

**LIBRARY**  
**Michigan State**  
**University**

This is to certify that the

dissertation entitled

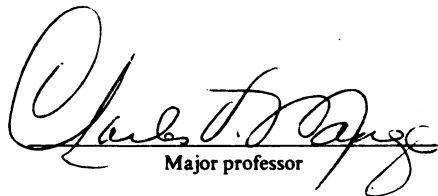
**PARENT PERCEPTIONS OF THE SPECIAL EDUCATION  
DUE PROCESS HEARING IN MICHIGAN, 1980-1981**

presented by

**Cherie Nan Simpson**

has been accepted towards fulfillment  
of the requirements for

Ph.D. degree in **Counseling, Educational  
Psychology, and Special  
Education**

  
Major professor

Date 6-9-84



RETURNING MATERIALS:

Place in book drop to  
remove this checkout from  
your record. FINES will  
be charged if book is  
returned after the date  
stamped below.

JUN 12 1983

CC# 034 2001

85 K 333

12 K-68

PARENT PERCEPTIONS OF THE SPECIAL EDUCATION  
DUE PROCESS HEARING IN MICHIGAN, 1980-1981

By

Cherie Nan Simpson

A DISSERTATION

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
for the degree of

DOCTOR OF PHILOSOPHY

Department of Counseling, Educational Psychology,  
and Special Education

1984



3184328

© Copyright by

CHERIE NAN SIMPSON

1984

## ABSTRACT

### PARENT PERCEPTIONS OF THE SPECIAL EDUCATION DUE PROCESS HEARING IN MICHIGAN, 1980-1981

By

Cherie Nan Simpson

This study presents the results of in-depth personal interviews conducted with 15 of the 41 Michigan parents known to have been involved in special education due process hearings between September 1, 1980, and August 31, 1981. The intention was to determine whether these parents felt the hearing process was a fair and effective mechanism for resolving conflict and whether they had found it possible to work cooperatively with the school after the hearing. Parents were asked what caused the hearing request, what their relationship with the school was before and after the hearing, how they perceived the hearing process, how the decision was implemented, what the effect was on child and educational program, and what suggestions they had for schools and parents who face the prospect of a hearing.

A slim majority, although finding fault with its implementation, felt the hearing process was basically fair. Expressed concerns regarded length of time the process takes, unnecessary time delays, inadequate parental knowledge of procedural requirements, the school's greater resources, questionable professional ethics, suspected hearing

officer bias, unclear written decisions, the need for parents to personally monitor implementation of the decision, and poor parent-school communication. Only one parent reported a cooperative relationship with the school involved in the hearing. Most parents would use the hearing again. Over a third reported their child had benefited from the decision.

Recommendations were made for schools to strive for improved communication with parents in an effort to avoid impasse and resultant hearing, that parent education programs and materials be provided, that nonbinding third-party opinions be available to parents and schools, that less adversarial methods of resolving conflict be sought, that a more equitable means of hearing officer selection be determined, that pre-hearing conferences be held well in advance of the hearing, and that parents be relieved of the responsibility for monitoring implementation of the decision.

The results of this study, although limited because of the small number of parents interviewed, appear to indicate that intense feelings regarding the issue of the hearing do not subside quickly and that the adversarial nature of the hearing does long-term and possibly permanent damage to the parent-school relationship.

To my husband, Del,  
for his unending faith and encouragement,  
for his love and understanding,  
and for his hours of proofreading.  
To my parents, Pat and Guy Littleson,  
who taught me the joy of learning and accomplishing,  
and who instilled in me the belief  
that no goal was high enough to be unattainable.  
And to my children, Lori and Jim,  
for without them I may only have viewed  
the role of a parent  
through the eyes of a professional.

## ACKNOWLEDGMENTS

A very special thank-you is extended to the parents who gave hours out of their busy lives to share memories and feelings about their experience with the special education due process hearing. Their desire and willingness to help and their openness with the interviewer have made this study possible. Without them there would have been no study.

Sincere thanks are also extended to the school administrators who provided access to the parents interviewed. They have shown their respect for the parents of the handicapped children in their districts and for the rights of those parents by providing them the opportunity to be heard. The cooperation and interest of parent advocates and attorneys is also genuinely appreciated.

The assistance and encouragement provided by Dr. Charles Mange as chairman of my doctoral committee are most gratefully acknowledged. He has served not only as an extremely helpful advisor, but as a source of faith in the intended equity and value of the special education process. Thanks go also to Dr. Charles Henley and Dr. Richard Featherstone for their suggestions and their support, and to Dr. Daniel Kruger, who provided a much-needed view from outside the field of education.

I am also indebted to Dr. Herbert Baker, Director of Guidance and Pupil Personnel, and Bernard Maslanik, Coordinator of Special Education, Birmingham Public Schools, for their interest, counsel, and support throughout this doctoral program.

## TABLE OF CONTENTS

	Page
LIST OF TABLES . . . . .	vii
 Chapter	
I. INTRODUCTION . . . . .	1
Historical Background of the Special Education	
Hearing . . . . .	2
Michigan's Mandatory Special Education Act . . . . .	2
Litigation . . . . .	5
Constitutional Protection . . . . .	6
Property and Liberty Rights . . . . .	9
Due Process . . . . .	11
P.L. 94-142 . . . . .	11
Parental Rights and the Hearing Process . . . . .	12
Hearings in Michigan . . . . .	16
Purpose of the Study . . . . .	17
II. REVIEW OF LITERATURE . . . . .	21
III. METHODOLOGY . . . . .	39
Description of Population and Sample . . . . .	39
Research Design . . . . .	40
Development of Interview Guide . . . . .	42
Data Collection and Analysis . . . . .	45
IV. PRESENTATION OF THE FINDINGS . . . . .	49
Introduction . . . . .	49
Parent Profile . . . . .	52
Characteristics of Children . . . . .	56
The Child and Special Education . . . . .	59
The Parents and Special Education . . . . .	66
The Issue of the Hearing . . . . .	87
Requesting the Hearing . . . . .	97
The Hearing . . . . .	115
After the Hearing . . . . .	150
Parents Evaluate the Hearing Process . . . . .	157

	Page
Effect on the Child . . . . .	165
Effect on the Child's Educational Program . . . . .	167
Effect on Parent-School Relationship . . . . .	170
Current Special Education Programing . . . . .	173
Advice to Parents From Parents . . . . .	176
Advice to Schools From Parents . . . . .	180
Parents Recommend Changes in the Hearing Process . . . . .	185
Parents Evaluate the Interview . . . . .	190
 V. SUMMARY AND RECOMMENDATIONS . . . . .	 193
Overview of the Study . . . . .	193
Limitations . . . . .	194
Summary and Discussion of Findings . . . . .	200
Characteristics of Parents . . . . .	200
Characteristics of Children . . . . .	201
Referral to Special Education . . . . .	202
Parent Involvement Before the Hearing . . . . .	202
Why Hearings Were Requested . . . . .	204
Conflict-Resolution Techniques . . . . .	205
Requesting and Preparing for the Hearing . . . . .	207
The Hearing and Decision . . . . .	210
The Hearing as a Conflict-Resolution Technique . . . . .	215
Parents Evaluate the Process . . . . .	216
Parents Give Advice . . . . .	220
Implications and Recommendations . . . . .	223
 APPENDICES . . . . .	 240
A. MICHIGAN SPECIAL EDUCATION RULES PERTAINING TO DUE PROCESS HEARINGS AND APPEALS . . . . .	241
B. INTERVIEW GUIDE . . . . .	247
C. LETTER TO DIRECTORS OF SPECIAL EDUCATION . . . . .	268
D. LETTER TO PARENTS . . . . .	271
E. PARENT RESPONSE FORM . . . . .	274
F. DIRECTOR RESPONSE POSTCARD . . . . .	276
 REFERENCES . . . . .	 278



## LIST OF TABLES

Table	Page
1. Response to Question 5: Do you have other children who have received special education? . . . . .	52
2. Hearing Number . . . . .	53
3. Response to Question 144: Are you or have you ever been a member of the PAC? . . . . .	53
4. Response to Question 145: Are you an active member of any parent organization? . . . . .	54
5. Response to Question 148: What is the highest level of education that you or your spouse have completed? . . . .	54
6. Response to Question 149: What was your approximate family income from all sources, before taxes, at the time of the hearing? . . . . .	55
7. Response to Question 146: Did you or family members suffer from any illness during this time of attempted conflict resolution with the school? . . . . .	56
8. Sex of Children . . . . .	56
9. Student Age at Time of Hearing . . . . .	57
10. Student Age at Time of Interview . . . . .	57
11. Primary Disability as Reported by Parent . . . . .	58
12. Response to Question 12: Was your child enrolled in school prior to the time the hearing was requested? . . . . .	59
13. Response to Question 2: Was your child in a public or private school program . . . . .	59
14. Response to Question 3: Was your child receiving any special education services at the time the hearing was requested? . . . . .	60

	Page
15. Response to Question 15: When did your child first enter special education? . . . . .	61
16. Response to Question 10: Grade level at time of hearing .	61
17. Response to Question 18: Under what label was your child originally found eligible for special education? . . . .	62
18. Response to Question 19: What was your child's original special education placement? . . . . .	63
19. Response to Question 20: What other special education services were provided? . . . . .	64
20. Response to Question 21: In what special education placement was your child enrolled at the time of the hearing request? . . . . .	64
21. Response to Question 23: At the time of the hearing request what portion of the day was your child in special education? . . . . .	65
22. Response to Question 22: What special education services was your child receiving at the time of the hearing request? . . . . .	66
23. Response to Question 24: Did your child's placement remain the same during the time between the request for a hearing and the hearing decision? . . . . .	66
24. Response to Question 25: By whom was your child originally referred for special education? . . . . .	67
25. Response to Question 26: Who explained what would have to be done to determine whether your child would be eligible for special education and how it would be decided what services would be provided? . . . . .	69
26. Response to Question 27: How was this evaluation/identification/placement process explained to you? . . .	70
27. Response to Question 28: Did you feel that you were expected to be involved in any decisions the school would make regarding your child's educational future? . .	72
28. Response to Question 29: Who provided you with the results of the evaluation conducted by the school? . . .	75

	Page
29. Response to Question 30: When were the results of the evaluation explained to you? . . . . .	76
30. Response to Question 31: How were the results of the school's evaluation explained to you? . . . . .	77
31. Response to Question 32: Did you feel the evaluation done by the school accurately described your child? . . .	77
32. Response to Question 33: Did you feel the school person who explained the evaluation results was sensitive to your feelings regarding your child's handicapping condition? . . . . .	79
33. Response to Question 34: Did you obtain an independent evaluation? . . . . .	79
34. Response to Question 35: Who paid for the independent evaluation? . . . . .	80
35. Response to Question 36: Who explained what would happen at the IEPC to you? . . . . .	80
36. Response to Question 37: How did you learn about the procedure to be followed at the IEPC? . . . . .	81
37. Response to Question 38: Were you told what school personnel would be attending the IEPC? . . . . .	82
38. Response to Question 26: Was there some one member of the school staff with whom you felt you could share your concerns regarding your child and his/her educational progress? . . . . .	84
39. Response to Question 27: With whom could you share your concerns? . . . . .	84
40. Response to Question 41: Did you trust any school person to recommend what was in the best interests of your child? . . . . .	85
41. Response to Question 42: Were you pleased with previous educational plans developed for your child? . . . . .	86
42. Response to Question 30: How would you describe your relationship with the school prior to the dispute that led to the hearing? . . . . .	86

	Page
43. Response to Question 45: Would you have settled for anything else? . . . . .	88
44. Response to Question 44: What did you actually want for your child when the hearing was requested? . . . . .	94
45. Response to Question 47: Why do you believe the school opposed your position? . . . . .	95
46. Response to Question 48: All issues brought to hearing must fall under one of four broad categories. As you understand it, was yours an issue of ... . . . . .	97
47. Response to Question 49: Who requested the hearing? . . .	98
48. Response to Question 50: What methods of resolving the conflict were used before requesting the hearing? . .	98
49. Response to Question 51: From which of the following sources did you learn about the right to request a hearing? . . . . .	100
50. Response to Question 52: Did you realize you could have requested arbitration rather than a hearing? . . . . .	100
51. Response to Question 55: Do you think an impartial third party could have helped to resolve the conflict without a hearing? . . . . .	105
52. Response to Question 56: Did you believe the issue would be resolved before the time of the hearing? . . . .	105
53. Response to Question 57: Did you expect that if the issue did go before the hearing officer that the decision would favor your position, that you would win? . . . . .	106
54. Responses to Questions 59 through 58: Response of school district to hearing request . . . . .	107
55. Response to Question 70: How many days were there between the time the hearing was requested and the date it was held? . . . . .	107
56. Response to Question 71: How was the date for the hearing set? . . . . .	109
57. Response to Question 72: How was the hearing officer selected? . . . . .	109

	Page
58. Response to Question 73: Were any attempts made to resolve the conflict between the time you requested the hearing and the hearing date? . . . . .	111
59. Response to Question 74: Who helped you to prepare for the hearing? . . . . .	111
60. Response to Question 75: Had the person who helped you prepare for the hearing attended any of your meetings with the school? . . . . .	113
61. Response to Question 77: Was there a prehearing conference with the hearing officer? . . . . .	113
62. Response to Question 78: If there was a prehearing conference, who attended? . . . . .	114
63. Response to Question 64: Did the prehearing conference reduce, increase or not change the intensity of the conflict between you and the school? . . . . .	115
64. Response to Question 80: Who presented your case at the hearing? . . . . .	116
65. Response to Question 81: Who presented the school's case at the hearing? . . . . .	116
66. Representatives for Parent and School and Hearing Decision . . . . .	117
67. Response to Question 82: Were you aware, prior to the hearing, of who would be representing the school? . . . .	118
68. Response to Question 83: Did this influence your decision regarding who would represent you? . . . . .	118
69. Response to Question 86: Would you advise others to have someone other than themselves present their case at the hearing? . . . . .	120
70. Response to Question 87: If you would advise parents to have someone other than themselves represent them at the hearing who would that be? . . . . .	122
71. Response to Question 88: How did you feel when you actually arrived at the hearing? . . . . .	124

	Page
72. Response to Question 89: Did you feel differently after the hearing officer's opening statement? . . . . .	125
73. Response to Question 91: Did you feel confident that the hearing officer would resolve the issue fairly? . . .	126
74. Response to Question 92: What was the occupation of the hearing officer? . . . . .	127
75. Response to Question 80: What witnesses were called to testify for you? . . . . .	128
76. Response to Question 94: Did you have to pay any of these witnesses? . . . . .	128
77. Response to Question 99: What witnesses testified for the school? . . . . .	129
78. Number of Witnesses . . . . .	130
79. Response to Question 95: Did you testify at the hearing? .	131
80. Response to Question 96: If you testified did you feel better, worse or no different after having done so? . . .	131
81. Response to Question 97: Did you feel there was adequate opportunity to present your side of the issue? .	131
82. Response to Question 98: Did you feel you were really heard and understood by the hearing officer? . . . . .	132
83. Response to Question 100: Was the testimony of the school what you expected? . . . . .	134
84. Response to Question 101: Did you feel that you were personally attacked by the school? . . . . .	136
85. Response to Question 103: How did you feel about the degree of formality? . . . . .	138
86. Response to Question 103: Did you feel the hearing was conducted fairly? . . . . .	138
87. Response to Question 104: Did you feel the hearing officer was impartial during the proceedings? . . . . .	140
88. Response to Question 106: How upsetting was it to participate in the hearing? . . . . .	142

	Page
89. Response to Question 107: Did you feel you had as great a chance to win as the school did? . . . . .	142
90. Response to Question 108: Why did you feel that way? . . .	143
91. Response to Question 112: Were changes required in your child's educational program as a result of the local hearing officer's decision? . . . . .	147
92. Response to Question 116: How soon was the program ordered by the hearing officer implemented? . . . . .	150
93. Response to Question 117: Did you feel there were unnecessary time delays at any time during the process? .	151
94. Response to Question 118: Did the hearing end the conflict between you and the school regarding this issue? . . . . .	153
95. Response to Question 119: Was there a state-level appeal? . . . . .	155
96. Response to Question 120: Who requested the state-level appeal? . . . . .	155
97. Response to Question 121: What was the result of the state-level decision? . . . . .	156
98. Response to Question 122: Did either you or the school initiate civil action with regard to this issue? . . . .	156
99. Response to Question 123: Was an official special education complaint regarding this issue filed in accordance with Rule 151 of the Michigan Special Education Rules and Regulations? . . . . .	157
100. Response to Question 124: Do you feel that the hearing process is basically a fair way to resolve conflict between parents and the school? . . . . .	157
101. Response to Question 125: Do you like the two-step process, the local hearing and state-level appeal prior to going to court? . . . . .	160
102. Response to Question 126: How would you rate your level of satisfaction with the hearing process? . . . . .	162

	Page
103. Response to Question 127: How would you rate your level of satisfaction with the local-level decision? . . . . .	163
104. Response to Question 128: How would you rate your level of satisfaction with the state-level decision? . . . . .	164
105. Response to Question 129: How would you rate your level of satisfaction with the school's response to the decision? . . . . .	165
106. Response to Question 131: What effect did the hearing decision have upon your child's educational program? . . .	168
107. Response to Question 132: How would you describe your current relationship with the school? . . . . .	170
108. Response to Question 133: What kind of educational programming is being provided for your child now? . . . .	174
109. Response to Question 134: What other special education services are provided? . . . . .	175
110. Response to Question 135: Are you satisfied with the program and services provided for your child now? . . . .	176
111. Response to Question 137: Since the hearing have you confronted the school with any matter you felt might be a violation of law and/or rules or inappropriate programs or services for your child? . . . . .	176



## CHAPTER I

### INTRODUCTION

During the 1970s a revolution took place in special education. Due largely to the efforts of strong parent groups, state and federal laws were enacted to protect the rights of the handicapped and insure their access to a free and appropriate public education. These laws, inspired and enforced by decisions of the courts, serve to protect the handicapped school-age population from the injustices of the past and assure that decisions regarding their education will not be made in an arbitrary or capricious manner, but will be made fairly with opportunity for full parent participation and consent. The assumption is made that decisions reached fairly with full due process of law will ultimately result in the best possible education for the child. To insure maximum fairness, the laws specifically provide for a forum where disagreements between the school and the parents regarding the most appropriate educational programming for the child and certain other matters can be resolved by an impartial third party. With these mechanisms of fairness in place, it is now time for us to look at the results of this rights revolution, for which parents fought so diligently, and ask, "Do the procedures developed to protect the rights of the handicapped and insure that they be educated appropriately accomplish what was

intended?" In particular we must look at that forum for dispute resolution, the impartial special education due process hearing, and determine whether the parents who have used the process perceive it to resolve issues of dispute fairly and insure that the child is provided the programs and services required to reach "maximum potential," as is required by Michigan's Public Act 451, which states:

Sec. 1701. The state board shall: develop, establish and continually evaluate and modify in cooperation with intermediate school boards, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person.

#### Historical Background of the Special Education Hearing

Before it can be considered whether the hearing process successfully performs the function for which it was created, we must look to its origins for an understanding of its intended purpose.

#### Michigan's Mandatory Special Education Act

In 1971, with the passage of P.A. 198, special education in Michigan became a mandatory responsibility of the public schools. The provision of special education for handicapped persons was no longer to be a voluntary offering of public school systems in the state; it was now required by law. Each handicapped person from birth through the age of 25 would be guaranteed specialized education and training designed to meet his or her unique needs and to develop maximum potential. In 1973, after a lengthy process of rules development and promulgation, the act became effective.

Handicapped persons covered under the act include:

1. Severely mentally impaired
2. Trainable mentally impaired
3. Educable mentally impaired
4. Emotionally impaired
5. Hearing impaired
6. Visually impaired
7. Physically and otherwise health impaired
8. Speech and language impaired
9. Preprimary impaired
10. Specific learning disability
11. Severely multiply impaired

The programs and services authorized under the act include:

1. Special education class programs
2. Consultant services
3. Therapeutic services, such as physical therapy, occupational therapy, speech therapy, and other unnamed services construed to be in accord with law
4. Related and ancillary services, such as audiology, social work, psychological services, vocational evaluation services, and work activity center services

In addition, all services must be provided in accord with due process requirements and the "least restrictive environment" principle. This principle is articulated through provisions of law and regulations requiring that "to the maximum extent appropriate . . . the handicapped

person . . . is educated with persons who are not handicapped"  
(R340.1722[2][a]).

The Rules and Regulations, amended in 1980 to implement P.A. 451, a 1976 recodification of Michigan school law, and the provisions of federal law, P.L. 94-142, explain in detail what the act intends by setting forth specific requirements for operation. The opportunity for parental involvement in decision making and in planning the child's educational program is guaranteed by requirements regarding notice, consent, composition of the child's Individualized Educational Planning Committee (Note: The 1973 rules referred to this committee as the Educational Planning and Placement Committee), and due process procedural requirements. The due process procedures culminate in the provision for an impartial due process hearing in those cases where parents and school personnel cannot reach agreement on major decisions regarding a handicapped student's special education program. Under Michigan Special Education Rules (Michigan Rules pertaining to due process hearings and appeals are contained in Appendix A), which are essentially the same as the federal regulations except for the standard of service required, parents or the school may initiate a hearing whenever there is disagreement regarding a proposal or refusal to:

initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the handicapped person.  
(R340.1723a and R340.1724)

### Litigation

Searching further for the roots of the special education due process hearing, it is found that the due process requirements spelled out in the Michigan Special Education Rules and in the P.L. 94-142 Rules and Regulations printed in the Federal Register (1977) contain essentially the same elements as those contained in the November 1971 Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania, 343 F. Supp. 279 (E.D. Pa. 1972) consent agreement (Beekman, 1976). This case had been brought before the court on behalf of 13 mentally retarded children of school age and the class of all other retarded children of school age in Pennsylvania who were not being provided a free public education (Weintraub & Abeson, 1977). In the PARC case the Commonwealth of Pennsylvania yielded to overwhelming evidence against their position (Gilhool, 1977), and the court approved a consent agreement and order that enjoined the state from denying or postponing a mentally retarded child's access to a free program of education and training. The court declared that to deny or postpone educational opportunity for a mentally retarded child was unconstitutional under the equal protection clause of the Fourteenth Amendment and ordered that before a mentally handicapped child could be deprived of the benefits of education either by initially assigning him to a particular program or by maintaining him in a program, the parents and the child must be given a notice--a statement of reasons for the assignment or for the continuing placement--and the opportunity to be heard.

The notice shall inform the parent or guardian of his right to contest the proposed action at a full hearing before the Secretary of Education, or his designee, in a place and at a time convenient to the parent, before the proposed action may be taken. (PARC Consent Agreement, 1972)

Thus, with the PARC order, the basis for the special education due process hearing was established and due process requirements of public schools were established for the mentally retarded. Subsequently, in *Mills v. Board of Education of the District of Columbia*, 348 F. Supp. 866 (D.D.C., 1972), the court ordered implementation of due process procedures for all children closely comparable to the PARC requirements. Both the PARC and *Mills* cases argued that the rights of the handicapped were protected by the equal protection clause of the Fourteenth Amendment.

### Constitutional Protection

To understand the basis for this equal protection argument, we must then look to the Fourteenth Amendment, its birth and the ways it has been used to protect individual rights in the courts of our land. This amendment was one of three passed after the Civil War in an attempt to overturn the restrictions of an 1833 case, *Barron v. Baltimore*, which had established that Congress, in approving the Bill of Rights, did not intend them to protect the individual against state action, but only against action by federal officials. This amendment, authored by Rep. John A. Bingham of Ohio and adopted in 1865, provides the Constitution's only definition of citizenship and declares that states are forbidden to abridge by law any privilege or immunity of U.S. citizens; to deprive any person of life, liberty, or property

without due process of law; or to deny to any person the equal protection of the law. Section 1 of the Fourteenth Amendment reads as follows:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

For many years the Fourteenth Amendment was not fully used to protect the rights of the individual. Eventually, however, the rights of equal protection and due process of law it guaranteed provided the foundation for the modern revolution in civil rights and the evolution of a highly rights-conscious society. In 1954, 86 years after the adoption of the Fourteenth Amendment, the Supreme Court, with its decision in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), declared that state segregation of public schools on the basis of race was clearly unconstitutional and that educational opportunities provided by the state to one must be provided on an equal basis to all. It was this historic decision that provided the legal basis for the support of the rights of the handicapped in both the *PARC* and *Mills* cases. In the *Brown* decision the court stated:

In these days, it is doubtful any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

Thomas K. Gilhool (1977), attorney for the plaintiffs in PARC, beautifully expressed the rationale for applying the concepts of Brown to the handicapped children of our nation by saying:

If it is doubtful that any child may reasonably be expected to succeed in life when denied the opportunity of an education, is it not even more clear that an exceptional child without an education may not be expected to succeed? For the ordinary child may learn willy nilly, wandering in the street, watching television, riding the school bus, but the exceptional child, by definition, if he or she is to learn, requires a formal, structured program of education.

The exceptional child without an education is not merely in jeopardy "of success," as the Supreme Court put it, but of liberty and life itself. (p. 17)

Actually, the Brown case was one of a group of five cases presented to the Supreme Court in 1951 which dealt with racial discrimination in public schools. Another of these cases argued before the Supreme Court in December 1952 was Bolling v. Sharp, 347 U.S. 483 at 499 (1954). This case is worthy of mention because parents of black pupils in the District of Columbia based their challenge to school segregation on another source of Constitutional protection, the Fifth Amendment, which guarantees to the individual due process of the law by stating: "No person shall be . . . deprived of life, liberty, or property, without due process of law."

