from parents or guardians, school districts initiate the due process hearings (Getty & Summy, 2004). The non-prevailing party often has 90 days to file an appeal with the state or federal court if they find the due process ruling inappropriate (NJAC 6A:14).

### **Frequent Issues that Initiate Due Process Hearings**

Zirkel and Gischlar (2008) investigated court cases over 15 years (1991 to 2005). The authors collected the number of trials held by the court for the years 1991 to 2005. For the country, overall patterns shifted (steady increase followed by a plateau). There was steady growth from 1991 to 1996, followed by a flatter pattern from 1997 onward. However, when adjusting for the increase in special education enrollment, this flatter pattern oscillates. In looking at the figures for the entire time, Zirkel and Gischlar (2008) noted that very few states

have accounted for the vast majority of these hearings. New Jersey and New York account for almost half of all hearings heard during this period, with over 37,000 cases. The top eight states (New York, New Jersey, Pennsylvania, California, Maryland, Illinois, Connecticut, and Texas) account for 80% of the total. Nebraska, South Dakota, Alaska, Idaho, Montana, Wyoming, North Dakota, and Utah account for fewer than 40 due process hearings for the 15 years, amounting to fewer than 1% of the 37,069 hearings. These disparities were due to differences in culture and population (Zirkel & Gischlar, 2008).

Ascertaining the accuracy of due process hearings in most scenarios is difficult. Getty and Summy (2004) attributed this occurrence to the fact that most cases that receive rulings that favor the school districts without violation of the law are often statistically left out. Mueller and Carranza (2011) found that 25% of due process petitions concerned placement, while 24% targeted program suitability. Blackwell and Blackwell (2015) noted that IEP and placement led to issues with 34.3% and 30.4% occurrence, respectively, while procedural safeguards accounted for 10.3% and evaluation was reported to be 8.5%.

In terms of results, the available resources regarding the most prevailing party during these disputes are inconsistent. While some studies establish that parents prevail in a majority of the conflicts, others found that school districts prevailed more in both issues and due process hearings. For instance, the study by Newcomer and Zirkel (1999) examined court cases from January 1975 to March 1995. The authors randomly sampled 200 published court cases, which were appealed to either a federal or state court. Findings revealed that districts won 60% of the cases; however, on appeal, the margin narrowed down to 49% and 41% for districts and parents, respectively (Newcomer & Zirkel, 1999). According to the research by Archer (2002), Illinois

recorded a total of 343 cases between July 1997 and June 2002, where districts won 69.5% of these cases.

On the other hand, Rickey (2003) analyzed 50 hearings in Iowa between 1989 and 2001 and noted that districts won in 63% of the hearings. In areas such as Kentucky, parents won most of the disputes (Sultana, 1997). Nationally, 56% of the due process hearings evaluated by Chambers et al. (2003) favored the school district, while only 34% favored the parents.

Several recent studies indicate a similarity in trend in the winnings of districts over parents in a majority of the hearings. For example, a descriptive study of 575 hearings in 41 U.S. states between 2005 and 2006 by Mueller and Carranza (2011) indicated an 85% initiation of the hearings by parents and a 59% win for districts for all hearings. Also, Cope-Kasten (2013) examined 210 hearings in Wisconsin and Minnesota between 2000 and 2011 and noted that districts won in 90% of the hearings. A further examination of 122 hearings that included 480 separate disputes from Texas between 2006 and 2008 by Yocom (2010) noted that 393 (82%) issues favored the school districts. Finally, Blackwell and Blackwell (2015) evaluated 258 hearings from Massachusetts between 2005 and 2013 and identified a 55% win for districts and a mixed decision in 24.4% of the hearings. Additionally, out of the 495 issues in the 258 hearings, districts won in 62.5% of the cases, while there was a mixed reaction for 10.3% (Blackwell & Blackwell, 2015).

### **Landmark Special Education Law**

In the United States' legal framework, court rulings are guaranteed to play a major role in deciding what a given statute entails. This form of legislation is defined as "Case Law." Case law is established when courts are required to settle conflicts between parents and school districts,

where the court must understand what the law means in a particular situation. Several significant trials have arisen in the realm of special education law.

In *Burlington Sch. Committee v. Mass. Bd. of Ed. (1985)*, the Court established the right of parents to be reimbursed for private special education for the first time. This opinion held that a school district could be obligated to compensate parents for tuition and other costs associated with private school selection.

In *Florence County School District Four v. Shannon Carter (1993)*, the Court addressed the conditions by which a parent could be reimbursed for private education. The private school does not have to follow the state's education requirements to get public funding.

In *Oberti v. Board of Education of the Borough of Clementon (1993)*, the Third Circuit Court established a two-part examination for meeting the LRE condition under the IDEA. This condition is fulfilled by recognizing that the child is educated in a general education classroom with additional aids and resources. Also considered is the school system's action to support the child and the child's opportunity to obtain an educational advantage from regular school programming options. Second, if the court decides that placement outside of a standard classroom is appropriate for the child's educational gain, it must determine whether the school has tried to include the child in regular classes with non-disabled peers as much as possible.

In *D.B. v. Ocean Township Board of Education (1997)*, the court determined six additional criteria to determine the appropriateness of residential placement. The factors are the child displaying social and emotional issues that significantly interfered with their ability to learn, the child's conduct being so profound that it causes interference with their ability to learn meaningfully, the child having a substantial unrealized capacity that warranted residential placement for progress, clinical or educational providers agreeing that the child needed

residential placement (before the controversy occurred), and a residential placement demand being made mainly for educational purposes.

In *Andrew F. v. Douglas County School District* (2017), the Supreme Court reviewed the norm for FAPE. The question raised to the court was: What is the minimum standard of education for students with disabilities in public schools to obtain special education to ensure an adequate education? The court said that school districts must provide an educational program that is "reasonably calculated to enable the child to receive educational benefits" suitable for each child.

Finally, in *J.F. v. Byram School District* (2020), the court ruled against unilateral private school placement for a special education student. The third circuit court of appeals ruled that parents of special needs children would allow school districts a chance to address their particular needs before children are put in private schools on their own. The third circuit ruled that the parents were not entitled to compensation for tuition since the enrollment in the private school was unreasonably structured. First, federal special education law NJAC 6A:14-2.10(c) provides a minimum 10-day notice of their plan to enroll their pupil in a private school. Second, the parents' demand that their child attend the private school was unwarranted. The parents only met with the district twice, declined to participate in their student's school, did not meet with their student's prospective teachers, and refused to share their student's questions regarding the state program with the district.

School administrators and special educators require a high level of experience in law and service, facets of disability, and the instructional and practical programming needed for students with disabilities. As courts decide litigation and set precedents, it is essential to consider what



developments are occurring in special education so that school districts can develop and promote timely and well-informed special education resources and programs.

Chapter 3 begins to explain the research design and methodology used for the thesis. Implications are drawn from interpretations of the qualitative data. The researcher conducted a case study involving parents who sought to place their children in a more restrictive environment than proposed by the district, specifically residential placements. The content review helped to reveal important ALJ considerations when it rules in favor of certain placements. The researcher applied a case review format to the reference cases, then analyzed the different variables that the ALJs weigh when deciding these due process hearings.

## **CHAPTER 3**

### **DESIGN AND METHODOLOGY**

#### **Introduction and Rationale**

This chapter includes an overview of the research techniques used in this study. This study employed a qualitative content analysis. The nature of qualitative case study research lends itself well to systematic analysis through detailed coding, classification, and interpretation. The qualitative content analysis offers a context for the frequency research and a results assessment. Due to the mixed methods approach and research questions, the frequency research and result assessment present a snapshot of the numeric representation of the qualitative research questions as it relates to the quantitative research questions. The preparation, organization, and reporting of text-based subjective themes are complemented by frequency research and a results assessment. The chapter also details the cases studied, the case review selected, the use of qualitative content analysis, frequency research, and results assessment. The qualitative data will also be discussed in terms of rationale for the study, design overview, data sampling methods, data collection methods, and data analysis methods.

The use of qualitative content analysis in this research provided several opportunities. Fraenkel and Wallen (2006) defined content analysis as a method that allows researchers to analyze human activity indirectly by examining their experiences, relationships, and communications. Due to the qualitative nature of the examined data, a qualitative content analysis allowed for a passive yet accurate and objective analysis and interpretation of the information and data. By assessing the presence of specific terms, topics, or ideas, the court documents enabled the researcher to listen to the participants' voices provided in each special education complaint and due process petition to draw conclusions. By analyzing court cases, as

opposed to in-person interviews, the researcher avoided personal or singular interaction, which may have led to bias (Neuendorf, 2001). The content analysis technique allowed for interpretation of the rulings of each case without altering the results (Babbie, 2004). The discovery and description of the nature, significance, and interrelationships of various themes in the content allowed for assessing the degree of emphasis people placed on the cases and their outcomes (Bogdan & Biklen, 2003; Denzin & Lincoln, 2000).

Characterizing the underlying meaning and emphases assisted in the discovery of how content was being delivered, what was being articulated, why it was being conveyed, and with what results (Babbie, 2004). These data collection methods are used to obtain precise conclusions or to show trends and patterns within a given topic of interest. One of the most common forms of presenting researched data is through tables or charts while doing a content review, which provides clear and discernable results.

Gathering and analyzing data via content analysis, according to Stemler (2000), "enables researchers to sift through large volumes of data with relative ease in a systematic fashion . . . allowing us to discover and describe the focus of individual, group, institutional, or social attention." Therefore, a content analysis of New Jersey's administrative law hearings, rulings, and proceedings was performed to determine what kinds of issues, trends, patterns, and outcomes were presented. Due process is used to measure the overall results of judgments and illustrate potential associations between descriptive attributes and quantitative outcomes in terms of wins and losses, respective to a particular party. To carry this out, the special education due process judgments made in New Jersey between the years 2010 and 2020 were isolated into unilateral and described by the researcher.

A content review allowed for a near-full examination and understanding of the decisions ruled on by the administrative law judges to determine the system's positives and shortcomings. The content review also allowed the researcher to highlight possible issues arising within the existing special education dispute and litigation processes. Additional analysis is needed to ascertain the degree of correlation and potential causation between the descriptive features of due process hearing judgments and the result of the issue and demanded relief.

For the dataset and analyzed content to lead the researcher's conclusions, Grounded Theory was also used. According to Mills et al. (2006), "Grounded theory is a commonly used qualitative research approach that aims to inductively distill topics of significance for specific groups of people, establishing meaning about those concerns through theory analysis and modeling." In this way, the data itself reveals the theory through a systematic coding of emerging themes from a homogenous sample population. For this research, the population was participants in Pre-K-12 public school students' due process proceedings from 2010–2020 and will be discussed further in this section. The researcher focused on the participants' perceptions and feelings of the court proceedings' process and outcomes. By systematically coding participants' reflections as emerging themes, the researcher can analyze the perception of tactics used and outcomes garnered through the proceedings process in existence from 2010–2020. Furthermore, by focusing on "idea themes rather than details" (McMillan & Schumacher, 2010), the researcher can present a storied analysis guided by the participant data and research questions.

