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A Comparison of Mediation and
the Due Process Hearing as Means for
Resolution of Disputes in Special Education

presented by

James Ellis Lake

has been accepted towards fulfillment
of the requirements for

Ph.D. degree in Ed. Administration

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A COMPARISON OF MEDIATION AND
THE DUE PROCESS HEARING AS MEANS FOR
RESOLUTION OF DISPUTES IN SPECIAL EDUCATION

By

James Ellis Lake

A DISSERTATION

Submitted to
Michigan State University
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ABSTRACT

A COMPARISON OF MEDIATION AND THE DUE PROCESS HEARING AS MEANS FOR RESOLUTION OF DISPUTES IN SPECIAL EDUCATION

By

James Ellis Lake

In the Michigan Revised Administrative Rules for Special Education (1987) there are two methods listed for solving disputes in special education. They are: the Due Process Hearing and Mediation. Due Process Hearings are legalistic and adversarial while Mediations are based on negotiation and reconciliation. The researcher compared the perceptions of the disputants within each process. Also compared are the perceptions of similar disputant roles between processes. The purpose was: (1) to obtain demographic data on the parents and students who were disputants and (2) to compare the processes, themselves.

The populations of hearings and Mediations from 7-1-88 to 12-31-89 were sampled. Parents, directly involved school administrators, hearing officers and mediators were interviewed by telephone with the same series of question with appropriate context modifications requiring them to recall particulars about their perceptions of their Mediation(s) or Due Process Hearing(s).

The use of both processes seemed limited to parents making \$40,000 or more per year and those with at least some college education. Students about whom Mediations occur were younger than those about whom hearings are held.

Female students were more often represented in Mediations despite the fact that two thirds of the population in special education is male. Gender ratios in hearings approximated state wide averages.

When it came to special education dispute resolution, only the schools come away satisfied with the results or process. Parents in general, are not happy with either the process or results of Mediation or Due Process Hearings. This is not surprising since parents lose 86% of Due Process Hearings and they usually compromise during Mediation. However, when one examines the two dispute resolution alternatives together, an important image emerges. On nearly any measure one chooses (cost, cooperation, satisfaction, fairness, settlement and reoccurrence of conflict) parents participating in Mediations are significantly more positive about the process than those participating in hearings. Mediation is less costly, less legalistic, fosters more cooperation, reoccurs less frequently and results in greater satisfaction on the part of parents and schools than Due Process Hearings.

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DEDICATION

For more than six years of graduate coursework and research my wife Patricia Carlson and two children Allysan and Kaitlin have supported and in the worst of times, tolerated my absence, distraction and preoccupation brought about with obtaining the degree, of which this paper is the culmination. I am convinced that the P in Ph.D. stands for perseverance and patience....theirs. It is with love and gratitude that this work is dedicated to them.

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CHAPTER I

STATEMENT OF THE PROBLEM

Introduction

In the Michigan Revised Administrative Rules for Special Education (1987) there are two methods listed for solving disputes associated with the identification, evaluation or programming for students in special education. The methods are: the Due Process Hearing and Mediation. The Due Process Hearing is basically a legalistic, adversarial process which uses a Hearing Officer as judge. The hearing officer convenes the hearing; listens to and reads evidence presented by the disputants; and renders a written decision. An appeal of the decision is available. Upon appeal another Hearing Officer reviews the transcripts and evidence presented in written form. He or she may overturn or let stand the initial decision. Powers of enforcement of the decision reside with the Michigan Department of Education. No enforcement powers are provided to the Hearing Officer. Withholding of state funds from the school district or court action against the parents are the strongest means of enforcement. The Due Process Hearing has been part of the formal dispute resolution process provided in the Michigan Administrative Rules for Special Education since their promulgation in 1976.

A standard dictionary defines Mediation as "intervention between conflicting parties or viewpoints to promote reconciliation, settlement, compromise or

understanding." Mediation of special education disputes was added to the Administrative Rules in the 1987 revision. To provide a construct for the Mediation process, Michigan Special Education Mediation Services (MSEMS) was created through a contract with the Michigan Department of Education. MSEMS has been contacted about supplying impartial, trained Mediators for about 90 disputes over the last three years. Approximately 60 of these contacts have resulted in Mediations.

Both methods of dispute resolution have roots which are centuries old. Well known examples of the employment of Mediation are with labor-management, political, marital, property and financial disputes. Due Process of Law is guaranteed by the Fifth and Fourteenth Amendments of the U.S. Constitution. Therefore, Due Process Hearings are used extensively to resolve legal disputes.

Purpose of the Study

Given the differences between the hearings and Mediations as dispute resolution processes, there are a number of questions that surface: (1) Is one form of dispute resolution superior to the other on the basis of cost, outcome, psychological impact on and relationship among the participants? (2) Are there clear indications of strategies for reducing the need for dispute resolutions by "outside" parties, i.e. Mediators or Hearing Officers? (3) Do the outcomes for (1) and (2) above suggest specific modifications of Michigan's dispute resolution model?

Significance of the Study

The Due Process Hearing is somewhat of an anomaly in resolving disputes between parents and schools. It is not used in the much larger general education arena. Planned Mediation shares this distinction. The similarities end there. There are significant differences between the processes.

It has been a concern among some in education that legalism (a narrow approach in which law and procedures become ends in themselves and substantive goals are lost in mechanical adherence to form) will eventually prevail in matters of special education, since special education was legalized by PL 94-142. Due Process Hearings are born of a legal system, Mediations are not. It is hard to imagine Mediation promoting and expanding legalism. It is easy to imagine Due Process Hearings doing so.

By examining the data available at MSEMS and by collecting data from participants about Due Process Hearings and Mediations, it should be possible to better determine the relative effectiveness of the dispute resolution processes and thus make recommendations regarding their use. An extensive review of the literature (see Chapter II) strongly suggests that both processes are useful, but that the Due Process Hearing is used too often and has poor results. The literature suggests that hearings are more costly, more emotionally taxing for the participants and their resolutions are more short lived than Mediations.

The study will add to the knowledge base on the use of

Mediation and Due Process Hearings and produce implications which can be offered to local level staff with the aim of minimizing the number of special education disputes which rise above the local level. The intent of disseminating this information would be to further reduce the "costs," both monetary and human, of resolving disputes in special education.

Assumptions and Delimitations

This dissertation is based on two assumptions:

1. Accurate determination of total costs to the parties involved in hearings and Mediations is not possible because accounting sheets for staff time, advocate/attorney time and parent time will not be available in many cases. Therefore costs reported to the Michigan Department of Education (MDE) for hearing processes and average costs (based on MSEMS budget information) for Mediations will be used for comparison.
2. For each of the 39 disputes studied one representative each from the parents, the Local Education Agency (LEA) and the Mediator/Hearing Officer will be enough to supply accurate perspectives on the psychological impact on his or her respective party.

Limitations of the study will be:

1. The data collected will be based on the 1988-89 hearings and Mediations in Michigan. It is possible that this population is not representative of those occurring in other years. Further, given the variety among states in special

education services, programs, evaluation procedures and laws, it is also possible that the data may not be generalizable to other states.

2. The data will be based on the accuracy of memory and the degree of frankness of survey respondents.

3. The descriptive part of the study represents a limitation in as much as it describes what is perceived to be true and not necessarily what is true.

Research Objectives

1. To collect demographic data about the handicapped student and his or her parents so that the population engaging in hearings or Mediations may be characterized.

2. To compare the costs of conducting Mediations to those of conducting hearings. Costs for Mediations are defined as the total expenditures for the 1988-89 fiscal year of MSEM. Costs for Due Process Hearings are defined as disbursements by the school district and MDE for conducting hearings and appeals. Staff time and office procedures are not included.

3. To compare the psychological impact of participating in a Mediation to that of participating in a Due Process Hearing by determining:

a. the relationship of the parties prior to and after the dispute resolution process;

b. perceptions and feelings about the processes and their participants and

c. degree of parties' satisfaction with the resolution of their disputes.

4. To compare the permanence of the resolutions based on whether the same disputes have reoccurred since their resolution.

5. To identify the types of conflict resolution used before the dispute resolution process. These processes may include IEPC meetings, parent teacher conferences and staffings.

6. To analyze recommendations of the parties for:

- a) efficacy of the Mediation or hearing process and
- b) improvement of the Mediation and hearing processes.

CHAPTER II

REVIEW OF THE LITERATURE

Historical and Legal Basis

In 1975 P.L. 94-142, the Education for All Handicapped Children Act (EHA), essentially legalized the mandatory education of handicapped persons. During EHA's development, Tweedie (1982) reports that negotiations between United States House of Representatives and Senate conferees as to how to effectively insure the special education student's entitlement to the equal education opportunity guaranteed in Brown vs. Board of Education (1954), resulted in an administrative hearing procedure rather than a direct litigation procedure. Tweedie (1982) and Neal (1981) maintain that this provision was based on four points. First, providing rules for controlling the detailed substance of disputes would be impossible since there would be such a diversity in the specifics of disputes about the law. Therefore, the right to a fair process for examining the tenets of such conflicts was included in P.L. 94-142. Second, Local Education Agencies (LEAs) which had been inconsistent, at best, in providing services to children would be monitored by the service consumer. Third, the expense of the hearing itself would serve as an inducement to the LEA to both comply with the law and actively listen to parents and students whom they serve. Fourth, the principle of local control (through the individual consumer) would be maintained. In short, the hearing was a "big

stick" held over the head of the LEA.

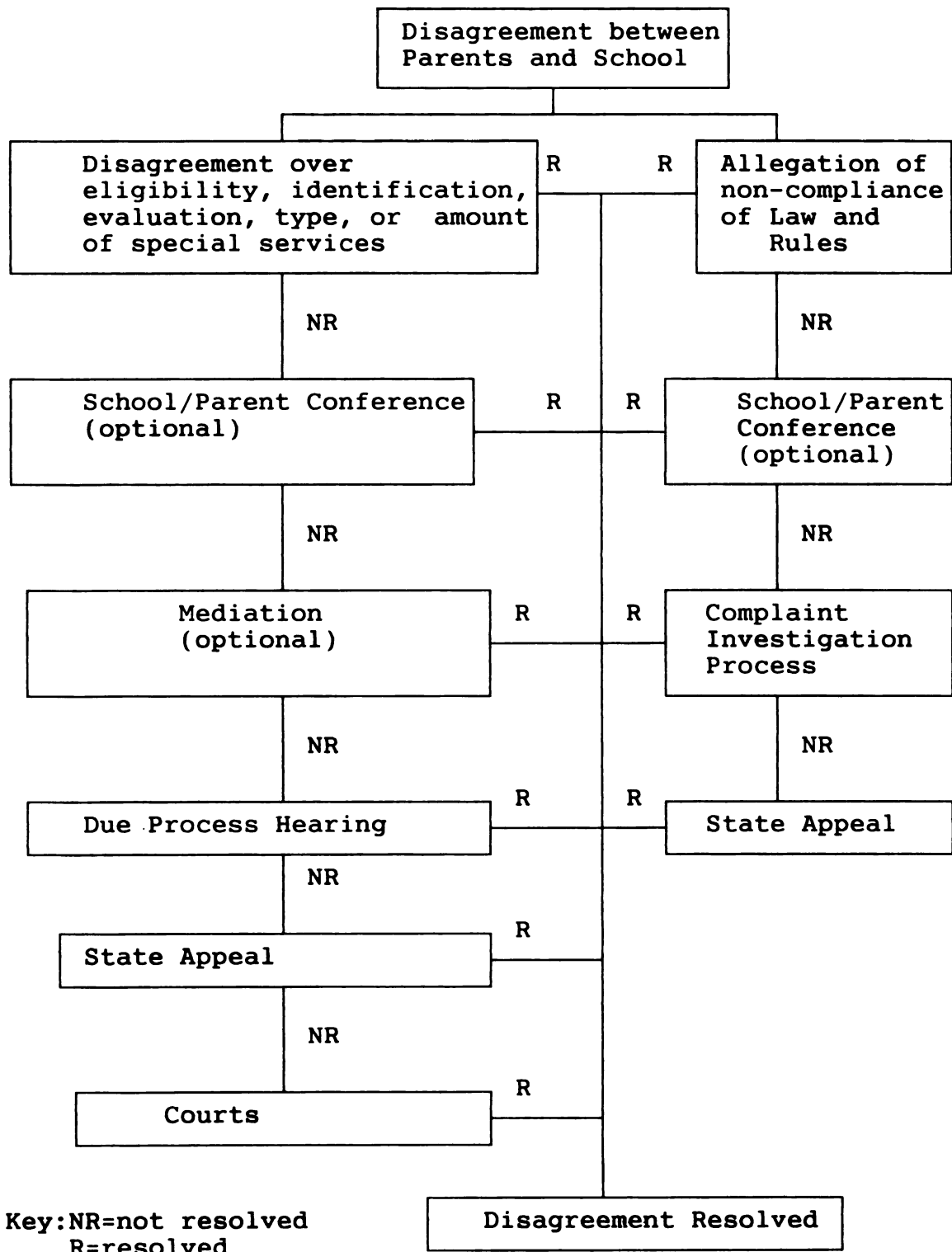
While hearings are mandated in PL 94-142, Mediations are suggested in the form of a comment in its regulations (Act 34 CFR Sec. 300).

Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation and educational placement of handicapped children, and the provision of a free appropriate public education to those children. Mediations have been conducted by members of State educational agencies or local educational agency personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights (to formal due process.)

As can be seen, Mediation process is left poorly defined relative to the due process hearing. Therefore, the variability in the process from state to state is much greater than is the variability among hearing methods.

The general course of dispute resolution in Michigan is shown below:

Figure 1. Course of Dispute Resolution



This general course of dispute resolution has three noteworthy characteristics. First, each successive step in the process introduces additional parties. Second, each step further removes the resolution from the realm of the parents and service providers and into the realm of an individual more distant from the dispute. Third, with the exception of the state appeal step, the level of enforcement powers i.e., severity of the consequences for non-compliance rise because the process of the resolution becomes more legalistic. One can conclude that as disputants proceed through the above course, they relinquish power to resolve the problem themselves and give the power for resolution to one who may be less knowledgeable about the substance of the dispute. The focus of the following text will be with the two intermediate steps of dispute resolution in special education, the Due Process Hearing and Mediation.

The Due Process Hearing

Due Process Hearings in Other States

It might seem that hearings would be the same in all states since they result from a federal statute. There are differences, however, which are primarily found in the training, hiring, and background of the Hearing Officer. The federal government, through the Department of Defense Overseas Schools (DODOS), provides a hearing officer who is appointed by an Assistant Secretary of Defense. The "... hearing officers shall be attorneys who are independent of DODOS and members in good standing of the bar of any

state...." (DS Regulation 2500.10, 1982). Texas, through its state educational agency (1986), requires an attorney who has no professional or personal connections with the two parties. In New Jersey (1985), an Administrative Law Judge from the Office of Administrative Law is the hearing officer. By contrast, Peterson (1980) reported that California uses a panel of ".... independent professionals to use their knowledge of children and programs and realities to arrive at a decision." Also in California, a request for a hearing is forwarded first to a Mediator who contacts both parties to see if Mediation may be useful. If either party refuses Mediation, the hearing process and timelines continue.