The court, in striking down the federal government's requirement that black and white students attend different schools, explained:

The Fifth Amendment . . . does not contain an equal protection clause as does the Fourteenth Amendment which applies only to the states. But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The "equal protection of the law" is a more explicit safeguard of prohibited unfairness than "due process of law," and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized,



discrimination may be so unjustifiable as to be violative of due process. (347 U.S. 483 at 499, 1954)

### Property and Liberty Rights

Both the Fifth and Fourteenth Amendments serve as barriers to thoughtless and arbitrary actions against an individual by his government and promise that he will be treated fairly, that neither federal nor state governments will deprive him of life, liberty, or property without due process of law. Education has been determined to be a property right by the Supreme Court, and school systems are considered arms of the state. Because of these two determinations, a school system cannot deny any child his right to education without due process of law. It is not that the Constitution declares a child has a fundamental right to a public education; it is simply that through its doctrine of equality, the Constitution demands that once a state has extended the right of public education to any of its children within a certain age range, it must provide that public education to all children of the age within its jurisdiction--even those who are handicapped! Consequently, educational opportunities cannot be denied, withdrawn, or substantially altered without first affording the student and/or his parents access to fundamentally fair procedures, or in the words of the Constitution, "due process of law."

As an extension of that right, the school cannot remove children from the regular classroom environment unless it can substantiate the need to do so within the context of an impartial forum in which all parties have the right to be heard. (Bersoff, 1979, p. 67)

The special education due process hearing serves as the climax of that "due process of law" necessary to protect the handicapped individual's property rights as well as his liberty rights. Liberty is considered by the courts in a broad sense and includes a person's reputation. To provide special education to a student in Michigan, it is necessary that the student be identified as having a certain specific disability, that he be "labeled." That label may well affect not only the nature of the individual's educational experiences, but his reputation and future opportunities as well. Although these labels are attached to students in order to establish eligibility for specialized instruction considered necessary by the school and generally desired by the parents, rather than in an attempt to exclude or deny services to the child, one cannot deny the potential stigmatizing effect of having been labeled mentally impaired, emotionally impaired, or for that matter "impaired" in any way. In *Goss v. Lopez*, 419 U.S. 565 (1975), the Supreme Court determined that a student has the liberty right to be free of unwarranted stigmatization. Bersoff (1979) stated:

While there may be some benefit to children to being labelled as retarded, emotionally disturbed, brain injured, or learning disabled in that they may fall under statutes granting rights to such persons, such labelling by school systems is considered to be an "official branding" by the state because of the many long term potentially negative consequences that may result. For example, a record of impairment may prevent access to some forms of future employment, may increase insurance rates, or be used as evidence of incompetence to make one's own decisions. The Constitution thus prevents the school from unilaterally denominating children as handicapped. (p. 67)

Due Process

Due process of law is such a broad and flexible concept that taken out of the context of a specific situation it eludes precise definition. Exactly what is required to assure fair treatment of the individual by his government is dependent upon the particular circumstances involved. There are two basic elements of due process of law that do remain constant no matter what the situation: (1) the right to adequate notice and (2) the opportunity to be heard.

P.L. 94-142

In the case of special education matters, Congress, with the passage of P.L. 94-142, the Education for All Handicapped Children Act, in 1975, and the Department of Health, Education and Welfare, by developing the Code of Federal Regulations implementing it, have made elements of due process definite for special education professionals across the nation. Procedural safeguards a school system must take, beginning with the initial request for parent consent to evaluate the child and culminating with the impartial due process hearing as a dispute resolution mechanism, are clearly specified. To receive funds attached to P.L. 94-142, states must adhere to the requirements of the law. In cases where the requirements of state laws differ from the federal, a state must meet the requirements of the law that provides the greater opportunity and protection for the handicapped individual.

Parental Rights and the  
Hearing Process

Certainly it would seem that the rights of the handicapped individual and the parents who represent him are well protected by law and regulations. Parents have legally stipulated means to bring their concerns to the attention of the school and other authorities if they believe the public school system is not adequately meeting the educational needs of their child. They have laws to force schools to comply with their request for information regarding their child and to prevent them from providing that information to others without parental permission; to prevent the school from labeling their child as handicapped or changing his educational program without their knowledge and consent; to prevent the school from evaluating the child without their knowledge or excluding him from services and activities available to his nonhandicapped peers. If parents feel the school has violated the child's rights as guaranteed by law, they have the option of requesting an impartial due process hearing and the matter will be decided by an impartial hearing officer in a timely fashion. P.L. 94-142 and its attendant rules and regulations establishes that either the parents or the school can request a due process hearing when there is disagreement regarding one of four specific areas: (1) identification, (2) evaluation, (3) placement, and (4) provision of a free appropriate education.

A comparison of Michigan's P.A. 451 and the federal law P.L. 94-142 shows that each contains essentially the same provisions for a special education due process hearing. These laws provide both parties with the right to have an impartial hearing officer; to be accompanied

and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children; to present evidence and confront, cross-examine, and compel the attendance of witnesses; to prohibit the introduction of "surprise" evidence; to obtain a verbatim record of the hearing; and to obtain written findings of fact and decisions. Parents have the added right to determine whether or not their handicapped child will be present and whether the hearing is to be open to the public.

The special education hearing is intended to be used in situations where there are differences in opinions or judgments made by the parties. Such judgments may relate to whether a student meets eligibility for inclusion within the law, the particular type of handicapping condition, the needed programs and services as specified in the IEP, the adequacy and appropriateness of evaluation measures, the need for special transportation, or any other matter directly related to the provision of a "free and appropriate public education."

The complaint process is differentiated from the hearing in that it is to be used when there is an alleged violation of a rule. Those matters which are appropriate as complaints tend to involve factual matters rather than judgment decisions. Examples would include violation of student-teacher ratios, employment of nonqualified personnel, failure to provide services specified by the IEP, violations of specific procedures required by regulation, or any other factually demonstrable violation of law or regulation.

As of August 1980, Michigan regulations were changed to require mutual agreement of the parties on the selection of the hearing officer or, if the parties fail to reach such agreement, appointment by the Michigan Department of Education (MDE). The MDE had provided training for 69 hearing officers as of November 1982. Of these 69, only 10 had conducted three or more hearings as of November 1982; 52 had conducted no hearings. There is, however, no requirement that the hearing officer be a person who has received any type of training.

Pre-hearing conferences are recommended but not required by the MDE. They are often used by hearing officers to clarify the specific issues of disagreement and to advise of rights and procedures applicable to the actual hearing. They are sometimes used additionally to attempt resolution of the dispute without the necessity of the hearing.

In the actual hearing, documents-exhibits are formally offered into evidence; witnesses are sworn, examined, and cross-examined; opening and closing arguments are typically offered; briefs may be filed; and a verbatim transcript of the proceedings is made. The school district, as the agency responsible for the provision of services, bears the burden of proof. The decisions to be rendered must be based on the preponderance of evidence; i.e., the weight of evidence presented by the prevailing party must be in excess of that of the other party. It must be noted, however, that the hearing officer is free to reach any decision in accord with the Findings of Facts and the Conclusions of Law as stated in the written decision. There is no

requirement that the decision be restricted to the support of one party or the other.

Also provided is the opportunity for appeal of the decision to the State Department of Education and, ultimately, the right of the aggrieved party to bring civil action in the courts. Lacking in both state and federal statutes is any mechanism to insure compliance with the final decision reached in the dispute unless a complaint is filed by the parent. During the time these proceedings are taking place, the school is prohibited from changing the child's placement unless the parents agree otherwise.

In addition to the requirements in common with federal law, Michigan law does specify that the hearing be held by the operating district responsible for the education of the child and that parents be provided with information regarding "free or low cost legal or other relevant services" if a hearing is initiated. Another option for the resolution of disputes available under Michigan law is binding arbitration. Should the parties agree, however, to be bound by the decision of the third party, they give up their right to appeal to the state level and to look to the courts for a decision. There is good reason to believe that this may be the major reason why, as of this writing, the option of arbitration has not been used as a means of resolving special education disputes in Michigan. Thus, the due process hearing remains the mechanism to which parents and the school resort when they feel the need to push for acceptance of their position with regard to the educational needs of their handicapped child.

### Hearings in Michigan

The hearing process has been used in Michigan since 1974 (Mange & Henley, 1982). Since 1977, when the Michigan State Department of Education began requesting copies of local-level hearings, through August 1979, there were 74 local hearings known in the state. Of the 74 hearings, 52 were decided in support of the school, while the decision favored the parent in 22 cases. Fifty-five hearings were appealed to the state, with 30 decisions in support of the school position, 18 in support of the parent position, and 7 in partial support of both positions (Scandary, 1979). Data are available regarding the numbers, the diagnostic categories of the children involved, how often lawyers are used to represent the parties, and the counties in which the hearings were held. Nowhere is there information regarding how parents who have used the hearing process view it, or what has happened to their children and to their relationship with the school since the time the hearing officer's decision was rendered. A study has been done regarding the financial cost of hearings to school districts, but what about the financial and emotional cost to parents? The mechanism for justice, the due process special hearing, is in place, and it is being used in a consistently more sophisticated manner, keeping lawyers, educators, and advocates busy attempting to prove the position they advocate is in the best interests of the child and is supported by the requirements of state and federal statute. The problem is that no researcher has attempted to seek out parents who have participated in a hearing and ask, "Do you perceive the hearing process



to be a fair and just procedure?" and "Were the results achieved worth the costs?" We have moved a tremendous distance in our efforts to protect the rights of the handicapped as guaranteed by the Constitution. Most educators are making extreme efforts to abide by the due process requirements of the state and federal statutes as they attempt to meet the needs of their handicapped students, but it must now be determined whether parents feel this hearing process, modeled after one that has worked so well in business and industry for many years, effectively protects their rights when it comes to planning for their child's educational future.

#### Purpose of the Study

The passage of state and federal statutes, the emergence of an increasingly rights-conscious society, and the recognition that parents have a vital part to play in the education of their handicapped child have brought about a new dimension to the education of the handicapped--the impartial due process hearing. Parents and educators are finding themselves defending their positions in legalistic settings as they fight for what each believes to be in the best interests of the handicapped child and in accordance with law. It is the purpose of this study to look at the hearing process through the eyes of the parents who have used it in order to determine whether they perceive it to be adequately serving the purpose for which it was intended; and whether parents and the school work cooperatively for the benefit of the child once the hearing has ended. This study is exploratory and

descriptive in nature. It was designed to survey parents who have participated in a special education due process hearing in order to identify (1) what caused them to request the hearing, (2) how they perceive the hearing process, (3) whether they felt the hearing officer's decision was implemented in a timely fashion, (4) whether they express a sense of satisfaction with the results, (5) how they perceive their current relationship with the school, and (6) what has happened to the child since the hearing.

Specifically, this study has a four-fold purpose. The first purpose was to determine whether the hearing appears, to those whose rights it is intended to protect, as a just and equitable system for dispute resolution. The second was to explore factors that contributed to the cooperative or adversarial climate of the hearing. Third was to find out what happened after the hearing. Fourth was to develop recommendations based on the experiences of those who have participated in the process for those who will use the hearing process in the future.

This study is important for the following six reasons. A review of literature regarding various aspects of the hearing process showed little agreement regarding its merits and very little attention to its effects and the degree of parent satisfaction with the process. There are those who praise the hearing process as an indispensable vehicle of fairness for the handicapped child (Turnbull, 1978) and others who describe the process as so traumatic for parents that years later they are still reluctant to discuss the experience (Budoff, 1982). Second, there is concern among parents and educators that the hearing process

may produce an adversarial relationship detrimental to the child's progress rather than bringing peace and improved programing. Therefore, there is a need to determine to what extent and for what reasons the relationship between the school and family is damaged by the hearing process. Third, we need to know what actually triggers the request for a hearing and whether some intermediate step before the hearing would be welcomed by parents. Such information could prove helpful to school personnel desiring to become sensitive to unnecessary "triggers" and hopefully enable them to negotiate peacefully their differences with parents without the costs of a hearing.

A fourth reason for the importance of this study is that the information gained adds to the body of knowledge currently available regarding the costs to school districts of the hearings conducted during the 12-month period from September 1980 through August 1981, and provides a more complete picture of those hearings. Mange and Henley (1982), in their cost study, reminded the reader that there are questions regarding the effects of the hearings they studied that should be sought. This study attempts to answer the following questions that they raised: "Does the hearing decision truly result in the termination and/or solution of a dispute?", "What actions are taken by either party to follow or as the result of the hearing decision?" and "What are the effects upon the student whose needs are adjudicated in the process?" (p. 16). The fifth reason for this study is that, if in fact due process hearings in special education are to provide equal protection as guaranteed by the Constitution, we ought then to look at

the characteristics of the parents using the process and attempt to determine whether the process is used by only a select few, essentially the well-educated and financially secure, or whether it is being used by parents from all socioeconomic levels of our society. Sixth, and perhaps most important, we need to look at the strengths and weaknesses of what we are doing through the eyes of the consumer and determine how to make the process better serve their needs.

It is important to note that the findings of this study, carried out within 15 school districts in Michigan, can have an effect beyond the limits of those districts. School districts not included in the study can learn from what parents have to say regarding the reasons they resorted to the hearing process. Parents throughout the state can benefit from the suggestions of those parents who have experienced a due process hearing. Other states may look to this study as a measure of satisfaction with one state's due process and hearing procedures and develop or adapt their own systems to avoid the pitfalls discovered and benefit from the strengths identified. By listening to individuals who have been involved in this process, ways may be found to reduce the adversarial nature of the process in school systems within Michigan and beyond. And finally, by sharing what is learned in Michigan, it is hoped that a contribution will be made to the refinement of a process intended to provide the best possible educational programming for handicapped children and young adults in our nation.

## CHAPTER II

### REVIEW OF LITERATURE

A review of the literature reveals few answers to the question of the degree of consumer, i.e., parent, satisfaction with the due process special education hearing. Most often studies end by raising questions regarding the equity of the system. Publications abound (Abeson, Bolick, & Haas, 1975; Bersoff, 1979; Budoff, 1979; Kotkin, 1979; Shrybman, 1982) dealing with the "how to" and importance of complying with due process requirements as legislated. Currently available literature also provides suggestions for preparing for the hearing (Bateman, 1980; Scandary, 1981; Shrybman, 1982), conducting the hearing (Michigan Department of Education, 1976, 1977, 1981; Shrybman, 1982), and writing the decision (Abeson et al., 1975; Budoff, 1982; Shrybman, 1982). Research studies have dealt with the characteristics of impartial hearing officers (Turnbull, Strickland, & Turnbull, 1982), the status of the due process hearing in the nation (Smith, 1981) and in an individual state (Kammerlohr, Henderson, & Rock, 1983), the cost of hearings to the school system (Mange & Henley, 1982), and the broad issue of the effect of 94-142 on the family of the handicapped child (Halpern & Parker-Crawford, 1981; Sullivan, 1980). Some (Institute for Research on Educational Finance and Governance, 1981; Silberberg, 1979;

Zimmerman, 1981) have raised serious questions regarding the equity of the hearing process. Only a few studies in Massachusetts (Budoff & Orenstein, 1982; Daynard, 1980; Mitchell, 1976) and one in North Carolina (Strickland, 1982) have addressed the issue of what parents experience when they exercise their right to a due process special education hearing, or what happens to the child and the parent-school relationship after the decision of the hearing officer is rendered.

Smith, in his 1981 study, attempted to determine the status of due process hearings in the 50 states by investigating the background, training, and assignment procedures of hearing officers; the types of exceptional children involved in hearing; the issues over which hearings were requested; and the decisions that resulted. He reported receiving responses from 42 states, and although he found some of those responses to be incomplete or confusing, he did reach certain conclusions: (1) that parents requested the majority of hearings (96% of 2,005 hearings reported), and that rulings were favorable to schools in two-thirds of those parent-requested hearings; (2) that 70% of the hearings (74 hearings) schools requested were decided in their favor; and (3) that the number of hearings reported in a state was directly proportional to the population of the state. Smith raised the question of whether parents could be using hearings to harass and punish public schools and suggested that possibly parents "fail to understand the requirements of Public Law 94-142, that is, that appropriate placement means 'best available'" (p. 235). Although the decision rendered in Board of Education of the Hendrick Hudson Central School District,

Westchester County v. Rowley ex Rel. Howley, 458 U.S. 176 (1982) has left the standard of service open to question, Smith's suggestion seems in conflict with the explanation provided by Department of Education Policy Interpretation: IEP Requirements (Education for the Handicapped Law Report, Supplement 41, February 6, 1981, EHA Sec. 1401), which stated in answer to the question, "Must the IEP include all special education and related services needed by the child or only those available from the public agency?",

Each public agency must provide a free appropriate public education to all handicapped children under its jurisdiction. Therefore, the IEP for a handicapped child must include all of the specific special education and related services needed by the child--as determined by the child's current evaluation. This means that the services must be listed in the IEP even if they are not directly available from the local agency, and must be provided by the agency through contract or other arrangements. (p. 19)

Not claiming to have found the reason for the large number of decisions favoring schools, Smith pointed out that all legislation can do is "make the right to the hearing available to both parties and guarantee certain procedural safeguards." He stated:

There is no way legislation can guarantee that parents have an equal opportunity to have decisions ruled in their favor. Several factors, including availability of legal services; experience in due process proceedings; availability of experts such as special education teacher, examiners, and supervisors; and better financial resources all give schools an advantage over parents in due process hearings. . . .

Results do indicate, however, that due process hearings are being used in an effort to resolve disputes between parents of handicapped children and public schools. A major question raised is whether or not parents have an equal chance of having decisions ruled in their favor. (pp. 235-36)

In Illinois, a study of hearing officer decisions for 1978, 1979, and the first three months of 1980 (Kammerlohr, Henderson, & Rock,

1983) was conducted, which resulted in the finding that 67.5% of the 314 hearings held involved objection to the proposed placement of the handicapped child. In many cases parents were seeking to have the school district pay tuition to a private facility. Although most hearings were initiated by parents, only one in five was resolved in the parent's favor. Thirty percent of the decisions were appealed to the state level, where half of the decisions were overturned. The results of the study pointed to the need to shorten the time lag between appeal to the state level and the final decision, to provide more inservice training for advocates and parents concerning their rights and responsibilities, to develop uniform standards for IEPs, and to study further the quality of hearing officer decisions.

Also in Illinois, Diamond (1980) interviewed directors of special education and found that 78% of the hearings conducted between July 1, 1978, and June 30, 1979, involved a dispute over placement, with more than half of the parents requesting private placements. Seventy-six percent of the children involved in these hearings were between 9 and 16 years old.

Halpern (1980, 1982), in Michigan, and Sullivan (1980), in Massachusetts, both used a case-study approach to study the effect of P.L. 94-142 on the family of the handicapped child. In both studies, samples were small, nine and six families respectively, and the researchers became intimately involved in the lives of the families they studied. Neither addressed the specific issue of parent satisfaction with the hearing process, although both related instances of



conflict and disagreement between the family and the school system regarding the child's educational program. Halpern reported that the existence of required due process procedures did not enhance responsiveness on the part of parents and professionals to one another's perspectives and made the parties more willing to negotiate differences. He noted also that schools generally do not take an active role<sup>4</sup> in informing parents of their rights and that parents are most apt to learn from other parents as they need the information, although, when asked, school personnel do willingly provide the information. Sullivan cited examples of parent exclusion from the evaluation and planning process, intimidation by professionals, and poor parent-professional communication. She suggested that parents learn to become more assertive and knowledgeable about the laws that protect their rights as they lose faith in professionals to serve as advocates for their children and become aware of how uninformed they actually are. Sullivan reported that of the six families she studied, three had cause to initiate a request for a hearing. Two did not consider the option, and the third withdrew their request because the "daily drain" of caring for their handicapped child was so great that the thought of the "long and strong effort" that would be required to win the hearing was considered too much for them to bear (p. 143). Referring back to what was learned in a preliminary study conducted with 45 families, three of whom had exercised their right to a hearing, and combining that information with what was learned about the case- study families,

Sullivan presented a set a preconditions she considered likely to facilitate parents' use of the hearing process in a conflict situation:

1. There are two parents concerned about the particular issue in question.
2. They have strong convictions about what is educationally appropriate for their child and believe that what the school is offering is inadequate
3. They are generally well educated and have an adequate understanding of their rights under P.L. 94-142
4. They are emotionally capable of coping with a lengthy battle with the school system. (p. 145)

Kirilloff, Kirp, and Buss (1979) conducted a content analysis of 168 transcripts from the first four years of hearings conducted in Pennsylvania after the Pennsylvania Association for Retarded Citizens (PARC) decision. Their goal was to determine if due process under PARC had resulted in a "body of coherent controlling law" (p. 154). They concluded that it had not. Although they found that "exceptional children are generally more likely to receive an education consistent with PARC standards than was the case prior to the decision" (p. 220), they also found that the decision of the hearing officer in any one particular case was not being used in a precedent-setting manner. Rather, each case was decided on an individual basis. Their concluding paragraph reads:

The availability of hearings also fosters the perception that a vexing problem, determining what constitutes fair treatment for the handicapped, has been solved. Yet the questions concerning the identification and placement of handicapped children which these due process hearings have addressed may not be amenable to solution given the state of present knowledge. Whether or not this is the case, law-like mechanisms may not have much to do with their ultimate resolution. (p. 248)

In their study, Kirilloff, Kirp, and Buss identified and examined variables in an attempt to predict which variables affected the

decision made by the hearing officer. In so doing, they observed that parents frequently failed to understand the "essentially educational nature of the dispute" (p. 174) and the criteria schools used to make educational decisions; that schools tended to be more organized and make more effective use of witnesses and exhibits than parents although they were not automatically superior; that over the four-year time span school presentations became increasingly better, while parent presentations did not; and that parents of more severely handicapped children with a longer history of association with special education presented and argued their cases better, thus attesting to the fact that experience helps. They reported:

On balance then, the results of the regression analysis are suggestive of a rational inquiry process: each of the factors that correlated importantly with outcome, and had additive predictive power, makes sense. But when taken together they hint at a semi-adversarial process. On the one hand, the strength of opposing presentations was relevant to success. On the other hand, the nature of the case that had to be made in order to succeed may have been slightly different for each party. Apparently, parents were rewarded for fully adversarial behavior, but such behavior on the part of schools was less important than was their fidelity to PARC. Indeed, hearing officers appeared to intervene regularly when parents were not able to effectively challenge the school's case. The same behavior on behalf of the schools was not forthcoming. Both types of hearing officer behavior is suggestive of a fact-finding model which placed less emphasis on the party's skills, than does the traditional trial. Perhaps the hearing actually did come to represent that mixed professional-legal model initially hoped for by those who drafted the Consent Agreement. (p. 213)

Harbin and Rzepksit (n.d.) explored procedural safeguards beginning with the initial parent-school communication and continuing through the due process hearing in order to determine which factors, at which points in the process, result in more adversarial interactions.

They reported having interviewed many types of people throughout the country who were involved in the process. However, no mention was made of having spoken with the parents of special education students. It appears their interviews were restricted to school personnel, parent advocates, and hearing officers. They cited the following as problems with due process hearings:

1. Sometimes the hearing is used as a legal precedent, rather than a resolution to a unique situation.
2. Hearings are tremendously expensive, so schools try to avoid them.
3. There are many logistical and scheduling problems.
4. Sometimes there is a delay in implementing decisions.
5. LEAs are not cognizant of their right to a hearing.
6. People from both sides have unreal expectations of a hearing; thus their positions harden and they become more disillusioned.
7. Clarification is needed as to what issues are appropriate for a hearing and when other types of dispute resolution and complaint procedures should be used.
8. Variation in the selection and training of hearing officers results in variations in decisions. This can be frustrating to both parties and cause them to become even more adversarial.

Of particular interest in this study is the comment that the lack of involvement in the child's educational program is a genuine problem among the poor and minorities who "seldom request a due process hearing" (p. 13). In support of this statement, the authors cited

Matthew Borelli, who, in his testimony before the House Subcommittee on Select Education of the Committee on Education and Labor (October 16, 1979), declared that P.L. 94-142 "seems to be a rich man's law." They also cited Office of Civil Rights reports and a determination of the number of minority parents taking part in due process hearings in several states as support for this concern. Although the information and ideas presented by these two North Carolina researchers are interesting and basically agree with that of other researchers, it is disappointing that the unpublished report of the study offers the reader little in documentation, and no information regarding the design, population, or methods of data analysis. The reader is left to wonder on what the conclusions were based.

In California, a study (Institute for Research on Educational Finance and Governance, 1981) of 145 local hearing decisions along with 50 state-level hearings and one court-level appeal generated by the local decisions was conducted to determine how the hearings were being used, to what effect, and to whose benefit. It was discovered that few of the hearings were concerned with efforts to change or improve the special education program or with abuses defined by law. In 110 of the hearings the concern was whether the public school districts should pay the private school tuitions of children for whom the parents contended the public school could not provide an appropriate education. Most of the remaining hearings also dealt with an issue regarding the payment of public school monies for some privately provided service. It was noted that private school tuition grants ranged from \$3,000 to over

\$20,000, and that more than half of the parents who had been denied their claim for tuition at the local level had won at the state level. Also noted was the fact that decisions favored parents whose children were already in attendance at private schools, but went against those who were seeking a new service or a new private school placement. The results of these hearings were examined against the socioeconomic status of the parents involved. As was expected, low-income and minority parents participated in hearings less frequently than their numbers in the school districts would have suggested. Generally these parents were represented at the hearing by an agency attorney or a private school representative, and they were most often trying to maintain public support for private school placements rather than seeking new placements or services. The researchers were surprised to find that favorable hearing decisions were negatively related to income ranking and that attorneys did not seem to provide any advantage at the local hearing level. At the state level, attorney representation did result in more favorable decisions for parents.