### **Restatement of the Research Questions**

Answers to the following questions were used to attain the purpose of this study's design and methodology.

**RQ1:** What is the frequency of due process wins and losses for the local education agency (LEA) related to unilateral placements, specifically residential in nature from 2010–2020, in the state of New Jersey?

**RQ2:** What is the frequency of due process wins and losses for the parents related to unilateral placements, specifically those residential in nature, from 2010–2020 in New Jersey?

**RQ3:** What are the determining factors and trends noted in court cases related to tuition reimbursement and/or funding?

**RQ4:** What continuum of placements were considered as set forth in the code in terms of least restrictive requirements?

**RQ5:** What are the demographic patterns, including the student's age, grade level, disability, and school system size, as related to the placement outcomes of these proceedings?

### **Description of Sample Population**

The researcher accessed the Westlaw legal database and reviewed all rulings between 2010 and 2020 on special education under New Jersey Administrative Law. Westlaw is an extensive judicial investigation website composed of full-text searchable legal proceedings. It helps researchers locate all federal, state, and local cases reported within an issue by keyword and browse the index's title, chapter, or section. Westlaw is up-to-date and continually updated with its database. This electronic research archive helps researchers insert unique keywords to retrieve the required material and obtain legal information. For example, this researcher entered the keywords "unilateral placements" to find the case sampling for this qualitative study.

This study investigated several Pre-K-12 public school students' due process proceedings to determine the frequencies and determining factors of due process cases from 2010–2020 in New Jersey. Factors considered were related to due process wins and losses for the local

education agency (LEA) and the parents of a student with a disability, the frequencies of special education court cases related to unilateral placements with an emphasis on residential in nature in the state of New Jersey, placement requests that move beyond the continuum of placements model, compliance with least restrictive requirements, tuition relief outcomes and the notable trends in court cases about students receiving services under IDEA. The researcher examined case descriptions, analyses, judgments, and placement findings to answer the study's research questions. In addition, other relevant factors included the student's age, the student's grade level, the student's disability, the size of the school system, the placement outcomes, and the prevailing party.

### **Data Collection and Sampling**

The researcher gathered and printed all special education due process cases involving unilateral placement disputes reported and/or defended in New Jersey from 2010 to 2020. The 34 individual cases were reviewed methodically for their suitability for this study. This researcher limited the sample size to cases heard in a New Jersey state court for the first time. As a result, all appeals were omitted from the sample size. Five appeals were included in the original 34 cases sampled. The researcher looked at the remaining 29 cases in the sample to see if they had all the information needed to finish the study and analysis. Case number, student age, student disability category, student grade level, pre-unilateral placement, school size, placement outcome, the prevailing party, and qualitative themes all needed to be identified for each case from the case brief. The disability category, school size, placement outcome, the prevailing party, and themes were all given special attention. Two of the remaining 29 cases lacked the information required to code the disability category, school size, placement outcome, and themes. The qualitative analysis would be difficult to construct without these categories. As a

result, these two cases were removed from the sample size, leaving 27 cases for analysis. The researcher created and used an 8-column frequency chart that included a case description/I.D. #, student age, disability category, grade level, school system size, placement outcome, the prevailing party, and presented themes. The eighth and final column reports the themes presented within each ruling. The themes that emerged from the content analysis were recorded in column 8, utilizing information extracted from the procedural history and final judgment included in the analysis.

These variables of significance were used when the cases were read. In Figure 2, the variables of significance are represented as columns and the cases are represented as rows. Once the variables' data were established, a descriptive analysis was used to calculate the percentages of the variables. The researcher carefully derived significance from the results to answer the study's questions raised in Chapter 1 by following the theme creation throughout each case review.

Figure 3 reports the themes among student placements presented within each ruling. The relief type was divided into three categories: compensatory education, tuition reimbursement-full, or tuition reimbursement-partial. These categories were assigned as follows: 1= compensatory education, 2= tuition reimbursement-full and 3- = tuition reimbursement-partial. The researcher compiled counts of how often each category occurs. Trend graphs, as well as frequency and percentages, are reported.

Gathering and reporting the data for each research question are designed to establish isolated and independent data while complementing each other. For example, for questions 1 and 2, calculating the wins and losses from either the local education agency (LEA) or parents' perspective provided a quantitative data point to measure the qualitative perceptions gathered in

questions 3 and 4 against statistical significance. Wins constitute favorable court outcomes, while losses represent unfavorable outcomes from the respective LEA's or parent's perspective. For question 3, the researcher coded the emerging themes from the court proceedings. Rather than focusing on details, this thematic approach can expose broader perceptions and expectations across the wide-ranging demographic and win/loss data sampling through systematic analysis.

For research questions 2 and 3, data from each case was also placed into the Continuum of Placements Chart (Figure 3). It consisted of 3 columns representing the LRE, Ruled Placement, and Relief Type. Thus, eight continua of placements are referred to in Chapter 2, along with defining factors related to ruled placement, relief type, and LRE as set forth by the code for each case. They were abbreviated as follows: FTRC- Full-Time Regular Class, RCRR- Regular Class with Resource Room, PTSC- Part-Time Special Classroom, SCRS- Special Class in Regular School, S.S.-.- Special School; H.I.-.- Home Instruction, R.S.-.- Residential School, H/PI- Hospital or Public Institution.

The continuum in question 4 represents a broad swath of educational placements where the individual needs of a student with disabilities can be implemented using an IEP. The placement options span from the least restrictive environment (i.e., general education classroom) to the most specialized facility (e.g., residential). Gathering and then analyzing the demographics of each student can amplify the context of each case and then, more importantly, the broader emerging themes. For question 5, age was represented by a numerical value and N/A when it was not provided. Grade levels were Pre-K-12, elementary, high school, or N/A when none is provided. Students' disabilities were represented by the New Jersey Administrative Code's existing terminology. School system size was coded by numerical values 1–7 representing N/A



(data unavailable, and population sizes ranging from 0–249, 250–499, 400–999, 1000–499, 1500–1999, 2000–2499, respectively.

### Data Collection Charts

Table 1

*Data Frequency Chart*

<i>Case ID #</i>	<i>Age</i>	<i>Disability Category</i>	<i>Grade Level</i>	<i>School Size</i>	<i>Placement Outcome</i>	<i>Prevailing Party</i>	<i>Themes</i>

Table 2

*Data Continuum of Placements Chart*

<i>Case ID #</i>	<i>LRE</i>	<i>Placement</i>	<i>Relief Type</i>

### Data Analysis Methods

This study used qualitative case study analysis as its methodology. Descriptive content and frequency analysis were used to interpret the results. The researcher first sought permission from Saint Peter's University's Institutional Review Board (IRB) to perform this research, ensuring that all rights were secured. The researcher then began the descriptive content analysis by reviewing all New Jersey administrative law decisions involving special education in the

Westlaw database. Next, the researcher conducted a frequency count of how many cases from 2010 to 2020 included the following data: the age of the students, their grade level, student disability type, the size of the school system, placement outcomes, the prevailing party, and tuition relief. The researcher then recorded this information on the due process hearing frequency chart. The researcher carefully derived meaning from the results to address the research questions raised in Chapter 1 by following the themes within each case study. The result for each case was used to arrange each column. Next, the researcher compiled counts of how often each category occurs. Trend graphs, as well as frequency and percentages, are reported. The strength of the trends that appeared and the amount of focus the cases put on particular aspects within each case law were used to draw conclusions. The qualitative researcher developed a growing awareness of the subject field as the analysis progresses. In the course of the investigation, the approach will also change as a result of the findings. In Chapter 4, the study's themes and findings are discussed.

## **CHAPTER 4**

### **PRESENTATION AND ANALYSIS OF THE DATA**

#### **Introduction**

This historical case study investigates the legislative provisions governing the funding and/or reimbursement by a school district of the costs associated with unilateral school placements and the administrative law judges' principles applied in the Third Circuit court system. It analyzes case law and policies related to the least restrictive environment, continuum of placement requirements, and student special education programming and services. It specifically looks at regulations outlined in the New Jersey Administrative Code. This analysis focuses on qualitative research and discovering and evaluating patterns in educational decisions about students' placement in educational institutions outside the district.

Parents who challenge the LEA's development of an IEP ensure that a FAPE is numerous. During the 2009–2010 school year alone, over 2,000 court cases were heard and settled in the United States. According to the data, these have primarily been associated with student special education placements (Data Accountability Center, 2012). The legal and judicial costs incurred in these instances were about \$50,000 per case, with some cases exceeding \$100,000 in fees incurred (Zirkel & McGuire, 2010). Despite these substantial expenditures, the financial constraints do not adequately compensate for the deterioration of parent-school relationships or the severe emotional strain placed on parents, educators, and, most crucially, children (Feinburg et al., 2002).

While each of these cases is unique and addresses the specific individual needs of each student, some trends appear through the rulings. These patterns, demonstrated through due process, present an association between descriptive attributes and quantitative outcomes

regarding wins and losses respective to a particular party. This study analyzes the descriptive trends and patterns associated with each due process judgment made in New Jersey between 2010 and 2020. These patterns have been proven through the legal process to link quantifiable outcomes to specific attributes of a participant (win/loss). This study is about how different judicial decisions in New Jersey between 2010 and 2020 are linked by their common themes and conclusions.

### **Sample Description**

The sample contained 34 New Jersey Third Circuit Court due process hearings, which took place between 2010 and 2020. Each formal case write-up is like each case: it is distinct and individual. However, most cases follow a general format. The events in the cases are supported by either a school district (designated as District) or a parent (identified as Parent). The cases share many of the following categories: Decision, Statement of the Case and Procedural History, Findings of Fact, Testimony, Legal Analysis and Conclusions of Law, The Burden of Proof, Conclusion, and Order. The cases may also have an appendix, which includes Witnesses and Exhibits. The Order was classified into three distinct outcomes: full reimbursement, partial reimbursement, and compensatory education.

The 34 individual cases were reviewed methodically for their suitability for this study. This researcher limited the sample size to cases heard in a New Jersey state court for the first time. As a result, all appeals were omitted from the sample size because appeals add more legal stages between a parent's unilateral placement of their child, their petition for remedy, and the final due process outcome. Because of the additional legal processes, the cases placed a far more considerable emphasis on legal procedural history. So they frequently centered on legal procedures, earlier judgments, and legal justifications for appeal. As a result, appeals provided

considerably less relevant information to the study's research topics. Five appeals were included in the original 34 cases sampled.

The researcher looked at the remaining 29 cases in the sample to see if they had all the information needed to finish the study and analysis. Case number, student age, disability category, grade level, pre-unilateral placement, school size, placement outcome, the prevailing party, and qualitative themes were all required to be identified for each case solely from the case brief (shown in Figure 2). The disability category, school size, placement outcome, the prevailing party, and themes were all given special attention. Two of the remaining 29 cases lacked the information required to code the disability category, school size, placement outcome, and themes. The qualitative analysis would be difficult to construct without these categories. As a result, these two cases were removed from the sample size, leaving 27 cases for analysis.