Although Mediation is recommended in New Jersey, Texas, and by the Department of Defense, a Mediator is not thrust immediately into the dispute as in California. These points manifest a significant difference in the intent of the hearing by these agencies. Although possibly not representative of the entire range of variance of dispute resolution methods across states, Texas, New Jersey, and the military are examples of a focus on assuring due process. California's process centers on a professional educators solution rather than a legal one (Neal, 1981).

How Due Process Hearings are conducted is dictated by P.L. 94-142. The hearing is based on a list of grievances supported by the presentation of evidence. Evidence is given in writing or by testimony. A transcription of the proceedings occurs. The Hearing Officer makes a decision

based only on the facts presented at each particular hearing. Precedents or decisions of previous hearings are not considered. A right to administrative appeal exists, as well as a right to litigate in court. The timeline for holding hearings and rendering a decision is 45 days from the date on which the appropriate agency receives a hearing request. There is some variation among states on timelines of hearing officer selections, holding the hearing, and rendering the decision after the hearing. However, the entire process may not exceed 45 days unless the Hearing Officer grants a formal extension.

Due Process Hearings in Michigan

Although the number of hearings conducted in Michigan each year seems relatively stable, between 13 and 19 over each of the past five years, the number of hearings initiated seems to be rising (Mange, 1990). In cases where hearings are initiated and not held, Mange (1990) speculated that due to high costs, districts are giving in to parents demands or the parties' attorneys are striking a compromise before the hearing. Mange (1990) also reports that LEAs are prevailing in about 70% of the decisions.

Enforcement of decisions can also be an issue. Hearing Officers have no enforcement powers. The Michigan Department of Education (MDE) is charged with enforcing the decision. At least one case was reported where MDE did not impose consequences on the LEA for not abiding by a decision.

Simpson (1984) studied the reactions of fifteen parents to eight hearing processes in Michigan. Some relevant conclusions were that:

1. parents believed they were at a disadvantage to LEAs in financial resources, professional resources, and ability to control enforcement of decisions;
2. only two (of 15) parents indicated the school had contributed to the feeling that they should be involved in the Individualized Educational Planning Committee (IEPC) decision making process;
3. parents believed they were at a disadvantage in the selection of a hearing officer;
4. eleven of 15 described the hearing process as "upsetting" or "very upsetting";
5. ten of 15 thought the hearing fair and 8 of 15 thought the hearing officer impartial;
6. ten of the parents have since encountered the same issue as the hearing decided;
7. eleven of the parents would use the hearing process again and
8. parents believe that schools knowingly withhold information.

Simpson did not sample the reactions of LEA and ISD administrators who were involved in hearings. However, questionnaires to parents were routed through special education directors to preserve confidentiality. Some of the directors refused to pass the questionnaires on to parents for fear of reopening old wounds. The study was done on hearings from September 1, 1980 to August 31, 1981. The letters to directors were dated March 25, 1983 - a difference of one year and seven months.

Mediation

Mediations in Other States

There is more variation among states in the way in which Mediations are conducted than in the way hearings are

conducted. Examples of this variation are presented below but they should not be construed as being a true representation of its scope. This author surmises that the greater variation is primarily the result of the Due Process Hearing being defined by law, where mediation is not. Secondary reasons may lie in a larger variety of approaches to Mediation of disputes, training of Mediators, determination of which agency is responsible for providing Mediation services, who pays for the services, and whether or not the process is voluntary. Gallant (1982) reported a decrease in the percent of resolutions when Mediations were mandated in Connecticut, where Mediators are a mix of school social workers, special education directors, and school administrators. The Connecticut State Department of Education hires two consultants who train Mediators, schedule Mediations, review procedures, and provide supervision for contracted Mediators of whom there are about twelve.

In Massachusetts, Mediations are conducted by staff in central and regional offices (Gallant, 1982). The structure, scheduling, and supervision are less centrally controlled. Whereas in Florida, the approach is similar to Connecticut, where Mediators are Superintendents, Directors of Special Education, or their designees, Grievance Coordinators, and LEA Attorneys. Requirements of knowledge about special education students and their programs and services, as well as the laws, policies, and regulations which apply to them, are prerequisites for Mediators. While

a list of "people" skills is recommended, there seems to be no selection, training, or supervisory process for Mediators in Florida. Available documentation does not provide much structure other than to suggest what the process is and who the players are. If a Due Process Hearing has been requested, the only requirement is that the 45 day timeline for the hearing be adhered to or suspended by the Hearing Officer during the course of the Mediation.

The Department of Defense Schools (Regulation 2500.10., 1982) requires that within 10 days, Mediation must either be conducted or refused in writing by one of the parties involved before going to a hearing. The Mediator is appointed by the regional DODOS office. No qualifications for the Mediator are identified. Samples of agreement and non-agreement Mediation forms are provided to Mediators.

Mediations in Michigan

Michigan Special Education Mediation Services is responsible for special education Mediations in Michigan. MSEMS was initiated in 1986 through a proposal which has six objectives.

1. To train and support a cadre of mediators.
2. To conduct mediations and collect data on them.
3. To evaluate mediation parties' interaction to maintain settlements and relationships.
4. To evaluate the dynamics of the mediation process.
5. To establish an advisory board and management structure.
6. To support and expand mediation as a dispute resolution alternative through research and data collection.

In 1986 a budget of \$95,060 was proposed to initiate the project. Expenditures were \$76,677. The amount spent from a budget of \$103,000 in 1987 was for \$84,400; from a budget of \$112,553 in 1988 \$101,865 was spent; and from a budget of 105,500 in 1989 \$61,213 was spent. As of 1989, MSEMS has ten persons who are trained and experienced Mediators. A nine member advisory board also exists (MSEMS report, 1989). The project maintains a part time (75%) director. Mediators are subcontracted by each Mediation session, based on availability. Mediators are paid \$200 per day plus expenses. This cost is passed on to the LEA or ISD which is involved in the Mediation.

Financial Costs of Dispute Resolution

Several researchers have considered the potential cost when examining Due Process Hearings in various states and types of communities (Peterson, 1980; Diamond, 1980; Stephens, 1989; Daynard, 1980; Stevens, 1979; Dong, 1982; Salzer, 1987). A synthesis of cost categories follows:

LEA	PARENTS
1. Representatives (attorneys)	1. Attorney/Advocates
2. Hearing officer	2. Child care
3. Recorder	3. Independent experts
4. Staff time	4. Lost wages
5. Mailing & phone calls	5. Mailing & phone calls
6. Facilities use	6. Travel
7. Copies and supplies	7. Copies and supplies
8. Program outcomes	

It would be very difficult to provide accurate comparisons of costs because of the differences in area economies which directly affect salaries and prices. The differential effect of inflation on regional economies and cost of living would be nearly impossible to extract. This effect would be further complicated by the differences in the years the studies or hearings took place. However, Salzer's 1987 study provides some interesting and workable measurement of nearly all of the above items. Her analysis of recent hearing costs using a case study basis does suggest that cost comparisons to Mediations occurring in the same time periods and locale are possible. These comparisons would best be presented as ratios of average costs of Mediations to average costs of hearings in a given year. In order to produce reliable and accurate cost data for these averages, it would be best to provide the disputants with cost accounting sheets when a Mediation or Due Process Hearing is first requested. The disputants could then record indirect and direct costs as they occur and the investigator would not have to rely on the disputants recall for estimates. For the purposes of this study, the research expectation that a parent or school administrator to accurately or reliably remember the time spent on each telephone call or each conversation having to do with a case which happened as long as two years ago, seems imprudent. Instead costs are estimated based on those reported to Michigan Department of Education by the school district responsible for the hearing. The cost accounting

is irregular since each district chose to report different categories of costs. Almost all districts reported costs for Hearing Officers, recorders and appeals officers. There was an inconsistency in reporting attorney fees, other contracted fees and staff overtime. Little accounting was made for salaried staff time in preparation or participation in the process.

Hearings are not economically efficient (Salzer, 1987), but represent an insignificant portion of the total money spent on special education services (Peterson, 1980). However, when the cost of a hearing impacts a small or inadequately financed LEA, different perspectives emerge. For a small, under financed LEA, a \$15,000 hearing procedure and a \$10,000 a year placement charge is quite clearly meaningful.

According to Mange (1990), Due Process Hearings in Michigan over the last two years have taken a different course. Schools have become extremely wary of hearings because of their high costs. Table 1 represents direct costs of hearings to LEAs and to the State of Michigan from 1985 to 1989 (Michigan Department of Education, 1990). MDE relates that the disbursements are not reported in a consistent fashion. Some contain attorney fees and released time for staff costs and some do not. None contain parents' attorney fees paid by the district when the parent has prevailed. Therefore, these expenditures are primarily for the Hearing Officer, transcriber, attorney fees, and expenses. They usually do not reflect indirect costs such

as LEA and ISD staff time expended. The relatively wide variation in average costs from year to year occurs because in 1986-87 there were two hearings that were much more costly (\$64,554 and \$97,332) than the rest. In 1987-88 a \$51,853 hearing enlarged the average.

Table 1

Hearing Costs by Year

1985-86	<u>No. of Hearings</u>	<u>Total Cost</u>	<u>Avg. Cost</u>
Local	19	147,955.20	7,787.12
State appeal	10	8,031.68	803.17
Total		55,986.88	8,709.84
<hr/>			
1986-87			
Local	14	279,807.19	19,986.23
State appeal	10	8,521.46	852.15
Total		288,328.65	20,594.90
<hr/>			
1987-88			
Local	13	203,491.71	15,653.20
State appeal	10	10,517.46	1314.68
Total		214,009.17	16,462.24
<hr/>			
1988-89			
Local	15	198,812.67	13,254.18
State appeal	11	12,342.85	1,122.08
Total		203,294.52	13,552.97

The current cost of Mediation in Michigan can be estimated by dividing the budget of MSEMS by the number of mediations conducted. Table 2 contains the average costs for the school years 1987-88 and 1988-89.

Table 2

Michigan Mediation Costs

1987-88

Average cost per mediation (21)	4019.05
Average cost per mediated agreement (17)	4964.70
Average cost per agreement not resulting in hearing (14)	6492.30

1988-89

Average cost per mediation (21)	4850.71
Average cost per mediated agreement (14)	7276.07
Average cost per agreement not resulting in hearing (12)	8488.75

The lower number of agreements reached in 1988-89 (14) vs. 1987-88 (17) is primarily responsible for the increased average cost in the last two categories for average costs that year. MSEM also reports being "directly involved" in 33 disputes in 1987-88 and 35 in 1988-89.

Preventing Disputes

Dispute prevention or resolution at the local level can be based on Gallant's (1982) observation after she spent several years of being involved in Mediations.

The primary cause of parent-school personnel problems consistently observed by mediators in Connecticut is that in these cases, school personnel are not actually listening to or hearing what parents are saying about their child. If school administrators could use accounting methods of cost analysis of the time involved when parents become dissatisfied with the school program and consequent destructive behavior that results, they quickly would turn to different methods (p. 69).

Several methods are offered by Gallant to relieve the massive time commitment to dissatisfied parents. The measures are preventative in nature, including the

following:

1. create a positive family involvement;
2. sensitize school staff to parents' initial grief over having a handicapped child;
3. make parents more aware of school needs in running a program;
4. have teachers included in the team process of decision-making;
5. have school staff be more open with one another and not protect their own areas of specialty;
6. teach staff how they come across to people;
7. assign some staff to mediation and conciliation activities;
8. foster special attention and training to verbal and written interpretations to develop non-blaming, non-judgmental styles and
9. create smooth, productive working liaisons with local agencies.

Stephens (1989) also suggests staff development programs on the IEPC process and Due Process Hearings; provision of recent rights information and training program schedules to parents so that they may function as partners in the process; and everyone should focus on the child by using the evaluation process prescribed by law. McGinley (1987) developed recommendations similar to those above, but in addition suggests training for teachers and administrators in Mediation. Other references (Fisher, 1981; Peterson, 1980; Singer, 1986) support similar methods of dispute prevention or resolution. The common concept is that all parties do what is necessary to form a productive working relationship based on solution of shared problems.

Summary of literature comparison of hearings and Mediations:

Due Process Hearings	Mediations
More expensive to both parties	Less expensive to both parties
More emotionally taxing	Less emotionally taxing
Used by more well-to-do parents	Used by less well-to-do parents
Succeeding relationship is poorer	Succeeding relationship is improved
Has assured LEA compliance to rules and policies	no value in assuring LEA compliance
Based on adversarial relationship	Based on cooperative problem solving

Results to system (IEP procedures etc.)

Legalism	no legalism
Dysfunction	Promotes successful use of system

CHAPTER III

DESIGN OF THE STUDY

This chapter will provide descriptions of the survey procedures and research methods the researcher used in conducting the study. The following areas are described:

1. population studied and sampling method;
2. type of study;
3. instrumentation and data collection methods and
4. treatment of the data.

Study Population and Sampling Method

All Mediations and Due Process Hearings occurring between July 1, 1988 and June 30, 1989 in the State of Michigan were selected as the study population. By selecting those from a one year span an attempt was made to provide a common time frame from which the respondents recalled events. The sampling and study procedures were submitted to and approved by the Michigan State University Committee on Research Involving Human Subjects before the respondent contact began. In order to preserve confidentiality Michigan Special Education Mediation Services and the Michigan Department of Education sent letters (and consent forms in the case of parents) to parents, school district administrators, mediators and hearing officers to determine their willingness to be interviewed for the study. Examples of these can be found in appendix A. From the pool of 37 disputes, at least one person from each of the three groups

was willing to respond to a telephone interview regarding the Mediation or Due Process Hearing of their dispute. However, due to the small number of responses from parents who participated in Mediations, an additional group of Mediation cases was selected from the July 1, 1989 to December 31, 1989 year. Parents agreeing to be interviewed from two additional Mediations were then included in the study.

The number of interviews conducted with parents, school administrators, mediators, or hearing officers from the 39 disputes is shown in Table 3. Eighty interviews were conducted; 44 respondents were involved in disputes using Mediation, and 36 persons were involved in disputes using the Due Process Hearing.

Table 3

Preliminary Data Set

Alternative	Parent	School	Neutral	
			Third Party	Total
Due Process Hearing	10	14	12*	36
Mediation	11	23	10*	44
Total	21	37	22	80

* 5 different hearing officers and 7 mediators officiated all 22 of the cases represented in the study.

Type of Study and Instrumentation

Each person who agreed to an interview was contacted by telephone by the same individual and asked the same series of questions (with appropriate context modifications) requiring them to recall particulars or feelings about the Mediation or Due Process Hearing. Their responses were recorded both on tape and on a questionnaire form (see appendix B) specific to the role of the participant being interviewed. Because the small population required a high response rate for results to be analyzed statistically, telephone interviews in the form suggested by Babbie (1973, p. 173) were selected. This form includes: a pleasant and neutral demeanor of the interviewer, interviewer familiarity with the questionnaire, following introduction, instruction and question wording exactly for reliability and recording responses exactly.

The survey measured nominal, ordinal and ratio variables. Both closed and open-ended questions were used depending on the type of information sought. Questions were constructed as per Babbie's (1973, p. 140) recommendations for clarity, avoidance of "double barreled" questions, relevance, brevity, avoidance of negation produced misinterpretations and reduction of bias.