By far the most extensive research regarding parental perceptions of the special education due process hearing has been conducted in Massachusetts, much of it either by or under the direction of Milton Budoff. Mitchell (1976) used an interview process to investigate the expectations and characteristics of 25 parents who had availed themselves of the appeals process. (Note: The appeals process is the first-level hearing in Massachusetts, and although conducted by attorneys hired as hearing officers by the State Department of Education, is

the equivalent of the local hearing in Michigan.) The interview included "a series of questions designed to determine the psychic and dollar cost to parents of their experience with an adversarial due process system" (p. 4). Seventy-five percent of those interviewed had requested the hearing with full expectations that they would win. All had felt "nervous, scared, and apprehensive about the nature of the hearing" (p. 14). Sixty-seven percent reported the hearing officer had helped them to feel more comfortable and at ease, and regardless of whether they had won or lost, all but one parent reported they felt the hearing officer had been fair and impartial. All of the parents reported the school's testimony had differed in some way from what they had expected. Eighty-five percent of the parents stated that the hearing had been a very costly procedure in terms of dollars.

Without exception, all parents related massive psychic cost to themselves and their families. Twenty-five percent complained of excess nervousness, severe anxiety attacks and enormous disruption of normal family routines. Another 25% of the population suffered from excess nervousness and disruption of family routine. Others complained only of excess nervousness (20%). In 15% of the families, one or more family members became physically ill as a result of their nervousness and anxiety. In a final 15% a chaotic disruption of normal family routines was the only effect mentioned. (p. 17)

Parents who continued their appeal through the hearing itself consistently expressed a strong feeling of personal efficacy, although they felt drained by the process and weren't sure they would be willing to go through it again. (p. 20)

Daynard (1980), through interviews with Massachusetts school personnel, hearing officers, and parents, found that the adversarial posture of the hearing provides a tense, anxiety-provoking experience for all concerned. She stated that even if there is no bitterness

between the parties to begin with, it often develops as the process evolves. Her study was most concerned with the effect of the hearing process on the schools. She found them generally anxious to avoid a hearing if possible; often suffering severe financial consequences as the result of hearing decisions requiring them to pay private school tuition; feeling the need to resort to legal representation in defense of the attack they feel from the parents; learning to be more accountable for what they do and to document that accountability; selecting witnesses to testify at the hearing on the basis of how well they present themselves and their positions; withholding information that might prove detrimental to their case; confused by the apparent inconsistency of hearing officers' decisions; blaming hearing officers for their losses; and resenting the intrusion of the hearing decision into the functioning of the organization. All of the participants in the study found a lack of timeliness, delays in scheduling or receipt of the decision, and lengthy hearings to exacerbate the conflict between the parties. She recommended that although personality factors which also affect the tone of the proceedings cannot be changed, a limitation on continuances and delay and the imposition of definite time limits upon independent evaluators could be helpful in reducing the adversarial nature of the hearing process. She also suggested that some witnesses could submit their testimony in writing and that the use of written interrogatories and affidavits could reduce the length of hearings which she reported sometimes go on for days.



This same frustration with the length of time that evolved before the final solution of the conflict was reported by Budoff and Orenstein (1982), who examined over time the perceptions of parents who had pursued an appeals hearing between September 1974 and December 1976. Eighty-one families, 28% of those who actually went to a hearing during this period, agreed to participate. Initial interviews were conducted as soon as possible after the hearing, and in 49 of the cases the interviewers had actually attended the hearing. Twenty months later a second interview, over the telephone, was conducted with 71 of the original participants, and a third telephone interview was conducted with 62 parents approximately 42 months after the original hearing. The report of the study presents long excerpts from interviews with parents showing what they had sought for their child, how the school had reacted, how they might have reacted, and what disagreements triggered the conflict, all giving the reader a sense of "the anguish and frustration of parents who have become disillusioned by the promises of special education reform." He stated:

At a time when parents are being encouraged to become involved in their child's educational program and to assert their rights on behalf of their handicapped child, we must become more sensitively attuned to the factors that can either engender or destroy a collegial relationship between parents and school personnel. Presumably, the more the home is able to support the school's efforts, the better for the handicapped child.

. . . . Interviews made it strikingly evident to us how traumatic the hearing had been for parents and school personnel alike, but we feel parents are in a particularly difficult position. Assertion of one's rights can be a painful experience. . . . Parents who dared to contest the school's plan found the psychic and economic costs to be high, often far higher than they could have anticipated. (pp. 11-12)

Budoff and Orenstein found the seeds of many disputes in the failure of the school to honor parents as partners and to make concentrated, planned, and well-organized efforts at communicating with them. They considered in depth what parents involved in the study liked about private schools as compared with public schools, and essentially that difference was the close parent-teacher contact and the development on the part of the child of a positive self-image.

They found that hearings were used disproportionately by higher-status parents of learning disabled children. Forty-nine of the cases involved requests for payment of private school tuition for children who were already attending private school programs, 11 others were new requests for private school placements, and only 11 cases were parents seeking different programs within the public school than those proposed in the child's educational plan.

Although research conducted in other states is informative, there is a basic difference between the provision of special education programs and services as practiced in Michigan and as practiced in Illinois, Massachusetts, or California that causes one to anticipate a different population of parents using the hearing process as a dispute-resolution technique and different hearing issues in Michigan. In California, Illinois, and Massachusetts local school districts do pay for private school tuition for handicapped students. Michigan's Constitution (Article 8, Sec. 2) prohibits the payment of public monies to any "private, denominational, or non-public, pre-elementary, elementary, or secondary school."

Budoff, Orenstein and Abramson (1981) did address the issue of hearings concerned with appropriate public school programs in a study of 51 decisions written during the first three years following implementation of Chapter 766 (Massachusetts' Mandatory Act) and found that these parents came from lower socioeconomic backgrounds than families seeking private school placements. In these cases disputes centered on identification issues, direct educational service issues, and placement issues. Many decisions were not clear cases of win or lose but appeared to be attempts by the hearing officer to enforce standards of appropriate practice on school systems. In 13 cases, decisions reflected an agreement reached during the hearing between parents and the school. It was concluded that

There is room for negotiation when a dispute involves altered public school services and that a better process of communication between the parents and school personnel at an earlier point might have averted some of these appeals. (p. 182)

Because so many of the hearings in Massachusetts involve requests that the local school district pay tuition for private school placements, it is difficult to say whether the process is used less by parents of lower socioeconomic status because it is less accessible to them, or because they do not place their children in private schools when they are dissatisfied with the public school. To understand fully the picture of the hearing process in Massachusetts as presented by Budoff and others, there are certain factors characteristic of the process as it operates in that state of which a reader in Michigan cannot be assumed to be cognizant. First, the Massachusetts Department of Education does the equivalent of Michigan's local-level hearing with

a staff of 9.5 full-time hearing officers (all of whom are lawyers), each responsible for conducting four or five hearings a month and writing the reports within that time period. At the time of the 1981 site visitation by Michigan Department of Education personnel (Scandary, 1981), Massachusetts had a tremendous backlog of hearings, with violations of time lines running about six months to a year, and with typing of transcripts for cases appealed to the State Advisory Committee (the equivalent of our State Level Appeal) running about two years behind. During the 1980 calendar year, 1,200 requests for hearings were processed in Massachusetts, with 300 actually going to hearing; whereas there were 41 hearings conducted in Michigan between September 1980 and September 1981. Scandary reported the Massachusetts complaint/investigation process appears to be a much less significant part of compliance procedures than is the case in Michigan. It seems logical to wonder if because of the underdevelopment of this process, the hearing process is used in Massachusetts when in Michigan a complaint would be filed.

To determine the financial cost incurred by each school district, Mange and Henley (1982) investigated and analyzed hearings held in Michigan between September 1980 and August 1981. They found that hearing costs, direct and indirect, as reported by local school districts ranged from \$1,188.83 to \$16,317.48, with the average being \$5,998.32. In contrast to the California and Massachusetts studies where the majority of the hearings involved requests by parents for the payment of private school tuition by the public school system, in

Michigan only one hearing out of the 28 responses tabulated was because a parent requested the payment of private school tuition. Also of interest for comparison purposes is the fact that only four students involved in a tabulation of 30 hearings were learning disabled. The distribution of hearings across the state was in proportion to the population of the state, with the greatest concentration in the southeastern area of the state. Of the 28 local hearings studied, decisions were reached favoring the school's position in 75% of the cases, and after 13 decisions were appealed to the state that percentage was reduced only to 69%. In the final analysis, parents were supported by hearing decisions in only 4 of the 28 cases, or 14%. In addition to the information regarding the financial cost of these hearings, the study presented an interesting summary of comments by respondents which seems to coincide with the findings of researchers who have looked at the effect of the hearing on its participants:

. . . Hearings are expensive in both financial and human energy terms. . . . The adversary relationship fostered by the hearing process leaves major scars and often tends to polarize the parties even more than when the process began. (p. 14)

The literature available adds to the concern of those who wonder whether the due process procedures that have been implemented in special education, specifically the hearing process, really benefit the children and parents whose rights they were intended to protect. The due process procedures developed are nothing more than mechanisms intended to provide a guarantee of fairness and of parental involvement in decision making regarding the educational program of a handicapped

child. The primary measure of the efficacy and utility of any such mechanism must be the extent to which its components enhance the probability that those it intends to protect will be treated fairly. Beyond that, those for whom its protection is intended must perceive the mechanism as treating them fairly. If they do not, we must ask why and set about the task of modifying or revising the procedures to provide that sense of efficacy and fairness.

## CHAPTER III

### METHODOLOGY

This chapter presents the methodology and research design used in this study. Included are a description of the target population and sample, rationale for development of the interview guide, and methods of data collection and analysis.

#### Description of Population and Sample

The population from which data were obtained for this study included the total number of parents who were known to have been involved in special education due process hearings in Michigan between September 1, 1980, and August 31, 1981. These 41 families resided in 15 different intermediate school districts and were distributed throughout the lower peninsula of Michigan. The districts involved in the hearings held during this time period had been previously identified by a Michigan State University study of hearing costs as reported by schools (Mange & Henley, 1982). Hearings had involved 30 different intermediate and local school districts. Of these districts 1 had four hearings during the time period, 1 had three hearings, 6 had two hearings, and 22 had one each.

The students whose educational programs were in question were categorized according to 12 different disability definitions. These

students ranged in age from 4 to 20 years of age. Disagreements had covered 18 different issues, all falling under the general categories of (1) identification, (2) evaluation, (3) placement, and (4) provision of a free appropriate education.

The 1980-81 time period was selected to determine what happened after the hearing and how parents feel about the process, and the forum it provides for conflict resolution, after the intensity of the disagreement had had time to abate. It had been anticipated that by investigating parental experiences with these particular hearings, information regarding financial costs of the hearing as reported by parents could be added to the already available data on school district costs to provide a total reported cost figure for each hearing. Parents, however, tended to remember their costs in terms of time and emotion rather than dollars. Consequently, the total reported cost figure could not be determined.

### Research Design

To obtain the information sought in this research study, parents were requested to retrieve memories of what was in many instances a very stressful period in their lives. It did not seem appropriate to ask parents to share their very personal thoughts and feelings with an unknown researcher, in an impersonal way, as would have been required through the use of a mailed questionnaire or telephone interview. Primarily for this reason it was decided that the information would be obtained through personal interviews conducted by the researcher.



Another reason for choosing the personal interview rather than the self-administered questionnaire is the concern that all parents might not interpret the same question in the same way. As Kerlinger (1973) stated, "Experience has shown that the same question frequently has different meanings for different people. . . . This can be handled in the interview" (p. 487). Kerlinger provided further support for the choice of the personal interview by pointing out that if open-ended questions are used in the self-administered questionnaire, as would be necessary in this case, respondents may object to writing the answers, consequently reducing the sample of adequate responses. He stated:

Many people cannot express themselves adequately in writing, and many who can express themselves dislike doing so. . . . The best instrument for sounding people's behavior, future intentions, feelings, attitudes, and reason for behavior would seem to be the structured interview coupled with an interview schedule that includes open-end, closed and scale items. (p. 488)

Kerlinger cautioned that disadvantages to the use of the personal interview include

the cost in time, energy, and money and the very high degree of skill necessary for its construction. . . . Once these disadvantages are surmounted, the structured interview is a powerful tool of behavioral research. (p. 488)

It was decided that interviews should be semi-structured. The interviewer would ask a series of structured questions, some open-ended to obtain more complete data. The interviewer would be free to probe or explain or reword questions if necessary to obtain the desired information. According to Borg and Gall (1979), the semi-structured interview "provides a desirable combination of objectivity and depth

and often permits gathering valuable data that could not be successfully obtained by any other approach" (p. 313).

Another important concern was the need for the parents to trust that the intention of the interviewer was indeed to use what was learned to help evaluate the hearing process as it functioned in Michigan and to assist other parents who may be faced with the need to request a special education due process hearing. Of primary importance was the establishment of rapport between the interviewer and the parent and a showing of understanding and genuine interest on the part of the interviewer without influencing the responses of the parents. Recognizing that the influence, direct or indirect, of the interviewer as a part of the response process cannot be totally eliminated (Gage, 1963, p. 404), all interviews were conducted by the same person. Specific training in working with parents of handicapped children, a broad knowledge of special education, and 23 years of working with handicapped children and their parents qualified the researcher for the position of interviewer.

#### Development of Interview Guide

One of the most important tasks of this study was the development of an interview guide (Appendix B) designed to standardize the situation to some degree while eliciting the desired information, and still allowing the opportunity for unsolicited comments by the parents. First, an attempt was made to determine if similar research had been conducted in other states, and if so, whether the questionnaires or interview guides used in those studies could be made available to this

researcher. Researchers in North Carolina, California, and Massachusetts who were known to have conducted research regarding parent involvement in the hearing process were contacted by letter and by telephone. Information regarding the research designs of the studies and instruments used for gathering data were not made available to this researcher.

The interview guide developed for this study was structured to answer the basic question, "Do parents who have experienced the process believe the due process special education hearing is an effective means of resolving conflict between parent and school regarding the educational program of a handicapped child?" Closed and open-ended questions were developed based on a survey of literature available pertaining to the process, participation in a mock hearing, and observation of a hearing, combined with the researcher's personal experience as a special educator and as a parent who had experienced conflict with the special education department of a local school district. An attempt was made to structure some questions and forced-choice responses after those quoted in reports of research conducted in Massachusetts (Budoff & Orenstein, 1983; Daynard, 1970; Mitchell, 1976). Wording of questions and structure of the interview guide followed principles set forth by Dillman (1978) and Kerlinger (1973).

The interview guide was designed to provide questions for exploring the history of the family's relationship with the school, their expectations at the time they requested the hearing, their actual experience with the hearing process, and the implementation and

aftermath of the hearing officer's decision. Questions were directed at what parents viewed as having exacerbated or reduced the conflict, the financial and emotional costs they had incurred, their feelings regarding the efficacy and equity of the process, and the impartiality of the hearing officer. Questions also addressed the issue of the effect of the hearing on the children and their educational programs and on the current parent-school relationship.

The first draft of the interview guide was reviewed by members of the researcher's guidance committee and by Dr. Edward Birch, Director, and Dr. Benjamin Herbert, Compliance Coordinator, of the Special Education Services Area of the Michigan Department of Education. Their suggestions and recommendations resulted in the addition of several questions to which the Department was seeking answers and slight modifications in the wording of others.

Next, the interview guide was piloted by interviewing two parents who had participated in a hearing, but not during the time period under study. One of these parents had had more than one hearing. Volunteers for the pilot study were obtained through the president of a local chapter of the Michigan Association of Children with Learning Disabilities. These parents were interviewed and then asked questions regarding their feelings about the interview. Both parents responded that none of the questions asked were offensive to them, that it had not been difficult to discuss the things we had just talked about, that they would advise another parent to participate in the interview, and that although the interview was long they did not feel it could have

been shortened. These parents also indicated they felt good about having given the interview and that they hoped their experience with the hearing process could serve to help other parents and handicapped children. Upon completion of these two interviews the guide was judged appropriate for the research task, and it was decided to include the questions asked regarding response to the interview in the final version of the interview guide.

### Data Collection and Analysis

Requirements of the Family Educational Rights and Privacy Act of 1974 prevented direct access to the names and addresses of parents who had been involved in hearings. The only information available regarding the hearings was the date the hearing was held and the school district in which it was held. For this reason, letters (Appendix C) explaining the purpose of the study, giving the date of the hearing or hearings held in their district during the time period being studied, and requesting their assistance in contacting the parents involved in each hearing were sent to directors of special education in the 30 school districts known to have had hearings.

The directors were asked to forward a letter (Appendix D), response form (Appendix E), and a stamped, addressed envelope to the appropriate parents. A stamped envelope was provided for that purpose. Also included in this mailing was a stamped, addressed postcard (Appendix F) for the director to return, indicating whether or not the request for participation had been forwarded to the appropriate parent.

Directors who did not return the postcard were telephoned three weeks after the original mailing and requested to participate in the study.

Postcards were returned from 13 school districts indicating letters had been forwarded to 17 parents. One district indicated verbally that the parent letter was sent, but the postcard was not returned. In another case no card was returned by the district, but the response form was received from the parent so it can be assumed the district did forward the letter to the parent. Three districts indicated that parents had moved and addresses were unknown. One district had no record of a hearing being held on the date stated. Nine districts returned the response card indicating they had chosen not to forward the letters to parents. One district indicated verbally that the letters would not be forwarded. Only one district provided no response at all. Directors provided access to a possible 19 parents.

Further assistance in contacting parents was requested from the Michigan Department of Education, Special Education Services Area. Although that Department did have available the names and addresses of the 19 parents who had appealed the decision of the hearing officer, the names were not released for contact by the interviewer nor did the Department forward letters to the parents or request of the parents that they participate in this study.

Assistance was also requested from professional and volunteer parent advocates, Michigan Protection and Advocacy Services, and from attorneys known to represent parents in special education matters. No information is available regarding how many parents were contacted in

this

view

int

nit

res

num

the

sit

pro

int

Spe

was

res

the

res

con

vi

he

pa

ma

vie

ga

this way. An additional four parents did agree, however, to be interviewed. This raised the total number of parents possibly available for interview to 23.

The letter forwarded to parents presented them with the opportunity to participate in the study. Parents were requested to return the response form after filling in their name, address, and telephone number if they wished to participate or to return the blank form if they chose not to. All letters were printed on Michigan State University stationery and were signed by this writer and Dr. Charles Mange, a professor of special education and well-known hearing officer. The interest in this study of the Michigan State Department of Education, Special Education Services Area, and its director, Dr. Edward Birch, was referred to in the letter.

Of the 19 parents contacted by school districts, 12 returned response forms indicating their desire to be interviewed. One returned the form indicating they did not wish to be interviewed because the memories were "just too painful." Of the additional four parents contacted by other than school districts who had agreed to be interviewed, one could not be included in the study because the date of the hearing was not in the time period being studied. A total of 15 parents were available to the researcher.

As response forms from parents were received, telephone calls were made to each parent to schedule a convenient interview time. Interviews were scheduled to take place in parents' homes throughout Michigan. In one instance, at the request of the parent, an interview was



held in a restaurant near the parent's home. Interviews took place between April 24, 1983, and August 15, 1983.

These semi-structured interviews lasted from two and one-half to five hours. Questions on the interview guide were asked and responses recorded by this researcher. Parents were free to elaborate on answers and to add comments they felt were important to the interviewer's understanding of their experience with the hearing process and their perceptions of its effectiveness as a conflict-resolution technique. Responses were recorded verbatim on the interview guide as well as being tape recorded.

Information on the completed interview guides was analyzed and recorded in tabular form according to percentages of parents who had expressed similar experiences and feelings. Feelings parents reported that were directly concerned with the hearing were also analyzed according to the outcome of the hearing.

## CHAPTER IV

### PRESENTATION OF THE FINDINGS

#### Introduction

The focus of this chapter is on the presentation of data obtained from the 15 interviews conducted. All data are presented as reported by the parents and represent the parent perspective exclusively. Data include direct responses to closed and open-form questions, as well as unsolicited comments made by the parents. An effort has been made to report all relevant thoughts expressed by the parents with regard to the questions asked, often using direct quotations. It should be noted that all of the parents interviewed have had, in some sense, an unsatisfactory experience with the school system serving their handicapped child. It is that unsatisfactory experience and the hearing that resulted from it that parents talked about in the interviews. The hearing and the events that led up to it are emotionally charged for these parents, and their responses to questions often reflect the intensity of that emotion. Generally parents were more verbal in their expression of displeasure than in their responses that reflected positively on their experiences with the school. For this reason the narrative and verbatim material presented in this chapter tend to highlight the most negative aspects of the parent/school relationship as viewed by the parent. Its presentation here is not intended as an

indictment of the public schools in Michigan, but as an inside look into the thoughts and reasons for displeasure as expressed by 15 parents who have been in a conflict situation with the school providing service to their child. The responses to each closed-form question are presented in tabular form and provide a record of the parents' direct response to questions whether positive or negative.

No effort has been made to verify that events happened as parents reported them. All responses are subject to errors in memory and the subjective view of the parent. The intention is not to provide documented proof of past events, but to provide a view of the hearing process as it is perceived by parents who have used it. No matter how efficient, how legally correct, or how equitable the process may seem to be, if parents do not perceive it to be so, or if they do not perceive it to result in benefits to the child that are worth the energy, cost, and effort expended, it may not truly be serving the lofty purpose for which it was intended, i.e., the protection of the rights of the parent and the child. It has been shown through experience with grievance mechanisms designed to insure due process to employees in the workplace that, unless the persons whose rights the mechanism was designed to protect see the mechanism as being fair and just, they will not use it. A mechanism designed to protect rights that is not used by those who feel their rights have been violated cannot be said to be serving the purpose for which it was intended.

The reader is reminded that data presented here represent the perceptions of the parents of 15 handicapped children out of the 41 in

Michigan who were the subject of due process hearings between September 1, 1980, and August 31, 1981. The 41 children whose educational programs were in question represent a very small proportion of the 160,187 handicapped children in Michigan who were provided with special education programs and services during that year.

The first section of this chapter contains data that provide a profile of the parents interviewed according to the occupation of the primary wage earner in the home, the highest level of education completed, the approximate family income during the year of the hearing, membership on a Parent Advisory Committee and in parent organizations, and whether they have children other than the subject of the hearing who have been provided with special education. The second section deals with the characteristics of the subjects of the hearings--their disability and sex, age, and grade at the time of the hearing and at the time of the interview. The third section is concerned with the children's history in special education--when they entered special education and what programs and services had been provided before the request for the hearing. Parental perceptions of their experiences with the school system and special education before the request for the hearing are dealt with in section four. Section five provides data regarding the issue of the hearing as perceived by the parents--what they wanted for their child and how they viewed the school's position. In section six, data describe the request for the hearing and attempts at conflict resolution before the hearing. Section seven pertains to parent perceptions of the actual hearing.

The decision, as viewed by the parents, is the subject of section eight. Section nine presents parent impressions of the effect of the hearing officer's decision--the effect as they saw it on their child and on their relationship with the school. Advice from the parents interviewed to other parents and schools regarding what to do when faced with a conflict situation is presented in section ten. The final section provides suggestions made by the parents for improvement in the hearing/appeal process as it now operates in Michigan.

### Parent Profile

The parents of 15 children who had been the subject of special education due process hearings were interviewed. Twelve interviews were conducted with mothers of the children. Three interviews were conducted with both the mother and the father present. In all cases the subjects and their parents were Caucasian. These parents lived in both large and small school districts located in the northern, southern, eastern, western, and central parts of the lower peninsula of Michigan.

As shown in Table 1, the majority of these families had only one child in special education.

Table 1.--Response to Question 5: Do you have other children who have received special education?

Response	N	Percent
Yes	4	26.67
No	11	73.33

Twelve (80%) of the parents reported that the hearing discussed in the interview was their first special education due process hearing. For two of the parents the hearing discussed was their second. One parent was uncertain whether the hearing was her third or fourth (Table 2).

Table 2.--Hearing number.

Number	N	Percent
First	12	80.00
Second	2	13.35
Third or fourth	1	6.67

Six of the parents interviewed were or had been a member of the Parent Advisory Committee (PAC) (Table 3). Nine were or had been active members of some organization for parents of the handicapped (Table 4). Parents who were PAC members were in all cases also active members of a parent organization.

Table 3.--Response to Question 144: Are you or have you ever been a member of the PAC?

Response	N	Percent
Yes	6	40.0
No	9	60.0

Table 4.--Response to Question 145: Are you an active member of any parent organization?

Response	N	Percent
Yes	9	60.0
No	6	40.0

Three of the parents reported that at least one parent had not only completed college, but had earned a graduate degree. In families where a graduate degree was reported, both parents held college degrees, all in fields related to education. The highest degree reported was a Ph.D. An additional seven parents reported having taken some college courses. Two-thirds of the parents interviewed reported one or both parents had some formal education beyond high school. Three parents reported having completed only high school, one reported attending some high school, and one reported having completed grade school (Table 5). One parent indicated she was "special ed." herself.

Table 5.--Response to Question 148: What is the highest level of education that you or your spouse have completed?

Level	N	Percent
No formal education	0	0
Some grade school	0	0
Completed grade school	1	6.67
Some high school	1	6.67
Completed high school	3	20.00
Some college	7	46.67
Completed college	0	0
Some graduate work	0	0
A graduate degree	3	20.00

Family income during the year of the hearing was reported to range from less than \$15,000 to over \$50,000 (Table 6).

Table 6.--Response to Question 149: What was your approximate family income from all sources, before taxes, at the time of the hearing?

Income	N	Percent
Less than \$15,000	2	13.33
\$16,000 to \$20,000	0	0
\$21,000 to \$30,000	5	33.33
\$31,000 to \$40,000	3	20.00
\$41,000 to \$50,000	2	13.33
Over \$50,000	1	6.67
Don't know	2	13.33

Reported occupations included psychologist, speech therapist, press operator, teacher, occupational therapist, sales engineer, waitress, auto mechanic, painter, service representative, college professor, physical therapy aide, real estate and collections agent, die maker, factory worker, railroad conductor, elevator mechanic, and debate coach. In one case the parent reported being unemployed, with income only from Social Security.