Based on the inputs on the 8-column Frequency Chart (Figure 2) and the 3-column Continuum of Placement Chart, the qualitative content analysis identified several key trends (Figure 3). Based on the information derived from the 27 cases, each chart provides a systematic and organized way to analyze the input data.

Table 3

*Frequency Chart*

<i>Case ID #</i>	<i>Age</i>	<i>Disability Category</i>	<i>Grade Level</i>	<i>School Size</i>	<i>Placement Outcome</i>	<i>Prevailing Party</i>	<i>Themes</i>
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In the Frequency Chart, the researcher can compare the demographics of the student, pre- and post-unilateral placement school, and court order with the descriptive themes, which are organized into column groups. The first column of the table contains the case number. The age of the student at the time of the original petition is shown in the second column. While most cases

expressly state the student's age, 8 of the 27 examples (or 29%) do not state the student's age or the date of birth. In one instance, the date of birth had been removed from the record.

The third column indicates the student's disability category. There are a total of 14 distinct disability classifications. This sample represents seven distinct categories, or 50% of all categories. Autistic (4; 14%), Communication Impaired (1; 3%), Emotionally Disturbed (2; 7%), Multiply Disabled (7; 25%), Other Health Impaired (2; 7%), Preschool Child with Disabilities (4; 14%), Specific Learning Disability (7; 25%). The groups with the highest prevalence are Multiply Disabled (25%) and Specific Learning Disability (25%).

The fourth column shows the student's grade level when the petition was first filed. In most cases, a grade level or equivalent is supplied, similar to the second column. However, the grade level was not specified in 5 cases (18%). In some cases, 1 or 3% of the population is classified as elementary, 2 or 7% as high school, 1 or 3% as no grade level, and 1 or 3% as Montclair Domiciliary. Students in the eighth, ninth, tenth, eleventh, and twelve grades had the highest concentration. 14 of the 27 cases (51%) were first petitioned while the students were in the eighth through twelfth grades, including the examples categorized as high school.

Column five categorizes the size of the student's previous school before unilateral placement. The population data provided by the New Jersey Department of Education was used to calculate the sizes. The column splits the school population into seven categories, with numbers 1–7 reflecting population sizes (Figure 4).

School size varied significantly across the sample. The two outliers include categories 3 (schools with 250–499 students) and 7 (schools with 2,000–2,499 students). Category 1 (N/A) represents either non-public schools, prominent among the cases involving preschoolers, or schools where population information was not available.

The sixth column describes the student's pre-unilateral and unilateral placement (UP) at a particular facility. To capture the pre-unilateral placement IEP, the researcher isolated key phrases and educational programs such as a "self-contained classroom" or "in-class resource/resource center for all or certain subjects." These phrases reflected the specific language in the ruling through the statement of facts or the testimony. For 25% or 7 of the 27 cases, the IEP called for student placement at a specialized facility, either public or non-public. A full quarter of the sample, parents, and the district agreed to share the associated costs in these cases. However, it was more common for the district to provide an IEP calling for the student to remain at the original school. In three (or 11%) of the cases, an IEP was not provided before UP, while in one case or 3% of the cases, an "equivalent IEP" was not provided before UP. The relationship between UPs, provided IEPs, lack of an IEP, and lack of an equivalent IEP and prevailing party will be analyzed later.

The Prevailing Party, as defined by the court's order, is listed in column seven. With one exception, these are simply labeled "Parent" or "District." In sum, the "Parent" won 10 of the 27 cases, or 37% of the time, while the "District" won 16 of the 27 cases, or 59% of the time. In a single case (3%), the order indicated that the "Parent" won one count while the "District" won one count. This case was unique within the sample.

The eighth column, titled Themes, lists the parents' claimed reasons for filing the petition and the subsequent court ruling. The lack of a suitable IEP, failure to give a FAPE, improper disability classification, or a combination of the three were common themes. Other prominent themes were expert advice not considered, lack of educational gain, or educational regression. Nearly all the instances revolved around a request for reimbursement of all or a portion of the UP expenses. Despite the high incidence of UP in residential settings, the topics rarely addressed or

focused on residential issues. The fact that the UP was primarily residential appeared to have no bearing on the specific judgment. The themes in Figure 1 (Appendix I) show the conflict between parents and districts over the appropriateness of educational facilities and IEPs provided by districts to achieve a FAPE.

### **Findings for Research Question 1**

The first research question focused on the frequencies of due process wins and losses for the local education agency (LEA) related to unilateral placements, specifically residential, from 2010–2020 in New Jersey. A total of 12 cases were included in the sample, all of which were petitioned due to a residential UP. The District won 8 of the 12 cases and lost 4 for a 67% frequency win and a 33% frequency loss. This relatively small sample size compared to the larger 27 case sample was unexpected, but it demonstrated that due process hearings featured more non-residential UPs than predicted. The greater number of non-residential UPs petitioned may imply that parents strive to keep their children close to familiar contexts and homes, except in the most extreme disability situations. This possibility, however, is outside the scope of this research. Regardless, the frequency of due process wins and losses connected to unilateral placement, whether residential or non-residential, is 16 wins out of 27 (or 59% frequency) and 10 losses out of 27 (or 37%). In one case, the District won on one count but lost on another, resulting in a split decision.

### **Findings for Research Question 2**

The second research question focused on the frequencies of due process wins and losses for the parents related to unilateral placements that were specifically residential from 2010–2020 in New Jersey. A total of 12 cases were included in the sample, all of which were petitioned due to a residential UP. The parent won 4 of the 12 lawsuits and lost 8, for a 33% frequency win and



a 67% frequency loss. The low number of cases involving residential placement, as noted in Question 1, was surprising.

Nonetheless, the frequency of due process wins and losses connected to unilateral placement, whether residential or non-residential, is 10 wins out of 27 (or 37% frequency) and 16 losses out of 27 (59%). In one case, the District won on one count but lost on another, resulting in a split decision. The decision was based on a prior agreement in which the District and Parent agreed to split the costs of a residential UP. Unfortunately, one party failed to uphold their end of the agreement while the other failed to provide formal notification to the other party. Ultimately, the due process ruling hinged on the product rather than the appropriateness of the more restricted educational setting and reestablished the settlement.

### **Findings for Research Question 3**

The third research question centered on the determining factors and trends noted in court cases related to tuition reimbursement and/or funding. Each case in the sample addresses tuition and/or funding. Aside from the appropriateness of an IEP or FAPE, reimbursement of tuition and/or expenses is the central focus of the hearings. The factors that determine whether tuition and/or expenses are reimbursed or not can be categorized into two trends: education or procedure. Statistically, the LRE fell into 1 of 8 possible categories: Full-time Regular class (8 cases, or 29%); Regular Class with Resource Room (5 cases, or 18%); Part-Time Special Classroom (3 cases, or 11%); Special Classroom in Regular School (3 cases, or 11%); Special School (6 cases, or 22%); Home Instruction (0 cases); Residential School (0 cases); Hospital or Public Institution (0 cases). The two most common LRE were the Full-time Regular Classroom at 29% of cases and the Special School at 22%. However, in all cases, the reimbursement of

tuition/funding was critical and was decided on the appropriateness of education and following the procedure.

Overwhelmingly, parents petition for reimbursement because they hold that their child was not provided with a FAPE due to a lack of an IEP or an appropriate IEP. Time and time again, the reason for petitioning is indicated as "failure to provide FAPE" and "did not identify special education eligibility in a timely manner." Other common phrase includes "IEP unreasonably calculated" or "IEP not provided." In the case of residential placement, the theme of "residential placement necessary" commonly appeared. Essentially, the parents using these phrases concluded that their child was not receiving an adequate education or disability services. Therefore, they were forced to unilaterally place their child in what they deemed to be an appropriate facility. Of the 27 cases, 33% (9) revolved around the appropriateness of the education provided. Of those, 7 were won by the parent and 2 were won by the District.

The second category—procedure—repeatedly appeared in the themes. The procedures often fall along two lines. Either judge determines that the District in question did not consider all "relevant factors," "did not perform evaluation," or "did not take experts recommendations into account." The impression is that the district in question did not act quickly enough to establish an appropriate IEP and, therefore, could not provide a FAPE. Conversely, when the parent in question loses the case, the judge uses phrasing to suggest that the parent acted too quickly. Phrases such as "timely notice required," "improper notice," and "no reason to suspect disability with provided information" indicate that the parent in question failed to follow the established procedures to achieve special education eligibility and create an appropriate IEP. This instance will be discussed in a later section. In both cases, the District or Parent did not follow the necessary procedures to establish a FAPE or UP. Eighteen of the 27 cases, a

supermajority of 66% of the cases in this sample, were decided based on the procedure. Of these, the District won 14 cases and the parent won 3. The single case with a split decision was also decided based on procedure, as reflected in Chart 2.

#### **Findings for Research Question 4**

The fourth research question concentrated on whether the final court rulings considered the continuum of placements as outlined in the New Jersey Administrative Code in terms of least restrictive requirements. The continuum of considered placements spanned from the resource rooms to part-time special classrooms to public institutions. In these cases, the presiding judges considered the length to which a district went to provide a FAPE through the continuum of placements, the appropriateness of those placements, and whether the District followed the necessary procedures (including within a timely manner) to provide both an IEP and a FAPE to a student with disabilities. Specifically, the placements included "limited class size," "speech, physical, and occupational therapy," "early intervention/home programming," and "behaviorist intervention." The "parent training" was also included in the continuum of placements considered in a few cases.

Specifically, the rulings are split evenly into two categories with a single outlier. The rulings on residential Ups—that is, rulings on the unilateral placement of a student at a Residential School (RS)—consisted of 13 of the 27 cases (48%). When the District won the case, the LRE included a special classroom, out-of-district or special school placements, or a self-contained classroom. Essentially, when the District in question actively provided appropriate programming considerations and/or program options and updated an IEP within procedural compliance, the District won the due process hearing. Of these 13 cases, the District won 8 or 61% of the cases.

Cases focusing on residential placements obtained by the parent, on the other hand, followed a less strict pattern. The parent prevailed in 30% of the 13 cases (4 of them). In these findings, the LREs were classified as either a failure by the District to follow procedure or an unsuitable IEP in the form of an inappropriate placement by the District. For example, in two instances involving procedure, the District either failed to evaluate the student to determine special education eligibility or was unable to provide an IEP for the student. In the last 13 cases involving a residential UP, the judge determined that the District had won on one count and the parent had won on another. The LRE was a contract between the District and the parent in which they agreed to split the costs of a placement in a residential educational facility. While districts are required to educate pupils close to their families, judges frequently fail to consider this requirement when ruling on due process matters of this sort.

The cases concerning a non-residential UP resulted in a more evenly distributed ruling. A total of 13 cases concerned non-residential UPs that resulted in placement at a Special School. Of those, the District won 7 or 53% and the parent won 6 or 46%. In these cases, less obvious trends appear when compared to the rulings on residential UPs. In cases where the District and the parent won, the LRE included similar program considerations such as in-class support and occupational, physical, and speech therapies. In the absence of a residential placement, it can be inferred that the distinction between the least (LRE) and the most (UP) restrictive educational setting had less effect on the final ruling.