Drew (1980, p. 231) asserts that "The best safeguard against ambiguity in a questionnaire is a pilot test of the instrument or at least a critical review by an independent but alert group of colleagues." Draft questionnaires were reviewed once by the researcher's dissertation committee

members and twice by the senior researcher at Disability Research Systems which contracted for a portion of the study. Almost all of their suggestions reduced ambiguity and were incorporated. Following this the instrument was pilot tested on a parent, a school official and a Hearing Officer. Tape recordings of these interviews were reviewed for improvement of the questionnaire. Because of the small population which existed for this study, the pilot test was limited to these three people. The few wording changes that resulted from the pilot test were not judged to be of significant threat to data validity, so those data were included in the study.

Data Collection Methods

For Research Objective 1: Demographic Data

Demographic data were collected through questions I.-VII. on the Parent questionnaires. Parents, Schools, Hearing Officers and Mediators were requested to supply data on the subject of disputed issues through question 2. Hearing Officers and Mediators were asked in question 1. to indicate the number of people present and their roles in the process.

For Research Objective 2: Cost Comparisons

Two methods were used to collect cost data. For Mediations, Michigan Special Education Mediation Service's (MSEMS) budget reports to the Michigan Department of Education (MDE) were examined. Each year's final cost

figures submitted to MDE were considered as the total costs for Mediation in Michigan for that year. Given the uncomplicated nature of the Mediation process, school personnel and parent time cost estimates were believed to be of minor consequence.

For Due Process Hearings, MDE was requested to assemble cost figures for 1985-1989 fiscal years. MDE's report broke down costs for individual hearings and state appeals in each of the four years requested. These costs were given as reported to them by the Local Education Agency or Intermediate School District responsible for conducting the hearing. As mentioned in Chapter II, there is a substantial variation in cost reporting criteria among Due Process Hearings. The costs reported most certainly underestimate the true total costs of Due Process Hearings in Michigan.

Research Objective 3: Psychological Impact

Relationship of disputants

Measurements the disputants' relationships were made by inquiring about perceived levels of: cooperation (questions 5. and 23.), trust (question 6.) and amount of emotional conflict resolved (question 22.).

Perceptions and feelings about processes and participants

Question 20. inquired about the participants' beliefs about the legal nature of Mediations and Hearings. Levels of fairness were sampled by question 17. Disputants were asked about their comparative opportunity to present their

views in question 15. Question 13. inquired about comparative opportunities of disputants to get what they wanted.

Levels of satisfaction

Three measures of satisfaction were attempted. Question 4. probed respondents' levels of satisfaction with the two processes and question 24. examined satisfaction with resulting programs and services. The intent of question 18 was to investigate as an indicator of satisfaction, the amount of the dispute believed solved by the Due Process Hearing or Mediation.

Research Objective 4: Dispute Reoccurrence

Two methods of obtaining data on dispute reoccurrence were used. Question 18. explored how much of each dispute was considered resolved. The identities of those who reported "almost all" or "all" of their disputes resolved were compared to lists at MSEM and MDE of those who have participated in Mediations or hearings since 1988-89. The rationale for this is that a dispute must first be resolved before it can reoccur.

The second method was to count from the report of costs of hearings supplied by MDE, the number of state appeals following judgments at the local level.

Research Objective 5: Prior Use of Other Conflict Resolution Measures

In order to determine if other problem solving measures were used by the disputants, question 11. was asked. Since the question was open-ended, probing was available to reveal what procedures were used.

Research Objective 6: Recommendation For Process Improvement

Question 25. (question 20.) for Mediators and Hearing Officers) offered a forum to discuss improving both processes.

Treatment of Data

Data from the interview forms were entered into an RBase Database and analyzed using the SYSTAT statistical package. All t-test statistics were calculated using appropriate comparisons for independent or dependent samples.

Both types of t-tests were based on pooled variances. According to Glass and Hopkins (1984, p. 243), t-tests are robust with respect to the homogeneity of variance assumption." Further, even when the size of the two samples being compared differ by multiples of 2 or 3 Glass and Hopkins (1984, p. 239) contend that pooled variance t-tests remain an effective measure of differences of means.

The data from samples tested with the t-distribution were categorized into two groups with respect to dependence or independence. Parties participating in different dispute

resolution processes were considered independent from each other. Disputants from the same dispute resolution processes were considered related or dependent. Any "before and after" measures were considered dependent. It therefore occurred that depending on the groups being compared, a group's data would be compared with a t-test of independent means in one instance and of dependent means another.

Although Analysis of Variance is an efficient method of testing whether means are significantly different, "The assumption of independence is necessary for accurate probability statements"., (Glass & Hopkins 1984, p. 353). Therefore Analysis of Variance was eliminated as a statistical test for this study.

CHAPTER IV

DATA ANALYSIS AND RESULTS

The analysis of data is presented in the following manner:

Each research objective is restated as a heading. Hypotheses pertinent to each research objective are stated and analyzed according to appropriate parts of the questionnaires or budget information.

Demographics

At the beginning of each interview with a parent, questions were asked to determine the age, sex and disability(ies) of their child who was the focus of the dispute. The parent interviewed also was asked to place each parent's annual income in one of three ranges: \$0-15,000, \$15,000-40,000, \$40,000 or more. Further, the mother's formal education level was also determined. The purpose of the last two items was to detect any relationship Socio-economic status has with parents' Due Process Hearings or Mediations. Finally, respondents were asked if they had participated in a Mediation or Due Process Hearing prior to the one being studied. The results are presented in Table 4.

Table 4

Comparison of Parent-Student Demographics Between Due Process Hearings and Mediations

DPH n=10			Mediation n=11		
Gender of Student	freq.	%	freq.	%	% State-wide
Male	8	80	5	45	67.9
Female	2	20	6	55	32.1
Average Age of Student			t-test		
15.1			9.6		t=2.68* *p>.05
Type of Disability	freq.	%	freq.	%	% State-wide
AI	2	18	2	18	.57
POHI	0	0	1	9	3.32
SXI	2	18	1	9	1.55
SMI	1	9	0	0	1.51
TMI	0	0	1	9	3.84
EMI	1	9	2	18	8.75
HI	0	0	1	9	1.72
EI	2	18	2	18	11.83
LD	4	36	1	9	40.36
Total	11		11		
Parent Marital Status					
Married	9		9		
Widowed	0		0		
Divorced	0		1		
Unmarried	1		1		
Mother's Ed. Level in years					
12	0		1		t-test
13	2		1		
14	4		4		
15	2		1		
16	2		4		
Average	14.4		14.6		t=-.27

Table 4 continued

Participation in Previous DPH or Mediation			
Yes			
DPH	2		0
Mediation	1		0
No			11
<hr/>			
Family Income			
0-15,000	1		1
15,000-40,000	2		3
40,000 or more	7		7

Key:% Statewide=The statewide percentages for 1988-89 of handicapped students by disability area or gender according to the Michigan Department of Education, Special Education Services.

Legend: AI=Autistic Impaired, POHI=Physically or Otherwise Health Impaired, SXI=Severely Multiply Impaired, SMI=Severely Mentally Impaired, TMI=Trainable Mentally Impaired, EMI=Educable Mentally Impaired, HI=Hearing Impaired, EI=Emotionally Impaired, LD=Learning Disabled.

Student gender representation in Due Process Hearings differed significantly from those in Mediations. Upon comparison to gender representation in special education programs throughout the state which is males 67.9% and females 32.1% both Mediations and Due Process Hearings are quite different. Given the low frequencies of students in this study found in each of the disability areas, an attempt to compare the relative percentages among disability areas, statistically with statewide percentages seems without merit. A significant difference exists between the two processes when student age is considered. Students with parents involved in Due Process Hearings were decidedly older (15.1) than those involved in Mediations (9.6). There was no

significant difference between the two processes with respect to family income or educational level. This seems to substantiate Stevens' 1979 study. It is also noteworthy, that the preponderance of families involved in both processes earned more than \$40,000 a year and had mothers who averaged nearly 3 years of college which would seem to support Stephens' (1989) findings. It would appear that better educated, higher income parents are more likely to use both dispute resolution processes. Further, almost 90% of the parents involved in each of the two processes were married. Very few (13%) had used either a Mediation or Due Process Hearing prior to the dispute about which they were interviewed.

Disputed issues

The Due Process Hearings and Mediations represented by the respondents covered a wide variety of special education issues. While persons who participated in the same Due Process Hearing or Mediation did not always agree on the precise label for the issue(s) surrounding their dispute, they did essentially agree on the nature of it. For example, a parent may have seen placement in an appropriate program or service as the appropriate subject for the dispute, whereas the school may have seen the dispute as an eligibility issue. Further, the mediator may have seen it either way, or perhaps as one part of several issues. The important point for this study is that when distributed across issues, there was essentially the same variety and

frequency of issues for each dispute resolution alternative. Seven issues were the foci in over 70% of the disputes. These issues are described in Table 5. From among the 39 disputes one or more respondents indicated that their dispute involved one or more of the seven issues. The most frequent issue was the type of special education program. In 64% of the Due Process Hearings, and 68% of the Mediations, the type of special education program was a major issue.

It might be suggested that parent and school attitudes toward Due Process Hearings and Mediations are significantly affected by the decisions that are made and the consequent outcomes. This issue seems insignificant as one accepts that the results of decisions made at the Due Process Hearing reflect the win-lose reality of the process. Still it may be useful to know that since 1985 the schools have prevailed in 86% of the Due Process Hearings. During the year from which hearings were selected for this study (1988-89), the schools won every hearing. This issue is irrelevant in the case of Mediations which are, by design, free of winners and losers. Mediations are set up to find a common ground and facilitate an agreeable course of action.

Table 5

Seven Common Dispute Issues and Their Distribution Over the Two Resolution Alternatives

	DPH (n=14)		Mediation (n=25)		Total (n=39)	
	<u>freq</u>	<u>%</u>	<u>freq</u>	<u>%</u>	<u>freq</u>	<u>%</u>
Type of Special Ed. Prog.	9	64	17	68	26	67
Least Restrictive Environ.	3	21	10	40	13	33
Eligibility	5	36	5	20	10	26
Method of Instruction	4	29	6	24	10	26
Identification	4	29	6	24	10	26
Amount of Related Services	2	14	7	28	9	23
Amount of Special Ed. Prog.	2	14	7	28	9	23

Comparison of Mediation and Due Process Hearing Costs

Hypothesis I: The average cost of Mediations are significantly less than the average cost of hearings.

Salzer's (1987) attempt to quantify and compare the costs of hearings and mediations for parents and LEAs defines an important limitation: the ability of both parties to accurately estimate their time spent on preparing for and participating in the hearing process. For the LEA this represents lost instruction and service time. For the parents, it represents time away from the job or work in the home. By comparing Salazar's cost figures for conducting mediation and hearing processes, hearings were found to be 3.1 times more expensive than mediations. Similar ratios were also true for Michigan. Ratios comparing hearing costs to mediation costs are reported in Table 6.

Table 6

Cost Ratios Comparing Hearings to Mediations

Average cost ratio of hearings to mediations conducted	1987-88	4.1:1
	1988-89	2.8:1
Average cost ratio of hearings conducted to mediations reaching agreement	1987-88	3.3:1
	1988-89	1.9:1
Average cost ratio of hearings conducted to mediations reaching agreement which were not followed by hearing	1987-88	2.5:1
	1988-89	1.6:1

The above figures suggest that hearings in Michigan are twice as expensive to conduct as mediations even if the requirement is that agreement be reached and that no hearing follow a mediation. Conducting a mediation in Michigan with no regard to outcome costs a third as much as a hearing. In Michigan when indirect costs are also accounted for, the ratio of hearing cost to mediation cost is likely to be even greater. The basis for this supposition lies in a comparison of the number of people who are generally involved in the two processes. Mediations require preparation of information and a rationale through evaluations, staff meetings and report writing, but generally only a couple of people represent each side's point of view. In hearings, expert witnesses on both sides are prepared and called to testify. These witnesses and the clerical personnel who notify them, type notes and reports, and answer pertinent telephone calls must be compensated. Attorneys are present at significantly more hearings than mediations. Their services are a major cost item. Until an

a priori cost comparison can be made as suggested earlier, there exists little evidence to indicate that indirect costs in Due Process Hearings exceed those in Mediations.

However, a wide range of persons attend both Due Process Hearings and Mediations. The average number in attendance at Due Process Hearings included one more person than typical Mediations. Due Process Hearings involved an average of 6.3 (sd=1.0) persons, ranging from 4 to 8 persons. Mediations averaged 4.9 (sd=1.1) persons with a range of 3 to 7. Given these data, one might guess that costs are similar across the two dispute alternatives. The similarity stops with the number of persons. The type of person appears to increase costs markedly for hearings compared with mediations. The six most likely people to attend a Due Process Hearing or Mediation are presented in Figure 1. One essential difference between Due Process Hearing and Mediation costs is the presence of an attorney. An attorney was present for either the parent or school in three out of four cases. In only one case did attorneys attend a Mediation, and then there was one for the school and one for the parent. A second cost factor is the Hearing Officer. Where a mediator is paid a flat rate of \$200 per day, the hearing officer receives between \$60-\$125 per hour. Other persons attending Due Process Hearings and Mediations were similar in role and frequency. These persons included general education administrators, special education administrators, and school psychologists.

Figure 2

Type of Persons Attending Due Process Hearings or Mediations
in Order of Frequency.

<u>DPH</u>	<u>Mediation</u>
1. Parent/guardian (100%)	1. Parent/guardian (100%)
2. Spec. Ed. Admin. (83%)	2. Spec. Ed. Admin. (90%)
3. School Attorney (75%)	3. General Ed. Admin. (50%)
4. Parent Attorney (67%)	4. Spec. Ed. Teacher (26%)
5. Student (41%)	5. Lay Advocate (26%)
6. Lay Advocate (25%)	6. Student (23%)

According to those persons officiating disputes, the average Due Process Hearing takes twice as long as a Mediation. While the average length of time for both processes differs somewhat across the recollections of those persons who attended, the ratio is consistently 15-16 hours for Due Process Hearings compared to 7-8 hours for Mediations. According to the hearing officers, hearings ranged from 4.5 hours to 40 hours with a standard deviation of 10.1 hours. Mediators reported that Mediations ranged from 2.5 hours to 19 hours with a standard deviation of 5.1 hours.

Taken together, the type of persons involved in Due Process Hearings, and the length of Due Process Hearing sessions suggests a much higher cost to both parents and schools. The fact that attorneys are present at 67% to 75% of the hearings drives the cost up significantly.

Comparison of Psychological Impact on Disputants

Hypothesis II: Compared with the relationship before the process, the outcome relationship of the disputants in Mediations is better than the outcome relationship of the disputants in hearings.

Levels of cooperation

Parent and school perceptions of the level of cooperation received from others in the dispute resolution process were studied in the survey (Table 7). Parent attitudes toward the level of cooperation of the school prior to Due Process Hearings were similar to their views prior to Mediations. When asked what was the level of cooperation received from the school prior to their hearing, the average response (4.4) fell somewhere between "uncooperative" to "very uncooperative." In Mediation cases, parent perceptions of schools were similar (4.3) indicating that prior to either Mediations or Due Process Hearings parents felt that the schools were not cooperating. The schools held similar views. In the case of Due Process Hearings, schools felt that parents were also "uncooperative" (3.6). In the case of Mediations (4.0), schools felt parents were slightly less cooperative than in the case of Due Process Hearings.