One-third of the parents interviewed reported they or family members had experienced what they considered significant illness during the time of attempted conflict resolution with the school (Table 7).



Table 7.--Response to Question 146: Did you or family members suffer from any illness during this time of attempted conflict resolution with the school?

Response	N	Percent
Yes	5	33.33
No	10	66.67

### Characteristics of Children

Of the 15 children whose educational programs were challenged in special education due process hearings, seven were male and eight were female (Table 8). The age of these children at the time of the hearing ranged from 1.5 years to 20 years, with a mean age of 11.8 (Table 9). As could be expected, their ages at the time of the interview, approximately two years later, ranged from 4 years to 22 years, with a mean age of 14.13 years (Table 10).

Table 8.--Sex of children.

Group	N	Percent
Female	8	53.33
Male	7	46.67

Table 9.--Student age at time of hearing.

Age	N	Percent
1.5	1	6.67
4	2	13.33
7	1	6.67
10	1	6.67
12	2	13.33
13	1	6.67
14	1	6.67
15	1	6.67
16	3	20.00
17	1	6.67
20	1	6.67
Range	1.5 to 20 years	
Mean	11.8 years	

Table 10.--Student age at time of interview.

Age	N	Percent
4	1	6.67
6	1	6.67
7	1	6.67
10	1	6.67
12	1	6.67
14	2	13.33
16	2	13.33
17	1	6.67
18	8	20.00
20	1	6.67
22	1	6.67
Range	4 to 22 years	
Mean	14.13 years	

When initially asked what their child's disability was, some parents responded with medical terms or descriptions of the symptoms of disability as they had observed them. Some of the responses included "undetermined convulsive seizures," "mildly retarded with 100% comprehension," "seizures and mentally impaired," "Downs," "first Speech and Language Impaired, then changed to EMI but she's really LD," "learning disabled in math," "poor gross motor coordination, learning disabled, EI, and she's hearing impaired," "birth defect . . . haline membrane . . . blood problem . . . at 22 months he wasn't walking or talking . . . educable but not mentally retarded." Other parents responded to the question with special education terms such as Hearing Impaired, Learning Disabled, Emotionally Impaired, and SXI. Further questioning as to their understanding of the child's disability in accordance with the terms used by the school provided the data presented in Table 11.

Table 11.--Primary disability as reported by parent.

Category	N	Percent
Educable Mentally Impaired (EMI)	4	26.67
Learning Disabled (LD)	3	20.00
Physically & Otherwise Health Impaired (POHI)	3	20.00
Hearing Impaired (HI)	2	13.33
Severely Multiply Impaired (SMI)	2	13.33
Emotionally Impaired (EI)	1	6.67

The Child and Special Education

All of the parents interviewed reported their children were enrolled in public school educational programs before the time the hearing was requested (Tables 12 and 13).

Table 12.--Response to Question 12: Was your child enrolled in school prior to the time the hearing was requested?

Response	N	Percent
Yes	15	100
No	0	0

Table 13.--Response to Question 2: Was your child in a public or private school program?

Response	N	Percent
Public	15	100
Private	0	0

Three of the parents reported their child had attended a private educational program before entering the public school program. Two of the three children had attended private preschool programs, and the third had attended a private special education school for grades one through six.

The majority of the children were receiving some special education service at the time the hearing was requested (Table 14).

Table 14.--Response to Question 3: Was your child receiving any special education services at the time the hearing was requested?

Response	N	Percent
Yes	13	86.67
No	2	13.33

Over 70% of the parents explained they had been aware of their child's disability before the child entered school. Table 15 shows that 11 of the parents reported their child had been provided with special education before the end of the first grade, six as preschoolers, and five upon or shortly after their initial enrollment in school at age five or six. Only four of the parents reported their children had been in general education programs with no special education for more than a year. Two of these children who spent more than a year in general education before the provision of special education programs or services were later identified as learning disabled, and one had a physical condition that became progressively more severe as he grew older. One child never did receive special education.

Table 16 shows six of the children were reported to be in ungraded programs at the time of the hearing. One parent described her child's program as ungraded, adding, "They just put down a grade to satisfy him." Further questioning provided the information that the child was in junior high school, but did not provide a specific grade level. Another parent who reported the child to be in an ungraded

program said the child had been listed for school purposes as a twelfth grader for three years. The parent of another child explained that although the program was really ungraded, her child was considered to be in the second grade. Three other parents reported their children to be in clearly ungraded programs with no reference to grade level. The remaining parents reported their children's grade levels as definite grade placements.

Table 15.--Response to Question 15: When did your child first enter special education?

Response	N	Percent
Never	1	6.67
Preschool	6	40.00
Kindergarten or first grade	5	33.33
Second grade	1	6.67
Sixth grade	1	6.67
Seventh grade	1	6.67

Table 16.--Response to Question 10: Grade level at time of hearing.

Grade Level	N	Percent
Ungraded	6	40.00
Preschool	2	13.33
Fourth grade	1	6.67
Fifth grade	1	6.67
Eighth grade	2	13.33
Tenth grade	3	20.00

When they were asked under what label their child was originally found eligible for special education, three of the parents responded that there had been no label. In one case this was because the child was found ineligible for special education. The other two parents just could not remember that a label had been assigned. Other children had been categorized under the labels of Educable Mentally Impaired, Emotionally Impaired, Hearing Impaired, Physically and Otherwise Health Impaired, Speech and Language Impaired, and Specific Learning Disability (Table 17).

Table 17.--Response to Question 18: Under what label was your child originally found eligible for special education?

Category	N	Percent
Educable Mentally Impaired	3	20.00
Emotionally Impaired	1	6.67
Hearing Impaired	2	13.33
Physically/Otherwise Health Impaired	3	20.00
Speech and Language Impaired	1	6.67
Specific Learning Disability	2	13.33
None	3	20.00

Table 18 shows that eight of the parents interviewed reported that their child's original placement had been exclusively in special education. In some cases the child was not in school the full day, but of the time spent in school, none was spent in a general education program. Self-contained placement with some part of the school day spent in general education was reported by two of the parents. Another

parent reported general education placement with some related service (occupational therapy) provided by special education. One parent of the two parents who reported "other" placements had been involved with her child in a three and one-half hour per week infant-parent program, and the other parent had taken her child to the school for a weekly 15-minute speech therapy session.

Table 18.--Response to Question 19: What was your child's original special education placement?

Placement	N	Percent
Self-contained classroom full time	8	53.33
Self-contained classroom/general education	2	13.33
General education/learning resource center	1	6.67
General education/teacher consultant	0	0
General education/related services	1	6.67
Other	2	13.33
None	1	6.67

Table 19 shows that nine of the children were reported to have been receiving some additional service provided by special education. Six of the children were receiving from two to five additional services, while five received no additional services.

Between the time of the child's original entrance into special education and the time of the hearing request, many of the children had experienced some change in placement or services provided. Half of the children originally in self-contained special education programs on a full-time basis were in general education for some part of their school



day at the time of the hearing request (Table 20). The child originally receiving speech therapy once per week had been placed in a self-contained program on a full-time basis. For one child, the original special education placement came after the hearing.

Table 19.--Response to Question 20: What other special education services were provided?

Service	N	Percent
Speech therapy	7	46.67
Social work	6	40.00
Physical therapy	3	20.00
Occupational therapy	3	20.00
Psychological	3	20.00
Orientation and mobility	1	6.67
None	5	33.33

Note: Percentages equal more than 100% because more than one service was provided for some children.

Table 20.--Response to Question 21: In what special education placement was your child enrolled at the time of the hearing request?

Placement	N	Percent
Self-contained classroom full time	5	33.33
Self-contained classroom/general education	6	40.00
General education/learning resource center	0	0
General education/teacher consultant	0	0
General education/related services	1	6.67
Other	1	6.67
None	2	13.33

Frequently parents whose children had had some involvement with general education were uncertain as to how much of their child's school day was spent with nonhandicapped peers. Some chose to make what they felt was an accurate estimate; others just indicated they were uncertain. The four parents who reported their children spent no time in general education programs and the three parents who reported their children spent the full day in general education programs were definite in their responses (Table 21).

Table 21.--Response to Question 23: At the time of the hearing request what portion of the day was your child in special education?

Hours or Periods	N	Percent
None	4	26.67
1	2	13.33
2	3	20.00
3	1	6.67
All	3	20.00
Uncertain	2	13.33

Additional services provided to these children at the time of the hearing are shown in Table 22. At that time 60% of the children were receiving some additional services.

Thirteen parents reported that their child's placement had remained the same during the time between the request for the hearing and the hearing decision (Table 23). Reasons given by two parents who reported a changed placement were (1) a complaint decision changed teacher assignment during the appeal process, and (2) the child was

kept at home pending the outcome of the hearing. In both cases, the changed placement was due to parent action.

Table 22.--Response to Question 22: What special education services was your child receiving at the time of the hearing request?

Service	N	Percent
Speech therapy	4	26.67
Social work	5	33.33
Physical therapy	2	13.33
Occupational therapy	3	20.00
Psychological	2	13.33
Learning disability consultant	1	6.67
None	6	40.00

Note: Percentages equal more than 100% because more than one service was provided for some children.

Table 23.--Response to Question 24: Did your child's placement remain the same during the time between the request for a hearing and the hearing decision?

Response	N	Percent
Unchanged	13	86.67
Changed	2	13.33

#### The Parents and Special Education

Of the parents interviewed, 80% reported they had requested help from the special education department for their child (Table 24).

Table 24.--Response to Question 25: By whom was your child originally referred for special education?

Referrer	N	Percent
Parent	12	80
School	3	20

One parent requested the public school provide special education for her daughter after the child had spent six years in a private school in another state. She explained that for eight years she did not know an appropriate public school program existed.

At that time all they had was a trainable program. I knew of that. But then A. did not fit in that program. She was not trainable. She was educable from the very beginning. . . . I knew she would not fit into their trainable program. Nor did I accept to place her in their nursery program with an assortment of very handicapped children. I went to visit that program. A. is an outgoing person. It was the first time, the only time in her life, that she put up her arms to me and would not stand on the floor. It appalled her. She can tell the difference. She was two. She would not stay there. She would not cooperate. I took her to anyone else's house, or any other assembly, she would always mingle. She's outgoing. That's the only place she would not go.

Thereafter I became uninterested because all of my activities were in [another state]. I did not much know what was going on in [the local school district]. I knew of [private] School from another mother whose son had been educated there.

Every once in a while they would conduct a school survey. They would come here and I would tell them, over and over again, "We have a retarded child." "And where does she go to school?" "She goes to . . . School for Exceptional Children." They were here about four times during those eight years. So that when I discovered that they had these programs I wondered what they had done with all these surveys and I could not find out. I asked them, "Why was I never contacted and informed that she could go to such a program?" Because I think from the fourth grade they developed a program for the educable. It would have been available to her. But of course all of this was at my own expense. This

was at no expense to the district. It was a savings to the district while I was paying these taxes.

Another parent who requested help from the special education department for her child recalled that although the school had brought her child's problem to her attention, they had not offered the assistance of special education.

He was having problems with mathematics right from early elementary. Several teachers had said that he had problems and finally I took him to . . . Clinic. After they did several tests on him they said that he needed help with mathematics, that he had a problem. They suggested someone they thought he would work well with.

I took him to the tutor. I didn't ask the school for help at that point. I figured the school couldn't do anything. Nobody ever said anything. The teachers just said that he had a problem and that you should see somebody about it. He wouldn't sit still in class. He had a very short attention span. He was hyper. He was put on medication for his hyperness when he was about ten. He was on medication for two years.

Then they failed him. We knew he had problems in math. They flunked him. That was sixth grade, and the reason they flunked him was because of his math. I said to them, "I don't understand it, he's got problems with math and we've had him to a private clinic and they say he's got problems. There's something wrong here." Here he was in the sixth grade and he was doing like second grade math but he was doing everything else at or above level. That was the major point of irritation. They had him down between third and fourth grade level in math and his reading and all of his other subjects--the lowest was eighth grade. And they said because of math--no special ed.--but we'll flunk him. That will be better for him. Now that attitude just didn't set right with me.

I spoke to [the therapist/tutor] about it, about him flunking, and she was quite upset, as we were. And that's when she said I think you need an advocate. We got ourselves an advocate and then we went to the school. We asked the school for help and they denied it. He had no remedial math because there weren't enough openings. They never suggested special ed. And then when we brought it up it was turned down. He didn't meet the qualifications.

A different story was told by a parent who described the referral of her child to special education in the following manner:

The school did it on their own. They held an EPPC without my knowledge. She spent the first year of school in regular kindergarten. I knew she had problems, but the neurologist had suggested a regular kindergarten. She had had speech help at the County. She was perfectly normal in her development up until age three and that was when I noticed learning lags, i.e., problems with communication. She had problems understanding directions and instructions and her speech was not progressing at a normal rate. She was put into a regular kindergarten the first year. The second year, the first half of that year was spent in a regular kindergarten again. The second half of that year she was put into an EMI classroom, self-contained.

It was originally just decided without my knowledge. The teacher gave me the information that she was going to be put into special education during the second semester. I then had a meeting with the supervisor of special education.

Seven of the 15 parents reported that no one had explained to them what would have to be done in order to determine their child's eligibility for special education or how it would be decided what services the child would be provided. Table 25 shows who was reported to have explained the evaluation/identification/placement process to parents when such an explanation was provided.

Table 25.--Response to Question 26: Who explained what would have to be done to determine whether your child would be eligible for special education and how it would be decided what services would be provided?

Role	N	Percent
Principal	1	6.67
Special ed. administrator	1	6.67
Social worker	3	20.00
Psychologist	1	6.67
Other	2	13.33
No one	7	46.67

Table 26 displays how information about the process was reported to have been obtained by parents. Often, even those parents who did receive some form of an explanation from school personnel did not feel that the information provided was clear enough for them to really understand what was involved in determining whether their child would be eligible for special education, and if so, what kinds of services the child would need.

Table 26.--Response to Question 27: How was this evaluation/identification/placement process explained to you?

Method	N	Percent
In person	5	33.33
Written information	2	13.33
No explanation, learned as happened	7	46.67
Never did understand	2	13.33
Other	4	26.67

Note: Percentages equal more than 100% because parents chose more than one response.

In some instances parents reported that their previous knowledge of the process had made an explanation by school personnel unnecessary. In two families parents were employed in fields related to special education and in another, involvement in a parent organization had provided knowledge of the process. A parent who was "very impressed" with an explanation that had been presented in a "very professional manner" reported that the explanation had been provided by a special education administrator in the district where they had lived before

the one where the hearing was held. Other parents who had been provided with explanations reported they had not understood the explanations. One who indicated she had been provided with written information which she had to have a parent advocate explain to her, said she "never did really understand what was going on." A parent who remembered having the social worker explain the process to her reported that the explanation had been very general, "just that they would test her and then we'd have a meeting." She, too, felt she had really "just learned as things happened." Another parent also reported the social worker had explained the process to her in person, but that "it wasn't clear," that she had not understood. In a situation where the process had been explained by a general education principal and written information had been provided, the parent still had to "make several phone calls to an advocate and to friends who had tried to get their children into special education and couldn't." The parents of two different children both reported they had learned through self-initiative, saying, "I took the responsibility to find out for myself" and "I did research on my own." One parent who responded that she had received no explanation of anything said, "I went in there cold--they just told us we would have a meeting." A parent who had had more than one hearing reported she had received no explanation and that she had "fumbled her way through, learning a lot along the way."

Asked whether they felt they had been expected to be involved in decisions the school would make regarding their child's educational future, 40% reported that they had (Table 27).



Table 27.--Response to Question 28: Did you feel that you were expected to be involved in any decisions the school would make regarding your child's educational future?

Response	N	Percent
Yes, very much so	4	26.67
Yes	2	13.33
No	2	13.33
No, clearly the school's decision	5	33.33
Other	2	13.33

The comments of these parents frequently pointed out that the expectation that they be involved in the decision-making process came from sources other than the school. Often they expressed the feeling that what they expected and what the school expected appeared to be two different things. A parent who reported knowing the law and understanding that parents were to be involved in planning their children's educational programs reported that decisions were clearly the school's, saying "Even the hearing went on without us." Another who felt the decision-making power rested with the school explained,

I was notified and invited to be there. . . . I was allowed to have my words heard, but what I said was never considered in making the placement decision. I was ignored.

A parent who reported her child had been placed in special education originally without her permission explained,

After the first placement then I was involved. I knew I was to be invited. But I had no control at all in making the decision. In fact, I was told what was going to be done. It was never brought up to me in the format that I had a part in making the decision. They just told me where they were going to put her from year to year.

Another parent referred to the school "dropping pearls of wisdom," and explained,

Right from the first illegal EPPC I thought I was going to have to fight my way to deciding my daughter's educational future.

Similar feelings were expressed by the mother who said,

They [school personnel] wished it had been the school's decision but I intended to be involved.

A parent who explained he had thought the purpose of the IEPC was intended to be to develop a joint agreement explained that he found out,

They didn't want to hear. They might just as well have said, "You shut up and listen cuz that's the way it's going to be."

Responding that they did not feel they were to be part of the decision-making process, a parent explained,

We felt we should be, but we felt we weren't. That was the basic difficulty. They don't want parents involved. We tried to be a part of it. The school tried to make us feel unwelcome. They wanted us to just sign here.

A parent who felt that she was very much expected to be involved explained that

The school didn't make me feel that way, though. The parent organization did.

Another parent explained she had a very strong feeling that she was to be involved after having been involved in a home program through a university.

I knew I should have a choice of programs, but the school didn't provide any alternatives.

On a more positive note, one mother explained that she had gotten her strong feeling that she should be involved from the special educators

who worked with her child. Also reflecting positively on the performance of school personnel were the comments of a father who explained that he was "really very favorably impressed" and that he and his wife had always felt they had a say in what went on until the action that led to the hearing.

Parents sometimes found it difficult to remember specifically who had provided them with the results of the evaluation done by the school to determine the child's eligibility for special education, or how and when the results had been explained. Consequently, their responses to questions regarding these details provide conflicting information. The general feeling provided by the responses of most of the parents is that evaluation results had sometimes not been explained well enough that the parent was able to understand the relationship between the evaluation and the decisions that were made regarding placement and services.

Table 28 shows who parents remembered having provided them with the results of the initial evaluation conducted by the school. In one instance a parent reported the evaluation results were interpreted by both the classroom teacher and the special education director.

The parent of a severely handicapped child who could not remember who had interpreted the evaluation remarked, "I really can't remember, but they were just all so cooperative and good." Another parent indicated the evaluation had been done before school entrance by a university clinic and that none had been done by the public school. Still another mother who indicated no one from the school had provided her

with the results of the evaluation declared, "I had to obtain almost a court order in order to get them." She got the results only after demanding to see the child's file before the hearing. Another parent remarked, "The results weren't really explained--we were just told testing had shown he wasn't eligible for special education." The mother of an 18 year old who had been in special education since kindergarten explained that there had never been any explanation of an evaluation, just "We'll put her in this class--she's still learning. There was never anything in writing except, sign here," she explained.

Table 28.--Response to Question 29: Who provided you with the results of the evaluation conducted by the school?

Response	N	Percent
Classroom teacher	1	6.67
Principal	0	0
Special education administrator	3	20.00
Special education teacher	0	0
Psychologist	5	33.33
Teacher consultant	0	0
Speech pathologist	1	6.67
No one	3	20.33
Other	2	13.33
Can't remember	1	6.67

Note: Percentages equal more than 100% because parents selected more than one response.

Only four parents reported that results of the evaluation were explained to them before the IEPC (Table 29). Most often parents reported hearing the results at the IEPC.

Table 29.--Response to Question 30: When were the results of the evaluation explained to you?

Response	N	Percent
Before IEPC	4	26.67
At IEPC	5	33.33
After IEPC	2	13.33
Never	2	13.33
NA	1	6.67
Can't remember	1	6.67

One of the parents who indicated results had been explained after the IEPC explained that they had not had an IEPC or EPPC until just two years ago and that before that time he had "signed papers on the roof of a car." The parent who reported the question not applicable did so because the evaluation had been done by a university center and explained by them rather than by the public school.

Only 6 of the 15 parents reported meeting with school personnel for the specific purpose of having the evaluation results explained to them (Table 30). One parent was particularly complementary to the school with regard to the way evaluation results were shared with her, saying,

Interpretation of results was a continuous process. Someone came to my house to explain the results, I heard them at the IEPC again, and I was given a written report.

Another parent shared the same sentiment, saying,

The classroom teacher always kept us informed. We have no negative feelings about that because they really did very well.

**Table 30.--Response to Question 31: How were the results of the school's evaluation explained to you?**

Response	N	Percent
Meeting at school	4	26.67
In home	2	13.33
Over telephone	0	0
At IEPC	7	46.67
Written report	1	6.67
NA	3	20.00

**Note:** Percentages equal more than 100% because parents selected more than one response.

Five parents reported that they felt the evaluation done by the school had accurately described their child, while nine reported they felt the evaluation had not described their child accurately (Table 31).

**Table 31.--Response to Question 32: Did you feel the evaluation done by the school accurately described your child?**

Response	N	Percent
Definitely	3	20.00
Yes	2	13.33
No	4	26.67
Definitely not	5	33.33
NA	1	6.67

One parent remarked that the school's evaluation had "definitely not" described her son accurately and explained that the boy had been

tested twice previously by other agencies and that those evaluations had described him "exactly." She went on to say,

Their [other agencies] evaluations really hit home. They said stuff that I couldn't put a label on. But it fit. It was perfect. It was my son.

Another parent who was displeased with the school's evaluation described it as a "real Ho-Ho" and commented,

My daughter is profoundly deaf. They used a test designed for hearing children. She didn't even have hearing aids at the time and they didn't use sign language which is her native language. So you can imagine how ridiculous the results of this test came out. They gave her a block in a cup for instance and they said "Put the block in the cup." And here is this child who is profoundly deaf and she knows she is supposed to do something with these items so she puts the cup on the block and she fails the item because she does not know the language. She took the same test at the Michigan School for the Deaf later and they signed it to her and she was able to complete it perfectly.

The mother of a child with Down's Syndrome expressed her displeasure with the school's evaluation by saying,

I felt they were very biased. I felt they were prejudiced. They seem to have one set evaluation for Downs kids. They just think she ought to be trainable.

Another parent who felt the evaluation results had been inaccurate placed no blame for that inaccuracy on the school and indicated she felt the school had been sensitive to her feelings regarding her daughter's handicapping condition.

She's really hard to test and at that time she was on no medication. Things I knew she could do they said she couldn't. It's always that way with testing.

Table 32 shows that less than half of the parents remembered feeling that the school person who had explained the results of their

child's evaluation to them had shown some sensitivity to their feelings regarding the child's handicapping condition.

Table 32.--Response to Question 33: Did you feel the school person who explained the evaluation results was sensitive to your feelings regarding your child's handicapping condition?

Response	N	Percent
Definitely	4	26.67
Yes	2	13.33
Uncertain	1	6.67
No	1	6.67
Definitely not	5	33.33
Not applicable	2	13.33

Nine of the parents had obtained at least one independent evaluation (Table 33). In only one case was the independent evaluation reported to have been paid for by the school, and in that instance the evaluation had been ordered by the hearing officer (Table 34). Two of the parents indicated the school had refused to accept the results of the independent evaluation they had obtained because they questioned the credentials of the evaluator.

Table 33.--Response to Question 34: Did you obtain an independent evaluation?

Response	N	Percent
Yes	9	60
No	6	40



Table 34.--Response to Question 35: Who paid for the independent evaluation? (N = 9)

Response	N	Percent
Parent	7	77.78
School	1	11.1
Not applicable	1	11.1

Three of the 15 parents remembered receiving explanations of the procedure to be followed at the Individualized Educational Planning Committee (IEPC), or Educational Planning and Placement Committee (EPPC) as it was referred to before 1980, from school personnel (Table 35). Three others reported receiving explanations from parent advocates, and six indicated they had not received explanations from anyone. Eight of the parents felt they had just learned about the process as it had happened rather than from explanations before the meeting (Table 36).

Table 35.--Response to Question 36: Who explained what would happen at the IEPC to you?

Response	N	Percent
Special ed. administrator	1	6.67
Special ed. teacher	1	6.67
Psychologist	1	6.67
Parent advocate	3	20.00
No one	6	40.00
Don't remember	3	20.00

Table 36.--Response to Question 37: How did you learn about the procedure to be followed at the IEPC?

Method	N	Percent
In-person explanation	3	20.00
Written information	2	13.33
Learned as happened	8	53.33
Never did understand	2	13.33
Other	2	13.33

One parent expressed her anger with regard to the first IEPC meeting she had attended by saying,

I came out of the IEPC understanding that it operates like a Kangaroo Court. I learned that if they've made up their minds that was the way it was going to be. I learned a lot and never did understand.

A parent who felt she had not been dependent upon the school for her understanding of the procedural aspects and purpose of the IEPC explained,

I learned a lot being on the PAC. I also subscribe to several special education publications.

Less than half of the parents indicated they had been told what school personnel would be attending their child's IEPC (Table 37).

Other parents cited examples of not knowing until the meeting began who would participate in planning the child's Individualized Educational Program (IEP), the school's refusal to have staff requested by parents in attendance, and having staff who had not attended the IEPC sign the child's IEP. One parent only praised the school for its efforts in

keeping her informed and made frequent reference to the cooperative nature of the school personnel with whom she dealt. She responded,

They always inform me who will be there. They are just very cooperative.

Another parent responded,

They told me who would be there, not who should be. There were signatures on the EPPC form of people who weren't there.

Table 37.--Response to Question 38: Were you told what school personnel would be attending the IEPC?