### **Findings for Research Question 5**

The fifth research question looked at the demographics, including the age of the students, the grade level of the students, the students' disabilities, the size of the school system, and the placement outcomes within these proceedings. The student demographics ranged broadly.

Parents petitioned on behalf of their children of ages as low as 3 and high as 21. Disregarding the cases that did not state the student age, as previously mentioned, the ages are as follows: 3 (2, or 7%), 4 (1, or 3%), 5 (2, or 7%), 6 (1, or 3%), 9 (1, or 3%), 10 (1, or 3%), 13 (1, or 3%), 16 (5, or 18%), 18 (1, or 3%), 19 (1, or 3%), 20 (2, or 7%), and 21 (1, or 3%). The student grade level distribution followed a similar pattern: preschool (5, or 18%), grade 3 (1, or 3%), grade 4 (2, or 7%), grade 5 (2, or 7%), grade 8 (1, or 3%), grade 9 (4, or 14%), grade 10 (2, or 7%), grade 11 (3, or 11%), and grade 12 (2, or 7%). As previously mentioned, a grade level was not always provided. However, in one case, the student was identified as an elementary student, and in two cases, the students were identified as high school students. In two other cases, the students were identified as Domiciliary of Montclair.

Unexpectedly, the age/grade demographics are isolated mainly at the two ends of the spectrum. Ages 7, 8, 11, 12, 14, 15, and 17 are not represented in the cases, and neither are grades 1, 2, 6, and 7. Instead, the majority of the cases are younger/preschool students or older/high school students. In the preschool cases, the parent indicated that initial evaluations conducted by the District or independent experts determined that an IEP was needed. As a result, they pursued the provided IEP briefly before UP. Comparatively, the high school-aged student cases had long histories of pursuing IEPs and reworking IEPs, which may explain why fewer parents of middle school-aged students sought UP and petitioned the court.

The students' disability categories were identified in each case. Of the 14 possible classifications, the sample only included seven: Autistic (4, or 14%), Communication Impaired (1, or 3%), Emotionally Disturbed (2, or 7%), Multiply Disabled (7, or 7%), Other Health Impaired (2, or 7%), preschool Child with Disabilities (4, or 14%), Specific Learning Disability

(7, or 25%). The school district sizes represented a broad range. Parents pursued IEPs at schools as small as 49 students to more than 2,000 students (see Figure 3).

Table 4

*School Size Categories*

<i>School Size (Student Population)</i>	<b>N/A</b>	<b>0–249</b>	<b>250–499</b>	<b>500–999</b>	<b>1000–1499</b>	<b>1500–1999</b>	<b>2000–2499</b>
<i>Represented Category</i>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<i>Frequency</i>	<b>7</b>	<b>7</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>1</b>

This broad range reflects the notion that neither small nor large schools are more or less equipped to provide IEPs and an FAPE.

The demographics as they relate to the placement outcomes follow a distinct pattern. Petitioners seeking reimbursement for a residential UP were more likely to petition for a high school-aged student and were less likely to win their case. Seven of the residential UPs, all high school-aged, were denied reimbursement of tuition and associated fees. Conversely, younger students were less likely to experience a residential UP and were more likely to win their cases. School size held surprisingly little sway on the placement outcome or the win/loss frequencies.

**Summary of Main Findings**

The summary of the findings can be best understood by analyzing the themes, ruling patterns, and the relationship between themes and various rulings. While the frequency rates expressed in Research Questions 1 and 2 and the demographics noted in Research Question 5 provide important baseline data, the data coded in the two charts used to answer Research Questions 3 and 4 offer a valuable qualitative content analysis. Cross-referencing further

enriches the inferences derived from these data sources, specifically the trends revealed through the themes.

As previously indicated under the analysis of Research Question 4, the relationship between court orders, or the ruling, the focus of each case (residential or non-residential, appropriate education or procedure), and the themes played a significant role in the inference of patterns. This section focuses on presenting and analyzing critical trends revealed through the research and coding processes. An emphasis is placed on two specific trends revealed through the research and coding of the themes: themes related to residential UPs and the analysis of what can be labeled as untimeliness (broadly construed) of requests for and providing of IEP/FAPE.

As indicated in Questions 1 and 2, the data revealed a surprising amount of due process cases that did not involve a residential UP. However, an analysis of the themes exposed through the coding process related to the residential UPs is particularly pertinent to this research. The petitioning parent was more likely to list a combination of the District's failure to provide an appropriate IEP/FAPE and the failure of the District to cover the costs of UP when the UP was to a residential educational facility.

Effectively, a holistic reason for the initial petition was a multifaceted motivation to seek due process. This reason complicates the findings of Question 3, with 33% of cases decided based on the appropriateness of the education. In comparison, 66% were decided on how closely the parties followed the procedures to either provide or acquire an appropriate education (i.e., education or procedure). In the case of residential UPs, despite identifying the primary reason for petitioning (either education or procedure), the parent also strongly indicated a secondary reason for petitioning. A dual motivation for petitioning is that the parent has gone through trying to secure an appropriate IEP and FAPE for their child, has been unsuccessful for various reasons

and believes that the failure to provide an FAPE was not enough petition. Instead, or possibly more accurately in conjunction with the failure to provide an FAPE, the parent recognized a procedural failure on the part of the District. While this is certainly a possibility for a parent of a young child, this dual motivation occurred more commonly for parents of older children.

In these 13 cases (28% of the sample), the student tended to be in high school with a mean age of 18.25,<sup>1</sup> indicating that residential UPs are far more common among older students and those in high school. Thus, a larger proportion of residential UPs involve teenagers, but this fact may distract from a different trend. The prevailing disability category for those students who were part of a residential UP was Specific Learning Disability. In nearly half of the 13 cases (46%), the trend indicates that the specificity of their disabilities needed to be addressed in concrete ways believed to be beyond the capabilities of the Districts. This perceived failure to address such specificity and the older average age of the students leads this researcher to infer that Parents and Districts had attempted to collaborate on a solution for several years without success. Other disability categories represented in this sub-sample include Multiply Disabled (4 cases, or 30% of the 13 cases), Autistic (2 cases, or 15% of the 14 cases), and Other Health Impaired (1 case, or 7% of the 27 cases).

Another critical trend in the themes was the request for or the assertion of an untimely identification, evaluation, or claim. Seven of 27 cases, a quarter of this study's sample size, indicated that untimeliness (broadly construed) was a major contributing factor in petitioning for due process. This trend not only correlates with rulings being decided based on a given party's ability to follow the procedure for securing an IEP/FAPE, of which 18 of the 27 cases or 66%

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<sup>1</sup> Of these 13 cases, the court documentation revealed the ages of 8 students. For the remaining 5 cases, the grade level is revealed for 3 students (grade 9, 11, and 5 respectively). For 1 case, the documentation revealed that the student is in high school but does not provide an age or a specific grade. For the remaining case, neither the age nor the grade level is provided.



were decided. Commonly, the themes reveal that IEPs were not provided on time, options were not explored, or improper notice was provided. The trend also indicates that the expectations of either party to provide an IEP, a revised and appropriate IEP, or sufficient notice of a placement change varies considerably.

Charges of untimeliness (broadly construed) do not correlate to any specific age range, grade level, or disability category; neither do they necessarily reflect a failure on the part of the Parent or District. The average age of the 7 cases is 11.4, the median grade level is grade 9, the average school size is 4.14, and the most common disability category is Specific Learning Disability with only 3 cases. Multiply Disabled, Communication Impaired, Autistic, and Other Health Impaired were represented by 1 case each. Despite the lack of a prominent statistical trend, the themes could indicate that there has been significant miscommunication between parents and school districts and a significant lack of education on the procedures to follow when it comes to both requesting and providing an IEP/FAPE. Overwhelmingly, the untimely request, notice, or evaluation directly affects the success rate in a due process hearing, as either the parent or the District. Ultimately, the student suffers the consequences.

### **Conclusion**

The findings provide a critical step towards better understanding the frequencies, demographics, motivations, placements, and trends in school district funding and/or reimbursement for the cost of unilateral placement. The finding that most of the students connected to residential UPs in this sample were in their later teenage years and in high school suggests that their parents, educators, and administrators may be less knowledgeable of the procedures for requesting and providing an IEP/FAPE. A critical takeaway concerns following

procedures to request and provide an IEP/FAPE and disseminating those procedures to parents, educators, and administrators.

Within this sample, judges ruled more favorably for the party that accurately followed the procedures for acquiring and providing an IEP/FAPE. Therefore, an essential component to ensure that all parties follow IEP/FAPE procedures is to know the necessary procedures. Doing so may better prepare parents, districts, and students for the process of acquiring an appropriate education and potentially reduce due process hearings related to a failure to follow procedures.

## **CHAPTER 5**

### **SUMMARY, RECOMMENDATIONS, AND CONCLUSIONS**

#### **Introduction**

This last chapter summarizes and concludes the present study and makes recommendations for future research. First, a research overview will quickly describe the study's methodologies, sample, and findings. Next, it will go through the study topics, important terminology and how they are related, and the primary datasets. Following this introduction, a discussion of the findings will contextualize them and link them to the literature reviewed in Chapter 2. In addition, a thorough examination of the results' implications for practitioners will be presented. In the third section, five specific recommendations for further study in the areas of methodology, data collecting, and analysis are made.

#### **Overview of the Study**

This research examined due process hearings related to the Individuals with Disabilities Education Act (IDEA) decided by administrative judges from New Jersey's Third Circuit court system between 2010 and 2020. While other essential topics, such as detailing a school district's special education obligations, eligibility standards, compliance timeframes, continuum of placements, and least restrictive settings, highlight IDEA and its implementation, this study highlighted due process hearings. Hearings and procedural safeguards are at the heart of the IDEA's implementation and enforcement. As a result, the study questions focused on the decision-making process for the least restrictive environment, the continuum of placement criteria, and the decisions explicitly reported in IDEA due process hearings. The New Jersey Administrative Code provided the basis for these regulations and decisions. To address the focus, this researcher prepared the following research questions:

**RQ1:** What are the frequency of due process wins and losses for the local education agency (LEA) related to unilateral placements (UP), specifically residential in nature from 2010–2020, in the state of New Jersey?

**RQ2:** What is the frequency of due process wins and losses for the parents related to unilateral placements (UP), specifically residential in nature from 2010–2020, in the state of New Jersey?

**RQ3:** What are the determining factors and trends noted within these court cases related to tuition reimbursement and/or funding?

**RQ4:** What was the continuum of placements considered as set forth in the code in terms of least restrictive requirements?

**RQ5:** What are the demographic patterns, including the student's age, grade level, disability, and size of the school system as they relate to the placement outcomes within these proceedings?

The mixed-methods questions were designed to solve qualitative and quantitative issues and establish the link between frequency research results and qualitative research results. That link relates to the fundamental quantitative data (school size, student age, and grade level) and compliance with the New Jersey Administrative Code by developing an IEP and FAPE for eligible students. Each of these data points for a given case can be found in the hearing.