Statistical analyses revealed that there were no significant differences in each parties' perception of the others cooperativeness prior to the bringing of the dispute.

Table 7

Perceptions of Levels of Cooperation Before and After

	Parent		t-test	School		t-test
	Before	After		Before	After	
DPH	4.4	4.2	t= .51	3.6	3.4	t= .59
Med.	4.3	3.1	t=2.28*	4.1	2.6	t=5.06*
	t=.24	t=2.33*		t=1.40	t=1.56	

*significant p>.05

Scale: 1=very cooperative, 2=cooperative, 3=uninvolved, 4=uncooperative, 5=very uncooperative

Responses to the same question following Due Process Hearings and Mediations show a clear and positive influence on the level of cooperation between parents and schools for Mediations but not for Due Process Hearings. In the case of Due Process Hearings, parent attitudes toward the schools were no different before (4.4) than after (4.2) the hearing. Similarly, school feelings about parent cooperation before the hearing (3.6) changed little after the Due Process Hearing (3.4). Neither difference is statistically significant. On the other hand, both parent and school perceptions of the level of cooperation changed significantly from before Mediations to after Mediations. Parent perceptions changed from 4.3 ("uncooperative") before Mediation to 3.1 ("uninvolved") after Mediation occurred. Thus, both groups felt that the level of cooperation received from the other was significantly enhanced following the Mediation.

Levels of trust

Respondents were also asked about their level of trust that the other party would recommend what was best for the student prior to the meeting. The data, which presented in Table 8, indicate that in the case of Due Process Hearings parents believed the schools were more interested in the welfare of their children or they had more faith that the schools would recommend what was in the best interest of their child than did parents involved in mediations. Their responses centered around "did not know" in the case of Due Process Hearings. However, in the case of Mediations, parents "did not trust" the school to recommend what was best for their child. Parent feelings of trust are significantly less positive in the case of Mediations.

School perceptions that parents were recommending what was best for their child was the same for both Due Process Hearings and Mediations. Essentially the schools believed they "did not know " whether parents were recommending what was best for their child. In all four situations -- Due Process Hearings, Mediations, perceptions of parents, and perceptions of schools -- there is great variation among people's trust of the other party. The only significant difference was between the parents attending Due Process Hearings vs. those attending Mediations. Differences between each of the other three parties were not statistically significant.

Table 8

Perceptions of the Level of Trust that the "Other" Party in the Dispute Would Recommend What was in the Best Interest of the Student.

	Parent	School	t-test
DPH	3.0	3.7	t=1.37
Mediation	4.1	3.5	t=1.29
t-test	t=1.75*	t=.52	

*p> .05

Scale: 1=definitely trusted, 2=trusted, 3=did not know, 4=did not trust, 5=definitely did not trust

Resolution of the conflict between the two parties

An attempt was made to differentiate between the respondents views of the emotional conflict resolution versus the resolution of the substance of the dispute. This difference was explained during the interview. As a qualification, it would seem that the respondents' answers would certainly be influenced in varying portions by their perceptions of: how well they did in getting what they wanted, the fairness of the process, the degree of severity of the conflict and the state of the conflict residuals at the time of interview. Given these caveats, both parents and school administrators involved in Mediations clearly believed that more of their conflict was resolved than their counterparts in Due Process Hearings. The parents and schools within dispute resolution processes did not differ significantly in their perceptions of how much of the

conflict was resolved. One might deduce that these perceptions were accurate since they seem to corroborate each other. The following table illustrate the preceding comparisons.

Table 9

Comparison of How Much of the Emotional Conflict Was Resolved by the Due Process Hearing or Mediation

	Parent	School	t-test
DPH	4.0	3.7	.65
Mediation	2.8	2.1	1.80
t-test	2.33*	4.57*	

*p>.05

Scale: 1=completely solved, 2=somewhat solved, 3=no difference, 4=not solved, 5=things are worse

Comparisons of Feelings and Perceptions

Hypothesis III: Disputants in mediations have better perceptions and feelings about the Mediation process than disputants in hearings have about the hearing process.

The legal nature of due process hearings and mediations

The Due Process Hearing has been often described as being a "legalistic" process, whereas the Mediation process has been described as less formal and therefore, more conducive to acceptable resolution. Data from this study strongly support these views. The majority of parents and school officials (50% or more) believed legal aspects of the

Mediation process were "adequate for my protection" and "helpful." Parents, on the other hand, believed the Due Process Hearing was "inadequate for my protection," "confusing," and "one-sided." A significant percentage of parents (40%) also believed that the legal aspects were "too numerous." The following table describes all response percentages.

Table 10

Comparison of Perceptions of the Legal Aspects of the
Dispute Resolution Processes

Item	Parent		School	
	DPH %	Mediation %	DPH %	Mediation %
adequate	3.6	33.3	41.9	50.0
inadequate	28.5	19.0	3.2	4.5
too numerous	14.3	4.8	6.4	2.3
no opinion	0	0	0	0
confusing	25.0	9.5	12.9	0
helpful	0	28.6	29.0	43.2
one sided	28.6	4.8	6.4	0

Levels of fairness

Parents believed the Due Process Hearing was "absolutely not " fair and that Mediations were "somewhat" fair (Table 11). The difference in attitude between persons participating in the two processes was significant. Both processes "seemed" fair to school personnel, though their

perceptions of fairness were slightly more positive for Mediations.

Table 11

The Level of Fairness of the Mediation or Due Process Hearing

	Parent	School	t-test
DPH	4.4	1.7	t=6.93*
Mediation	2.3	1.3	t=3.42*
t-test	t=3.97*	t=2.29*	

*p>.05

Scale: 1=absolutely fair, 2=seemed fair, 3=not sure, 4=seemed unfair, 5=absolutely not fair

Disputants' opportunities to present their views

Respondents were also asked whether they believed they had an adequate opportunity to present their point of view during the Due Process Hearing or Mediation. First they were asked if they had a chance to present their side in the meeting. Then they were asked if the hearing officer or mediator understood their position. The results are clear from the point of view of the schools. In both Due Process Hearings and Mediations, schools believed they had adequate opportunity to present their side and that the hearing officer or mediator understood their position. Parent responses to these items are not as clear. In the case of Due Process Hearings, a clear majority of parents believed they had an adequate opportunity to present their position

(74%) and were understood by the hearing officer (73%). In the case of Mediations, a significant portion of the parents believed that they did not have adequate opportunity to present their position (40%) or they were not understood by the Mediator (55%).

Disputants' opportunities to get what they wanted

School representatives and parents were asked to recall when they first entered the meeting if they believed that they had as great a chance to get what they wanted as the other party did. The parents in Mediations and Due Process Hearings had similar perceptions of their chances, i.e., between "probably so" and "didn't know." The school personnel involved in both processes also had similar responses. They generally believed that they had as great a chance as the parents to get what they wanted. Similarly, in Mediations, parents and schools agreed that they "probably" had as great a chance to get what they wanted as the other party. The parents in Due Process Hearings believed that they were at a disadvantage to the schools at the outset of the meetings, since they "didn't know" what their chances were and the schools believed they had as "great a chance" as the other party. Table 12 represents the comparative positions.

Table 12

Participants' Perceptions of Chances of Getting What They Wanted

	Parent	School	t-test
DPH	3.2	1.3	*3.50
Mediation	2.2	1.7	1.05
t-test	1.39	.94	

*p>.05

Scale: 1=definitely, 2=probably so, 3=don't know,
4=probably not, 5=definitely not

Comparison of Satisfaction with the Processes

Hypothesis IV: The disputants in Mediations are more satisfied with the Mediation process than the disputants in hearings are satisfied with the hearing process.

Levels of satisfaction with resulting programs and services

Respondents were asked to assess their satisfaction with the subsequent programs or services which resulted from the Due Process Hearing or the Mediation in which they participated. Average responses to this item are shown in Table 13. Parents indicated that in the case of Due Process Hearings they were "not satisfied" (3.6) with the resulting program or services. The difference in the parent satisfaction is significant between Due Process Hearings and Mediations. Interestingly, school districts showed the same level of satisfaction with Due Process hearing results as with Mediation results. In the case of Due Process

Hearings, schools indicated that they were either "satisfied" or "somewhat satisfied" (1.6). In the case of Mediations, the results were essentially similar (1.5).

Beliefs about satisfaction with the two processes was also queried. Parents participating in Mediations were much happier with the procedures than were parents involved in Due Process Hearings. They indicated that Due Process Hearings brought great dissatisfaction (4.8) with their workings, and that Mediations brought greater satisfaction (2.0). The difference is statistically significant. Schools were very positive about both dispute resolution processes. School perceptions of Due Process Hearings were "satisfactory" (1.8); those participating in Mediations felt even more positive (1.2). These perceptions are statistically significantly different.

Table 13

Level of Satisfaction With the Resulting Program or Services
and Levels of Satisfaction With the Due Process Hearing or
Mediation Process

	Parent	School	t-test
A. Process			
DPH	4.8	1.8	t=9.88*
Mediations	2.0	1.2	t=2.29*
t-test	t=5.32*	t=2.83	
B. Program or Services			
DPH	3.6	1.9	t=3.74*
Mediations	2.6	1.5	t=3.35*
t-test	t=2.71*	t=1.09	

*p>.05

A. Scale: 1=satisfied, 2=somewhat satisfied, 3=uncertain,
 4=somewhat dissatisfied, 5=very dissatisfied

B. Scale: 1=satisfied, 2=satisfied for the most part,
 3=not satisfied for the most part,
 4.=definitely not satisfied most part

Comparison of Dispute Reoccurrence

Hypothesis V: The rate of reoccurrence of disputes resolved by Mediation is lower than the rate of reoccurrence of disputes resolved by Due Process Hearings.

Defining whether or not a dispute continues beyond the resolution process presents some difficulties. First, parties may continue to disagree over the some or all of the issues that resulted in a Due Process Hearing or Mediation, even if a decision or resolution resulted. This disagreement resolution could follow the same sequence as described by the flow chart in Chapter II. Second, since

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resolutions developed by Mediations and Due Process Hearings have a legal life of one year, there has been a maximum of one year two months and a minimum of two months for the disputes to again arise. Because this study encompassed a year period one could argue that not all of the disputes studied had an equal chronological chance to reoccur.

Third, the nature of a Due Process Hearing forces a "resolution" on the parties. According to the Michigan Department of Education (1990), in the year studied, 11 of 15 (73%) Due Process Hearing decisions were appealed to the state level. This percentage corresponds exactly with the percentage from the period of July 1, 1985 to June 30, 1990 when 63 Due Process Hearings were conducted and 46 decisions were appealed (73%). No data were collected on how many State Appeals were litigated.

Conversely, Mediations rely on the agreement of the parties as to whether or not the dispute is resolved. In order to obtain a measurable estimate of the number of complete resolutions, the respondents were asked to estimate how much of their dispute was resolved. The number and percentage of those who responded affirmatively to "resolved your entire dispute" or "resolved almost all of your dispute" are contained in Table 13. Further, on 1-24-91 the subjects' names were then compared to MSEMS and MDE records to determine if they had participated in subsequent hearings or Mediations. These results are contained in Table 14.

Table 14

Those Indicating Resolution of Their Entire Dispute and
Dispute Reoccurrence

	DPH	Parent Mediation	DPH	School Mediation
freq.	2	9	7	10
%	20.0	81.8	58.3	58.8
freq. reoccur.	0	0	0	0
% re- occur.	0	0	0	0

Except for parents in Due Process Hearings a convincing majority of respondents, including an especially large percentage (81.8) of parents involved in Mediation believed that the bulk of their dispute was resolved. Due Process Hearings were perceived as being equally effective in resolving the bulk of the disputes as Mediations. Although some disputes reoccurred in both processes, the parties involved did believe that the issues were resolved the first time.

Use of Other Conflict Resolution Processes

Hypothesis VI: There have been other conflict resolution processes used before the participants elected to use Due Process Hearings or Mediation.

The Individual Educational Planning Committee (IEPC)

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meeting is the mainstay for resolving a dispute between parents and the school pertaining to the identification, evaluation, special education program or service, or educational placement of a student. This meeting is to be held at maximum intervals of one year. The meeting may be called by either the parents or the school at any time. By requiring a meeting for initial identification and possible placement and an annual review of eligibility, service and/or program and placement as well as meeting upon request, the law builds in a potentially effective dispute prevention mechanism based on frequency alone. Beliefs about changes needed for the student are able to be readily exercised into change itself by the availability and structure of the IEPC process.

In Michigan, the Individual Educational Planning Committee Report form represents a contract between the parents and the school district. It is designed to address every required element of a student's special education needs and services. Consistency with Federal and State legal requirements is maintained through Intermediate School District and State monitoring efforts.

By maintaining availability of the process and providing frequent, clear and accurate descriptors of the students needs and services, dispute prevention is continually present. Since both parties have accurate information available and immediacy of its use to make changes, disputes based on being uninformed and/or frustrated by the inability to affect change may be reduced.

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Further, if a point of information is not clear, both parties begin their discussion based upon a previous agreement, not a disagreement. In fact, major parts of the evaluation and identification process leading to an IEPC meeting are also based on parent consent and input. Here also building trust through agreed upon steps is attempted.

It may be said that this structured process has a flaw. The structure may reduce participants to focus on completely addressing the IEPC Report form and the legal compliances required at the meeting rather than focusing on the student's needs and tailoring the paperwork and procedures to address them. One may also argue that when approximately ten percent of the entire student population have IEPC meetings, the sheer number of meetings each year could cause the schools to regard them as a nuisance and ritualize or routinize them. It then becomes incumbent upon school personnel to maintain not only the form of the meeting process but the function as well.

When respondents were asked "what happened that made you decide that a Mediation or Due Process Hearing would be necessary?", they frequently described the last depute resolution measure attempted. IEPC meetings were mentioned 75 per cent of the time for Due Process Hearings when both participant roles (parent and school) are summed. For parents and schools involved in Mediations two types of IEPC's were mentioned, IEPC's which contained hearing requests and those which did not. When both types of IEPC's are considered, 80 per cent of mediation respondents

indicated that IEPC's were used in attempts at conflict resolution. Mediations were mentioned 4 per cent of the time for Due Process hearings when both roles are considered. Table 15 contains a per cent breakdown for the two process by participant:

Table 15

Frequency of Other Types of Conflict Resolution Attempted

	Parent %	DPH School %	Parent %	Mediation School %
IEPC	60	86	24	23
IEPC w/ DPH request (Med. only)			38	68
Mediation (DPH only)	10	0		
School-Parent Conference	30	14	38	9

Of particular interest is the high percentage of IEPC's in which Due Process Hearing Requests occurred where Mediation was the resulted. In many cases one of the participants initiated the concept of using Mediation before a hearing. These kinds of initiations occurred twice as often as initiations of Mediation without requests for Due Process Hearings. According to The Administrative Rules for Special Education (1987), only a party to a hearing may request Mediation, so it appears that some of the time the

rule was not followed. One may surmise that these types of occurrences were the result of at least one of the parties realizing the cost and time involved in a Due Process Hearing and pursuing Mediation as an alternative. Due Process Hearings and Mediations arising out of conferences occurred with similar relative frequencies. Conferences differed from IEPCs in that they were gatherings not preceded by the legal notification and conduct procedures mandated by IEPC meetings. A hearing request need not occur at an IEPC meeting.