Response	N	Percent
Yes	6	40.00
No	6	40.00
Sometimes	2	13.33
No response	1	6.67

One of the parents who reported not having been informed as to which professional staff would be at the IEPC explained that they had requested previous teachers of the child be at the meeting and were told the teachers could not be released from their teaching responsibilities. Another parent indicated that the school had not informed her of who would be at the meeting until she called and asked. The mother of a child who had been in special education for 18 years said IEPC attendance had provided her with "quite a few surprises along the way" and that the school had upon occasion "refused to have who we thought should be there." Indicating they had sometimes been told who

would be at the IEPC, two of the parents explained that once the school began inviting them to the IEPCs they had been told who would be in attendance, but that previous IEPCs had been held without their knowledge; hence they had not been informed regarding who would be there.

Sixty percent of the parents interviewed felt there was a member of the school staff with whom they could share their concerns regarding their child and his or her educational progress (Table 38). The persons with whom they felt they could share their concerns included the classroom teacher, principal, special education teacher, social worker, psychologist, teacher consultant, counselor, and occupational therapist (Table 39). In two instances parents listed more than one person with whom they felt they could talk openly. A parent who reported feeling comfortable in sharing concerns regarding their child with a general education teacher did not have the same feeling about the special education staff.

The . . . teacher gave us a lot of support and helped in understanding the system. She acted as though she understood. If the special ed. people did understand they acted as though they could care less. And that was from the director right on down.

Two parents who did not feel they could share their concerns with a member of the school staff commented as follows:

No one would listen. No one heard me. All these years and no one has heard me. God help them! It can't be undone. I don't even want to deal with it so I won't have to suffer. I've even hidden all the paper away in a drawer.

The minute I mentioned Total Communication, I was a piranha.

Table 38.--Response to Question 26: Was there some one member of the school staff with whom you felt you could share your concerns regarding your child and his/her educational progress?

Response	N	Percent
Definitely	5	33.33
Yes	4	26.67
No	2	13.33
Definitely not	4	26.67

Table 39.--Response to Question 27: With whom could you share your concerns?

Role	N	Percent
Classroom teacher	4	26.67
Principal	1	6.67
Special education teacher	2	13.33
Social worker	1	6.67
Psychologist	2	13.33
Teacher consultant	1	6.67
Other	2	13.33

Eight of the parents reported they did not trust the school's staff to recommend what was in the best interests of their child (Table 40). Parents made such comments as:

I thought so in the beginning. The following year though when she needed more speech I found everyone against me. After the hearing I couldn't trust anyone because of all the lies.

We trusted them until they put a story in the newspaper about us.

Hell no! Never!

A parent who did feel she could trust some school staff member to recommend what was best for their child did not feel that the recommendations did much good for the child because "they didn't have the authority" to carry them out. Another parent explained, "In the beginning you thought you could, then you found out you couldn't." Others made such comments as:

There were some we really trusted. Some we weren't sure about. They were concerned about their jobs.

In the beginning I did. I was very naive. I felt they were working in S.'s best interest. I took their word. I just assumed that they were doing what was right. When I became aware of available options I began to question where she was placed. She was not making the progress she was capable of making.

I had a really good relationship with the special education teacher.

Table 40.--Response to Question 41: Did you trust any school person to recommend what was in the best interests of your child?

Response	N	Percent
Definitely	5	33.33
Yes	2	13.33
Uncertain	0	0
No	1	6.67
Definitely not	7	46.67

Seven of the parents indicated that they had been pleased with educational plans developed for their children before the one that led to the hearing, while five parents indicated they had not been pleased

(Table 41). Three of the parents reported there had been no previous plans.

Table 41.--Response to Question 42: Were you pleased with previous educational plans developed for your child?

Response	N	Percent
Definitely	2	13.33
Yes	5	33.33
No, but didn't complain	1	6.67
No, and let school know	4	26.67
No previous plans	3	20.00

Eight of the parents described their relationship with the school before the conflict that led to the hearing as a cooperative one (Table 42). Only four of the parents described their prehearing relationship with the school as one characterized by conflict. Some parents found it necessary to describe their relationship with the school using terms other than "cooperative" or "conflicting."

Table 42.--Response to Question 30: How would you describe your relationship with the school prior to the dispute that led to the hearing?

Response	N	Percent
Very cooperative	5	33.33
Cooperative	3	20.00
Uninvolved	0	0
Conflicting	1	6.67
Very conflicting	3	20.00
Other	3	20.00

Comments made by the parents about the way they viewed their prehearing relationship with the school show wide variation in the perceived quality of interaction.

We had a very amiable relationship. I served on a lot of committees. I knew the people at school and was able to hand pick her teachers in elementary school. In junior high we had met her teachers and expressed our concerns. We were super pleased with her fifth and sixth grade teachers.

I would say it was cooperative. I had saved them from a hearing before by going in and listening to what they had to say. They promised the evaluation results would be explained. It really helped that they got a new director.

I would describe it as harassing. They harassed me. They degraded me. They tore me down. They didn't listen to me. They refused to even deal with me. They thought I was a bitch and complainer and didn't want to deal with me. They were hateful. Just hateful.

Adversarial would really be a better way to describe it than "very conflicting."

We were disappointed in the way they handled some things, but our relations were always cooperative.

It started out "very cooperative." It went the whole continuum, from beginning to end. It ended up in downright hostility.

Prior to grade six--kindergarten through fifth--it was cooperative because we didn't know better. Grades six through eight it was totally uncooperative because that's when we started to get self-educated. Before that we thought the school knew what was best for us and the child. We relied on their expertise because they supposedly were the experts. We were just parents and they would take care of us. . . .

It was very conflicting. We had already had a couple of hearings. I feel like we were being punished for going to hearing the first time.

### The Issue of the Hearing

While discussing what it was that they wanted for their child when the hearing was requested, parents explained in detail the reasons



they had felt it necessary to resort to the due process hearing as a means of resolving their disagreement with the school. As they did so, most parents shared information about their children and why they needed the service or programming they were requesting. Eighty percent of the parents responded that they would not have settled for less than their stated position (Table 43).

Table 43.--Response to Question 45: Would you have settled for anything less?

Response	N	Percent
Yes	3	20
No	12	80
Maybe	0	0

Parents were asked what the school's position had been relative to the issue and why they felt the school opposed their position. It is important to remember while reading these responses that the school's position and rationale as presented here are strictly as reported by the parent more than two years after the conflict occurred. No effort has been made to verify the accuracy of the school's position as reported by the parents because the emphasis of this research is exclusively on the situation as perceived by the parents.

To assist the reader in understanding the issue of the hearing as perceived by the parents, responses to the questions, "What did you actually want for your child when the hearing was requested?", "Would

you have settled for anything less?", and "What was the school's position?" are presented together for each interview. To aid further in understanding the issues as the parents saw them, responses are reported as quotations from the parents. Where parents responded to whether they would have settled for less than their stated position with a "yes," "no," or "maybe" and made no further comment, that response is not included in the dialog that follows since those responses have been reported in Table 43.

The following are direct quotations of the parents interviewed as they discussed the issue of the special education due process hearing involving their child.

#### Interview 1

We wanted her certified learning disabled. We wanted the Teacher Consultant for Learning Disabled to consult with her teachers for math and math related subjects. Teachers needed to know the way she learns as a learning disabled child and the teaching techniques that were most effective for her. We wanted the consultant to help her teachers understand her disability.

We would have settled for certification.

The school was ready to do battle. We were unaware it would be like that. Even the Director was at the IEPC. They just said, "She's not learning disabled." We didn't expect the hostility or the negative response. They asked her regular teachers if they thought she was learning disabled. They said, "No."

#### Interview 2

I actually wanted him out of the EI placement and strictly in an LD program with LD students. He was getting in too much trouble in high school. He hadn't had trouble in junior high.

I would have settled only for an LD placement with LD kids.

They said they had a deviation for the program. They could not keep from mixing handicaps. The teachers taught what they were

best qualified to teach. An LD teacher might teach history and all the special ed. kids take it from her. They thought their program was helping so many kids and J. was the exception to the rule.

#### Interview 3

I wanted them to follow the decisions of [residential treatment center] and [ISD] about what he was and where he belonged. I didn't want him mainstreamed. I wanted him placed in a self-contained class where he could feel good about himself--where he could feel successful. I wanted him to learn typing and how to use a tape recorder for note taking. I wanted him to learn to swim. I wanted him to see the social worker on a regular schedule, not just when he asked to. Why did I spend all that time and gas money on getting evaluations if the school wasn't going to pay any attention to them?

The school said he couldn't use a tape recorder in class because it was an invasion of privacy. They said the only way he could learn typing was in a general education class. They wouldn't force E. They said, "It's E.'s choice. He can take swimming next year. There's no reason he couldn't handle mainstreaming."

#### Interview 4

I wanted her mainstreamed with a cued speech interpreter for part of the school day.

The conflict was not really between the school staff and me. They backed me 100%. The administration was flatly opposed. The conflict was really between the ISD and the local school. The local school said, "You can't place another adult in a teacher's classroom."

#### Interview 5

I wanted them to find a more appropriate program for her. I expressed my willingness to observe other programs. She needed one which was in an air conditioned building because of her allergies, protected from paints and sprays, and with reasonable educational goals. She was too old for the program she had been in but I didn't want her in the one they wanted to send her to. As it turned out I was not able to attend the IEPC because A. was very sick that day. She had been in and out of the hospital several times and I was home with her that day. They did go ahead and hold the IEPC and make a decision that she could be placed in . . . Center which is the SMI center for this area. It was for that reason that we asked for the hearing.

We were still in the throes of wondering if she would survive the summer. We were more interested in safety. We would have backed down on some of the things we had previously requested, the educational goals and speech therapy. We just wanted to make sure that she was being kept safe.

They kept telling us that [the center program] had such a large staff that they would be able to handle all the things we were concerned about, the protection that A. needed. They said it was air conditioned and would be O.K. for her.

#### Interview 6

I wanted programming that would fit his individual needs--full time programming.

I absolutely would not have settled for anything less.

The school wanted to provide programming that would meet his needs as an individual. They wanted to provide a full day of instruction, but they couldn't because the space was taken away from them by the nursing home. They had no choice--they no longer had a classroom. They could only provide two hours a week of homebound with consultation from the occupational therapist and speech therapist.

#### Interview 7

We needed a structured, intensive remedial program for her, not TMI. She didn't qualify for TMI. The need for a change in placement came as the result of brain surgery in April 1980. It opened a new world for her. They removed a cyst as big as a baseball that had been there for years and years. It--the pressure it caused--was causing her disability. She had a normal IQ at age four. It had fallen to lower than 40. All those years had gone down the drain--she couldn't recite the alphabet, count money, tell time--she had no preprimary skills. She needed a program to help her progress as fast as her potential would allow. I was already unhappy with the TMI program. I didn't want her there. They said, "There is no place else." I didn't know I had any recourse other than to express my unhappiness and let it go. I found a private school with an appropriate program. At the time of the hearing she was attending public school half time and [private school] half time. I didn't think the public school could provide the intensive, remedial program she needed. She couldn't go to the high school EMI program. The kids were too mature--socially and academically.

I couldn't settle for anything less.

[The school's position was] that they could provide an appropriate program within the public school system. The options were . . . a classroom with nonverbal children, the junior high LRC--mainstreamed for art and gym, and eventually the high school. The fact that they say they couldn't pay tuition is ludicrous. They could have paid tuition for two or three years for less than the hearing cost--all that staff time--the total cost could have paid the tuition. They didn't want to set a precedent--in other words, it's all politics.

#### Interview 8

We wanted the program put back where it was. T. came home Friday and said they had moved his class from one school to another during the day. The counselor, teacher, and students moved the class. The telephone lines were hot that week-end. You don't take an EI kid and move him like that--it's detrimental to the kids to yank them from one building to another. You don't do that with handicapped children.

With declining enrollment they didn't have enough students [in the building] to mainstream the EI kids into. [The other school] was larger--now they're closing it. [The first school] was newer and nicer--we wanted it kept open. . . . We wanted the district reprimanded.

#### Interview 9

I wanted her provided with a Total [Communication] program at the infant center with every other preschool handicapped] child.

They waffled a lot. They were very adamant. The [public school system] will not have sign language in the public school. For 80 years it had been strictly oral. They are proud of their pure oral program and will spend money to keep it oral.

#### Interview 10

We wanted physical therapy as recommended by the doctor and physical therapist. We already had the OCR [Office of Civil Rights] decision to make the schools barrier free. We didn't realize a hearing could have handled that too.

The superintendent and the ISD said, "We don't have physical therapy and a doctor cannot make that kind of educational recommendation. . . . If he needs P.T. either you do it or you pay for it.

## Interview 11

They proposed to change her label from EMI to TMI. We wanted the EMI label and EMI placement.

They said her social skills were poor--that she should be placed "among her own kind."

## Interview 12

More speech--daily speech.

I don't think I would have settled for anything less. She spoke five words at almost five years [of age]. I would have been satisfied if they would have just tried it.

They increased it from two to three times a week. They said there was no proof that daily speech would help. "Show it to me in a book," he said. "Do you know of anywhere it says that if we gave daily speech it would help?"

## Interview 13

Special education is what we wanted. We wanted him advanced to the seventh grade with special math for the learning disabled. He flunked in June. We tried all summer. I thought, "Who do I call--what do I do?" They evaluated him and turned him down.

The school said he was slow in math, but not slow enough to be put in special ed. They said it was in his best interest if he flunked and was kept in the same grade. The principal said parents shouldn't interfere.

## Interview 14

I wanted a physical education specialist to work with her. [I wanted] her to have home ec. for a full semester as was written in the IEPC. [I wanted her to have the] choice of the full curriculum, fine arts and agriculture . . . and access to extra curriculum. They listed only available programs and services, not what she needed.

I would have agreed if they would let her go into regular gym class and have Fine Arts in the Learning Center. I would have settled for eighth grade home ec. instead of having a choice [of the curriculum].

The school said she would not be allowed in gym class and that she doesn't need any extra phys. ed. or P.T. The home ec. they had agreed to was eighth grade, then they changed it to seventh grade. They didn't tell me it [seventh grade home economics] would only

be twelve weeks--they said it's a parent's place to know it wasn't a semester course. They said, "Phys. ed. is not required above the ninth grade." I said, "Fine, we'll elect it." They said, "No."

#### Interview 15

I wanted him schooled to his maximum potential. He didn't have two courses that are mandated. I didn't want him to graduate until he'd had the mandated courses. He needed more vocational training. He was not properly schooled--not ready to graduate.

The superintendent said he had met the criteria for graduation. "We have fulfilled our obligation," he said.

Table 44 summarizes what parents had hoped to obtain for their children by requesting a hearing. Except in the case of the parents requesting that their children be identified as learning disabled and provided with appropriate programming, the circumstances and requests in each case were different.

Table 44.--Response to Question 44: What did you actually want for your child when the hearing was requested?

Request	N	Percent
L.D. certification	2	13.33
Less mainstreaming	1	6.67
More mainstreaming	1	6.67
Full-time programing	1	6.67
Daily speech therapy	1	6.67
Physical therapy	1	6.67
Total communication program	1	6.67
Cued speech interpreter	1	6.67
Single category program	1	6.67
Private school tuition	1	6.67
Not change EMI to TMI	1	6.67
Maintain program in same building	1	6.67
Environmental protections	1	6.67
Postpone graduation	1	6.67

Most parents cited more than one reason that they felt had caused the school to oppose their position with regard to the hearing issue. Eight of the 15 parents indicated they felt the school had wanted to show that parents could not boss the school around. Eight parents also felt the school wanted to prove professionals "know best" (Table 45).

Table 45.--Response to Question 47: Why do you believe the school opposed your position?

Reason	N	Percent
Welfare of student	1	6.67
Cost of services	5	33.33
Antagonistic toward parent	3	20.00
Show parents can't boss school around	8	53.33
Prove professionals know best	8	53.33
Other	6	40.00

Note: Percentages equal more than 100% because some parents selected more than one response.

Some parents elaborated on the reasons they felt the school had opposed their position regarding their child's educational program by making the following comments:

They felt their program was helping so many kids and my J. was the exception to the rule.

They didn't want to be pushed. They wanted parents to stay in the background and mind their own business.

Not wanting to set a precedent. There was a conflict between the ISD and the public school.

Professional superiority was the real reason.



They didn't oppose my position. The space was taken away by the nursing home for monetary reasons. They had no choice.

They were afraid of setting a precedent--afraid they'd be bombarded with requests for payments of private school tuition. Opposition was required by their school rules.

They had a problem meeting some state criteria.

They had to meet a date for some legal reason. They had to move the program in a hurry.

Because for 80 years they have had a strictly oral program which they report to be one of the best in the nation. They're not just proud that they have a good hearing impaired program, they are very, very proud that it is one of the pure oral systems in the country. They'll spend taxpayers' money up one wall and down the other to keep it purely oral.

I think it was just that we had asked for it and they weren't going to give it. We were parents, we didn't know.

It was in retaliation for the complaints I had filed and that they had lost.

I think it was because professionals know best, or maybe more like parents don't push teachers around. He was just letting us know that, "Hey, this is the way it's going to be." His attitude was that parents shouldn't interfere.

Although parents were very definite in their discussion of what it was that had prompted the need for the hearing, they found it difficult to categorize the issue under the general categories of identification, evaluation, placement, or provision of a free appropriate public education (Table 46).

In some instances parents felt the issue fell under more than one category and consequently selected more than one forced-choice response. One parent felt all categories were involved in her child's case. The parents of two different children asked that the interviewer underscore "appropriate" in "free appropriate public education" to

stress that the appropriateness of the program was really what was at issue in her child's case. Another parent requested that her response be indicated as "free appropriate public education," explaining that although label and placement were sources of disagreement, an "appropriate education" can hardly be provided if the child is mislabeled and misplaced.

Table 46.--Response to Question 48: All issues brought to hearing must fall under one of four broad categories. As you understand it, was yours an issue of . . . .

Category	N	Percent
Identification	4	26.67
Evaluation	2	13.33
Placement	7	46.67
Provision of free appropriate education	9	60.00

Note: Percentages equal more than 100% because some parents selected more than one category.

### Requesting the Hearing

Table 47 shows that all of the parents interviewed had requested the hearing themselves. One parent did indicate, however, that they had requested the hearing at the school's suggestion.

Most parents reported that before requesting the hearing a number of methods had been used in an attempt to resolve the conflict between themselves and the school. Among those methods were mediation, further

discussions with special education personnel, additional IEPCs, and further evaluation (Table 48).

Table 47.--Response to Question 49: Who requested the hearing?

Response	N	Percent
Parent	15	100
School	0	0

Table 48.--Response to Question 50: What methods of resolving the conflict were used before requesting the hearing?

Method	N	Percent
Mediation	2	13.33
Discussion with special ed. staff	6	40.00
Discussion with special ed. administrator	6	40.00
Another IEPC	9	60.00
None	2	13.33
Other	4	26.67

One parent explained that in an effort to solve the conflict an independent evaluation had been obtained which supported their request for service and that they had shared the results with the school. The school, however, questioned the credentials of the evaluator and refused to accept the results. Another said,

We had three or four more IEPCs. We kept meeting with them and they kept disagreeing. Finally, we were "meetinged out." They wouldn't have found themselves in a hearing if they hadn't been so protective of their program and staff.

Still another parent gave a lengthy explanation of how she had tried to get the services she felt her daughter needed before requesting the hearing. She said,

I requested a cued speech interpreter in 1980. I talked with the Director of Hearing Impaired programs and he was agreeable. We discussed the options of how it could be provided, even the idea of it being a volunteer position. When nothing happened we had an IEPC. It was written in her IEP that she would have an interpreter. All the professionals were in favor of it. Three months went by and nothing happened. We had another IEPC. [The public school] said we could not have the interpreter in the classroom although [the ISD] would fund it. The interpreter was let go. They did another IEP. It had nothing to do with L.'s needs. . . . We requested the hearing but the ISD administration said no. We were told to file a complaint. They refused our request for a hearing. We went to court. Before the court date we reached an agreement with the ISD, the state, and the judge. Within 30 days L. was to have an interpreter. The complaint decision said they did have to provide a hearing--they could not deny our request for a hearing. We got the hearing.

A father explained that after discussing the issue with school administrators he had made a presentation to the board of education in an attempt to resolve the issue without a hearing. Another paid a professional advocate to attempt to resolve the issue with school administrators before the hearing was requested.

Only four of the parents interviewed had learned of their right to request a special education due process hearing from special education personnel (Table 49). In two of those instances the special education personnel providing the information were not employed by the local district with whom the parents were in disagreement. In one case the information was provided by the ISD and in another by the State Department of Education.

Table 49.--Response to Question 51: From which of the following sources did you learn about the right to request a hearing?

Source	N	Percent
Special education personnel	4	26.67
Other school personnel	0	0
Agency or special interest group	6	40.00
Friends/acquaintances	3	20.00
Other	6	40.00

Note: Percentages equal more than 100% because some parents reported more than one source.

In several interviews parents indicated they had learned of the right to request a hearing from more than one source. Some of the sources mentioned which were not forced-choice responses included the parent's own professional training, parent advocates, previous experience, and the school district's Parent Advisory Committee.

Over 40% of the parents reported that they were aware of the option of arbitration (Table 50).

Table 50.--Response to Question 52: Did you realize you could have requested arbitration rather than a hearing?

Response	N	Percent
Yes	7	46.67
No	7	46.67
Don't remember	1	6.67

Some parents were not familiar with the meaning of arbitration, some did not know it was an option available to them, and others expressed reasons for not choosing to use arbitration as a means of resolving their disagreement with the school. One parent explained that a "previous bad experience with arbitration" would have kept her from selecting arbitration even if she had known it was available. Another said,

I brought up the subject but the school turned it down. They said that the issue couldn't be handled at that level--that an arbitrator couldn't make a decision to pay private school tuition. I would have been willing.

Another parent said she felt it was "too important a decision to be stuck with for a year." A mother who indicated she didn't trust arbitration explained,

By that time it was almost a year from the time I requested the Total Communication program for my daughter. By this time, she was seven weeks from being two and too old for the program. I didn't trust anyone. I felt that going through arbitration wouldn't give us a direct route to the court if we still needed it. As it turned out, because of the time factor, we ended up just accepting this half-assed program for our daughter. Things were postponed and delayed. As I look back I wouldn't have gone through all that. I would immediately have a hearing within a few weeks of the time I wanted Total Communication and slammed into Federal Court as fast as I could.

Parents cited a number of happenings as actual "triggers" of their request for a hearing--things the school did or did not do that made them feel the issue could be resolved only through a hearing (Question 40). They also commented on what the school could have done to make the hearing unnecessary (Question 41). In some cases the only thing the school could have done was to provide services according to the expressed desires of the parents. In other cases parents felt the

hearing could have been avoided if the school had moved even a little from their stated position.

Comments made by parents are as follows:

Interview 1

M. needed greater sensitivity on the part of the school. Our child was into drugs. She was deteriorating more rapidly. We were feeling the hostility and were concerned that it would spread to her.

If they had just shown some concern for her problems. Perhaps the teacher consultant could have consulted with her teachers without her being labeled.

Interview 2

It was their attitude. By that time they were so protective of their program and their professional image that they thought I was going to damage.

I doubt it [that there was anything the school could have done to avoid the hearing].

Interview 3

The school dealt with Mrs. [advocate]. She said there was nothing else left to do.

Interview 4

Their refusal to implement the previous IEP.

They could have provided the service--followed through on the IEP that had been agreed upon.

Interview 5

They were going to place A. in . . . Center and that was that. They were just moving ahead as though I was already planning on sending her there. The bus was going to pick her up and everything was all set and they were setting up all kinds of meetings and evaluations and things. A., at that point, was in no shape physically to participate so actually she did not go to school that whole next year after the hearing.

At that point I think they could have . . . either offered to keep her in [program previously placed in] until they found something more appropriate or given me some idea that they had even looked. But their stand on that was that [program previously placed in], even though she had been there four years, had become inapprop-

riate because she needed to be protected more than any of the other children in the program and they found that they did not have the staff to make that possible.

Interview 6

I felt the school really wanted to provide service for J. I thought requesting the hearing would help the school obtain the necessary space. I really wasn't in conflict with the school. there wasn't anything the school could have done.

Interview 7

They wouldn't agree that the best placement was [private school] even after all the testimony and written reports recommending it.

[The only thing the school could have done was] place her there.

Interview 8

After my appearance at the Board, when nothing was resolved there was nothing else to do. The EPPC indicated his placement was to remain there.

They could have put the class back where it should have been.

Interview 9

I guess it was their attitude. They made it very clear, there was no way on God's green earth that they were going to have a Total Communication program. There was more at stake than just my daughter. I mean if all I wanted was my daughter to get Total Communication, I could have told them to hang themselves and just gone with a private tutor. The issue is that if we don't have a Total Communication program available to all children, my daughter's program is never going to grow and she is going to have to continue to be educated in isolation, which is the fact today.

They had a certified teacher of the deaf-blind. They could have allowed her to be J.'s teacher.

Interview 10

They wouldn't give him P.T. If they had just given him physical therapy the issues of transportation, etc. wouldn't have been brought up.

Interview 11

They were adamant that they were going to place her in TMI.

They could have agreed to continue services under the same label.

Interview 12

They were just so set against it. And their "prove it to me" attitude was just too much. They weren't about to give.

They could have just said, "We'll try it."



Interview 13

They sat back and said, "This is the way it is." . . . They were insisting upon him repeating . . . that it was in his best interest.

They could have looked at a couple of reports from outside professionals. They could have gone by State Special Education law. They just chopped up the law.

Interview 14

We were both willing to reopen the IEP, but they would limit it to a discussion of phys. ed. We needed to deal with other subjects.

Sure, they could have given her the same opportunities as other students. Don't discriminate against her.

Interview 15

I was pushed into it. They were going to graduate him.

[They could have] studied him a little more. He needed a more coordinated approach--some behavior modification.