The research was able to combine qualitative and quantitative techniques by relying on due process hearings. The frequency study provided a quantitative approach for calculating the frequency of occurrences numerically. For example, the frequency study provided a numerical picture of the percentage of due process wins and losses (from the parents' and districts' viewpoints), the school size of the district, and the grade level of the students. While this was

important information required for this study, it depended mainly on qualitative content analysis. The qualitative content analysis essentially contextualized the quantitative frequency research and provided an appraisal of the quantitative results. When the content analysis reached the point of examining the subjective text-based themes obtained from the due process hearings, the quantitative context became significantly vital.

The final sample size of 27 instances was also conducive to quantitative content analysis combined with Grounded Theory. Using Grounded Theory, the researcher's findings were guided by the subjective text-based themes discovered in the cases. The systematic categorization of themes from the cases allowed each case to be treated identically without affecting the study's conclusions while focusing on the subjective reflections of the court processes and outcomes. By combining the frequency research, qualitative content analysis, and Grounded Theory methods, the researcher presented a storied analysis guided by research questions and participant data. An investigation of 27 Pre-K-12 public school students' due process hearings made up the limited sample size.

The study's findings were based on the perceptions and reflections of the participants, especially the parents, as documented in the due process hearings. Relevant frequency study findings, on the other hand, should be acknowledged. Only 7 of the 14 potential disability categories were represented in the results. Multiply Disabled and Specific Learning Disability were the two most common categories, accounting for half of the cases examined. Also of note, the student age and grade level tended to be older and at a higher grade level at the time of the original petition for due process. The majority of the cases (51%) were filed while the student was in the 8th through 12th grades.

This research aimed to investigate individual instances that had a high likelihood of placement in a residential facility. Unfortunately, the case rate was lower than planned, and therefore the theoretical focus moved a bit, as discussed previously. Twelve of the 17 instances (44%) involved unilateral residential placement. The district won 66% of the cases, while the parent won 33%.

Regardless of the form of the unilateral placement, the district won 16 (59%) of the 27 cases and the petitioning parent won 10 (37%). In a single case (3%), the district won on one count and the parent won on one count. While this was distinct within the sample, it may not be unique among all IDEA due process hearings held in New Jersey's third circuit court between 2010 and 2020.

The qualitative content study offered vital data sets for contextualizing these frequency results and analyzing patterns in deciding variables for petitioning and the placement continuum. The most important deciding variables were either educational or procedural. For example, 9 of the 27 instances (33%) were taken to court because of a purported lack of FAPE or failure to provide an IEP. The parent won seven, while the district won two. The issue of a lack of provided or implemented appropriate education frequently occurs during the coding process. In contrast, 18 of the 27 instances (66%) were decided based on a failure to follow IDEA procedures. These incidents all had one thing in common: a failure to follow the proper procedures. In addition, these cases regularly recorded instances of improper notice and untimely notice.

The placement continuum followed a recognized pattern as well. The decisions are divided into two groups, with a single exception. In residential unilateral placement rulings, the prevailing LRE corresponded to the victorious party in the due process hearing. When the district

won the case, the district offered accommodations such as a special classroom, out-of-district placements, or special school placements. Effectively, districts that produced and updated an IEP for a special education student won the due process hearing. The district won 8 of the 13 cases, accounting for 61% of the total. Parent-won instances (4; 30%) based on residential placements, on the other hand, followed a less consistent trend. The LREs in these decisions were divided into two categories: the district's failure to follow the process and the provision of an unsuitable IEP. In the last 13 cases involving unilateral residential placements, the court concluded that the district had won on one issue and the parent had won on another.

Cases involving non-residential unilateral placement resulted in a more equally divided judgment. Thirteen instances included non-residential unilateral placements that explicitly dealt with placement at a Special School; the district won 7 times (53% of cases), while the parent won six (46%). In comparison to the decisions on unilateral residential placements, less clear tendencies emerged. Similar accommodations, such as in-class support and occupational, physical, and speech therapy, accompanied situations in which both the district and the parent prevailed; nevertheless, neither outcome is related to the accommodations. In cases where there was no unilateral residential placement, this researcher concluded that the distinction between the least restrictive (LRE) and most restricted unilateral educational placements had less impact on the judgment. This researcher inferred that the distinction between the least (LRE) and the most (UP) restrictive educational setting held less sway over the final ruling in cases without unilateral residential placement.

### **Discussion and Implications**

Based on the research analysis methods and the findings, these research outcomes have implications for those actively pursuing and implementing FAPs and IEPs. To use the terms

from the due process hearings, the districts and the parents charged with developing and securing a fair and appropriate public education are doing so for those eligible for special education and those ultimately most affected by IDEA: the students. This study has strived to maintain an emphasis on the student through qualitative content analysis. The derived themes have allowed this study to maintain a focus on students.

The strongest sense of student presence occurs when the determining factor is an ineffective IEP or a lack of a FAPE. In cases where inappropriate special education or lack of it has been identified as the ruling's determining factor, the district and parent often collaborate. For example, as indicated in court testimony, there was collaboration between districts and parents to design and execute an IEP before filing the court petitions, but these collaborations were unsuccessful in each of these due process hearings. These examples, which emphasize instructional solutions, keep a focus on students and their educational needs. However, only about a third of the sample's instances (9 out of 27, or 33%) were entirely focused on the appropriateness of the education.

The remaining 18 cases, or 66%, were decided based on improperly following the IDEA procedures. This category of determining factor presents a dilemma for all involved: districts, parents, and students, most importantly. While IEPs and FAPes factored into the testimonies, petitions, and rulings, the procedure for developing, implementing, and securing an IEP and FAPE outweighed the educational intervention itself. Two related implications can be inferred from these data.

First, petitioned cases that are later decided based on failing to follow guidelines have minimal impact on the suitability of instruction for special education children. The evidence and precedents given before the court are procedural and place little emphasis on the student's



educational requirements. Rather than creating educational initiatives, the judgments were more likely to focus on tuition refunds.

Second, the procedures for developing and implementing IEPs and seeking out-of-district placement should be adequately explained to parents and fully institutionalized by districts for teachers and administrators. Miscommunication, insufficient notice, and an inability to integrate expert knowledge laid the groundwork for a petition and, ultimately, a judgment on the themes identified throughout the coding process. In essence, a lack of sufficient procedural knowledge permeated almost every case to some degree, including those in which the determining factor was an evaluation of the school itself. Districts should better inform and educate administrators, employees, academics, and parents on the proper processes for obtaining, developing, and implementing IEPs and out-of-district placement.

The methods used in this study enabled a more holistic approach to the data and participants. The reflections, perspectives, and emotions presented in the due process hearings—coded as themes—provided an essential understanding of the possible shortcomings of the IDEA due process procedures, acutely on display in the tone of the often-strained testimonies. It was common for the parent in question to have attempted to communicate and collaborate with the district faculty and staff to achieve a FAPE for their child. However, the mixed-methods approach exposed discrepancies in the form that collaboration took. For instance, it was also common for the parent to withhold privately acquired expert knowledge, such as psychological testing, from the district faculty and staff. Other parents in question commonly unilaterally placed their children out-of-district with little or no notice to the district. In these cases, the case was more often than not decided based on failure to follow procedures rather than the failure to provide a FAPE.

Similarly, the district as a participant in each case maintained a critical role. Testimony on behalf of the district (through the faculty, staff, and administrative witnesses) provided for a rich and lively display of subjecthood. Each individual representing the district in question maintained their perspective, despite their official capacity to represent the district. While distinguishing between the perspectives of district employees goes beyond the scope of this study, which will be addressed in recommendations for future research, the various district perspectives provided a kaleidoscopic view of many cases. These multiple district perspectives hinted at internal power struggles, office politics, and cross-department disputes that possibly affected the proper and timely execution of IDEA.

Approaching these cases as a whole rather than singling out specific and isolated data points led to a far fuller and broader picture. Analyzing themes and cross-referencing those themes with the frequency data empowered the researcher to distill research findings (presented in the analysis) confidently. Further, the critical analysis of the themes and evaluation of the frequency data in light of those themes meant that a single emotional testimony could be fully contextualized and not simply described as an isolated anecdote. Instead, the careful and deliberate reading of each anecdote, then compiling those into themes and comparing them with the frequency data, created a dataset able to be systematically analyzed.

This study's systematic evaluation of the analyzed datasets and sample compliments the prior research that has illustrated potential problem areas of the due process system overall. By conducting this study, this researcher has offered a closer evaluation and critical analysis of the implementation of IDEA and the due process hearing procedures, specifically in the third circuit court of New Jersey. Further, this study has offered supportive recommendations and highlighted specific problem areas by assessing the nature of these practices, their current design, and

implementation of the procedural safeguards. Following the trend in the literature related to recommendations, this research generated recommendations for state policy regarding the procedural safeguards and implementation of those safeguards (Kavale & Forness, 2000).

Specifically, this research highlights the gap between requesting an IEP and fully implementing IDEA. State policymakers and those writing the reauthorization policy should continue to require districts to formally train their faculty, staff, and administration on the IDEA procedures and educate parents with potentially eligible children on the procedures.

Incorporating retraining and education protocol into IDEA reauthorization policy seems of particular relevance considering that an estimated 14% of all school-aged children currently receive IDEA services (NCES, 2020). Unfortunately, this percentage does not account for those children possibly eligible for such services whose parents and/or district faculty, staff, and administrators are not adequately educated on the procedures for acquiring IDEA services. In effect, limited or lack of knowledge regarding IDEA services and procedures may be restricting eligible students from receiving the services to which they are entitled. Therefore, activities and community outreach are paramount to ensuring proper identification and early intervention for all students who receive special education and related services.

According to N.J.A.C. 6A:14, members of the school district CST must be familiar with the continuum of placements along the LRE. School district personnel must be aware of current case law requirements in delivering FAPE and placing students in the LRE, among other things. School districts should reference case law such as this when examining these requirements and develop district procedures with an understanding of how ALJs make decisions during unilateral due process hearings.

Parents must submit information and assessments to the district CSTs, who must evaluate the information. It is recommended that school districts establish a system of documentation to demonstrate that these assessments have been reviewed and evaluated by CST members from their respective districts. Additionally, it is essential to integrate information and suggestions from these outside assessments into the child's Individualized Education Program (IEP). While school districts are only required to consider these assessments and not necessarily accept them in their entirety, the multidisciplinary team perspective becomes vital to dealing with student placements. Therefore, all lenses should be considered when planning and implementing student programming.

### **Recommendations for Future Research**

Future research on the subject of IDEA should incorporate recommendations from five specific vantage points. Throughout this study, the research has identified areas for future research centered around entirely new questions, the evaluation of new datasets, and an altered evaluation of the data analyzed in this study. These five recommendations are also accompanied by a recommendation for a national-level study of the same design.