Partial Resolution of Disputes

Hypothesis VII: The disputants in Mediations believe that a greater portion of their dispute was satisfactorily resolved than the portion believed resolved by disputants in hearings.

The amount of the dispute believed to be resolved

In order to compare the effectiveness of the two processes in reaching agreement between the two parties, respondents were asked their perceptions of how much of the dispute was resolved in each case. These perceptions could also be considered another estimate of satisfaction of disputants with the two processes.

Except for parents involved in Due Process hearings participants in the two processes believed that "almost all" of their dispute was resolved. Parents in Due Process Hearings believed that there was no resolution to the

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ispute. This is born out in the high rate of appeal of the results by the parent and potentially predictable by the fact that the parents lost every Due Process Hearing in the year studied (please see the following section). The following table depicts the results.

Table 16

Comparison of the Amount of the Dispute Resolved

	Parent	School	t-test
DPH	3.7	2.2	2.71*
Mediation	2.5	2.0	1.07
t-test	1.99	.63	

*p>.05

Scale: 1=entire dispute, 2=almost all, 3=less than half, 4=none, 5=made more difficult

Respondent Recommendation for Process Improvement

Hypothesis VIII: Participants in each process will have similar recommendations for improving their respective process.

When asked what suggestions respondents had for improving the process in which they were involved, two general categories of retorts came. They were recommendations and comments. Both had variety in form. Because of this it was difficult to develop categories which both enveloped concepts and accurately represented what was expressed. Further, all of the categories which were

developed ended up being over represented with respondents from a certain group, e.g., parents or Mediation. There were three of nine categories in which both processes (see 1.-3. in the Table 17) had numerically similar responses. Three (numbers 4.-6.) of the nine categories had similar frequencies of suggestions each for Due Process Hearings. Further, the Mediations in 4.-6. were similarly near zero. These facts lead to a rejection of the hypothesis for this section, but the data still lend some direction for formulating change in Mediations and Due Process Hearings. Recommendations 7. and 8. had high enough frequencies to be seriously considered.

Table 17

Frequency Summary of Respondent Recommendations For Changes
in Due Process Hearings and Mediations

Recommendation	DPH			Mediation		
	P	Sch	HO	P	Sch	Mediator
1. Have/require mediation before DPH	0	4	0	0	5	0
2. More ed./ training of process participants	2	3	1	6	1	0
3. Reduce high costs (attorneys often mentioned)	4	7	2	0	0	0
4. Focus more on child/truth clarity	6	1	2	0	1	0
5. Speed up process/reduce timelines	1	2	4	0	2	0
6. Eliminate HO/Mediator connection with school	5	2	0	3	0	0
7. Not require DPH request before Mediation	0	0	1	0	5	2
8. Eliminate attorneys	1	2	2	0	1	1

The fact that schools wanted to have mediation at least considered before Due Process Hearings indicates a desire to avoid the cost and conflict associated with hearings. One administrator recommended avoiding a Due Process Hearing "at

all cost."

There was a significant desire on the part of participants to make sure that knowledge and training in the processes were sufficient. Parents involved in Due Process Hearings seemed especially interested in this and their recommendation reinforces data on their perceptions presented earlier.

High costs were a consideration only with Due Process Hearings. The source of these costs mentioned most frequently was attorneys' fees.

Due Process Hearings were not seen to focus on the child's needs or truth of the issues. Reducing the need conform to the legal requirements of the process and its associated maneuvering were seen as ways to restore this focus.

Due Process Hearings were seen to be too slow in culminating in a decision. Adhering to or reducing timelines were suggested as a way to remedy this problem. One Hearing Officer believed that the Mediation alternative slowed the process down. Two school officials believed that implementation of their Mediations could have occurred sooner.

Parents in both processes were concerned about connections between the Hearing Officers and Mediators and school systems. They were disturbed that Hearing Officers were former school district employees or attorneys who had represented school districts in other Due Process Hearings. This was believed to be a conflict of interest. Many of the

Mediators were also known to work for or have worked for the schools. Parents wondered how impartiality could be maintained with this condition. Similar concerns about impartiality were expressed about Hearing Officers by school officials. Suggestions were for Mediation panels or more parent Mediators. Parents and schools recommended that Hearing Officers should be barred from representing parties in other disputes.

For those parents and school officials who participated in Mediation, having to request a Due Process Hearing first was seen as troublesome. Two respondents reported that it "tainted" the Mediations with the "threat" of a hearing. Others thought it reduced accessibility of Mediation.

There were some sentiments expressed by parents, schools and Hearing Officers for eliminating attorneys from the processes. There was a low frequency (3) of suggestions from each participant role except Hearing Officers, that lay advocates represent parents and school administrators represent schools and that attorneys be reserved for the courts.

CHAPTER V

SUMMARY, DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

Summary

This study was based primarily on telephone interviews with participants (school administrators, parents, mediators, and hearing officers) in Due Process Hearings and Mediations conducted from June 1988 to June 1989. The intent was to discover significant differences of the participants' perceptions of and experiences with the two processes. The scripted interviews were the same for all participants except for appropriate changes in context for the role each played in the process. Responses to each question were the bases for comparison across processes and across participant roles. In order to test hypotheses, responses to questions were assigned numerical values and value means were statistically compared via t-tests. According to Glass & Hopkins (1984, p. 219), small sample size has the effect of increasing the probability of Type I errors. Samples of 10 parents for hearings and 11 parents for Mediations produce negligible increases in the probability of Type I errors occurring. These sample sizes are close enough to the minimum so that the hypotheses considered in the following section will not be "accepted" or "rejected." Instead, the terms "retained" or "not retained" will be used.

Summarization of results will occur in the same order as the demographics and hypotheses given in Chapter IV.

Demographic Results

Students involved in Due Process Hearings clearly involve a greater percentage of males and are significantly older than those involved in Mediations. Only the percentage of LD (Learning Disabled) and EMI (Educable Mentally Impaired) students about whom Due Process Hearings evolved approximated statewide percentages for those disability areas. The other disability areas involved in Mediations and hearings were either significantly under or over represented. Similar marital status (married), mother educational status and family income existed for parents in both processes. It was clear that families with reasonable incomes and some college education were the preponderance of those who used both Due Process Hearings and Mediations. One fourth of the participants in hearings had tried either hearings or Mediations before. None of the participants in Mediations was involved in either process previously.

The bulk of disputes (64% of hearings and 67% of Mediations) were about the type of special education program. About one-third of Mediations were concerned with Least Restrictive Environment issues. Approximately, one-third of Due Process Hearings were conflicts over eligibility.

Hypothesis I: The average cost of Mediations is significantly less than the average cost of hearings.

Hypothesis I is retained. Even with the relatively inaccurate (low costs estimates) reporting methods for Due

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Process Hearings, Mediations were one-third as expensive to conduct. Mediations were one-half the cost, if the condition that an agreement be reached exists. Reasonable evidence exists that the presence of attorneys is a major factor for the cost differential.

Hypothesis II: Compared with the relationship before the process, the outcome relationship of the disputants in Mediations is better than the outcome relationship of the disputants in hearings.

Hypothesis II is retained. To measure the relationship differential, respondents' levels of trust of the other party, perceived levels of cooperation of the other party and perceptions of the amounts of the concomitant emotional conflicts resolved were measured.

Both schools and parents believed that increased levels of cooperation by the other party followed Mediation. This was not the case for Due Process Hearings.

Perceived initial levels of trust of the other party to recommend what was best for the student were similar except that the parents involved in Mediations trusted the schools less than those involved in Due Process Hearings. This result is very interesting when one considers that parents in Mediations believed that a significantly greater amount of the conflict was resolved after Mediation occurred than the parents in Due Process Hearings. School officials mirrored these sentiments. Therefore, even though the initial level of trust was worse for parents before

Mediations than for those before hearings, afterward their trust of the school was better than for parents following hearings.

Hypothesis III: Disputants in Mediations have better perceptions and feelings about the Mediation process than disputants in hearings have about the hearing process.

This hypothesis is retained. In order to compare feelings and perceptions of respondents, estimates were made via questions 20, 17, 16 and 13, of perceptions of: the legal nature of the processes, the fairness of the processes, disputants' opportunities to present their views during the process and disputants' opportunities to get what they wanted.

Parents involved in Due Process Hearings had a generally negative view of the legalities involved. They believed that they were inadequate for their protection, one-sided, and confusing. Their role partners in Mediations believed that they were well protected legally and that the legalities were helpful. School officials were less differentiated between the two processes. They saw both processes as protective of district rights and helpful, although about 15% more of those involved in Mediations believed the legalities were helpful.

When fairness of the process was the point of question, distinct polarities in opinion were evident. Parents and schools believed that Mediations at least "seemed fair." Schools also believed that Due Process Hearings "seemed

fair." Parents in Due Process Hearings believed that they were "absolutely not fair." Overall, Mediations were seen as significantly fairer than hearings by both parents and schools.

Schools and parents involved in Mediations believed that they had similar opportunities ("probably") to get what they wanted in terms of resolution. A similar belief existed for schools involved in Due Process Hearings. Parents who took part in hearings "did not know" if they had an equal chance to get what they wanted as their adversary.

Therefore, it is clear that for parents Mediations are clearly less troublesome than Due Process Hearings. Schools held similar perceptions albeit less strongly.

Hypothesis IV: The disputants in Mediations are more satisfied with the Mediation process than the disputants in hearings are satisfied with the hearing process.

This hypothesis is retained.

As an indicator of satisfaction, questions pertaining to perceptions about the process and the resulting programs were asked. Parents and schools involved in Mediations were more satisfied with the process than those involved in Due Process Hearings. Mediation parents were more satisfied with resulting programs than hearing parents. Schools were "satisfied for the most part" in both cases. For both resolution procedures, school personnel were more satisfied with the processes and resulting programs than parents.

Hypothesis V: The rate of reoccurrence of disputes resolved by Mediation is lower than the rate of reoccurrence of disputes resolved by Due Process Hearings.

This hypothesis is not retained.

None of the parties involved in carrying on disputes to higher levels believed that the majority of their dispute was resolved. Nearly three-fourths of hearings were carried on to appeal and twenty per cent of Mediations were carried to hearings. From this, it might be construed that as a level of intervention Mediations are more effective in preventing a continuation of the dispute than Due Process Hearings.

Examining reoccurrence of disputes by considering only those cases where the dispute was believed by the disputants to be resolved is might also be an accurate measure. The reason is that for a dispute to reoccur, it first must be settled. Comparing a resolution by hearing in which a decision is made for the disputants to one made by them in Mediation required assessment of the disputants' perspectives. In no cases for Due Process Hearings or Mediation where disputants reported their issues resolved, did the dispute reoccur. Therefore, both processes would seem equally able in preventing dispute reoccurrence.

Hypothesis VI: There have been other conflict resolution processes used before the participants elected to use Due Process Hearings or Mediation.

This hypothesis is retained.

The majority of Mediations and hearings were preceded by at least one Individual Educational Planning Committee (IEPC) meeting in addition to the IEPC in which the dispute arose initially. In one-fourth to one-third of cases school-parent conferences were also mentioned as attempts at resolving disputes.

Hypothesis VII: The disputants in Mediations believe that a greater portion of their dispute was satisfactorily resolved than the portion believed resolved by disputants in hearings.

This hypothesis is not retained.

For Mediations, both parents and schools believed that "almost all of" their dispute was resolved. Similar data were obtained from schools in Due Process Hearings. The apparent rationale for part of this result is that schools won every hearing and considered the matters closed. Since many of the Mediations were not carried on, one must conclude that because of the nature of the process, the majority of them were resolved to a degree satisfactory to both parties. Parents participating in Due Process Hearings believed that "none" of their disputes were resolved..... understandable perceptions since they lost every case. Although there seemed to be a difference between the perceptions of parents in hearings and Mediations as to the amount of the dispute settled, the difference was not statistically significant. So, for parents Mediation resolves a greater portion of their dispute than Due Process

Hearings. Schools found similar portions resolved by both processes. Rejection of the hypothesis is based on the fact that one, not both of the disputants believe that a greater portion of their dispute was resolved by Mediation.

Hypothesis VIII: Participants in each process will have similar recommendations for improving their respective process.

This hypothesis is retained.

School personnel involved in both processes suggested that Mediation be made available or required before Due Process Hearings. Participants in both processes recommended more training and education in and about the procedures. There was concern with the connection of Hearing Officers and Mediators to the school establishment. The concern was express about twice as frequently by the participants of hearings.

Recommendations common to Due Process Hearings were: that the high costs be reduced, that more of a focus on the child was necessary, that the process be sped up, that attorneys be barred.

A recommendation specific to Mediations was that a hearing request not be required before a Mediation request is entered.

Conclusions and Discussion

When it comes to using Mediations and Due Process Hearings for special education dispute resolution in Michigan, only

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the schools come away satisfied with the results and the process. Parents in general, are not happy with either the process or results of Mediation or Due Process Hearings. This is not surprising since parents lose 86% of Due Process Hearings and they usually compromise during Mediation. It appears that they rarely "win" anything. A major factor in this situation may be that the schools have full time paid advocates who are quite familiar with special education rules and policies. They are the special education administrators. However, when one examines the two dispute resolution alternatives together, an important image emerges. On nearly any measure one chooses (cost, cooperation, satisfaction, fairness, amount of the dispute settled and reoccurrence of conflict) parents participating in Mediations are significantly more positive about the process than those participating in hearings. Mediation is less costly, less legalistic, fosters more cooperation, prevents reoccurrence better and results in greater satisfaction on the part of parents and schools than Due Process Hearings.

The use of both processes seems limited to parents of more than adequate financial means and those with at least some college education. Perhaps, parents who are proficient in educational and economic institutions find it easier to operate in the realm of rules and policies found in special education. It is also possible that this group of parents is more aware of the entitlements due their handicapped child.

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Students about whom Mediations occur are often younger than those about whom hearings are held. Female students are more often represented in Mediations despite the fact that two thirds of the population in special education is male. Gender ratios in hearings more closely approach state wide averages.

Implications and Recommendations

Based on acquired data and the literature review this author believes that there are some fundamental flaws in the current system of special education dispute resolution. The intent of PL 94-142 to give the parent operational means to assure that the handicapped son or daughter receives entitled services seems to be met. School districts appear to be trying to avoid Due Process Hearings due to costs in money and time spent. School officials reported during the course of the interviews, going to great lengths including giving in to parents demands, to avoid a hearing even though they were confident that what they were suggesting was correct for the child. In cases such as these, school districts do, indeed suffer some losses.

Given the fact that districts prevail in 86% of hearings that were analyzed, it seems that they are proficient with the process. This is not surprising since administrators in special education receive education, training and daily experience in the implementation of special education rules and law. According to remarks made to this researcher during interviews, "proficiency" often

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means hiring an attorney who specializes in such cases. Members from all roles of respondents commented on the increasing legal nature of Due Process Hearings. This writer is concerned that the costs, preparation and nature of hearings too much resembles litigation in a court and does not follow the administrative hearing intent of PL 94-142. Legal maneuvering seems to present problems for some Hearing Officers as well as the disputants. Some Hearing Officers who are not attorneys commented negatively about having to deal with motions and tactics found in court rooms. They believed these behaviors subverted the issue or child orientation of the Due Process Hearing.