Sixty percent of the parents felt that an impartial third party could definitely not have helped to resolve the conflict between themselves and the school (Table 51). Three parents questioned whether there could truly be an "impartial third party." Others made such comments as, "We tried that and it didn't work," "The system wouldn't have listened," and "A judge could have."

The majority of the parents reported that once the hearing had been requested, they had held no hope that the issue would be resolved before the time of the hearing (Table 52).

Table 51.--Response to Question 55: Do you think an impartial third party could have helped to resolve the conflict without a hearing?

Response	N	Percent
Definitely	2	13.33
Yes, probably	3	20.00
Don't know	0	0
No, probably not	1	6.67
Definitely not	9	60.00

Table 52.--Response to Question 56: Did you believe the issue would be resolved before the time of the hearing?

Response	N	Percent
Yes	2	13.33
I was hoping so	3	20.00
No	10	66.67

Just over half of the parents did believe that if the issue was to go before the hearing officer the decision would favor their position in regard to services for their child (Table 53). In one interview where both parents were present, the mother had thought the school position would win and the father had thought the parent's position would win so they decided on a "didn't know" response.

Few parents could remember exactly how long it had been between their request for the hearing and the school's response; however, 60% responded with answers that indicated the school's response had been

prompt and within time limits. One parent did state, "They were in violation of the time limits--they took too long."

Table 53.--Response to Question 57: Did you expect that if the issue did go before the hearing officer that the decision would favor your position, that you would win?

Response	N	Percent
Yes	9	53.33
I was hoping so	2	13.33
No	2	13.33
Didn't know	2	13.33

Parents were asked a series of questions regarding the way in which the school had responded to their request for a hearing. Those responses are summarized in Table 54. Most parents indicated more than one response. Comments regarding the school's response included:

There was really no communication at all other than when, where, and who.

The director very kindly contacted our advocate and told her he had spoken with [attorney], who said the parent would never win.

They scheduled two, three, maybe four more IEPCs.

They sent a letter denying our request for a hearing.

We got a letter from the director, then a phone call.

We were told we wouldn't win and that we were spending the taxpayers' money . . . that we were starting something and that the community would have to pay and that everyone would be down on us.

We were told the director was getting orders from above. You could see the sympathy in his eyes.

Table 54.--Responses to Questions 59 through 68: Response of school district to hearing request.

Action	N	Percent
Offered sources of assistance	7	46.67
Offered sources of free/low-cost legal aid	5	33.33
Suggested further discussion	2	13.33
Suggested further evaluation	2	13.33
Suggested mediation	2	13.33
Offered compromise solution	0	0
Tried to talk out of hearing	7	46.67
Suggested arbitration	3	20.00
Ignored first request	1	6.67
Suggested child or parent would be hurt by process	6	40.00

Note: Percentages equal more than 100% because some parents reported more than one action.

Less than half of the parents interviewed reported that the hearing had been held within 15 and 30 days after it was requested as is the requirement of Michigan Special Education Rules (Table 55). Eight of the 15 parents reported that more than 30 days had elapsed between the time of the request and the hearing.

Table 55.--Response to Question 70: How many days were there between the time the hearing was requested and the date it was held?

Response	N	Percent
Less than 15 days	1	6.67
Between 15 and 30 days	6	40.00
More than 30 days	8	53.33

In two instances parents indicated that the hearing had been held more than 30 days after the request because the school was attempting to accommodate the needs of the parent. In one instance the extra time was needed so that the parents could obtain an independent evaluation and because they were hoping to stall until new rules and regulations went into effect which would guarantee them a voice in the selection of the hearing officer. In another, the parent requested the time extension because she had two children scheduled for surgery and then it was time for Christmas vacation when neither the parent nor the school wanted the hearing to be held. A parent whose initial request for a hearing had been denied reported that the excess time had passed between request and hearing because she had had to take the school to court to get them to acknowledge her right to a hearing, file a complaint, and wait for the complaint decision. Three separate parents reported prolonged time between request and hearing was caused by difficulty in agreeing upon a hearing officer and then having to wait until he had time available for the hearing. Another reason cited for more than 30 days between request and hearing was the school's failure to provide the parents with the child's records in a timely fashion.

Ten parents reported that the school had contacted them to determine an agreeable date for the hearing (Table 56). Nine parents reported the school had involved them in the selection of the hearing officer (Table 57).

Table 56.--Response to Question 71: How was the date for the hearing set?

Response	N	Percent
Cooperatively set	10	66.67
School set date	2	13.33
Other	2	13.33
Don't remember	1	6.67

Table 57.--Response to Question 72: How was the hearing officer selected?

Response	N	Percent
School provided list from which to choose	9	60
School selected and informed parent	3	20
Other	3	20

In one interview parents who had cancelled previous dates for the hearing reported the school notified them of a new hearing date and when they attempted to have it postponed the school refused and the hearing was held without them. These same parents along with one other parent reported the school would not allow them to be involved in the selection of the hearing officer. Another parent reported the school had sent her a letter indicating whom they had chosen as the hearing officer and saying that if the parent had objections they should contact the school. In this case the parent did object and responded by sending the school the names of several hearing officers she would accept. The school then chose from her list. In another interview a

parent reported that the agency representative who was assisting her submitted a list of acceptable hearing officers to the school, and the school agreed to one of them. A parent who replied that the school had told her who the hearing officer would be explained that she had rejected the first name they selected and upon the advice of an agency had accepted the second. In three separate interviews this same agency was cited as having assisted the parent in selecting a hearing officer. In one case although the school suggested a particular hearing officer, a conference call was arranged so the parent could speak with the hearing officer before his definite selection. In one interview the parent reported they had selected three names from a list presented by the school, the school had rejected those three and selected three more, finally they had gone over the list together and after much discussion agreed upon one. In two other interviews parents told of being offered a choice of three hearing officers, rejecting them, offering the school three other names, having the school reject them, and on and on until one was finally agreed upon. Two of the parents interviewed objected strongly to not being offered a complete list of hearing officers available in Michigan from which to choose.

Two-thirds of the parents interviewed reported no further attempts were made to resolve the conflict once the hearing was requested (Table 58). In those cases where attempts were made to resolve the conflict after the hearing was requested, attempts included additional IEPCs, conversation with the school board president, "mediation with no

mediator," discussion with a social worker, and joint discussion with the parent, director, and hearing officer.

Table 58.--Response to Question 73: Were any attempts made to resolve the conflict between the time you requested the hearing and the hearing date?

Response	N	Percent
Yes	5	33.33
No	10	66.67

Over 40% of those interviewed reported they had received assistance in preparing for the hearing from a volunteer advocate--in four instances from the same agency, Michigan Protection and Advocacy Services (Table 59). Twenty percent had been assisted by an attorney, and another 20% by a paid advocate.

Table 59.--Response to Question 74: Who helped you to prepare for the hearing?

Response	N	Percent
Volunteer advocate	6	46.67
Paid advocate	3	20.00
Agency staff	1	6.67
Friend	1	6.67
Special educator (same district)	1	6.67
Attorney	3	20.00
Other	2	13.33
No one	1	6.67

Note: Percentages equal more than 100% because some parents indicated assistance had been received from more than one source.



In some instances, parents had more than one person assist in preparing for the hearing, and in some instances the role of the person assisting could have been classified under more than one category. For example, one parent was assisted by the director of an agency (agency staff) who was an attorney. To the parent, most significant was the fact that he was an attorney; consequently the response is reported in Table 59 as "attorney." Confusion also arose over whether advocates were paid or volunteer when they were at no cost to parents, but paid by an agency. Since as far as the parents were concerned they were volunteers in the sense that the parent did not have to pay for their services, they were reported as volunteers in Table 59. In only one case did parents who used attorneys incur expense for doing so, in one situation legal fees were borne by the agency, and in another the attorney was a relative who did not charge for his services. The cost for a paid advocate ranged from \$500 to \$1,800. One parent indicated his greatest help in preparing for the hearing had come from the special education administrator at the ISD.

In eight of the interviews parents reported the person who had assisted with preparation for the hearing had attended at least one meeting they had had with the school (Table 60).

All of the parents interviewed felt they had had adequate time between being notified of the hearing date and the actual date of the hearing. Not all parents remembered participating in a prehearing conference (Table 61).

Table 60.--Response to Question 75: Had the person who helped you prepare for the hearing attended any of your meetings with the school?

Response	N	Percent
Yes	8	53.33
No	6	40.00
NA	1	6.67

Table 61.--Response to Question 77: Was there a prehearing conference with the hearing officer?

Response	N	Percent
Yes	8	53.33
No	6	40.00
Don't remember	1	6.67

One parent reported that the prehearing conference had never been mentioned. In three interviews parents indicated the prehearing conference had been accomplished by way of a telephone conference call. Two parents reported that the prehearing conference had taken place immediately preceding the hearing.

In all instances when a prehearing conference was held, parents were in attendance (Table 62). In all except one prehearing conference the special education administrator was also in attendance. In that one case the school was represented by the school attorney only. Frequently a parent advocate also attended the prehearing conference.

The child whose educational program was in question attended the prehearing conference in one case, the superintendent of schools in another, and attorneys for both parties in another.

Table 62.--Response to Question 78: If there was a prehearing conference, who attended?

Response	N	Percent
Special education administrator	7	46.67
Parents	8	53.33
Parent advocate	6	40.00
School attorney	3	13.33
Parent attorney	1	6.67
Superintendent	1	6.67

Note: Percentages equal more than 100% because prehearing conferences were in all cases attended by more than one person.

Table 63 shows that seven of the eight parents who participated in prehearing conferences indicated they did not feel the prehearing conference had changed the intensity of the conflict between themselves and the school. One parent felt the prehearing conference had increased the intensity of the conflict, while none felt it had reduced the intensity. A parent who first said the prehearing conference, held just before the hearing, had increased the intensity of the conflict went on to explain that although the intensity of the conflict had not really changed, "I knew I'd lost the battle before I started." Asked why he had felt that way, he explained he had

quickly developed negative feelings about the hearing officer because everything was going to be so regimented. . . . We

couldn't confer, only one spokesman was allowed, and he didn't allow recesses. Plus the superintendent had been his student!

Table 63.--Response to Question 64: Did the prehearing conference reduce, increase or not change the intensity of the conflict between you and the school?

Response	N	Percent
Reduce	0	0
Increase	1	6.67
Not change	7	46.67
NA	7	46.67

#### The Hearing

Parents presented their own cases at the hearing in five of the hearings (Table 64). The rest were represented by advocates, attorneys, and in one case a friend who was a special educator in another district. In one case the parents were not in attendance and were not represented by anyone at the hearing.

Schools were represented at eight of the hearings by special education administrators (Table 65). In six of the hearings, school districts were represented by attorneys. In one hearing the superintendent represented the district.

Table 64.--Response to Question 80: Who presented your case at the hearing?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Attorney & advocate	1	6.67	0	0	0	0	0	0
Attorney	0	0	1	6.67	0	0	1	6.67
Self	2	13.33	2	13.33	1	6.67	5	33.33
Paid advocate	2	13.33	0	0	1	6.67	3	20.00
Volunteer advocate	1	6.67	2	13.33	1	6.67	3	20.00
Friend	0	0	1	6.67	0	0	1	6.67
No one	0	0	1	6.67	0	0	1	6.67

Table 65.--Response to Question 81: Who presented the school's case at the hearing?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Attorney	3	20.00	2	13.33	1	6.67	6	40.00
Special ed. admin.	3	20.00	4	26.67	1	6.67	8	53.33
Superintendent	0	0	1	6.67	0	0	1	6.67

Table 66 combines information presented in Tables 63 and 64 to display who presented the case for the parents, who presented the case for the school, and whose position the hearing officer's decision favored in each of the 15 hearings.

Table 66.--Representatives for parent and school and hearing decision.

Hearing Number	Parent	Representative for School
1	No one	Director*
2#	Paid advocate	Director
3	Vol. advocate	Director*
4	Attorney & vol. advocate*	Attorney
5	Friend	Attorney*
6	Parent*	Director
7	Vol. advocate	Director*
8	Parent	Director*
9#	Parent	Attorney
10	Parent	Superintendent*
11	Paid advocate*	Director
12	Paid advocate*	Attorney
13	Vol. advocate*	Attorney
14	Parent*	Attorney
15	Attorney	Attorney*

\*Hearing decision reported to have favored this party.

#Favored position reported to be uncertain.

Eleven parents indicated they were aware, before the hearing, of who would be representing the school (Table 66), and in only one instance was that knowledge reported to have influenced the decision of the parent regarding who would present their case at the hearing (Table 67). That one parent explained, "If they would have had a good lawyer we would have retained one." A parent who did not know who would be representing the school reported that "there had been talk of them bringing an attorney, but we didn't know until we actually got there whether they would." In that case the school was not represented by an attorney.

Table 67.--Response to Question 82: Were you aware, prior to the hearing, of who would be representing the school?

Response	N	Percent
Yes	11	73.33
No	4	26.67

Table 68.--Response to Question 83: Did this influence your decision regarding who would represent you?

Response	N	Percent
Yes	1	6.67
No	14	93.33

Note: N = 11 (parents who answered yes to Question 84).

Parents discussed their decision to have or not to have an attorney or advocate represent them at the hearing, saying,

We had heard that if we brought an attorney the hearing would be adjourned and that they would refuse to continue. I felt I had the professional expertise myself. I knew the rules, etc., and the facts of the case. I was adequately prepared.

Most parents who try to represent themselves get emotional. They get caught in the middle--I don't feel that's a good place to be. You can't do the best job for yourself when emotions come into play.

She knew what she was talking about and I didn't know anything.

I'm not sure there would have been anyone else as qualified [as the attorney].

Because I thought she had the best knowledge of A. and she had total recall on everything that happened, I mean I am not really

good at remembering . . . why she was here and why she was there and all that. And I thought she was the logical one to do it.

As a parent I wasn't aware of all my rights . . . about the hearing process and procedure. I thought S.'s case would be presented in a more professional manner if an advocate represented her.

I believed I could handle it. I had a lot of compliments.

Because I felt, as much help as P & A had been, no one except myself had attended all the meetings. Plus I'm a debate coach.

We agreed with the school not to have an attorney. We couldn't afford the one we would have wanted anyway. . . . would have cost \$5,000. P and A wouldn't be the main spokesperson and there could only be one spokesman.

The school said, "If you're going to get an attorney so will we." A friend recommended [the advocate].

The director encouraged us to get an advocate. Since she had the experience we thought it would be better.

We thought about having a lawyer but didn't feel a lawyer could represent us any better. A lack of personal knowledge [was the reason we chose to be represented by an advocate].

If I'd had the money I would have had a lawyer. I did have for other hearings.

I felt we went to all those IEPCs--the advocate was there--he did all he could and that wasn't enough. I figured if there was a hearing--I didn't know--let a lawyer handle it.

Parents had difficulty remembering the exact cost of representation at the hearing. Those who could remember dollar costs reported the costs of \$500, \$100, \$1,000, and \$1,800. A mother who could give no dollar amount responded, "quite high." Nine of the parents reported no cost for representation. Because only four of the parents interviewed reported dollar costs, these data are not presented in tabular form, nor are they analyzed in terms of the average cost to parents.



Most parents indicated they would advise a parent going to hearing to have someone other than themselves present their case (Table 69).

Table 69.--Response to Question 86: Would you advise others to have someone other than themselves present their case at the hearing?

Response	N	Percent
Yes	12	80.00
No	2	13.33
No response	1	6.67

Their reasons and comments regarding why they felt that way were as follows:

If you're going to fight you must have someone. I'd spend the money on private help though, instead of on fighting the school. I'd advise parents to seek private help and not go to hearing. People we thought would support us didn't. It was a lot of frustration and emotional turmoil. You would do better if you could sue in court.

You can't do justice to your own child because of your emotions.

Absolutely, never go alone. If you want to be destroyed go by yourself. They just want to get you out of their hair. The parent is stuck--is an ignorant person when it comes to dealing with the school system.

There's so much to remember as a witness. If I'd tried to present the case it would have been terrible. It would have been impossible.

I think it's too hard to do it. . . you're too emotionally involved to be very attentive to the proceedings and to be helpful to your child. I think sometimes you're too subjective, as they say, to be helpful--particularly if they've considered you hostile or unappreciative of their services.

I can't answer that question because, as you know, other people's circumstances are different. Mine was quite different. If I would do it again, I would do it the same way [represent self].

Absolutely! Parents are so emotionally involved. You need to go in there with the issues being in focus. After so many rounds with administrators, you've had it with administrators, really. You need someone to help you through the process.

I don't believe it would have come out any other way. I think it's good for parents to get involved. In some aspects it's rewarding. The Board knows who I am--they treat me with respect. I've won respect from those I want respect from.

Most parents don't have the emotional stamina to do it. My situation was different. I was a college debate coach.

A parent can do it if they're adequately prepared. I think that they would have to have someone help them get prepared. You know, we spent, between grade six and the time this hearing took place in the eighth grade, three nights a week, if not four, and every weekend, learning the total scope of what special ed. rules entail. We have some hearing officers that are doctors that don't recognize what a parent is. This guy is going to come and he's going to say big letters, big words, and a lot of parents just don't understand what he's talking about. After we got all done I questioned our judgment. The hearing officer . . . wanted us to be putting this on an attorney basis. He wanted it strictly legal.

Definitely! There were many important points of law that she [the advocate] brought up that I would not have been aware of. The experience is what counts.

Definitely! I was so upset because of the lies that I was getting sick to my stomach and had to go outside for fresh air.

Unless you're well up on education laws and exact proceedings you can get lost in a second.

If it's at all possible to afford someone. This was the one hearing where I didn't have an attorney. I was afraid to speak out--all those people on the payroll sitting there. Even though I didn't have an attorney we won enough that it was justified. What we did get was well worth fighting for.

I would advise them to have an advocate even at the IEPCs. Parents don't understand what's going on. A lot of stuff goes on under the table.

Six of the parents interviewed indicated they would advise parents going to hearing to have their case presented by an advocate, either paid or volunteer (Table 70).

Table 70.--Response to Question 87: If you would advise parents to have someone other than themselves represent them at the hearing who would that be?

Response	N	Percent
Attorney	1	6.67
Volunteer advocate	3	20.00
Paid advocate	3	20.00
Indefinite response	6	40.00
NA	2	13.33

Some of the parents elaborated on their responses to the above question by making the following comments:

I'd advise them to see an advocate with a history of clout.

A volunteer advocate would be best, but you probably won't find too many volunteers.

It's a sin that a parent would have to pay an attorney to fight a school. If you can't find an advocate though you would have to. The school should be forced to give information about available advocates to parents. The Director says they don't have to.

The best attorney available! It depends on the circumstances of the conflict. You need the person with the most expertise with the issue. On some less complex issues there are advocates that could do a fine job. This issue involved a legal issue.

A volunteer advocate because I know what a financial strain special ed. parents are under. An attorney is really expensive. Most people don't have somebody to help [like we did].

A P and A advocate--they're paid by the agency as opposed to being volunteer. Second best would be a volunteer advocate.

The school will have an attorney. There'll be legal arguments about evidentiary procedures that a layman doesn't know about.

You've got to have somebody help you prepare even if you present. I spent three or four nights a week from the time he was in the sixth through the eighth grades learning. It was a real self-education program.

A paid advocate--educational consultant--if you can afford it. You need someone with a good record.

It depends upon the financial situation. The attorney I wanted wanted \$100 an hour. The advocate already knew the law. A lot of attorneys I talked with didn't know special education law.

It makes no difference as long as they have familiarity with state education laws. Luckily we came out O.K. We had someone who knows what's going on.

I don't think it makes a lot of difference if the individual you choose is well informed. If you have anybody other than an attorney all those paid school people sitting there will throw you off. I think it's done on purpose.

First get an advocate. Then ask the advocate if you need an attorney.

Parents were asked to pick adjectives from a list that described the way they felt when they arrived at the hearing (Table 71). Chosen most often were "nervous" and "prepared." It was interesting that parents in three interviews picked both "nervous" and "calm." The comments parents made in response to this question reveal what they were feeling far better than is possible through their selection of adjectives.

Table 71.--Response to Question 88: How did you feel when you actually arrived at the hearing?

Response	N	Percent
Nervous	10	66.67
Scared	6	40.00
Apprehensive	6	40.00
Angry	5	33.33
Calm	4	26.67
Determined to win	6	40.00
Relieved	5	33.33
Confident	4	26.67
Wishing had not requested hearing	3	20.00
Inadequate	3	20.00
Prepared	10	66.67
Other	5	33.33

We didn't go. We knew it was a set-up job. We knew the director was personally associated with the hearing officer. We wanted to stall until the new rules went into effect so we would have a say in who the hearing officer was. The State Department said we couldn't wait.

I was really relieved it was finally going to be solved--hopefully with a decision in J.'s favor. And I suppose I was feeling a little bit like I wished I hadn't requested it. Just wishing it would end.

Scared to death! Relieved that the time had come. Full of hate. Hoping to God the problems would be solved, but not feeling confident.

Mostly nervous. Trying to remember everything.

Terrified and nauseous. Angry that I had to be in that position. Not angry at anybody necessarily but just angry that I wasn't doing something else--anything else. Depressed, sort of, and in a state of pessimism.

I was feeling as confident as possible. I was very much prepared and hopeful to win.

I was somewhat relieved. All the nights I had stayed up reading the law--so much time--it does weigh on you--a lot of late nights. I was confident in being able to handle the situation and as calm as could be under the circumstances.

We . . . , I did feel kind of like finally it's my day in court, now finally I can tell them everything that happened. It didn't really turn out that way but I really wanted to be able to tell the world, so to speak, how grossly unfair I had been treated by the school. All the lies that they laid on us, all the illegal things they had done to us, I really wanted to get that message out.

Tired. We had stayed up all night long and so I guess you would say that I was nervous and uptight, but I was confident in what I was going to do. We were very, very prepared. The hearing officer threw me right off though with his first opening statement. When he said we were going to do it this way I'm going, "Oh, boy, where's my attorney."

Well, this it it! Let's see how it goes. Like a boxer would go into a ring, let's get in there and fight. It was not a matter of winning the fight, but of safeguarding the future of my child. Determined to fight because I felt my cause was just and I could not afford to lose.

Nervous. Extremely!

Disgusted that it had to come to this.

Twelve of the parents reported they felt no differently after the hearing officer's opening statement (Table 72). Of those who did feel differently, one parent felt less anxious, and the other more anxious.

Table 72.--Response to Question 89: Did you feel differently after the hearing officer's opening statement?

Response	N	Percent
Yes	2	13.33
No	12	80.00
Don't know	1	6.67

Table 73 shows that eight of the parents indicated they had felt confident that the hearing officer would resolve the issue fairly, four of the parents were uncertain, and three did not believe the issue would be decided fairly by the hearing officer.

Table 73.--Response to Question 91: Did you feel confident that the hearing officer would resolve the issue fairly?

Response	N	Percent
Definitely	5	33.33
Yes	3	20.00
Uncertain	4	26.67
No	2	13.33
Definitely not	1	6.67

Parents reported that the occupation of six of the hearing officers was that of college professor, five were attorneys, three were special educators, and one was a retired special education administrator (Table 74). One parent pointed out that she felt the hearing officer should work in a field not directly involved with schools in order to be truly impartial. She questioned how impartial a hearing officer can be when he is hired and paid by the school system "and is probably hoping he will be hired again for another hearing."

Table 74.--Response to Question 92: What was the occupation of the hearing officer?

Occupation	Local Decision in Favor of Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Attorney	2	13.33	2	13.33	1	6.67	5	33.33
College professor	2	13.33	3	20.00	1	6.67	6	40.00
Special educator	1	6.67	2	13.33	0	0	3	20.00
Retired special ed. administrator	1	6.67	0	0	0	0	1	6.67

Parents frequently expressed disappointment when they discussed who had testified for them at the hearing, either because persons they had counted on to support their position on the witness stand had experienced "a drastic change of attitude" or had been less supportive than they had anticipated. One parent who had worked with his wife and a parent advocate to prepare their case in three parts, with one person responsible for presenting each part, learned at the time of the hearing that only one spokesperson would be allowed and that since the advocate and nonpresenting parent were not listed on the witness list they could not testify. Another parent explained she had introduced 22 documents in support of her position because she "could not afford to hire witnesses to come." Table 75 shows in how many hearings particular witnesses were reported to have been called to testify for the parent case. The child's mother was the most frequent witness to testify in support of the parent position. Witnesses reported to have testified



other than those listed included: Director of Special Education, general education teachers, building principals, current special education teacher, speech therapist, private school headmaster, friend, teacher aide, occupational therapist, adults with similar disability as child, professionals from other geographic areas, audiologist, vocational rehabilitation worker, and sheltered workshop evaluator. Only three of the parents reported having paid witnesses (Table 76). Their costs ranged from \$60 to \$300.

Table 75.--Response to Question 80: What witnesses were called to testify for you?

Witness Called	N	Percent
Private tutor	1	6.67
Medical doctor	1	6.67
Child's previous teacher	1	6.67
Mother	10	66.67
Psychologist	7	46.67
Parent advocate	2	13.33
None	1	6.67
Other	7	46.67

Note: Percentages equal more than 100% because some parents selected more than one category.

Table 76.--Response to Question 94: Did you have to pay any of these witnesses?

Response	N	Percent
Yes	3	20
No	12	80

Table 77 shows that witnesses were called by the school. In one hearing a mother who had not intended to testify was called by the school. Most commonly called witnesses for the school were the special education administrator and the special education teacher. Included under "Other" on Table 77 were counselors, school nurse, audiologist, and teacher aide.

Table 77.--Response to Question 99: What witnesses testified for the school?

Witness	N	Percent
Classroom teacher	7	46.67
Principal	9	60.00
Special education administrator	11	73.33
Special education teacher	10	66.67
Social worker	7	46.67
Psychologist	9	60.00
Teacher consultant	3	20.00
Speech pathologist	3	20.00
Other	8	53.33

Note: Percentages equal more than 100% because some parents selected more than one category.