The research questions guiding this study, referenced at various points throughout this report, emphasized the perspective of the parent or petitioner, and the researcher collected data with this in mind. Other studies have found that disputes between involved parties, including parents, arise from the process for determining that a child is eligible for special education services and the most appropriate interventions (Getty & Summy, 2004; Katsiyannis & Herbst, 2004). In particular, Getty and Summy (2004) found that parents' rights are potentially and often violated by limiting or curtailing their voice in IEP meetings and decisions. To complement this conclusion, various other questions could be answered using the same datasets but emphasizing

the perspective of the District and its many faculty, staff, and administrative representatives. Questions regarding the district could potentially expose the district's inner workings related to the IDEA services and implementation of FAPE and IEP. Questions concerning the district's motivations for denying an IEP, justifications for out-of-district placement, or reasoning behind lack of tuition reimbursements would be worthwhile to ask.

An analysis of the distinction between various district employees, and their roles as faculty, staff, and administrators, could also prompt compelling and potentially valuable conclusions. Given the large percentage of cases in this sample decided based on the improper following of procedures, a critical line of questioning could center around the district's chain of command and carry out the procedures related to IDEA services. While parents initiate most due process hearings, some arise from the school districts (Getty & Summy, 2004), and better understanding these motivations for doing so could provide valuable insights. Using similar methods as this study, future research could analyze the inflection points to answer a question related to the breakdown of the IDEA services procedures from the perspective of the district's internal workings.

Each of these potential lines of questions could be answered using the same sample (or a similar sample) and qualitative content analysis approach. The due process hearings offer ample qualitative content and frequency research data from the district's perspective. The hearings, especially those with ample testimony, are poised to evaluate the district's role in IDEA services and procedures.

Along with new questions to be answered with the provided data, the questions in this study may have benefited from other forms of data beyond the due process hearings. One example in this study was the enrollment numbers for the school that each student in question

attended when the petition was initially filed. While these student-body population numbers helped contextualize each case, it was not critical to the analysis and ultimate conclusions. Instead, more specific data would have benefitted the research and analysis. For example, data concerning the student population from each school currently provided with an IEP or students eligible for special education would have potentially exposed the frequency and culture of special education at a given school. Also, the difference in mileage or driving time between the petitioner's home and the pre-unilateral placement school and unilateral placement school might have underscored the parent's perceived need for a unilateral placement.

Either of these datasets is available through the due process hearings, and they may not be available due to privacy limitations and the relatively recent hearings. Researching the same type of data, due process hearings, from an earlier period may yield a more robust sample and provide the opportunity to research special education population sizes per school and the petitioners' addresses. This relates to a different recommendation.

Mediation records are another data source aside from due process hearings that could yield critical and valuable conclusions. According to Edwards (2004), alternatives to formal hearings have been emphasized by changes to IDEA. Since 1997, mediation has been an essential part of IDEA (Feinberg et al., 2002). Several studies have homed in on the mediation process (Edwards, 2004; Feinberg et al., 2002; Fritz, 2008). However, the same or slightly altered researcher questions from this study could be asked of mediation records to conduct a regional study to better understand and glean a perspective on parents' motivations for pursuing the mediation process over a formal or due process hearing.

A connected recommendation could be to extend the temporal length of the study to multiple decades to acquire more varied data, as noted, and analyze the change in the data across

time. For example, Zirkel and Gischlar (2008) have conducted a long-term study covering 15 years (1991–2005). Newcomer and Zirkel (1999) similarly conducted a long-term research study of cases from 1975–1995. However, conclusions and themes could vary if compared over a more extended period and a more recent period, such as between 1990 and 2020. This approach may be of particular interest to researchers and practitioners alike. Newcomer and Zirkel (1999) found that parents tended to opt for due process, over mediation, as their first option for dispute resolution. As this study is now more than 20 years old, and other related studies are approaching the 2-decade mark (Chambers et al., 2003; Katsiyannis & Herbst, 2004), future research could develop a methodology that takes a long-term approach to evaluating the motivations for and outcomes of IDEA due process hearings.

Further, a set of appeals hearings could have enhanced and diversified the data, answered the same questions from a new court procedural perspective, and contributed to a unique study. Other studies have included and analyzed appeals (i.e., Newcomer & Zirkel, 1999), but a study analyzing appeals alone could develop research questions pertaining solely to the appeals process, which might offer unique and nuanced conclusions. The appeals were eliminated from this study's sample size, but the rate of cases that filed an appeal was heard, which ultimately reversed a ruling that would have offered a distinct layer to this study. Through an extension of the research questions in this study, a sample size with appeals could have been compared to the sample size without appeals. Critical analysis of the two and a comparison of the assessments and, critically, the themes derived from each sample might have offered fundamental differences and nuanced conclusions.

A third aspect of the recommendations revolves around using this sample and similar samples for entirely different purposes. This sample, and others like it, might be able to answer

questions related to factors that contribute to disproportionality, the influence of poverty, test bias, unequal resource allocation, the referral process, and behavior management practices. As often highlighted in the field and caught in the public's attention, being misidentified as needing special education, placed in a restrictive setting, or disciplined more frequently can negatively affect student outcomes and should be explored by comparing low-performing to high-performing districts. Student population can be explored based on school demographic and economic data characteristics.

The fourth suggestion is to conduct an exploratory qualitative cross-case research study on the decision-making processes of special education administrators working in high-performing and low-performing school districts is. Because there has been little research on the decision-making processes of special education administrators, this subject should be investigated. Finally, according to the available data, due process processes are expensive, controversial, and have a detrimental effect on school districts' financial resources, which leads to the fifth and final suggestion.

School districts and officials in charge of special education seem to be obliged to resolve conflicts via mediation and/or settlement agreements. Therefore, it is recommended that future studies investigate the impact that mediated agreements have on special education spending. In addition, policymakers should shift the focus away from procedural rulings and toward rulings that focus more on the individual needs of students, interventions provided, placements that represent LRE, and the continuation of placements and services as outlined in the New Jersey Administrative Code.

These five recommendations could also be expanded beyond a state study to a regional or even a national approach. While research funding and resources can be limited, those with the



ability to conduct a regional or even a national study might be able to do so using the same frequency research, qualitative content analysis, and Grounded Theory methods. Shuran and Roblyer's (2012) research on special education litigation in Tennessee and Archer's (2002) study on attorney representation and hearing outcomes in Illinois have taken a state-based approach. Larger regional and national approaches could potentially offer greater insight. This type of broad-scale study could aid in the comparison of rural and urban districts and various regions and states while providing a national context. In addition, a national study would be poised to make significant recommendations for federal, state, and local level factors that shape decision-making.

### **Conclusion**

The laws and regulations that the New Jersey Administrative Code (N.J.A.C. 6A:14, Special Education) outline ensures that each student with disabilities receives a free and appropriate public education (FAPE) in the state of New Jersey. In addition, this code establishes statewide guidance to school districts and parents for implementing special education programs through the New Jersey public school system (McGovern, 2015). A primary aspect of executing this code involves the Individuals with Disabilities Act (IDEA), the development of an individualized education plan (IEP), and due process, which lays out a legislative framework.

This study performed a qualitative content analysis supported by frequency research and grounded theory to understand due process processes and their efficacy better. Those results revealed important qualitative patterns and statistical trends, which were arranged into two data charts. The findings of questions one and two are presented in the form of frequency research. The answers to questions three and four provide a thorough assessment of the qualitative themes that emerged from the due process hearings. Answers to question five provided the demographic

information required. Another significant result of the research was that both schools and parents failed to follow the protocols, either because of misunderstanding, misguidance, or misdirection, or a combination of these factors, according to the study's findings. While the limited sample size of 27 cases and the circumscribed sample population – those cases in the third circuit court of New Jersey – reduces the representative nature of the findings, the results can still yield potential implications beyond the sample, third circuit court, and New Jersey. This study provided data and findings of value to academic education researchers and practitioners alike.

## REFERENCES

- Archer, M. (2002). Access and equity in the due process system: Attorney representation and hearing outcomes in Illinois: 1997–2002. <http://www.dueprocessillinois.org/Access.pdf>
- Babbie, E. R. (2004). *The practice of social research* (10th ed.). Thomson/Wadsworth.
- Becker, S. P., Paternite, C. E., & Evans, S. W. (2014). Special educators' conceptualizations of emotional disturbance and educational placement decision making for middle and high school students. *School Mental Health: A Multidisciplinary Research and Practice Journal*, 6(3), 163–174. <https://doi.org/10.1007/s12310-014-9119-7>
- Blackwell, W. H., & Blackwell, V. V. (2015). A longitudinal study of special education due process hearings in Massachusetts: Issues, representation, and student characteristics. *Sage Open*, 51(1), 1–11.
- Bogdan, R. C., & Biklen, S. K. (2003). *Qualitative research in education: An introduction to theories and methods* (4th ed.). Allyn and Bacon.
- Bouck, E. C., & Park, J. (2016). Inclusion and students with an intellectual disability. In *General and special education inclusion in an age of change: Impact on students with disabilities* (Advances in Special Education, vol. 31). Emerald Group Publishing Limited.
- Chambers, J. G., Ham, J. J., & Dhanani, A. (2003). What are we spending on procedural safeguards in special education, 1999–2000? United States Department of Education, Office of Special Education Programs.
- Cope-Kasten, C. (2013). Bidding (fair) well to due process: The need for a fairer final stage in special education dispute resolution. *Journal of Law & Education*, 42, 501–540.
- Crabtree, R. K. (2016). Due process hearings. <http://www.wrightslaw.com/info/dp.hearings.crabtree.htm>

Denzin N., & Lincoln Y. (Eds.) (2000). *Handbook of qualitative research*. Sage Publication.

Education for All Handicapped Children Act, 20 U.S.C.A. §1401-1461. (1975). Education of the Handicapped Act Amendments of 1986, 20 U.S.C. 147 et seq and 1419 et seq.

Edwards, D. (2004). New amendments to resolving special education disputes: Any good IDEAs? *Pepperdine Dispute Resolution Law Journal*, 1 <https://digitalcommons.pepperdine.edu/drlj/vol5/iss1/5>

Feinburg, E., Beyer, J., & Moses, P. (2002). Beyond mediation: Strategies for appropriate early 136 dispute resolution in special education. Consortium for Appropriate Dispute Resolution in Special Education (CADRE), <http://eric.ed.gov/?id=ED476294>

Fraenkel, J. R., & Wallen, N. E. (2006). *How to design and evaluate research in education* (6th ed.). McGraw-Hill.

Fritz, J. M. (2008). Improving special education mediation. *International Review of Sociology*, 18(3), 469–480.

Getty, L. A., & Summy, S. E. (2004, January/February). The course of due process. *Teaching Exceptional Children*, 36(3), 40–43.

Individuals with Disabilities Education Act, 20 U.S.C. § 1400. (2004).

Individuals with Disabilities Education Act Amendments of 1997, PL 105-17 (1997).

Individuals With Disabilities Education Act, Federal Regulations, 34 C.F.R. § 300.

Individuals With Disabilities Education Act, 20 U.S.C. § 1400 (2004).

Katsiyannis, A., & Herbst, M. (2004, November). Minimize litigation in special education. *Intervention in School and Clinic*, 40(2), 106–110.

Katsiyannis, A., Yell, M., & Bradley, R. (2001). Reflections on the 25th anniversary of the individuals with disabilities education act. *Remedial and Special Education*, 22, 324–334.