Given the above observations, a more equitable model for a continuum of dispute resolution procedures should include the following:

1. When a hearing request is made, a Mediator would contact the two parties to determine if Mediation is a viable option to pursue.
2. To avoid perceived conflicts of interest, Hearing Officers or Mediators should not be in the business of representing disputants in special education disputes. Further, efforts should be made to minimize Mediators' and Hearing Officers' connections with schools and advocacy groups.
3. Hearing Officers should have the prerogative to turn the case over to Mediation or into a Mediation (if the Hearing Officer is a trained Mediator) with the consent of both parties.

4. At least one administrator and one parent in each intermediate school district who are knowledgeable about and versed in Mediations and Due Process Hearings should be available to advise disputants in the district. Making sure that all parents, especially those with lower income or educational levels have easy access to a peer or someone unconnected to the school who can facilitate use of special education rules and policies to protect the interests of their child is vital in conflict prevention and reduction. It is hard to imagine productive negotiations to occur unless all parties perceive themselves empowered in the process. Further, some parties use Mediations or Due Process Hearings to present agendas which may not be centered on the child. An example would be that one party would use either process to punish another for a perceived wrong not related directly to the child's special education. Involvement of a trusted third party could help expose and deal with such agendas. In areas with high frequencies of Mediations and/or hearings, greater resources should be available such as trained Mediation panels made up of parents and school personnel.

5. Intensification of development of the conflict resolution skills of local and intermediate school district personnel. Results of this study point to the need for a great deal of improvement in the area of preventing Mediations and Due Process Hearings by higher quality intervention at the IEPC level. It seems clear that although school personnel are knowledgeable about rules and

policies, they are substantially less skilled in managing disputes at their beginnings.... at the IEPC level.

Training for school officials and parent advocates in conflict resolution techniques could prevent disputes escalating into Mediations and Due Process Hearings.

6. Representatives in Due Process Hearings should be restricted to non-attorney school personnel and lay advocates versed in the hearing process. It seems vital to preserve equity of skills between school representation and parent representation. Since school administrators are literally trained advocates for their districts, persons with similar training should be made available to parents. Doing this would place a greater burden on the Hearing Officer to protect the rights of both parties and would certainly not create an unmanageable task.

7. IEPC meetings (especially the initial one) seem vital to dispute prevention. It is the school district's responsibility to involve the parent in the process in such a way that differences centering about what is best for the student may be resolved in an efficient manner which minimizes distrust, dissatisfaction and frustration and maximizes awareness about special education and the school's perception of the student's needs. There are effective ways to accomplish the preceding. It is important that as many school personnel as possible be versed in these methods. Therefore, as a way to reduce the number of special education disputes which go to Mediation or hearing, training in effective ways for IEPC's to be conducted is

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Recommendations for further study

Data exist from this study to compare the perceptions of the neutral third parties to those of the disputants. The Hearing officers and Mediators were asked to estimate the disputants' perceptions on selected questions with respect to fairness, satisfaction, cooperation etc. The accuracy of these estimates could be of interest to a Hearing Officer or Mediator organizations.

Accurate cost estimates would also facilitate understanding the true nature of the resources consumed by resolving special education disputes in Michigan. Providing disputants with cost and time accounting sheets when the hearing or Mediation is requested would provide reasonably accurate estimates of costs to both sides. This researcher expects that the cost ratio of hearings to Mediations would be significantly greater than that reported in this study if such an a priori method were used.

Based on anecdotal evidence an examination of the frequency which schools submit to parent demands because of the threat of a hearing, even though the school believes that its position is best for the child, might prove interesting. A determination of how, when and on what bases the schools decide to accede to parents' views would provide useful information in developing training for schools in negotiating settlements in which both parties "win."

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Personal Reflections

Conducting and reporting the results of this study has had a significant impact on my performance of my job as special education administrator for an Intermediate School District. During about 80 hours of telephone interviews I was fortunate to listen to people honestly share their beliefs and feelings about disputes which were the source of frustration, anger, sadness and pain. Although the interviews were structured, many people responded beyond the scope of the alternative answers to the questions in the survey. These remarks created an impression on me which cannot be expressed in the form of a scientific paper.

Part of the impression may be described by the range of time it took to conduct the interviews. One party answered questions and spoke for nearly three hours. Another party took 15 minutes to answer the same questions. It seems fair to say that the impact of the disputes varied widely among the participants. In many cases school people and parents believed they had thoroughly exhausted all alternatives before asking for a Mediation or hearing. I believe that an initial lack of commitment on part of the schools to establishing a partnership with parents in providing a suitable special education for the student, given the resources available, is responsible.

For myself, this belief has resulted in being especially conscious of promoting this partnership with parents at the initial IEPC. This means enduring and confronting staff

who wish to get IEPC's over with quickly or who overpower parents with rules, jargon or numbers of professionals. It means exposing school districts to risk by empowering parents with information about their rights and privileges which they may choose to use in unethical or unreasonable fashions. To not empower also seems to be unethical and unreasonable.

So, similar to the principle of treating each child according to his or her individual needs, I attempt at all times to treat each parent's individual needs as they relate to their children's special education. This is not a task well done solely by the application of rules and policies or rigid or ritualistic thoughts and proceedings. For me, this has meant becoming oriented to serving the process of partnership building not the desired ends. They seem to come when the process is served.

My sincere gratitude for helping me change is extended to all of the respondents.

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APPENDICES

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APPENDIX A

Dear administrator,

The Michigan Department of Education is supporting a study to determine the effects of the mediation process on parents and school districts. The study will compare disputes resolved by mediation and by due process hearings during the 1988-89 and 1989-90 school years. The purpose of the study is to provide a better understanding of the effects of the mediation and hearing processes so that these processes can be improved. Disability Research Systems, Inc. (DRS), has been selected to conduct this study. This study will also be used for a doctoral dissertation through Michigan State University.

In order to get the information necessary for this study the researcher needs to conduct confidential telephone interviews with school administrators who have participated in mediation in 1988-89 and 1989-90. The subject of the interview will be parents' perceptions of and satisfaction with the mediation process, the affect of mediation on parents' relationship with the school and school administrators' recommendations for improving the mediation process.

In order to protect the identity and confidentiality of the mediation participants, MSEMS is sending this invitation to participate in the study directly to you. No information about you will be given to the researcher unless you agree to be part of the study. If you wish to participate in the

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study, please sign and date the enclosed consent form and mail it in the enclosed envelope. If you do not wish to be a part of the study, simply discard the enclosed consent form and envelope.

All information in this study will be treated with strict confidentiality and that the persons interviewed will remain anonymous in all reports of the findings of this study including the dissertation. The Disability Research Systems Consultant, Jim Lake will contact you to set up a convenient time for the telephone interview. If you have any questions about this study you may call me collect at (517) 351-3497 or you may call Jim Lake collect at (616) 773-5389.

It is important that we get a realistic view of school administrator's experience with the mediation process. Therefore we hope that you will agree to be a part of this study.

Sincerely,

Harrold Spicknall, Ph.D, Director

Dear parent,

The Michigan Department of Education is supporting a study to determine the effects of the mediation process on parents and school districts. The study will compare disputes resolved by mediation and by due process hearings during the 1988-89 and 1989-90 school years. The purpose of the study is to provide a better understanding of the effects of the mediation and hearing processes so that these processes can be improved. Disability Research Systems, Inc. (DRS), has been selected to conduct this study. This study will also be used for a doctoral dissertation through Michigan State University.

In order to get the information necessary for this study the researcher needs to conduct confidential telephone interviews with parents who have participated in mediation in 1988-89 and 1989-90. The subject of the interview will be parents' perceptions of and satisfaction with the mediation process, the affect of mediation on parents' relationship with the school and parents' recommendations for improving the mediation process.

In order to protect the identity and confidentiality of the mediation participants, MSEMS is sending this invitation to participate in the study directly to you. No information about you will be given to the researcher unless you agree to be part of the study. If you wish to participate in the study, please sign and date the enclosed consent form and mail it in the enclosed envelope. If you do not wish to be a part of the study, simply discard the enclosed consent

form and envelope.

If you agree to be interviewed, the Disability Research Systems Consultant, Jim Lake will receive your consent form and will contact you to set up a convenient time for the telephone interview. If you have any questions about this study you may call me collect at (517) 351-3497 or you may call Jim Lake collect at (616) 773-5389.

It is important that we get a realistic view of parents' experience with the mediation process. Therefore we hope that you will agree to be a part of this study.

Sincerely,

Harrold Spicknall, Ph.D, Director

MEDIATION STUDY CONSENT FORM

I understand that my participation in the Mediation Study is voluntary and that I have the right to refuse to answer any question or discontinue my participation at any time.

I also understand that all information in this study will be treated with strict confidentiality and that the persons interviewed will remain anonymous in all reports of the findings of this study including the dissertation.

Subject to these limitations, the results of the study will be made available to the participants of the study upon request.

I agree to be interviewed as a part of the Study of Mediation conducted by Jim Lake, Consultant for Disability Research Systems, Inc.

_____/____/_____(____)_____

Signature

Date

Phone Number

Please give the dates and times when you can be reached by telephone: _____

For further information please call Jim Lake collect at: (616) 773-5389 or write to : Jim Lake

1347 S. Mill Iron Rd.

Muskegon, MI 49442

Dear administrator or parent,

I am writing to because in the 1988-89 school year, you were involved in a special education due process hearing. My purpose in writing is to request your assistance. The Department (of Education) is currently trying to evaluate both hearings and mediations as dispute resolution processes. The goal is to improve these services. Disability Research Systems (DRS) has been contracted to carry out this evaluation. Mr. Jim Lake is a research consultant with DRS and he will be conducting the evaluation. Mr. Lake also will be using the information gathered as part of a doctoral dissertation.

I would appreciate it very much if you would assist in this evaluation effort by participating in a 30-40 minute telephone interview. The focus of the interview is your perception of and satisfaction with the hearing process, the effect of having gone through the process has had on school districts' relationship with the parents and your suggestions for improving the process. Your responses will be held in the strictest confidence and all reports of findings including the dissertation will be devoid of personal or school district identifiers.

If you wish to participate, please mail the enclosed form and envelope to Mr. Lake.

Yours truly,

Benson R. Herbert

Supervisor, Regional Planning and Compliance, Special
Education Services

Consent Form (parent)

I give my consent to be interviewed as part of the study on hearings and mediations. I understand that my participation is voluntary and that I have the right to refuse to answer any questions or discontinue participation at any time. I also realize that all results will be treated with strict confidence and that persons interviewed will remain anonymous in all reports of the findings including a dissertation. Subject to these limitations, findings will be made available to participants upon request.

For further information call Jim Lake (collect) at:
(616) 773-5389, or write to: Jim Lake
1347 S. Mill Iron Rd.
Muskegon, MI 49442

Signature

Date

Telephone number

Please indicate times or days when you are available to be reached by telephone: _____

Dear hearing officer,

I am writing to because in the 1988-89 school year, you conducted a special education due process hearing. My

purpose in writing is to request your assistance. The Department (of Education) is currently trying to evaluate both hearings and mediations as dispute resolution processes. The goal is to improve these services. Disability Research Systems (DRS) has been contracted to carry out this evaluation. Mr. Jim Lake is a research consultant with DRS and he will be conducting the evaluation. Mr. Lake also will be using the information gathered as part of a doctoral dissertation.

I would appreciate it very much if you would assist in this evaluation effort by participating in a 30-40 minute telephone interview. The focus of the interview is your perception of and satisfaction with the hearing process, the effect of having gone through the process has had on school districts' relationship with the parents and your suggestions for improving the process. Your responses will be held in the strictest confidence and all reports of findings including the dissertation will be devoid of personal or school district identifiers.

If you wish to participate, please mail the enclosed form and envelope to Mr. Lake.

Yours truly,

Benson R. Herbert

Supervisor, Regional Planning and Compliance, Special
Education Services

APPENDIX B

School District Questionnaire for Mediations

I am going to ask you to answer some questions and give some responses about your experience with a mediation. Please remember that you may refuse to respond to any question or discontinue participating at any time. Would you permit me to tape our interview? ___Y ___N. There are 32 questions. Are you ready to begin?

1. Where did you find out about mediations in special education?

___ Local School District	___ Newsletters
___ Intermediate Sch. District	___ Special Ed. Rules
___ Parent Organization	___ Parent Rights
	handbook
___ Administrator Organ.	___ State Department of Ed.
___ Other	_____

2. What issues led to the dispute?

___ Eligibility	___ Method of instruction
___ Identification	___ Community problem
___ Type of Sp. Ed. Prog.	___ Personality clash
___ Type of related service	___ Cost of program/service
___ Amount of Sp. Ed. Prog.	___ Transportation
___ Amount of related Serv.	___ Goals and objectives
___ Permission to evaluate	___ Change of Ed. level

_____ Independent Ed. eval. _____ Avail. of personnel
 _____ Private placement _____ Graduation
 _____ Suspension or expulsion _____ Other

3. Please estimate to the nearest 1/2 hour the length of the mediation process. _____ hours
4. Which of the following best rates your level of satisfaction with the mediation process?
 1. Very satisfied
 2. Somewhat satisfied
 3. Uncertain
 4. Somewhat dissatisfied
 5. Very dissatisfied
5. Characterize the level of cooperation of the parent prior to the dispute that led to the mediation by choosing one of the following
 They were:
 1. Very cooperative
 2. Cooperative
 3. Uninvolved
 4. Uncooperative
 5. Very uncooperative
6. Prior to the mediation, which of the following best describes your trust of the parent to recommend what was best for the child?
 1. Definitely, trusted
 2. Yes, trusted
 3. I didn't know
 4. No, did not trust

5. Definitely did not trust
7. What did you actually want for the child when the mediation was requested? (read back response)
8. Would you have settled for any thing different?
Yes _____ No _____ Maybe _____
If so what? (read back response)
9. What was the parent's position? (read back response)
10. Which of the following best characterizes why you believe the parent opposed your position?
 1. Welfare of the student
 2. Cost of service
 3. Generally antagonistic towards me
 4. Wanted to show that school can't boss parents around
 5. To prove parents know best
11. What happened that made you decide that a mediation would be necessary? (read back the response)
12. Was there something the parent could have done that you feel would have made the mediation unnecessary? (read back the response)
13. Going into the meeting, did you feel that you had as great a chance to get what you wanted as the parent did?