Clearly, who is called to serve as a witness at a hearing by either the school or the parent is dependent upon the circumstances of the issue. It was often difficult for parents to remember just exactly who had testified. One parent commented that there had been numerous school people in attendance but that they had not all testified. Parents reported calling from zero to ten witnesses to support their case at the hearing, whereas the number of witnesses they remembered having been called by the school ranged from two to eight (Table 78).

In eight of the interviews parents reported that the school had more witnesses at the hearing than they did.

Table 78.--Number of witnesses.

Hearing Number	Parent	School
1	0	6
2	5	5
3	3	8
4	10	3
5	3	4
6	1	8
7	6	6
8	3	6
9	10	6
10	5	2
11	3	2
12	2	6
13	2	4
14	2	?
15	2	9
Mean	3.8	5

Ten of the parents interviewed had testified at the hearing (Table 79). Four of them felt better after having done so. Three parents felt no different after testifying and two reported feeling worse (Table 80).

Nine of the parents indicated they felt there had been adequate opportunity at the hearing for presentation of their side of the issue (Table 81). Only five of the ten who testified felt they had really been heard and understood by the hearing officer (Table 82).

Table 79.--Response to Question 95: Did you testify at the hearing?

Response	N	Percent
Yes	10	66.67
No	5	33.33

Table 80.--Response to Question 96: If you testified did you feel better, worse or no different after having done so?

Response	N	Percent
Better	4	40
Worse	2	20
No different	3	30
Don't know	1	10

Note: N = 10 (number of parents who testified).

Table 81.--Response to Question 97: Did you feel there was adequate opportunity to present your side of the issue?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	4	26.67	3	20.00	2	13.33	9	60.00
No	2	13.33	4	26.67	0	0	6	40.00

Table 82.--Response to Question 98: Did you feel you were really heard and understood by the hearing officer?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	3	30	1	10	1	10	5	50
No	0	0	3	30	0	0	3	30
Not sure	1	10	0	0	1	10	2	20

Note: N = 10 (number of parents who testified).

Comments parents made regarding the last four questions illustrate how they perceived their own role at the hearing.

We had planned I wouldn't testify, then the Director called me. . . . I felt that I was really heard, probably not really understood. I think it became apparent when the decision came in. He thought J. could survive with a mixture of handicapped kids which really shocked me.

I felt sick, disgusted, madder than hell and right back where I was. I felt cut off, harassed, rushed . . . and made to feel ignorant.

As it turned out it was five o'clock in the afternoon by the time it was my turn to take the stand. I wasn't in very good shape by that time so I don't know whether I answered the questions how I should have or not. I always had the feeling that I didn't because it had already been a very long day. I just felt really, I was so tired . . . after having been there all day . . . that by the time I got up there all it took was one question and I just fell apart. I felt that I had the most to offer as far as what was going on with A. but I couldn't get any of it out and she [advocate] was tired too so she couldn't think of the right questions, and I wasn't answering her the way that I was supposed to so she could come up with the next question. . . . I was spending all my energy trying not to cry which seems silly to me now because it's not the end of the world and everybody cries but

... I have this thing that comes back from way back in my childhood that people don't cry so I just keep fighting it. . . . Hours had already gone by and things had been said . . . that were very difficult to answer and of course I was not allowed to say anything through the entire hearing. Once I had made the decision the [advocate] was representing us I was not allowed to speak at all, even if something was said that was in direct contradiction to what I saw the facts as being. I was not allowed to speak. The hearing process is very formal. . . . Once you give up that right to . . . converse back and forth it really puts a strain on.

I felt better. I felt that I did really well in getting my point across. In fact, I asked the supervisor of special ed.--I directed my questions to him . . . because I knew he had a child the same age as S. and I said, "If this were your child, you would want the same thing for him." And he shook his head affirmatively. Where they stand politically is not an issue.

At the time I felt a little bit better. Looking back I felt worse about errors I made. As I tried to tell the hearing officer about illegalities and lies I was shut up by the lawyer for the school. I just wanted to tell him so the hearing officer would understand. It seemed the school people could say all they wanted but when I tried to tell about the background that led up to the hearing I was told it was irrelevant.

The hearing officer kept saying, "Let's bring this up to date. Never mind what happened in the past." We were just trying to show the progression of things. I felt really pressed for time. I felt rushed. The hearing officer was pressing for time . . . watching his watch. We started at 9 o'clock and he wanted to be home by seven. We had a 45 minute pre-hearing conference. The hearing didn't get started until noon. "Due to the lateness of the hour," he said that a half a dozen times. . . . "Due to the lateness of the hour, we're going to cut your closing statements from the original half hour to five minutes." We argued about that with him, but it didn't do any good.

I felt better after I testified. We almost forgot to mention that what was happening to my daughter was retaliation for the three complaints that we had filed. My advocate had all the points she wanted to make written on a piece of paper. At the recess she went over them and saw we hadn't mentioned it so she put me back on the witness stand.

I was so nervous. I talked so fast the transcript came back mixed up. I was too nervous and upset.

Afterward I thought of a lot of things I would like to have said. All the school people there were a tremendous hindrance.

Although parents reported few real surprises in the testimony of the school, they frequently questioned the accuracy of the testimony and were often angered by what they considered the dishonesty of the school's witnesses. Several parents indicated they felt pressure had been placed on teaching staff by school administrators to present testimony which was contradictory to what they had previously told parents or to what parents believed to be true. Often parents felt professional staff testified according to the wishes of administrators rather than in accordance with their professional judgment out of fear of losing their jobs. Table 83 shows how closely school testimony related to what the parents had expected.

Table 83.--Response to Question 100: Was the testimony of the school what you expected?

Response	N	Percent
Completely	3	20.00
Mostly	2	13.33
Half n'half	7	46.67
Very little	2	13.33
Not at all	1	6.67

A parent who did not attend the hearing judged the accuracy of the school's testimony from the transcript of the hearing, saying,

They made incorrect inferences, incorrect statements. It was full of misquotes. We were misrepresented. After the hostility of the IEPC meeting we were not totally surprised. We trusted a good contact, but we didn't read her right. We thought she would at least be neutral.

Other parents discussed the way they felt about the school's testimony, saying,

I knew they wouldn't tell the hearing officer what they were telling us because that would prove how inadequate they were.

It was buttered up--the same old thing only made nice. They made themselves look good and made me look like an ass.

They threw in a whole new issue . . . that it was completely disruptive to a regular education classroom to have an interpreter in there. Now that was a primary issue. It had never been mentioned previously. I'd never heard it before. If I'd known ahead of time, I could have presented evidence to the contrary. At the pre-hearing meeting the hearing officer . . . told them they could be required to provide a service that was not reimbursed so the next day in the hearing they brought up this new issue.

What I expected, or what I wanted? It is hard to decide. I guess it was what I expected mainly because everybody that was up there was working for the school district and so I guess I wasn't surprised. I guess I was just disappointed and . . . unhappy.

I didn't know what to expect from them. I was surprised at their testimony; for example, the principal and the teacher were going on about what a wonderful program they could provide and it comes down to . . . they wanted her to remain . . . in a TMI program. No, I wasn't hearing that for the first time. But it was . . . for her to remain in a TMI program . . . when she's going to be making tremendous strides . . . absolutely ludicrous. In fact, in the hearing officer's decision the option of staying in the TMI program was not even mentioned. I think he recognized himself that that was not an appropriate alternative.

The change in attitude had happened before we got to the hearing.

There were no surprises. I was too nice. I mishandled it. . . . They got away with saying irrelevant things. Credentials should have been questioned. . . . The hearing officer should have stricken his testimony. He'd never taught. He was no expert. I should have brought out the familial, friendship relationships.

I think [the witness] was scared to death she would lose her job. She was really on the carpet. I thought she would elaborate more instead of just saying yes or no.



The psychologist and supervisor who perjured themselves are now gone. A psychologist was pressured to change a social skills evaluation this year and he would not. I wonder why others didn't have the same ethics and standards not to cowtow to the directions they receive. The testimony was tainted. I was amazed what professionals will do on the request of supervision. . . . I didn't think educators could be so violently aggressive and downright disparaging.

I didn't expect all the lies. If someone would have had to answer in the parent's favor they said, "I can't remember--I don't recall." The amount of time for speech was not on the IEPC. But I had observed many times. It was never more than 15 minutes. The school said 30 minutes. It wasn't possible to give 30 minutes.

In some respects they contradicted one another with their testimony.

I expected them to lie and they did. When you figure the things they said--you wonder really who told them to say it.

The testimony was slanted. It all depends on the way you present things. You can present information in a way to show what you want to show. They didn't have the witnesses under oath. When your job's on the line what are you gonna do?

Table 84 shows that often parents felt they had been personally attacked by the school during the course of the hearing.

Table 84.--Response to Question 101: Did you feel that you were personally attacked by the school?

Response	N	Percent
Definitely	7	46.67
Somewhat	1	6.67
Don't know	1	6.67
Not really	3	20.00
Not at all	3	20.00

One mother who felt particularly strongly about having been attacked by the school had the following to say:

I think it was deliberate with everyone sitting there. Numbers make a big difference. . . . They even verbalized, "You had to go and do that, now you can pay the consequences." I felt like I didn't have a friend in the world--like I had been asking for the impossible. Had I been asking for something they didn't have--to open a new program--maybe I could have understood. All I wanted was for her to be able to go into what others were allowed into.

Others said,

I don't know that I could say they really attacked me. They were so careful with their words. But I knew what they meant.

They were putting me on trial because we even discussed my daughter. They asked each person about how I was involved. Did I go to all the meetings? I had attended them all. It was as though I was on trial, now what all this had to do with my child's needs I didn't know. They were just trying to find out how involved and concerned I was before the hearing. It didn't make any sense to me and I really felt like I was being put on trial. They were trying to find out if I was a fit mother. That's the impression I got from them examining me.

When they canceled me from the PAC they were attacking me.

[My spokesperson] was really attacked more than I was. There were a lot of problems, discrepancies, about work A. does for others and the work she does at school. They implied I was a disillusioned mother being led down the garden path by this special ed. teacher [the spokesperson].

Not really. Their attorney tried to discredit my testimony. He tried to say my testimony was not valid. He didn't know [the ISD] had hired me to teach their staff. If I was enough of an authority to teach their staff then I was enough of an authority to testify.

They attacked our credibility--our ability to interpret the law. They tried to intimidate us.

We were attacked. About 110 percent. I felt like they were thinking, "They're parents. They don't know what they're doing. We don't really think they know what they're doing. We know they don't know what they're doing. We don't even know why they're here." I felt like I was on trial versus they were on trial--and it had been determined that the school had the burden of proof.

We were, as parents, not the issue. [The hearing officer] made us feel like we were on trial. We were the ignoramuses. [The school personnel] with their degrees were so much superior to us ignoramuses.

In most cases parents indicated they had been satisfied with the degree of formality maintained by the hearing officer (Table 85).

Table 85.--Response to Question 103: How did you feel about the degree of formality?

Response	N	Percent
Too formal	2	13.33
Fine the way it was	10	66.67
Too informal	0	0
Uncertain	2	13.33
Not applicable	1	6.67

Two-thirds of the parents interviewed indicated they felt the hearing had been conducted fairly or very fairly (Table 86).

Table 86.--Response to Question 103: Did you feel the hearing was conducted fairly?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes, very fair	2	13.33	2	13.33	0	0	4	26.67
Yes, fair	3	20.00	1	6.67	2	13.33	6	40.00
No, didn't seem fair	0	0	2	13.33	0	0	2	13.33
No, very unfair	1	6.67	2	13.33	0	0	3	20.00

Parents who indicated they felt the hearing had not been conducted fairly explained their reasons for feeling that way.

How could it be fair when the parents weren't there? The decision was prearranged. The hearing officer was an advocate for the director. As long as he interprets the rules the way she wants them he keeps getting hired.

I don't feel it was fair because I kept getting cut off. I wasn't given the time the school was. I was the tail end. It was stated, "It's getting late, let's get on with it." The school had all the time they needed.

When we tried to present the type of material we wanted to, to get our point across that A. was not getting the education that she had been promised--guaranteed--we were accused of dragging up the past. Yesterday was the past. . . . all we wanted to let them know was . . . this is the work that A. did the first day she went to that school four years ago, and this is the work that she did the day before yesterday. But we weren't supposed to bring that up. And yet, they were bringing up old psychological reports from several years before. . . . That was, I thought, being unfair . . . and I think everybody was getting tired by the end of the day. . . . I think it was, "Oh come on, let's get on with this. Is she going to say one more thing about this?"

The hearing officer hurried both sides. He had made up his mind at a certain point and time in the hearing and from that point on it was, "Hurry up, bring it up to date." It would be like I'm looking at my watch and it's either tea time or martini time.

The whole thing was overpowering. The hearing officer refused to have the witnesses sequestered. I couldn't afford to pay to have witnesses like they had. It sure wasn't fair. I was outnumbered--all those professionals on paid time. People on the payroll won't go against them. They'd be fired. In one hearing a teacher was pink slipped the next day after testifying in the parent's favor.

Parents who reported they felt the hearing had been conducted fairly were much less vocal, often responding simply, "Yes, it was fair" or "Yes, it was very fair."

Although ten of the parents reported that they felt the hearing had been conducted fairly, only eight parents responded that they felt the hearing officer had been impartial during the proceedings (Table 86).

Table 87.--Response to Question 104: Did you feel the hearing officer was impartial during the proceedings?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Very impartial	4	26.67	2	13.33	0	0	6	40.00
Impartial	0	0	1	6.67	1	6.67	2	13.33
Uncertain	0	0	1	6.67	1	6.67	2	13.33
Seemed to favor one side	1	6.67	0	0	0	0	1	6.67
Definitely favored one side	1	6.67	3	20.00	0	0	4	26.67

All who felt the hearing officer had favored one side indicated it was the school's side he had favored. Parents expressed the reasons they felt the hearing officer had not been impartial by saying,

I felt the hearing officer thought I was asking for too much. During the recess I heard him say, "What does this parent want anyway? Does she expect to get reimbursement for private speech, preschool and transportation?" That was not my goal. All I wanted was to get for my child what she needs.

He was nice to the school and he was cold, cut and dried with me.

... He didn't adjourn it [the hearing] when the parents weren't there. We called the hearing officer and left a message asking him to adjourn the hearing and he did not.

He wasn't fair when he wouldn't sequester the witnesses.

I felt at the beginning he was impartial, but as the proceedings went on I got the feeling that he had already made up his mind . . . and that he really just wanted to get things over with. I think that he pretty much decided that before I even got up there.

Two parents who indicated they didn't know whether the hearing officer was impartial or not explained,

He didn't really seem to care about either side. He didn't weigh the evidence as presented. He didn't favor either side. He made a decision based on neither side. It was his own. It was something he dreamed up.

I can't honestly say he favored one side, but I can't say he was impartial either. He didn't seem to want to touch the suspension issue. There were certain issues he didn't want to deal with. He interrupted me and asked, "Are you blaming these people?" I said, "No, we're not." He kept questioning me on the degree of hostility I felt.

Parents who felt the hearing officer had been impartial made such comments as:

He didn't talk to either of the parties during recesses. He stayed by himself. You got the message. But he wasn't rude.

The hearing officer did not show any bias one way or the other. He was listening to both sides. He was obviously paying attention because he asked pertinent questions of different witnesses.

He was open to both sides. You could tell that by the way he presented himself. At least I could.

He was very consistent on maintaining and controlling the situation. . . . He was very knowledgeable. He is very good. I was shocked that his decision was not favorable for S. I was flabbergasted . . . the evidence was there. I still say it's politics. I still say it boils down to the fact that he was paid by the school and they were afraid of setting a precedent.

I was definitely under the impression he was impartial--right from his opening statement. It was just the way he conducted himself. If something was said that shouldn't have been he made a note of it.

There was something about the way the man conducted himself.

If we got out of line he told us and the same for the school. A. came to the hearing and met the hearing officer.

Table 88 shows that 11 of the 15 parents indicated they found it "extremely upsetting" or "somewhat upsetting" to participate in the hearing regarding their child's educational program.

Table 88.--Response to Question 106: How upsetting was it to participate in the hearing?

Response	N	Percent
Extremely upsetting	6	40.00
Somewhat upsetting	5	33.33
Uncertain	0	0
Not very upsetting	2	13.33
Not at all upsetting	2	13.33

Nine of the parents felt, as they went into the hearing, that they had as good a chance as the school to have the hearing officer's decision favor their position (Table 89).

Table 89.--Response to Question 107: Did you feel you had as great a chance to win as the school did?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Definitely	3	20.00	3	20.00	1	6.67	7	46.67
Probably	0	0	1	6.67	1	6.67	2	13.33
Uncertain	0	0	0	0	0	0	0	0
Probably not	2	13.33	0	0	0	0	2	13.33
Definitely not	1	6.67	3	20.00	0	0	4	27.67

Asked why they felt the way they did about their chances of having the hearing officer's decision support their position, parents responded as is indicated in Table 90.

Table 90.--Response to Question 108: Why did you feel that way?

Response	N	Percent
More impressive witnesses	3	20.00
Better spokesperson	1	6.67
Stronger case	7	46.67
Law supported position	5	33.33
Hearing officer favoritism	3	20.00
Other	1	6.67

Several parents felt it necessary to select more than one response. For example, parents in five separate interviews replied, "We felt we had a stronger case because we had the law on our side." One of them added, "You cannot lie about someone's educational rights." Another parent combined two different responses, saying,

Well, I think that it seemed as though they had better witnesses and a better case because there were so many of them--that there was just us. It is just very difficult, you really feel pretty alone.

Again combining responses a parent explained,

Our case was stronger, and as far as the law, I think it's according to the federal law that they could have provided tuition in private school . . . but not under state law. I would say we had a better spokesman, too. He was excellent.

In another interview a parent remembered thinking that since the law was on their side and since the hearing officer was an impartial



judge certainly they had as good a chance to win as the school. A father cited remarks the hearing officer had made as making him feel he had a chance to win. Another parent who reported feeling she had as good a chance to win as the school explained,

As the hearing proceeded their attitude was so visible I thought surely the hearing officer would see it.

A parent who felt the school had a better chance of winning explained he felt a personal relationship between the director of special education and the hearing officer, combined with the fact that the hearing officer was "employed by the school district," negated any chance they would have had of winning on the merits of the case. Another parent who felt the hearing officer favored the school remarked,

He just didn't hear our side. I know he listened carefully, but when he came to us he was tired and he needed something to eat.

Still another parent reported that although before the hearing began she thought she had a better chance than the school of having the hearing officer support her position, she decided during the hearing that the school would probably win because the hearing officer seemed to favor the school. A father explained that when he saw their "seven or eight witnesses" he figured he had no chance. He felt he would be defeated by the sheer number of school witnesses and their degrees. Similar sentiments were expressed by another parent, who remarked that she felt she had lost before the hearing ever began because she couldn't afford witnesses like the school had.

When parents were asked, "What was the most frustrating aspect of the hearing for you?", only one mother responded that there had been no frustrating aspects for her. The others spoke of their frustration with feeling rushed by the hearing officer, having school personnel give testimony they felt was contradictory or false, feeling outnumbered and alone, incomplete transcripts, lack of advance notice regarding procedural requirements, and hearing officer bias. Their answers, provided here as direct quotations from the interviews, provide a real sense of the frustration they experienced.

The way the case was presented by the school really got to me--as though it was just no big issue--when it's so important for your child. And then having to act in front of my child like nothing's wrong when I felt like exploding.

I thought it was too long and drawn out and there were too many people--too many school people. I was afraid to say much. It's one thing when you answer questions on the stand and another when you have to ask the questions. That's really tough.

For me, personally, the most frustrating part was having to sit there and listen to their witnesses contradict each other! Also hearing downright lies and knowing what had really happened. Some of the things said about P.--it upset me. I thought if this is what you have to go through to get a half-way decent education for your child, it's a sad state of affairs.

The lies! I was so upset. I couldn't believe the lies. I was so extremely upset I couldn't eat or go to class that night.

The cost! Particularly having to pay for an independent evaluation when I was entitled to it. All of the hearing process expenses to the school are paid by school taxes. Why couldn't the parent's expenses be charged to the school in the same way? We pay their salary and they fight us with our own money. We should be able to defend ourselves with our own money, with our own school taxes.

I felt rushed by the hearing officer. We asked for a court reporter and were told, "No, the hearing will be tape recorded." Then large parts of the tapes were inaudible. It was a closed hearing and we wanted the Director of Special Education seques-

tered and the hearing officer wouldn't allow it. My wife and our advocate and I were each prepared to present a portion of our case. The hearing officer would only allow one spokesman, so between the prehearing conference [same day] and the hearing I had to absorb the presentations of the other two. His not allowing anyone else to speak was really frustrating. It was for our son and I just wish I could have done better.

Perjury on the part of the administration! There was no way to prove it. It was just their word against mine. I could only say, "You told me. . . ." and they would say, "No, I didn't."

The hearing itself was frustrating. The time it took! I think you could get faster action through the courts. I think that we should get this thing out of the hands of this bureaucracy in Lansing and into the courts. Time has a way of curing things, and it takes so long by the time you get to a hearing. Our support just sort of fell by the wayside. By the time of the hearing I felt very much alone even though we had a lot of support in the beginning. At the end I worried about the impression I had made. I didn't feel that we'd win. The hearing officer made some comment about wondering if we would abide by the decision. I was disappointed to lose.

Having to listen to the recommendations of the school. They were just ludicrous. They could no more provide an adequate, let alone optimum, program for S. than the man in the moon. Having had brain surgery she really needed an intensified structure, a remedial program with instructors that were aware of neurological problems in children. The [private] School staff are highly geared to instruct children who have neurological problems. S.'s situation was extremely unique. You don't see very many children that are changing placement because of the results of brain surgery. . . . How many parents are you going to have pounding down your doors because their child has had brain surgery and now they are going to be better placed in a different program. It is not going to be a precedent-setting case. . . . It was as if it went in one ear and out the other.

There wasn't any real frustrating aspect, no.

I was pretty devastated that it had gone the way it had. It was a waste of time, energy and money. I might as well have gone to the zoo or something. The most frustrating thing to me throughout the whole thing was that the hearing did the same as all the IEPC's were doing and that was putting them against us or us against them . . . instead of everybody being together for A. That is the worst part of the whole thing . . . it's let's choose up sides and decide whether she is this or she is that or she is here or she is there, if she is going to live or she is going to die, or she is

going to survive or she is not, or she is going to be in this school or she is going to be someplace else. I don't get any feeling of working together.

Having some . . . witnesses . . . perjure themselves. There was a lot of pressure put on . . . the special ed. staff who were siding with us and with the regular ed. teachers. . . . I felt really bad that their jobs were threatened. A couple of the regular ed. teachers . . . really buckled under the pressure and made statements that were just grossly unfair . . . saying things like, "Our class is a lot better when she is not there," and "Now that she is gone we are glad that she is not going to be back," and things like that.

That I could not have the time to have him [hearing officer] hear and understand what I had to say. He kept cutting me off. He kept ignoring the past and he needed to know about E.'s patterns of behavior. He [hearing officer] let his own feelings interfere with his judgment.

I think the most frustrating thing was that they called my son as a witness. I think they did it just to see if they could aggravate him. I was really proud of him. He handled it better than I thought he would. They made a big deal of the fact he had never attended an IEPC and told them what he wanted.

Most frustrating was the fact that the staff we hoped we could depend upon perjured themselves at the hearing. The mockery of the whole procedure! It's designed to protect the parent and child. The decision was preordained. It's a waste of money, time, and emotional effort. We just exposed M. to more problems. We should have just hired a tutor. We created problems for her.

Table 91.--Response to Question 112: Were changes required in your child's educational program as a result of the local hearing officer's decision?

Response	N	Percent
Yes	11	73.33
No	4	26.67

Parents reported waiting varying lengths of time for the hearing officer's decision. Nine of them reported the wait had not been excessively long, that the decision had been received within 30 days. To some, although within timelines, the wait had seemed too long. The rest of the parents were less satisfied with the timelines of the hearing officer's decision, saying such things as:

I think it was 15 days late.

Sixty days. The hearing officer was busy.

Over the maximum time allowed. The tapes were inaudible and that delayed the preparation of the transcript.

They were in violation of the timelines.

It took from October to December. The Board of Education had stalled so long--it had taken so long to set up the hearing date that it left very little time after the hearing for the hearing officer to go through the transcripts and come up with a decision. He requested our permission to take longer than necessary to come up with the decision. We gave it to him.

The timelines were extended because the hearing officer was researching the decision.

All of the parents interviewed reported receiving the hearing officer's decision by way of registered mail. Immediate reaction to the decision ranged from elation to fury. Those who were pleased with the decision made such comments as:

I thought it was a good decision as far as it went. It wasn't clear how the decision was to be delivered though, and I wasn't sure an appeal would clarify it.

It was a relief.

I knew what the outcome was going to be. Great, now let's get the school going again.

I was elated. I sent everyone a copy of the decision.

Thank God, I won, but it wasn't real clear when it was to begin.

Hallelujah! I was very happy.

I appreciated the fact that he did see the necessity for improving her English program.

As was the case with regard to responses to other questions, parental dissatisfaction was expressed with considerably more intensity than was satisfaction. Parents who were unhappy with the decision expressed their dissatisfaction with emotion, saying,

My only reaction was disbelief.

I was sick. I was mad. I threw it. I swore. I hated him. I felt his partiality. It just proved he didn't hear a word I said. I resented it that he said, "The parent will have to realize that the child needs more." It was like slapping me in the face. I don't think he cared to understand my son.

Well, I was just disappointed. I had hoped that--you always hope that something is going to be different. It was pretty much what I expected.