- Kavale, K., & Forness, S. (2000). History, rhetoric, and reality: Analysis of the inclusion debate. *Remedial and Special Education, 21*(5), 279-296.
- Kerr, S. (2000, September). Special education due process hearings. [www.harborouselaw.com/articles/dp.kerr.htm](http://www.harborouselaw.com/articles/dp.kerr.htm)
- Lake, J. F., & Billingsley, B. S. (2000). An analysis of factors that contribute to parent–school conflict in special education. *Remedial and Special Education, 21*(4), 240–251.
- Mayes, T.A., & Zirkel, P.A. (2001, November/December). Special education tuition reimbursement claims: An empirical analysis. *Remedial and Special Education, 22*(6), 350–357.
- McGovern, M. (2015). Least restrictive environment: Fulfilling the promises of IDEA. *Widener Law Review, 21*(117), 117–137.
- McMillan, J. H. and Schumacher, S. (2010). *Research in education: Evidence-based inquiry* (7th ed.). Pearson.
- McMurtrey, K. (2016). The IDEA and the use of mediation and collaborative dispute resolution in due process disputes. *Journal of Dispute Resolution, 2016*(1), 1-15. <https://scholarship.law.missouri.edu/jdr/vol2016/iss1/12>
- Mills, J., Bonner, A., & Francis, K. (2006). The development of constructivist grounded theory. *International Journal of Qualitative Methods, 5*(1), 1–10.
- Mueller, T. G., & Carranza, F. (2011). An examination of special education due process hearings. *Journal of Disability Policy Studies, 22*, 131–139.
- National Center for Education Statistics. (2021). Students with Disabilities. The condition of education. Data Accountability Center. <https://nces.ed.gov/programs/coe/indicator/cgg>

- Neuendorf, K. (2017). *The content analysis guidebook* (2nd ed.). SAGE Publications. <https://www.doi.org/10.4135/9781071802878>
- Newcomer, J. R., & Zirkel, P. A. (1999). An analysis of judicial outcomes of special education cases. *Exceptional Children*, 65, 469–480.
- New Jersey Administrative Code N.J.A.C. 6A: 14, Special Education. 2016.
- Osborne, A. G., & Russo, C. J. (2014). *Special education and the law: A guide for practitioners*. Corwin Press.
- Pudelski, S. (2016). Rethinking special education due process. American Association of School Administrators. [http://www.aasa.org/uploadedFiles/Policy\\_and\\_Advocacy/Public\\_Policy\\_Resources/Special\\_Education/AASARethinkingSpecialEdDueProcess.pdf](http://www.aasa.org/uploadedFiles/Policy_and_Advocacy/Public_Policy_Resources/Special_Education/AASARethinkingSpecialEdDueProcess.pdf)
- Reiman, J., Beck, L., Peter, M., Zeller, D., Moses, P., & Engiles, A. (2007, April). Initial review of research literature on appropriate dispute resolution in special education. Consortium for Appropriate Dispute Resolution in Special Education. <http://files.eric.ed.gov/fulltext/ED498823.pdf>
- Rickey, K. (2003). Special education due process hearings: Student characteristics, issues, and decisions. *Journal of Disability Policy Studies*, 14, 46–53.
- Rozalski, M., Stewart, A., & Miller, J. (2010). How to determine the least restrictive environment for students with disabilities. *Exceptionality*, 18(3), 151–163.
- Shuran, M. B., & Roblyer, M. D. (2012). Legal challenge: Characteristics of special education litigation in Tennessee schools. *NASSP Bulletin*, 96(1), 44–66.
- Skrtic, T. M. (2005). A political economy of learning disabilities. *Learning Disabilities Quarterly*, 28(2), 149–155.

- Smith, S. (2000). Creating useful individualized education programs (IEPs). (Report No. ED449636). ERIC. <https://files.eric.ed.gov/fulltext/ED449636.pdf>
- Smith, T. E. C. (2005). IDEA 2004: Another round in the reauthorization process. *Remedial and Special Education, 26*(6), 314–319. <https://doi.org/10.1177/07419325050260060101>
- Stemler, S. (2000). An overview of content analysis. *Practical Assessment, Research, and Evaluation, 7*, Article 17.
- Sultana, Q. (1997, November). Analysis of impartial due process hearings: Implications for educators. Paper presented at the annual meeting of the Mid-South Educational Research Association, Memphis, TN. (ERIC Document Reproduction Service No. ED414698).
- Taylor, S. J. (2004). Caught in the continuum: A critical analysis of the principle of the least restrictive environment. *Research and Practice for Persons with Severe Disabilities, 29*(4), 218–230.
- Wright, P. D., & Wright, P. W. (2004). Your child's IEP: Practical and legal guidance for parents. [https://www.wrightslaw.com/advoc/articles/iep\\_guidance.html](https://www.wrightslaw.com/advoc/articles/iep_guidance.html)
- Yell, M. L. (1995). Least restrictive environment, inclusion, and students with disabilities: A legal analysis. *The Journal of Special Education, 28*(4), 389–404. <https://doi.org/10.1177/002246699502800401>
- Yell, M. L. (2012). *The law and special education*. Pearson.
- Yell, M., Katsiyannis, A., Ennis, R. P., & Losinski, M. (2013). Avoiding procedural errors in individualized education program development. *Teaching Exceptional Children, 46*(1), 56–64. <https://doi.org/10.1177/004005991304600107>
- Yocom, S. S. (2010). *Special education hearings in Texas: An analysis of trends and decisions from 2006–2008* (ED517107) [Doctoral dissertation, Tarleton State University]. ERIC.

- Zirkel, P. A . (2005). A primer of special education law. *Teaching Exceptional Children*, 38, 62–63.
- Zirkel, P. A. (2013). "Appropriate" decisions under the Individuals with Disabilities Education Act. *Journal of the National Association of Administrative Law*, 1, <https://digitalcommons.pepperdine.edu/naalj/vol33/iss1/6>
- Zirkel, P. A., & Gischlar, K. L. (2008). Due process hearings under the IDEA: A longitudinal frequency analysis. *Journal of Special Education Leadership*, 21, 22–31.
- Zirkel, P. A., McGuire, B. (2010). A roadmap to legal dispute resolution for students with disabilities. *Journal of Special Education Leadership*, 23, 100–112.



## **COURT CASES CITED**

Burlington Sch. Committee v. Mass. Bd. of Ed. (1985).

Brown v. Board of Education of Topeka (1954).

D.B. v. Ocean Township Board of Education (1997).

Andrew F. v. Douglas County School District (2017).

Florence County School District Four v. Shannon Carter (1993).

J.F. v. Byram School District (2020).

Oberti v. Board of Education of the Borough of Clementon (1993).

### **THIRD CIRCUIT COURT OF NEW JERSEY COURT CASES (SAMPLE CASES)**

C.E. and A.E. on behalf of C.E. v. Northern Highlands Regional High School District Board of Education (2018).

C.P. on behalf of D.V. v. Fairlawn Board of Education (2012).

D.B. and D.B. on behalf of H.B. v. North Hunterdon/Voorhees Regional High Board of Education (2018).

D.D. and D.D. on behalf of S.D. v. West Windsor-Plainsboro Regional Board of Education (2019).

E.B. on behalf of B.K. v. Bernards Township Board of Education (2011).

E.M. and J.M. on behalf of A.M. v. Northern Valley Regional Board of Education (2019).

E.P. and R.P. on behalf of S.P. v. Freehold Regional High Board of Education (2012).

F.H. and .H.M. on behalf of J.H. v. West Morris Regional Board of Education (2019).

F.R. and C.R. on behalf of J.R. v. Verona Board of Education (2019).

G.G. and L.G. on behalf of M.G. v. Montclair Board of Education (2018).

G.G. and L.G. on behalf of M.G. v. Montclair Board of Education (2019).

G.R. and K.R. on behalf of J.R. v. Montclair Board of Education, Essex County (2010).

G.R. and S.R. on behalf of D.R. v. Mount Olive Township Board of Education (2014).

J.D. and B.D. on behalf of W.D. v. Summit City School Board of Education (2017).

J.F. and J.F. on behalf of J.F. v. Byram Township Board of Education (2015).

J.S. and J.S. on behalf of B.S. v. Green Brook Township Board of Education (2019).

J.S. and V.S. on behalf of A.S. v. Teaneck Board of Education (2015).

J.W. and M.W. on behalf of A.W. v. Medford Lake Borough Board of Education (2019).

Jackson Township Board of Education v. S.G. and K.G. on behalf of A.G. (2016).

Jackson Township Board of Education v. S.G., on behalf of A.G., and K.G., on behalf of A.G. (2017).

K.M. and J.M. on behalf of K.M. v. Watchung Hills Regional Board of Education (2014).

K. S. and M. S. on behalf of A. S. v. Summit City Board of Education (2012).

L.A. and O.A. on behalf of J.A. v. Alexandria Township Board of Education (2015).

L.W. and J.W. on behalf of R.W. v. Norwood Board of Education (2011).

M.I. on behalf of M.I. V. North Hunterdon-Voorhees Regional High Board of Education (2019).

M.P. and J.P. on behalf of S.P. v. Millburn Township Board of Education (2015).

M.S. and D.S., individually, and as guardians ad litem of N.S. v. Randolph Board of Education (2019).

Madison Board of Education v. S.S. and D.S. on behalf of R.S. (2020).

Madison Board of Education v. S.V. and M.V. on behalf of C.V. (2020).

Max Mittman, Bonnie Mittman, and David Mittman v. Livingston Township Board of Education (2010).

Millburn Township Board of Education v. M.P. et al. (2016).

North Hunterdon/Voorhees Regional High Board of Education v. D.B. and D.B. on behalf of H.B. (2018).

Northern Highlands Regional High School Board of Education v. C.E. and A.E. on behalf of C.E. (2018).

Northern Highlands Regional High School Board of Education v. C.E. and A.E. on behalf of C.E. (2019).

P.C. and J.C. on behalf of R.C. v. Harrington Park Board of Education (2014).

T.O. and K.O. on behalf of J.O. v. Summit Board of Education (2012).