1. Yes, definitely	4. Probably not
2. Probably so	5. No, definitely not
3. Don't know	
14. When you arrived at the mediation did you feel more _____ than usual. Here are some responses

please indicate yes or no. (circle for YES)

- | | |
|----------------------|--------------------------------------|
| 1. Nervous | 7. Relieved |
| 2. Scared/frightened | 8. Confident |
| 3. Apprehensive | 9. Wishing I'd never
requested it |
| 4. Angry | 10. Inadequate |
| 5. Calm | 11. Prepared |
| 6. Determined to win | 12. Other |

15. During the meeting, did you feel there was adequate opportunity to present your side of the issues?

Yes _____ No _____ Not sure _____

16. Did you feel you were really understood by the mediator?

Yes _____ No _____ Not sure _____

17. Which of the following best describes the fairness of the mediation?

- | | |
|--------------------|------------------------|
| 1. Absolutely fair | 4. It didn't seem fair |
| 2. It seemed fair | 5. Absolutely not fair |
| 3. Not sure | |

18. Which of the following best describes how your dispute was resolved? The mediation process:

- _____ resolved your entire dispute
- _____ resolved almost all of the dispute
(hearing? Yes ____ No ____)
- _____ resolved less than 1/2 of the dispute
- _____ ended without resolution (hearing? Yes ____ No ____)
- _____ made the dispute more difficult

19. Which one of the following phrases best reflects your

feeling about the major influence of the meeting.

Would you say the mediation ended this way because of:

- _____ my own skill
- _____ my own persistence
- _____ the skill of the mediator
- _____ the persistence of the mediator
- _____ the skill of the other party
- _____ the persistence of the other party
- _____ the skill of my attorney
- _____ the skill of my advocate
- _____ the skill of the other party's attorney

20. Which of the following describes the legal aspects of the process?

(circle the ones answered YES)

1. They were adequate for the protection of the district
 2. They were inadequate for the protection of the district
 3. They were too numerous
 4. I didn't notice or no opinion
 5. They were confusing
 6. They were helpful
 7. They were one sided
21. What word best describes your immediate reaction to the resolution of the dispute?
22. Which of the following best describes how the mediation solved the conflict between you and the parent?
1. Yes, completely solved

2. Yes, somewhat solved
 3. Didn't make a difference
 4. No, not solved
 5. No, things are worse now
23. Which of the following best describes the level of cooperation of the parents following the mediation.
- They are now:
- | | |
|---------------------|-----------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very uncooperative |
| 3. Uninvolved | |
24. Would you describe your level of satisfaction with the program and services provided for the child now as:
1. Yes, satisfied
 2. Yes, satisfied for the most part
 3. No, not satisfied for the most part
 4. No, definitely not satisfied
25. If you could make changes in the mediation process what would they be?

That is the last question. Thank you very much for giving your time to this study. Do you have any questions or concerns?

Parent Questionnaire for Mediation

I am going to ask you to answer some questions and give some responses about your experience with mediation. First, I would like to obtain some information about you and your child. Please remember that you may refuse to respond to any question or discontinue participating at any time.

Would you permit me to tape our interview? ___Y ___N.

There are 32 questions. Are you ready to begin?

I. Is your child a male or female? ___ M ___ F

II. What is your child's age? _____

III. what is you child's area of disability? _____

IV. What is your marital status? ___ M ___ W ___ D
 ___ Unmarried

V. What is the child's mother's formal education level?

JHS _____

HS _____

College ___ Yrs. ___ Degree _____

Graduate School ___ Yrs. ___ Degree _____

VI. Have you been through a mediation prior to this one?

Yes _____ (Which? _____) No _____

VII. What is the annual salary for:

	Father	Mother
0-15,000	1	1
15,000-40,000	2	2
40,000 or more	3	3

1. Where did you find out about mediation in special education?

_____ Local School District	_____ Newsletters
_____ Intermediate Sch. District	_____ Special Ed. Rules
_____ Parent Organization	_____ Parent Rights handbook
_____ Administrator Organ.	_____ State Department of Ed.
_____ Other _____	

2. What issues led to the dispute?

- | | |
|-------------------------------|-------------------------------|
| _____ Eligibility | _____ Method of instruction |
| _____ Identification | _____ Community problem |
| _____ Type of Sp. Ed. Prog. | _____ Personality clash |
| _____ Type of related service | _____ Cost of program/service |
| _____ Amount of Sp. Ed. Prog. | _____ Transportation |
| _____ Amount of related Serv. | _____ Goals and objectives |
| _____ Permission to evaluate | _____ Change of Ed. level |
| _____ Independent Ed. eval. | _____ Avail. of personnel |
| _____ Private placement | _____ Graduation |
| _____ Suspension or expulsion | _____ Other |

3. Please estimate to the nearest 1/2 hour the length of the mediation process. _____ hours

4. Which of the following best rates your level of satisfaction with the mediation process?

1. Very satisfied
2. Somewhat satisfied
3. Uncertain
4. Somewhat dissatisfied
5. Very dissatisfied

5. Characterize the level of cooperation of the school prior to the dispute that led to the mediation by choosing one of the following

They were:

1. Very cooperative

2. Cooperative
3. Uninvolved
4. Uncooperative
5. Very uncooperative
6. Prior to the mediation, which of the following best describes your trust of the school people to recommend what was best for your child?
 1. Definitely, trusted
 2. Yes, trusted
 3. I didn't know
 4. No, did not trust
 5. Definitely did not trust
7. What did you actually want for your child when mediation was requested? (read back response)
8. Would you have settled for any thing different?
Yes _____ No _____ Maybe _____
If so what? (read back response)
9. What was the school's position? (read back response)
10. Which of the following best characterizes why you believe the school opposed your position?
 1. Welfare of the student
 2. Cost of service
 3. Generally antagonistic towards me
 4. Wanted to show that parents can't boss school around
 5. To prove professionals know best
11. What happened that made you decide that mediation would be necessary? (read back the response)

12. Was there something the school could have done that you feel would have made the mediation unnecessary? (read back the response)

13. Going into the meeting, did you feel that you had as great a chance to get what you wanted as the school did?

- | | |
|--------------------|-----------------------|
| 1. Yes, definitely | 4. Probably not |
| 2. Probably so | 5. No, definitely not |
| 3. Don't know | |

14. When you arrived at the mediation did you feel more _____ than usual. Here are some responses please indicate yes or no. (circle for YES)

- | | |
|----------------------|-----------------------------------|
| 1. Nervous | 7. Relieved |
| 2. Scared/frightened | 8. Confident |
| 3. Apprehensive | 9. Wishing I'd never requested it |
| 4. Angry | 10. Inadequate |
| 5. Calm | 11. Prepared |
| 6. Determined to win | 12. Other |

15. During the meeting, did you feel there was adequate opportunity to present your side of the issues?

Yes _____ No _____ Not sure _____

16. Did you feel you were really understood by the mediator?

Yes _____ No _____ Not sure _____

17. Which of the following best describes the fairness of the mediation?

- | | |
|--------------------|------------------------|
| 1. Absolutely fair | 4. It didn't seem fair |
|--------------------|------------------------|

2. It seemed fair 5. Absolutely not fair
3. Not sure

18. Which of the following best describes how your dispute was resolved? The mediation process:

- _____ resolved your entire dispute
_____ resolved almost all of the dispute
(hearing? Yes ____ No ____)
_____ resolved less than 1/2 of the dispute
_____ ended without resolution (hearing?) Yes ____ No ____
_____ made the dispute more difficult

19. Which one of the following phrases which best reflects your feeling about the major influence of the meeting. Would you say the mediation ended this way because of:

- _____ my own skill
_____ my own persistence
_____ the skill of the mediator
_____ the persistence of the mediator
_____ the skill of the other party
_____ the persistence of the other party
_____ the skill of my attorney
_____ the skill of my advocate
_____ the skill of the other party's attorney

20. Which of the following describes the legal aspects of the process?

(circle the ones answered YES)

1. They were adequate for my protection.
2. They were in adequate for my protection
3. They were too numerous

4. I didn't notice or no opinion
 5. They were confusing
 6. They were helpful
 7. They were one sided
21. What word best describes your immediate reaction to the resolution of the dispute?
22. Which of the following best describes how the mediation solved the conflict between you and the school?
1. Yes, completely solved
 2. Yes, somewhat solved
 3. Didn't make a difference
 4. No, not solved
 5. No, things are worse now
23. Which of the following best describes the level of cooperation of the school following the mediation.
- They are now:
- | | |
|---------------------|------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very |
| 3. Uninvolved | uncooperative |
24. Would you describe your level of satisfaction with the program and services provided for the child now as:
1. Yes, satisfied
 2. Yes, satisfied for the most part
 3. No, not satisfied for the most part
 4. No, definitely not satisfied
25. If you could make changes in the mediation process what would they be?

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That is the last question. Thank you very much for giving your time to this study. Do you have any questions or concerns?

School District Questionnaire for Due Process Hearing
I am going to ask you to answer some questions and give some responses about your experience with a due process hearing. Please remember that you may refuse to respond to any question or discontinue participating at any time. Would you permit me to tape our interview? ___Y ___N. There are 32 questions. Are you ready to begin?

1. Where did you find out about due process hearings in special education?

___ Local School District	___ Newsletters
___ Intermediate Sch. District	___ Special Ed. Rules
___ Parent Organization	___ Parent Rights handbook
___ Administrator Organ.	___ State Department of Ed.
___ Other _____	

2. What issues led to the dispute?

___ Eligibility	___ Method of instruction
___ Identification	___ Community problem
___ Type of Sp. Ed. Prog.	___ Personality clash
___ Type of related service	___ Cost of program/service
___ Amount of Sp. Ed. Prog.	___ Transportation

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_____ Amount of related Serv.	_____ Goals and objectives
_____ Permission to evaluate	_____ Change of Ed. level
_____ Independent Ed. eval.	_____ Avail. of personnel
_____ Private placement	_____ Graduation
_____ Suspension or expulsion	_____ Other

3. Please estimate to the nearest 1/2 hour the length of the hearing process. _____ hours

4. Which of the following best rates your level of satisfaction with the hearing process?

1. Very satisfied
2. Somewhat satisfied
3. Uncertain
4. Somewhat dissatisfied
5. Very dissatisfied

5. Characterize the level of cooperation of the parent prior to the dispute that led to the hearing by choosing one of the following

They were:

1. Very cooperative
2. Cooperative
3. Uninvolved
4. Uncooperative
5. Very uncooperative

6. Prior to the hearing, which of the following best describes your trust of the parent to recommend what was best for the child?

1. Definitely, trusted
2. Yes, trusted

3. I didn't know
4. No, did not trust
5. Definitely did not trust
7. What did you actually want for the child when the hearing was requested? (read back response)
8. Would you have settled for any thing different?
Yes _____ No _____ Maybe _____
If so what? (read back response)
9. What was the parent's position? (read back response)
10. Which of the following best characterizes why you believe the parents opposed your position?
 1. Welfare of the student
 2. Cost of service
 3. Generally antagonistic towards me
 4. Wanted to show that school can't boss parents around
 5. To prove parents know best
11. What happened that made you decide that a hearing would be necessary? (read back the response)
12. Was there something the parent could have done that you feel would have made the hearing unnecessary? (read back the response)
13. Going into the meeting, did you feel that you had as great a chance to get what you wanted as the parent did?
 1. Yes, definitely
 2. Probably so
 3. Don't know
 4. Probably not
 5. No, definitely not

14. When you arrived at the hearing did you feel more _____ than usual. Here are some responses please indicate yes or no. (circle for YES)

- | | |
|----------------------|-----------------------------------|
| 1. Nervous | 7. Relieved |
| 2. Scared/frightened | 8. Confident |
| 3. Apprehensive | 9. Wishing I'd never requested it |
| 4. Angry | 10. Inadequate |
| 5. Calm | 11. Prepared |
| 6. Determined to win | 12. Other |

15. During the meeting, did you feel there was adequate opportunity to present your side of the issues?

Yes _____ No _____ Not sure _____

16. Did you feel you were really understood by the hearing officer?

Yes _____ No _____ Not sure _____

17. Which of the following best describes the fairness of the hearing?

- | | |
|--------------------|------------------------|
| 1. Absolutely fair | 4. It didn't seem fair |
| 2. It seemed fair | 5. Absolutely not fair |
| 3. Not sure | |

18. Which of the following best describes how your dispute was resolved? The hearing process:

_____ resolved your entire dispute

_____ resolved almost all of the dispute

(appeal? Yes ____ No ____)

_____ resolved less than 1/2 of the dispute

_____ ended without resolution (appeal?) Yes ____ No ____

_____ made the dispute more difficult

19. Which one of the following phrases best reflects your feeling about the major influence of the meeting.

Would you say the hearing ended this way because of:

_____ my own skill

_____ my own persistence

_____ the skill of the hearing officer

_____ the persistence of the hearing officer

_____ the skill of the other party

_____ the persistence of the other party

_____ the skill of my attorney

_____ the skill of my advocate

_____ the skill of the other party's attorney

20. Which of the following describes the legal aspects of the process?

(circle the ones answered YES)

1. They were adequate for the protection of the district.

2. They were in adequate for the protection of the district.

3. They were too numerous

4. I didn't notice or no opinion

5. They were confusing

6. They were helpful

7. They were one sided

21. What word best describes your immediate reaction to the resolution of the dispute?

22. Which of the following best describes how the hearing

solved the conflict between you and the parent?

1. Yes, completely solved
2. Yes, somewhat solved
3. Didn't make a difference
4. No, not solved
5. No, things are worse now

23. Which of the following best describes the level of cooperation of the parents following the hearing.

They are now:

- | | |
|---------------------|------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very |
| 3. Uninvolved | uncooperative |

24. Would you describe your level of satisfaction with the program and services provided for the child now as:

1. Yes, satisfied
2. Yes, satisfied for the most part
3. No, not satisfied for the most part
4. No, definitely not satisfied

25. If you could make changes in the hearing process what would they be?

That is the last question. Thank you very much for giving your time to this study. Do you have any questions or concerns?

Parent Questionnaire for Due Process Hearing

I am going to ask you to answer some questions and give some responses about your experience with a due process hearing.

First, I would like to obtain some information about you and your child. Please remember that you may refuse to respond to any question or discontinue participating at any time.

Would you permit me to tape our interview? ___Y ___N.

There are 32 questions. Are you ready to begin?