## APPENDIX A

### DATA FREQUENCY CHART (COLLECTION)

Table 1

Data Frequency Chart

<i>Case ID #</i>	<i>Age</i>	<i>Disability Category</i>	<i>Grade Level</i>		<i>School Size</i>	<i>Placement Outcome</i>	<i>Prevailing Party</i>	<i>Themes</i>
2020 WL 5269874	3	Autistic	Preschool 1	N/A 1		Pre-school disabled program classroom UP SEARCH	Parent	-Placement not at school -Unreasonable -Did not follow procedures -Precedents -UP appropriate for category
2010 WL 3947548	N/A	Specific learning disability	High school	1661 6		Mainstream program applied to all classes UP Island View, residential	District	-Reimbursement -Wrongful declassification -Improper notice -Untimely claim -No not to give proper notice -Unreasonable action
2014 WL 3383281 (N.J. Adm.)	16	Multiply Disabled	Grade 9	452 3		Mutually agreed IEP placing child at private out-of-district school UP Marvelwood residential	District	-Failure to provide FAPE -Seek reimbursement -Timely notice required -Intent must be communicated -Reasonable action
2015 WL 4140689 (N.J. Adm.)	16	Multiply Disabled ADHD	Grade 10	513 4		In-class support in language and math with pull-out support UP Eagle Hill School (private boarding school)	Parent	-Failure to provide FAPE -Seek reimbursement -Disabilities inaccurately described -Alternative school not deemed appropriate
2012 WL 5828603 (N.J. Adm.)	16	Specific learning disability	Grade 9	N/A 1		IEP called for placement at Cornerstone UP Vista Residential Treatment Center	District	-IEP unreasonably calculated -Unapproved school -Failure to provide FAPE -Citing unpublished cases -Cases not persuasive -Parents accepted IEP

2018 WL 3518131 (N.J. Adm.)	20	Autistic	Grade 12	2013 7	No equivalent IEP provided UP Riverview School, residential school	District	-Settlement breach -Failure to provide FAPE -Failed to provide FAPE determined -Stay put already in effect
2016 WL 2958381 (N.J. Adm.)	N/A	Specific Learning Disability	Grade 9	1587 6	District requested evaluations, decided not to evaluate, referred to Section 504 UP Tree of Knowledge, residential	Parent	-Compel evaluation of student -IEP not created in timely manner -FAPE not offered -Failure to disclose documentary evidence -Prior judgments do not relieve District of obligations
2019 WL 4189602 (N.J. Adm.)	21	Multiply Disabled	Domiciliary of Montclair	NA/1 Non-Public	Agreed to share costs of placement at Purnell school, residential, UP Ramapo for Children in New York, Young Adult Residential transition Program	Parent/District	-FAPE denied -Reimbursed expenses -Fairness and equity determine outcome -lack of formal written notice does not bar reimbursement -Compensatory ed a remedy
2018 WL 5910187 (N.J. Adm.)	N/A	Autistic	N/A	1538 6	District agreed to placement at Woods Services residential and agrees to pay for day program UP Woods Services (collects aid for day and residential program)	Parent	-Stop payment of non-educational costs -Sought stay-put order for continued residential placement -Agreed to place student at a residential facility
2015 WL 9254126 (N.J. Adm.)	N/A	Multiply disabled for math and emotional disturbed PTSD	Grade 11	1279 5	Agreed that therapeutic day school needed, placed at SAGE School UP New Haven residential treatment Center	Parent	-Disputed FAPE -Residential school needed over day school -Ed regression at District placement -No meaningful ed benefit -diagnosed disorders prevented ed benefits
2019 WL 1451262 (N.J. Adm.)	N/A	Emotionally disturbed	Grade 4	392 2	Placement at Center School UP Lewis School	Parent	-Compensatory ed, independent evaluations, tuition reimbursement requested -Failure of FAPE for several years -no appropriate in district school -Inappropriate district placement -Distance from parent's home to district placement too far -Inadequate district placement

2019 WL 2998774 (N.J. Adm.)	19	Other Health Impaired	Grade 12	NA/1	Self-contained classroom for majority of subjects UP New York Institute of Technology, Vocational Independence Program, residential	District	-IEP not provided -FAPE not provided -Independent evaluation requested -Most recent reevaluation appropriate and adequate
2014 WL 2591343 (N.J. Adm.)	18	Specific learning Disability ADHD	Grade 11	1441 5	Life skills curriculum, resource center for multiple subjects, Special class placement, ESY, social skills, modifications/supports UP Brehm School, residential	District	-FAPE failure -Residential placement necessary -Credible showing not provided -Parent testimony not convincing -Ed performance did not reflect regression
2019 WL 4928819 (N.J. Adm.)	N/A	Specific learning disability	Grade 5	163 2	Modified grades, assistive technology use, use of FM system UP Cambridge School, residential	District	-IEP disputed -FAPA not provided -Compensatory ed and reimbursement sought -development and implementation of several IEPs -Considered all factors
2012 WL 3656241 (N.J. Adm.)	5	Preschool disabled	Preschoo l	153 2	CST proposed all-day ABA class, occupational therapy, physical therapy, non- confrontational/non- demand instruction methodology UP Montessori Children's Academy	Parent	-CST failure to provide FAPE -Reimburse tuition and expenses -All relevant factors not taken in account -Experts' recommendations not considered -Significant educational advancement since UP
2017 WL 2999998 (N.J. Adm.)	N/A	Multiply Disabled Autism spectrum disorder Leukemia	Grade 5	365 2	Speech therapy, behaviorist intervention, parent training UP Spectrum 360	Parent	-Reimburse home instruction, compensatory education, private evaluations and expert costs -Continued funding for placement until ed achievements made -Reasonable UP -One size fits all inappropriate solution by District
2010 WL 2546398 (N.J. Adm.)	5	Preschool disabled	Preschoo l	46 2	Developmental learning center UP Children's Center School at Montclair State University	District	-Financial reimbursement -FAPE not provided -Sufficient program through school year -Both parties agreed on less-restrictive ed environment

2011 WL 5518888 (N.J. Adm.)	16	Specific Learning Disability ADHD/anxiety/OCD	High school	1636 6	Options such as I&RS program, CST evaluation, MAP UP Oak Creek ranch school, residential	District	-Inaccurate classification -Financial reimbursement for placement -No reason to suspect disability with provided information -General education did not deny educational benefit
2015 WL 9254134 (N.J. Adm.)	4	Preschool disable	Preschool 1	NA/1 Non-Public	Limited class size, ABA instruction and consultation, and parent training UP SEARCH/SHLI	Parent	-In-district placement error -Certain rights denied by not allowing meaningful input -Substance/process of IEP denied FAPE -IEP did not confer meaningful educational benefit -Inappropriate accommodations -appropriate UP by parents
2011 WL 280824 (N.J. Adm.)	10	Communication Impaired	Grade 3	623 4	Speech, occupational, and physical therapy, LLD class, resource room pull-outs for all subjects UP the Community School	District	-CST failed to offer FAPE -Third-grade IEP program not finalized -Options not explored by parents -Ample choices provided by District -Deficits uniformly agreed upon
2014 WL 7508674 (N.J. Adm.)	6	Autistic	Elementary-No grade level listed	693 4	Early intervention/home programming, hybrid program, ABA UP Goddard School and the JCC Therapeutic Nursery	District	-Inadequate IEP -Failure to provide FAPE for 2 years -Delayed IEP -Active communication between District and parents -Student progress
2011 WL 3216618 (N.J. Adm.)	3	Preschool disabled	Preschool 1	NA/1 Non-Public	Extensive supplemental education services such as occupational therapy, home program, coordination services, etc. UP Carbone Clinic	District	-disagree with IEP -Failure to provide FAPE -FAPE provided in least restrictive environment -UP at Carbone Clinic either a school or approved by dept of ed
2012 WL 3879379 (N.J. Adm.)	13	Multiply Disabled Language based learning disability/ADD	Grade 8	437 2	Long list of accommodations such as pre-teaching, graphic organizers, extended time for tests, etc. UP Banyan School	District	-Failure to provide FAPE -reasonably designed IEP provided -Private vs. public school comparison inappropriate -Banyan offered no panacea -Better adjusted in public school



2019 WL 1451261 (N.J. Adm.)	16	Other health impaired	Grade 11	657 4	In-class support in English UP Fusion Academy	District	-Did not identify SPED eligibility in timely manner -Failed to offer IEP without full knowledge of student status -Seek reimbursement and compensatory education -Good student with good grades -IEP offered -Section 504 Accommodations offered
2019 WL 1259460 (N.J. Adm.)	N/A	Emotional ly disturbed	Grade 10	1290 5	Petitioners agreed to look at Being Successful Program UP Purnell School	District	-Consent revoked -No intent to reenroll -No request for another IEP -Lack of evidence that District failed to comply
2019 WL 5583909 (N.J. Adm.)	9	Specific Learning Disability ADHD ASD	Grade 4	387 2	IEP not created because ADHD not automatic IEP UP Flex School	District	-Did not identify SPED eligibility in timely manner -IEP failure -Financial reimbursement -Responsive District -Appropriate response
2018 WL 5910186 (N.J. Adm.)	20	Multiply Disabled	Domicili ary of Montclai r	NA/1 Non- Publi c	IEP meeting not set before the beginning of the next school year UP Aspiro Adventure, residential	Parent	-FAPE denied -Reimbursement of expenses -Compensatory ed requested -Lack of corroborating evidence -Compensatory ed remedy -Addressing FAPE denial must be fully explored

**APPENDIX B**

**CONTINUUM OF PLACEMENTS CHART (COLLECTION)**

<i>Case ID #</i>	<i>LRE</i>	<i>Placement</i>	<i>Relief Type</i>
2020 WL 5269874	SCRS	SS	2
2010 WL 3947548	FTRC	RS	N/A
2014 WL 3383281 (N.J. Adm.)	SS	RS	N/A
2015 WL 4140689 (N.J. Adm.)	RCRR	RS	2
2012 WL 5828603 (N.J. Adm.)	SS	RS	N/A
2018 WL 3518131 (N.J. Adm.)	FTRC	RS	N/A
2016 WL 2958381 (N.J. Adm.)	FTRC	RS	2

2019 WL 4189602 (N.J. Adm.)	RS	RS	3
2018 WL 5910187 (N.J. Adm.)	RS	RS	2
2015 WL 9254126 (N.J. Adm.)	SS	RS	2
2019 WL 1451262 (N.J. Adm.)	SS	SS	1
2019 WL 2998774 (N.J. Adm.)	PTSC	SS	N/A
2014 WL 2591343 (N.J. Adm.)	SCRS	RS	N/A
2019 WL 4928819 (N.J. Adm.)	RCRR	SS	N/A
2012 WL 3656241 (N.J. Adm.)	SCRS	RS	2
2017 WL 2999998 (N.J. Adm.)	RCRR	SS	2

2010 WL 2546398 (N.J. Adm.)	SS	SS	N/A
2011 WL 5518888 (N.J. Adm.)	SS	RS	N/A
2015 WL 9254134 (N.J. Adm.)	PTSC	SS	2
2011 WL 280824 (N.J. Adm.)	RCRR	SS	N/A
2014 WL 7508674 (N.J. Adm.)	PTRC	SS	N/A
2011 WL 3216618 (N.J. Adm.)	RCRR	H/PI	N/A
2012 WL 3879379 (N.J. Adm.)	FTRC	SS	N/A
2019 WL 1451261 (N.J. Adm.)	FTRC	SS	N/A
2019 WL 1259460 (N.J. Adm.)	FTRC	SS	N/A

2019 WL 5583909 (N.J. Adm.)	FTRC	SS	N/A
2018 WL 5910186 (N.J. Adm.)	FTRC	RS	2

Table 2

*Continuum of Placements Chart*

	FTRC	RCRR	PTSC	SCRS	SS	HI	RS	H/PI
LRE	8	5	3	3	6	0	0	0
Placement	0	0	0	0	13	0	13	1
Relief Type	1: Compensatory Education		2: Tuition Reimbursement: Full		3: Tuition Reimbursement: Partial		N/A: District won	
	1		9		1		16	