I. Is your child a male or female? ___ M ___ F

II. What is your child's age? _____

III. what is you child's area of disability? _____

IV. What is your marital status? ___ M ___ W ___ D
___ Unmarried

V. What is the child's mother's formal education level?

JHS _____

HS _____

College ___ Yrs. _____ Degree _____

Graduate School _____ Yrs. _____ Degree _____

VI. Have you been through a mediation or hearing prior to this one?

Yes _____ (Which? _____) No _____

VII. What is the annual salary for:

	Father	Mother
0-15,000	1	1
15,000-40,000	2	2
40,000 or more	3	3

1. Where did you find out about due process hearings in special education?

_____ Local School District

_____ Newsletters

_____ Intermediate Sch. District

_____ Special Ed. Rules

_____ Parent Organization

_____ Parent Rights

handbook

_____ Administrator Organ. _____ State Department of
Ed.

_____ Other _____

2. What issues led to the dispute?

_____ Eligibility _____ Method of
instruction
_____ Identification _____ Community problem
_____ Type of Sp. Ed. Prog. _____ Personality clash
_____ Type of related service _____ Cost of

program/service

_____ Amount of Sp. Ed. Prog. _____ Transportation
_____ Amount of related Serv. _____ Goals and objectives
_____ Permission to evaluate _____ Change of Ed. level
_____ Independent Ed. eval. _____ Avail. of personnel
_____ Private placement _____ Graduation
_____ Suspension or expulsion _____ Other

3. Please estimate to the nearest 1/2 hour the length of
the hearing process. _____ hours

4. Which of the following best rates your level of
satisfaction with the hearing process?

1. Very satisfied
2. Somewhat satisfied
3. Uncertain
4. Somewhat dissatisfied
5. Very dissatisfied

5. Characterize the level of cooperation of the school

prior to the dispute that led to the hearing by
choosing one of the following

They were:

1. Very cooperative
 2. Cooperative
 3. Uninvolved
 4. Uncooperative
 5. Very uncooperative
6. Prior to the hearing, which of the following best describes your trust of the school people to recommend what was best for your child?
1. Definitely, trusted
 2. Yes, trusted
 3. I didn't know
 4. No, did not trust
 5. Definitely did not trust
7. What did you actually want for your child when the hearing was requested? (read back response)
8. Would you have settled for any thing different?
- Yes _____ No _____ Maybe _____
- If so what? (read back response)
9. What was the school's position? (read back response)
10. Which of the following best characterizes why you believe the school opposed your position?
1. Welfare of the student
 2. Cost of service
 3. Generally antagonistic towards me

4. Wanted to show that parents can't boss school around
5. To prove professionals know best
11. What happened that made you decide that a hearing would be necessary? (read back the response)
12. Was there something the school could have done that you feel would have made the hearing unnecessary? (read back the response)
13. Going into the meeting, did you feel that you had as great a chance to get what you wanted as the school did?
1. Yes, definitely 4. Probably not
2. Probably so 5. No, definitely not
3. Don't know
14. When you arrived at the hearing did you feel more _____ than usual. Here are some responses please indicate yes or no. (circle for YES)
1. Nervous 7. Relieved
2. Scared/frightened 8. Confident
3. Apprehensive 9. Wishing I'd never requested it
4. Angry 10. Inadequate
5. Calm 11. Prepared
6. Determined to win 12. Other
15. During the meeting, did you feel there was adequate opportunity to present your side of the issues?
- Yes _____ No _____ Not sure _____

16. Did you feel you were really understood by the hearing officer?

Yes _____ No _____ Not sure _____

17. Which of the following best describes the fairness of the hearing?

- | | |
|--------------------|------------------------|
| 1. Absolutely fair | 4. It didn't seem fair |
| 2. It seemed fair | 5. Absolutely not fair |
| 3. Not sure | |

18. Which of the following best describes how your dispute was resolved? The hearing process:

- _____ resolved your entire dispute
- _____ resolved almost all of the dispute
- (appeal? Yes ____ No ____)
- _____ resolved less than 1/2 of the dispute
- _____ ended without resolution (appeal?) Yes ____ No ____
- _____ made the dispute more difficult

19. Which one of the following phrases best reflects your feeling about the major influence of the meeting.

Would you say the hearing ended this way because of:

- _____ my own skill
- _____ my own persistence
- _____ the skill of the hearing officer
- _____ the persistence of the hearing officer
- _____ the skill of the other party
- _____ the persistence of the other party
- _____ the skill of my attorney
- _____ the skill of my advocate
- _____ the skill of the other party's attorney

20. Which of the following describes the legal aspects of the process?

(circle the ones answered YES)

1. They were adequate for my protection.
2. They were in adequate for my protection
3. They were too numerous
4. I didn't notice or no opinion
5. They were confusing
6. They were helpful
7. They were one sided

21. What word best describes your immediate reaction to the resolution of the dispute?

22. Which of the following best describes how the hearing solved the conflict between you and the school?

1. Yes, completely solved
2. Yes, somewhat solved
3. Didn't make a difference
4. No, not solved
5. No, things are worse now

23. Which of the following best describes the level of cooperation of the school following the hearing.

They are now:

- | | |
|---------------------|------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very |
| 3. Uninvolved | uncooperative |

24. Would you describe your level of satisfaction with the program and services provided for the child now as:

1. Yes, satisfied

2. Yes, satisfied for the most part
3. No, not satisfied for the most part
4. No, definitely not satisfied

25. If you could make changes in the hearing process what would they be?

That is the last question. Thank you very much for giving your time to this study. Do you have any questions or concerns?

Mediator Questionnaire

I am going to ask you 20 questions about your perceptions of a specific mediation which you conducted. Inquiries will be made about the reactions of the disputing parties and the nature of the dispute. Please remember that you may refuse to answer any question or discontinue participation at any time. All reports of finding will be devoid of identifiers and your responses will be held in strict confidence. Would you permit me to tape our interview? ___Yes ___No. Are you ready to begin?

1. Please indicate the number of each of the following who (0) attended the mediation.

_____ parent	_____ Special education administrator
_____ guardian	_____ General education administrator
_____ student	_____ Special education teacher
_____ lay advocate	_____ General education teacher
_____ attorney advoc.	_____ SSW

_____ OT _____ School Psychologist
 _____ School attorney
 _____ Other _____

2. What issues led to the dispute?

(2)

_____ Eligibility	_____ Method of instruction
_____ Identification	_____ Community problem
_____ Type of Sp. Ed. Prog.	_____ Personality clash
_____ Type of related service	_____ Cost of program/service
_____ Amount of Sp. Ed. Prog.	_____ Transportation
_____ Amount of related Serv.	_____ Goals and objectives
_____ Permission to evaluate	_____ Change of Ed. level
_____ Independent Ed. eval.	_____ Avail. of personnel
_____ Private placement	_____ Graduation
_____ Suspension or expulsion	_____ Other

3. Please estimate to the nearest 1/2 hour the length of

(3) the mediation process. _____ hours

4. Which of the following best rate the levels of

(4) satisfaction of the disputants with the mediation process?

P S

1. _____ Very satisfied
2. _____ Somewhat satisfied
3. _____ Uncertain
4. _____ Somewhat dissatisfied

5. _____ Very dissatisfied

5. What did the parents actually want for the child? (read
(7) back response)

What did the school actually want for the child? (read
back response)

6. Would the parents have settled for any thing different?
(8)

Yes _____ No _____ Maybe _____

Would the school have settled for any thing different?

Yes _____ No _____ Maybe _____

7. What was the parent's position? (read back the
(8) response)

What was the school's position? (read back the response)

8. Which of the following best characterizes why you
(10) believe there was opposition between the parties?

1. Welfare of the student

2. Cost of service

3. Generally antagonism

4. One party wanted to show the other who was in
control

5. The professionals wanted to prove they knew best

9. What happened that caused the sides to decide that a
(11) mediation would be necessary? (read back response)

10. Was there something which you believe the parents
(11) could have done to make the mediation unnecessary?
(read back the response)

Was there something which you believe the school could have done to make the mediation unnecessary? (read back the response)

11. Did the parents seem to believe that they had as
(13) great a chance to get what they wanted as the school?

- | | |
|--------------------|-----------------------|
| 1. Yes, definitely | 4. Probably not |
| 2. Probably so | 5. No, definitely not |
| 3. Don't know | |

Did the school seem to believe that they had as great a chance to get what they wanted as the parents?

- | | |
|--------------------|-----------------------|
| 1. Yes, definitely | 4. Probably not |
| 2. Probably so | 5. No, definitely not |
| 3. Don't know | |

12. Which of the following best describes how the
(14) disputants seemed when they arrived at the mediation.

- | P | S | |
|-----|-----|-----------------------------------|
| ___ | ___ | 1. Nervous |
| ___ | ___ | 2. Scared/frightened |
| ___ | ___ | 3. Apprehensive |
| ___ | ___ | 4. Angry |
| ___ | ___ | 5. Calm |
| ___ | ___ | 6. Determined to win |
| ___ | ___ | 7. Relieved |
| ___ | ___ | 8. Confident |
| ___ | ___ | 9. Wish they'd never requested it |
| ___ | ___ | 10. Inadequate |
| ___ | ___ | 11. Prepared |

___ 12. Other (please describe)

13. Do you believe the parents took adequate opportunity
(15) to present their side?

Yes _____ No _____ Not sure _____

Do you believe the school took adequate opportunity to
present its side?

Yes _____ No _____ Not sure _____

14. Which of the following best describes how the
(17) disputants seemed to perceive the fairness of the
mediation?

P S

___ 1. Absolutely fair

___ 2. It seemed fair

___ 3. Not sure

___ 4. It didn't seem fair

___ 5. Absolutely not fair

15. Which of the following best describes how the
(18) dispute was resolved? The mediation process:

___ resolved the entire dispute

___ resolved almost all of the dispute

___ resolved less than 1/2 of the dispute

___ ended without resolution

hearing? Yes ___ No ___

___ made the dispute more difficult

16. Which of the following best reflects your belief

(19) about the major influence of the mediation. Would
you say the mediation ended this way because of:

___ the parent's skill

the parent's persistence

 the skill of the mediator

 the persistence of the mediator

the skill of the school

 the persistence of the school

17. Which of the following best describes the

(20) disputants' views about the legal aspects of the process?

P **S**

_____ 1. They were adequate for my/our
protection

_____ 2. They were inadequate for my/our
protection

_____ 3. They were too numerous

4. Didn't notice - no opinion

5. They were confusing

6. They were helpful

7. They were one sided

18. Do you believe the mediation solved the conflict

(20) between the parties?

1. Yes, completely solved

2. Yes, somewhat solved

3. Didn't make a difference

4. No, not solved

5. No, things are worse now

19. Which of the following best describes the level of

(23) cooperation of the two parties following the mediation?

They are now:

- | | |
|---------------------|------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very |
| 3. Uninvolved | uncooperative |
| | 6. Don't know |

20. If you could make changes in the mediation process
(25) what would they be?

That is the last question. Thank you very much for giving
your time to this study. Do you have any questions or
concerns?

Hearing officer Questionnaire

I am going to ask you 20 questions about your perceptions of
a specific hearing which you conducted. Inquiries will be
made about the reactions of the disputing parties and the
nature of the dispute. Please remember that you may refuse
to answer any question or discontinue participation at any
time. All reports of finding will be devoid of identifiers
and your responses will be held in strict confidence. Would
you permit me to tape our interview? ___Yes ___No. Are you
ready to begin?

1. Please indicate the number of each of the following who
(0) attended the hearing.

_____ parent	_____ Special Ed.
	administrator
_____ guardian	_____ General education
	administrator
_____ student	_____ Special education teacher

_____ lay advocate	_____ General education teacher
_____ attorney advocate	_____ SSW
_____ OT	_____ School Psychologist
_____ School attorney	
_____ Other _____	

2. What issues led to the dispute?

(2)

_____ Eligibility	_____ Method of instruction
_____ Identification	_____ Community problem
_____ Type of Sp. Ed. Prog.	_____ Personality clash
_____ Type of related service	_____ Cost of program/service
_____ Amount of Sp. Ed. Prog.	_____ Transportation
_____ Amount of related Serv.	_____ Goals and objectives
_____ Permission to evaluate	_____ Change of Ed. level
_____ Independent Ed. eval.	_____ Avail. of personnel
_____ Private placement	_____ Graduation
_____ Suspension or expulsion	_____ Other

3. Please estimate to the nearest 1/2 hour the length of

(3) the hearing process. _____ hours

4. Which of the following best rate the levels of

(4) satisfaction of the disputants with the hearing process?

P S

1. _____ Very satisfied
2. _____ Somewhat satisfied
3. _____ Uncertain

4. _____ Somewhat dissatisfied

5. _____ Very dissatisfied

5. What did the parents actually want for the child?(read
(7) back response)

What did the school actually want for the child? (read
back response)

6. Would the parents have settled for any thing different?

(8) Yes _____ No _____ Maybe _____

Would the school have settled for any thing different?

Yes _____ No _____ Maybe _____

7. What was the parent's position? (read back the
response)

(9) What was the school's position? (read back the
response)

8. Which of the following best characterizes why you
believe

(10) there was opposition between the parties?

1. Welfare of the student

2. Cost of service

3. Generally antagonism

4. One party wanted to show the other who was in
control

5. The professionals wanted to prove they knew best

9. What happened that caused the sides to decide that a

(11) hearing would be necessary? (read back response)

10. Was there something which you believe the parents

(12) could have done to make the hearing unnecessary?

(read back the response)

Was there something which you believe the school could have done to make the hearing unnecessary? (read back the response)

11. Did the parents seem to believe that they had as
(12) great a chance to get what they wanted as the school?

- | | |
|--------------------|-----------------------|
| 1. Yes, definitely | 4. Probably not |
| 2. Probably so | 5. No, definitely not |
| 3. Don't know | |

Did the school seem to believe that they had as great a chance to get what they wanted as the parents?

- | | |
|--------------------|-----------------------|
| 1. Yes, definitely | 4. Probably not |
| 2. Probably so | 5. No, definitely not |
| 3. Don't know | |

12. Which of the following best describes how the disputants seemed (14) when they arrived at the hearing.

- | P | S | |
|-----|-----|-----------------------------------|
| ___ | ___ | 1. Nervous |
| ___ | ___ | 2. Scared/frightened |
| ___ | ___ | 3. Apprehensive |
| ___ | ___ | 4. Angry |
| ___ | ___ | 5. Calm |
| ___ | ___ | 6. Determined to win |
| ___ | ___ | 7. Relieved |
| ___ | ___ | 8. Confident |
| ___ | ___ | 9. Wish they'd never requested it |
| ___ | ___ | 10. Inadequate |
| ___ | ___ | 11. Prepared |
| ___ | ___ | 12. Other (please describe) |

13. Do you believe the parents took adequate opportunity to
(15) present their side?

Yes _____ No _____ Not sure _____

Do you believe the school took adequate opportunity to
present its side?

Yes _____ No _____ Not sure _____

14. Which of the following best describes how the
(17) disputants seemed to perceive the fairness of the
hearing?

P S

- _____ 1. Absolutely fair
- _____ 2. It seemed fair
- _____ 3. Not sure
- _____ 4. It didn't seem fair
- _____ 5. Absolutely not fair

15. Which of the following best describes how the
(18) dispute was resolved? The hearing process:

- _____ resolved the entire dispute
- _____ resolved almost all of the dispute
- _____ resolved less than 1/2 of the dispute
- _____ ended without resolution
- _____ appeal? Yes ____ No ____
- _____ made the dispute more difficult

16. Which of the following best reflects your belief
(19) about the major influence of the hearing.

Would you say the hearing ended this way because of:

- _____ the parent's skill
- _____ the parent's persistence

the skill of the hearing officer

 the persistence of the hearing officer

 the skill of the school

 the persistence of the school

17. Which of the following best describes the
(20) disputants' views about the legal aspects of the
process?

P S

_____ 1. They were adequate for my/our
protection

_____ 2. They were inadequate for my/our
protection

3. They were too numerous

_____ 4. Didn't notice - no opinion

5. They were confusing

6. They were helpful

7. They were one sided

18. Do you believe the hearing solved the conflict
(22) between the parties?

1. Yes, completely solved

2. Yes, somewhat solved

3. Didn't make a difference

4. No, not solved

5. No, things are worse now

19. Which of the following best describes the level of
(23) cooperation of the two parties following the
hearing?

They are now:

- | | |
|---------------------|------------------|
| 1. Very cooperative | 4. Uncooperative |
| 2. Cooperative | 5. Very |
| 3. Uninvolved | uncooperative |
| 3. Uninvolved | 6. Don't know |

20. If you could make changes in the hearing process

(25) what would they be?

That is the last question. Thank you very much for giving your time to this study. Do you have any questions or concerns?

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