I was very disappointed and disbelieving and shocked and upset. And there was no way I could pull her out of [private school]. Even with all the stipulations of the hearing officer, which would have been a big improvement over what she was getting in public school, it was still nowhere near what she really needed. She had to stay at [private school]. There was just no way that I could pull her out of [private school] in order to implement this program that the hearing officer had stipulated. I just couldn't do it.

I was disappointed. But then I hadn't been all that optimistic. The signals were there. I kind of knew.

Fury!

Dumbfounded and disgusted with a very strong feeling of confusion. I didn't understand what was written. I had to take the paper to the ISD for interpretation. They had to call Lansing because they couldn't tell who had won or lost. It was just sort of automatic that we'd appeal. It's sort of burned in your mind--no one I know will ever have to go through this. I'll see that they are forewarned.

After the Hearing

One-third of the parents reported that after the local-level hearing officer's decision was received it was implemented immediately (Table 92). Six of the parents reported the decision was never implemented, sometimes as the result of their action and sometimes as the result of the school's action.

Table 92.--Response to Question 116: How soon was the program ordered by the hearing officer implemented?

Response	Local Decision in Favor of Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Immediately	1	6.67	3	20.00	1	6.67	5	33.33
Within two weeks	0	0	0	0	0	0	0	0
Three weeks or more	2	13.33	1	6.67	0	0	3	20.00
Never	2	13.33	2	13.33	2	13.33	6	40.00
None to implement	0	0	0	0	0	0	1	6.67

One parent reported that the decision had not been implemented because the school district appealed it and won the appeal. The child is now in a private school and the issue is being fought in court. In another case, in order for the school to implement the decision, the nursing home where they had previously provided a satisfactory program for the child refused to allot the necessary space for the program. That child is now living in a foster home and attending school in another county. Still another parent reported the decision was never implemented because by the time the decision was received, the child

was too old for the program. Another parent reported that the hearing officer's decision had ordered that the child could be graduated from high school against the parent's wishes. That child was kept out of school pending an appeal which the parent lost and has now neither graduated nor returned to school. One more parent indicated the decision had never been implemented, explaining that although the child's placement had remained according to the parent's wishes, the child had never received the vocational evaluation ordered by the hearing officer. A parent whose child was in private school at the time of the decision felt it was not in the best interests of the child to remove her from that school and place her in a public school program she doubted could meet the child's needs.

Nine of the parents reported they felt there had been unnecessary time delays during the hearing process (Table 93). Even those parents who felt mandated timelines had been met expressed their concern that the process itself takes too long--that valuable time is lost. Only one parent expressed the thought that it had all happened too quickly.

Table 93.--Response to Question 117: Did you feel there were unnecessary time delays at any time during the process?

Response	N	Percent
Yes	9	60.00
No	5	33.33
Maybe	0	0
Don't know	1	6.67



One parent whose two days of hearing testimony were separated by several days felt the school's attorney had deliberately caused the hearing to last longer by

. . . saying he had to catch a plane . . . that he couldn't come on such and such a day or he couldn't be there before 9:00 o'clock in the morning. The attorney actually said he was trying to wait for the law to change. There is that attitude that if they can put you off long enough they won't have to provide the service.

Another parent commented that the decision never was implemented because the nursing home wouldn't provide the necessary space for the program, saying, "Certainly there were unnecessary delays--it's still delayed." Still another parent expressed her feelings in this manner:

The whole process is an unnecessary time delay. It just takes so much time--time that this child could be in an appropriate program. It did take a long time to come up with a hearing officer because we were not going to agree with the hearing officer's names that they had given us . . . and they were having trouble agreeing with [parent choice for hearing officer].

Feelings that there were unnecessary delays throughout the entire process were shared by a parent who first of all had difficulty getting her child's records and then experienced the frustration of having the district fail to tell her whether they intended to implement or appeal the hearing officer's decision until a formal complaint was filed. Another parent experienced delays first because of audio difficulties with the tape recording of the hearing, then because of the hearing officer's other commitments which caused a delay in the delivery of the decision. The mother of a preschooler requesting additional service for her child remarked,

It seemed like it dragged on forever. There was a lot of time between the time I expressed my dissatisfaction and the time I actually signed for the hearing. They had to set up an IEPC and

then they said they'd have to test her. It seemed like there was too much time between the decision and the appeal also. School was out by the time we got the decision.

Another parent felt there were time delays "leading up to the hearing" but felt that "after the request things rolled along well." Still another remarked, "There was constant stalling." Probably the most positive comment received was the following:

Everybody involved tried to keep things rolling as the law dictates. All was done according to the law, but I still felt like it took too long.

The majority of the parents interviewed reported that the hearing had not ended the conflict between themselves and the school (Table 94). Twelve parents indicated their relationship with the school was the same or worse after the hearing than it had been before the hearing.

Table 94.--Response to Question 118: Did the hearing end the conflict between you and the school regarding this issue?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	2	13.33	1	6.67	0	0	3	20.00
Somewhat	0	0	0	0	0	0	0	0
No difference	1	6.67	1	6.67	0	0	2	13.33
No	1	6.67	2	13.33	3	20.00	6	40.00
Worse now	2	13.33	2	13.33	0	0	4	26.67

Parents who reported an end to the conflict did not necessarily mean that a positive relationship had been established with the school

after the hearing. One parent explained that the conflict had ended with the hearing because she had "cut the ties" with the school district by enrolling her child in a private school. This sense of ending conflict by terminating the relationship was also reported by another mother whose child was placed in a different school after the hearing. A third parent commented that after a period of open hostility between the special education director and herself she was attempting to keep things as peaceful as possible, so although she was not completely satisfied with the program provided for her child there was no open conflict and she did feel she currently had a fairly good working relationship with the director.

Seven of the local-level decisions were appealed to the state (Table 95). Of the seven appeals, five were requested by parents (Table 96). Five of the appeal decisions upheld the decision of the local hearing officer (Table 97). One of the reversals clearly favored the parent position; the other took away a service that had been granted a child by the local-level hearing officer, although the parent reported the appeal decision to be a "new solution," not truly in support of the school position. The latter decision is currently being considered in court (Table 98). In one instance an appeal was requested by a parent whose position had been supported by the local-level hearing officer because the local-level decision left unanswered questions to which answers were necessary for implementation of the decision. Of the two decisions challenged in court, one is still

undecided. The other decision, decided at both the local and state levels in favor of the school position, was upheld in court.

Table 95.--Response to Question 119: Was there a state-level appeal?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	3	20.00	3	20.00	1	6.67	7	46.67
No	3	20.00	3	20.00	2	13.33	8	53.33

Table 96.--Response to Question 120: Who requested the state-level appeal?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Parent	2	28.58	3	42.87	0	0	5	71.42
School	2	28.58	0	0	0	0	2	28.58

Note: N = 7 parents who requested appeals.

Table 97.--Response to Question 121: What was the result of the state-level decision?

Response	Local Decision in Favor of						Total	
	Parent		School		Uncertain			
	N	%	N	%	N	%	N	%
Upheld	2	28.58	3	42.87	0	0	5	71.42
Reversed	0	0	1	14.29	0	0	1	14.29
New solution	1	14.29	0	0	0	0	1	14.29

Note: N = 7 parents who requested appeals.

Table 98.--Response to Question 122: Did either you or the school initiate civil action with regard to this issue?

Response	Appeal Decision in Favor of						Total	
	Parent		School		Uncertain			
	N	%	N	%	N	%	N	%
Parent did	0	0	2	28.58	0	0	2	28.58
School did	0	0	0	0	0	0	0	0
Neither did	3	42.87	2	28.58	0	0	5	71.42

Note: N = 7 parents who requested appeals.

A third of the parents reported they had filed an official special education complaint with regard to the issue of the hearing (Table 99).

Table 99.--Response to Question 123: Was an official special education complaint regarding this issue filed in accordance with Rule 151 of the Michigan Special Education Rules and Regulations?

Response	Final Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	3	20.00	1	6.67	1	6.67	5	33.33
No	3	20.00	5	33.33	2	13.33	10	66.67

#### Parents Evaluate the Hearing Process

In spite of the fact that only a third of the parents reported the hearing decision had been in their favor, over half reported that they feel the hearing process is basically a fair way to resolve conflict between parents and the school over the educational program for a handicapped child (Table 100).

Table 100.--Response to Question 124: Do you feel that the hearing process is basically a fair way to resolve conflict between parents and the school?

Response	Final Decision in Favor of						Total	
	Parent		School		Uncertain			
	N	%	N	%	N	%	N	%
Definitely	1	6.67	0	0	0	0	1	6.67
Yes	3	20.00	1	20.00	1	6.67	7	46.67
Uncertain	0	0	1	6.67	0	0	1	6.67
No	0	0	2	13.33	1	6.67	2	13.33
Definitely not	2	13.33	1	6.67	1	6.67	4	26.67

Many of the parents qualified their answers to this question or explained their responses with additional comments. Comments such as the following were made by parents who questioned the fairness of the process:

I don't know that it's the most expedient way. It seems that there is still a lot of unnecessary paper being sent back and forth and just a lot of bureaucratic bologna going on. I cannot imagine . . . that without the encouragement of [friend] who had worked with A . . . that I would have undertaken the hearing process, simply because you are at a staggering disadvantage to the school district. You have just your own resources on which to rely and they have seemingly all the education and the experience and the knowledge. It looks to me like a stacked deck no matter whether it is an IEPC or a hearing.

If the schools knew how to provide what's needed there wouldn't be a hearing. Just because there's a decision saying they have to do something doesn't mean they know how. If they can't do it to begin with they won't be able to with a hearing unless someone shows them how.

What does it get you? All I know is it didn't help me. It made things worse. The school just hated me more. They took it out on me by giving me less and putting me in my place.

It is a very expensive way to handle an issue. They usually come out unresolved anyway. The hearing officer, being employed by the school, is not as impartial as what he is supposed to be. I just cannot see how he can be. He has to put bread and butter on the table. It is very difficult for me to feel that he is going to be strictly impartial when he is being paid by the school.

Absolutely, positively no. . . . I think the process could be fair if parents were given the insight to what is going on. Don't walk in there cold turkey. . . . It should be held more like small claims court . . . where you go in, and in layman's language, . . . tell your side to the judge. The other person goes in and tells his side to the judge. . . . The judge can ask questions back and forth a few times and everybody answers. The judge says this is the way it's going and bong it's over and done with. The hearing officer gets you in there and it's not that way. It's too legalistic. . . . If you are competing with the special ed. director . . . the parent will look like a bumbling idiot. . . . A parent is not a paid professional. We're paying these superintendents and special ed. directors quite handsomely just to have a

full understanding of what the law is and how to use this law in the best interests of our children. When they distort the law to their own advantage . . . and it's the parent's responsibility to know more than they know it's a sad situation that they are putting the general public in.

Not when it's so one sided. If they'd even it up it would be a very good way. When you're hauled into court and cannot pay for an attorney you get a court-appointed attorney. Parents should be given a lawyer. I think that's the biggest problem.

Parents who indicated they felt the process was basically fair often explained that their response should be considered with certain reservations. Some of their comments include the following:

Yes, it's fair if the parents are involved in hearing officer selection. But if they have no say in who the hearing officer is to be it certainly is not fair.

Yes, I think the process is basically fair. I guess my reservation about the appeal is that the person making the decision should have the benefit of having testimony presented again. . . . Maybe the transcripts didn't show what was the most important point that someone was trying to make. I would not have felt as bad if the appeal had been reversed and done so logically. . . . But I don't know of any better way of resolving conflict so I would say yes.

It needs some improvement. There ought to be a way to protect the child from retaliation.

I'll say it's fair, but only because I don't know a better way.

Yes, it's fair, but I don't believe it should ever have to come that far.

When considering parent responses to this question in terms of whether or not the final decision favored their position, it is interesting that all but two of the six parents who reported receiving a favorable decision indicated they felt the process was basically fair. Out of the six cases in which the decision had favored the



school's position, three parents indicated they still felt the process was fair.

Asked if they liked the two-step process, the local hearing and then the state-level appeal, seven of the parents, not all of whom had been involved in a state-level appeal, indicated they did (Table 101).

Table 101.--Response to Question 125: Do you like the two-step process, the local hearing and state-level appeal prior to going to court?

Response	Final Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	5	33.33	1	6.67	1	6.67	7	46.67
No	0	0	2	13.33	2	13.33	4	26.67
No opinion	1	6.67	3	20.00	0	0	4	26.67

One parent indicated that the process as designed was very acceptable, but that the way it was administered left much to be desired.

Several parents expressed their concern with the second step, the appeal process, making such comments as:

It seems that the second step is conducted with a lot less thought and a lot less thoroughly than the first step and I think the reverse should be true. If anything you would need to know more information and ask more questions based on the first step's testimony rather than what appears to be a lot less.

You're very likely to get a decision that agrees with the [local] hearing officer from a state appeal. . . . It could be that you would get a decision that's even more restrictive than the hearing officer's decision. You are really starting back at square one by tossing this into the lap of more people and . . . it is only a written process. You don't have the advantage of being able to

talk in person. I think it should be able to go directly to court.

I have no confidence in the bureaucracy in Lansing. They give out too many conflicting decisions. If I had to do it again I wouldn't go with this system. I'd ask the court for an injunction. By the time the hearing decision was rendered it was too late to change back.

If you lose, I don't think an appeal will reverse the decision.

Only one of the six parents who were involved in the appeal process reported they did not like the two-step process. That one parent had received a local decision that was in their favor and was later reversed by the state-level review. One of the parents who reported liking the process had lost the local-level hearing but had won at the level of the state appeal. Another parent who reported liking the two-step process although they had lost at both the local and state levels reported that their professional experience caused them to believe the process could, if implemented properly, work well to serve the purpose for which it was intended.

Parents were asked to rate their level of satisfaction with the hearing process itself, the local-level decision, the state-level decision, and the school's response to the decision. Tables 102, 103, 104, and 105 provide those results. As could be expected, parent satisfaction with the decisions generally reflected whether or not their position had been supported by the decision. One of the parents reported satisfaction with implementation of the decision.

Of the six parents who indicated they were either "somewhat dissatisfied" or "very dissatisfied" with the hearing process, all but

one reported the decision of the local hearing officer to be in favor of the school. The sixth parent reported the decision not to be clearly in favor of one side or the other. Of the seven parents who indicated they were "somewhat satisfied," five reported local decisions in favor of their positions, one reported the local decision to be in favor of the school's position, and one reported the decision had not been a clear victory for either party. One of the parents included in the "somewhat satisfied" category reported the local decision in her favor had been reversed at the state level (Table 102).

Table 102.--Response to Question 126: How would you rate your level of satisfaction with the hearing process?

Response	Final Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Very satisfied	0	0	0	0	0	0	0	0
Somewhat satisfied	4	26.67	1	6.67	2	13.33	7	46.67
Uncertain	1	6.67	1	6.67	0	0	2	13.33
Somewhat dissatisfied	0	0	1	6.67	1	6.67	2	13.33
Very dissatisfied	0	0	4	26.67	0	0	4	26.67

The three parents who reported they were "very satisfied" with the local-level decision had received decisions at that level which supported their positions. Of the two who reported themselves to be "somewhat satisfied," one parent had won the hearing. The second reported the decision was not clearly in support of either party. Of

the eight parents who reported they were "somewhat dissatisfied" or "very dissatisfied" with the local decision, seven reported receiving decisions that were clearly in favor of the school's position. One of these parents reported that the decision had been a partial victory for each side (Table 103).

Table 103.--Response to Question 127: How would you rate your level of satisfaction with the local-level decision?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Very satisfied	3	20.00	0	0	0	0	3	20.00
Somewhat satisfied	1	6.67	0	0	1	6.67	2	13.33
Uncertain	1	6.67	1	6.67	0	0	2	13.33
Somewhat dissatisfied	0	0	1	6.67	1	6.67	3	20.00
Very dissatisfied	0	0	4	26.67	1	6.67	5	33.33

Of the parents who reported they were "very satisfied" with the state-level decision, one indicated the hearing officer who did the appeal had answered specific questions which had proved very helpful. The other parent received a decision from the state-level appeal that reversed the local decision and supported the position of the parent. A parent who indicated she was partially satisfied and partially dissatisfied explained she really thought the state-level hearing officer ought to have access to more information than is provided by the transcript. Two parents who were "somewhat dissatisfied" received decisions in favor of the school, one reversing the local decision.

One of these parents indicated there was a certain satisfaction in having the state tell the local district they had been in error even though the decision had not supported the parent position (Table 104).

Table 104.--Response to Question 128: How would you rate your level of satisfaction with the state-level decision?

Response	Appeal Decision in Favor of Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Very satisfied	2	13.33	0	0	0	0	2	33.33
Somewhat satisfied	0	0	0	0	0	0	0	0
Uncertain	0	0	1	6.67	0	0	1	16.67
Somewhat dissatisfied	0	0	2	13.33	0	0	2	33.33
Very dissatisfied	0	0	1	6.67	0	0	1	16.67

Note: N = 7 hearing decisions appealed.

None of the parents indicated they were satisfied with the response of the school to the hearing officer's decision (Table 105). Their reasons for dissatisfaction often had to do with what they considered excessive delays before the service was provided. Three of the parents were so displeased with the decision that they did not allow the decision to be implemented--the child was either kept out of school or placed in a private program.

The question regarding their satisfaction with the school's response to the decision prompted the following comments:

I wasn't very happy with the letter from the superintendent about how much the hearing had cost the school system. I felt it was a

dirty dig. I have to admit though the special education administrators were very pleasant throughout the situation.

Well, we didn't really implement anything because they decided to go with the homebound. She would still be home if it was up to them. The homebound wasn't provided very expediently. It took a long time to get it.

We were very skeptical . . . because it took them such a long time to get things rolling. We had no idea what was going to take place, especially the first 60 days. It was a lot of conversation, a lot of phone calls, a lot of everything took place. We didn't know when, where and how or how long it was going to take us to force it down their throats. It was not something they did out of the graciousness of their hearts even after it was a state decision, we still had to force it out.

They stalled.

They took forever to implement it.

Table 105.--Response to Question 129: How would you rate your level of satisfaction with the school's response to the decision?

Response	Final Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Very satisfied	0	0	0	0	0	0	0	0
Somewhat satisfied	0	0	0	0	0	0	0	0
Partially satisfied/ dissatisfied	2	13.33	0	0	0	0	2	13.33
Somewhat dissatisfied	1	6.67	1	6.67	1	6.67	3	20.00
Very dissatisfied	3	20.00	1	6.67	2	13.33	6	33.33
Not applicable	0	0	4	26.67	0	0	4	26.67

#### Effect on the Child

In discussing the effect of being involved in the hearing situation on the child, parents' responses ranged from saying the child knew

nothing about the hearing and hence it had no effect, to saying the child had not only suffered from the tension at home but had suffered retaliation at school. Direct quotations from the interviews can best tell how parents saw the effect on the child:

It had a very negative effect. I'm not sure that her drug involvement isn't related to it. As parents we had conflict about how to proceed and we consulted her. She's very sensitive and didn't want to be one of the kids that needed special help even though she knew she had a problem. It definitely affected her. She was a sunny, happy, positive kid until we hit the learning problems. The hearing was just too much.

It probably didn't affect him as much as it did me, as the parent. They kind of used him to a point to see if they could get me to withdraw. Then they backed off.

He had no awareness of what was going on.

There was a definite negative effect. There was a lot of discussion. He didn't want to go to school. Then we kept him out of school. I'm sure he lost time. He loses time with every change. . . . He lost time because we were fooling around trying to figure out what to do . . . he loses time with every change. It was a little tough for me because I lost for him. I hope he wasn't too disappointed in his father. I did what I could. I thought about that when I went in there. What if I don't win?

I guess it would be a negative effect in terms of the time involved in going through all this. It takes a lot of parent time away from everything else. It didn't have any direct negative effect on her, though. She met the hearing officer and testified at the hearing. She liked that part of it.

It definitely had an effect in that she thought people were working together instead of worrying over her. She certainly is astute enough to realize that all these things that are going on are about her and because of her, and it gave her a real terrific feeling about herself. I think that everybody working together was an advantage to her.

There were times when she would overhear conversations between my husband and I and she knew we were worried as to how we could provide this very expensive education for her. She had some reaction to that.

It made him know if we thought he was right, we'd back him. The amount of time it took to have the matter settled has affected him negatively. He missed the first half of the seventh grade before we got a decision and they moved him up.

I think she knows without it she would be sitting in a corner somewhere. There have been repercussions, though. People said and did things that made me feel sick, but without it she wouldn't be where she is today even though a lot of problems stem from it.

He still doesn't know the final ruling. It has dragged on too long. It bothered him because he didn't graduate. I heard him say to someone, "What if when I do walk across the stage, Mom and Dad aren't proud." He hasn't been back to school since the hearing.

I pulled her out of school after the hearing. I thought they were taking it out on my child. She kept running a low-grade temperature but there was nothing really wrong with her. I was really afraid they would take it out on her. There were very strong feelings of conflict between the school and I.

#### Effect on the Child's Educational Program

Generally, parent perceptions of how the hearing had affected the child's educational program reflected whether or not the decision had been in their favor. Six of the parents felt the hearing had resulted in improvement of the child's educational program. It can be seen in Table 106 that of those six parents, four had received decisions in support of their position. Of the five parents who felt the decision had been harmful to the child's educational program, only one had received a decision in support of their position.



Table 106.--Response to Question 131: What effect did the hearing decision have upon your child's educational program?

Response	Final Decision in Favor of						Total	
	Parent		School		Uncertain			
	N	%	N	%	N	%	N	%
Improved it greatly	2	13.33	0	0	0	0	2	13.33
Improved it somewhat	2	13.33	1	6.67	1	6.67	4	26.67
No real difference	0	0	2	13.33	1	6.67	3	20.00
Hurt it	0	0	1	6.67	1	6.67	2	13.33
Disastrous	1	6.67	2	13.33	0	0	3	20.00
Other	0	0	1	6.67	0	0	1	6.67

A parent who reported the decision had had a disastrous effect on her child's educational program even though it had been in her favor reported it that way because the decision had never been implemented. Had it been implemented, she felt her child would have benefited; consequently, it was not really the decision but the failure to implement that decision that she felt had hurt her child's program. Another parent, in reporting a disastrous effect upon her child's educational program, explained,

Her teachers were much harder on her. The math teacher had allowed her to limp along on the basis of a suspected learning disability. After the hearing they failed her. She got no support. There was no place to go for help. She felt isolated.

Still another responded,

How do you define disastrous? Would you, if you take two or three months out of a child's growth, call that disastrous? I would.

A parent who indicated she felt the hearing had hurt her child's educational program explained that she felt it had hurt not just her

child's program, but the education of hearing impaired children and mainstreaming efforts in the state generally. She explained her concern saying,

I think that all of the pressure that was put on the staff at the school had a negative effect on education of hearing impaired children in general. . . . [Special and general education teachers] were put under so much pressure--[teachers of hearing impaired] got very cold shoulders from the regular education staff. The [hearing impaired] kids were not ever accepted real well. I think the principal doesn't think special education children belong in his building at all. The conflict made it more negative. For the most part even the teachers who would rather not have had an interpreter in the classroom liked L. They'd just rather she would not be there because she caused too many hassles by being there.

Another parent described the way she felt her child's educational program had been hurt by saying she felt after the hearing teachers had neglected rather than helped her son. "They're taking it all out on him," she said. The mother of a 22 year old she did not feel was ready to graduate explained there had been no educational program since the hearing because she had kept her son out of school. A mother who reported the hearing had made no real difference in her child's educational program explained,

That's the whole point. I wanted it to make a difference and it didn't.

All of the comments made by parents were not negative. Parents of one child indicated they felt the child's program had been improved by the fact that the school was now aware of its responsibility to the child. Another felt a change of teachers from one she described as "aberrant" to one who is "receptive to parents" had resulted in an improved educational program for her child. Still another parent

reported that "gains in educational areas definitely outweighed the repercussions." The mother of a child who had been provided daily speech therapy as the result of the hearing suggested that "tremendously" rather than "greatly" would be a more appropriate adjective to describe the improvement she had seen.

#### Effect on Parent-School Relationship

Table 107 shows that in spite of the fact that many of the parent responses gave evidence of strong negative feelings toward the school and the way it had handled the hearing issue, six of the parents reported that their current relationship with the school was either "cooperative" or "very cooperative." Only three parents reported their relationship to be one characterized by conflict.

Table 107.--Response to Question 132: How would you describe your current relationship with the school?

Response	Final Decision in Favor of						Total	
	Parent		School		Uncertain			
	N	%	N	%	N	%	N	%
Very cooperative	1	6.67	1	6.67	0	0	2	13.33
Cooperative	2	13.33	1	6.67	1	6.67	4	26.67
Uninvolved	0	0	2	13.33	1	6.67	3	20.00
Conflicting	1	6.67	0	0	0	0	1	6.67
Very conflicting	1	6.67	0	0	1	6.67	2	13.33
Other	0	0	3	20.00	0	0	3	20.00

Three of the six parents who described their relationship as "cooperative" were no longer dealing with the same school system. In

some instances it was difficult to understand the response choice selected by the parent when considered along with the comments that followed. One of the parents who described their current relationship with the school as "very cooperative" explained,

The hearing had a terrible effect on my relationship with the school at first. I was on the P.A.C. and was always the last one called on. The president even told me to keep my mouth shut. The relationship is O.K. now. The beginning of this year it started to improve. We don't talk about the hearing. I do things with the director.

The other parent who reported a "very cooperative" relationship felt that

The school respects me now. I think it would have been negative with the superintendent, but he's gone now. I have good rapport with the board and administration.

Describing the relationship as "cooperative," one parent explained that although the child still attends school in the same district he is in a different school and the previous conflict does not seem to have affected that relationship. Other parents explained,

It must have improved it because at the end of the school year when it was decided the program the hearing officer ordered wasn't working the director reminded me I could hold them to the hearing officer's decision for a year or I could allow them to write an IEP like J. wanted. I agreed and he was put on a T.C. caseload.

I am totally uninvolved with [school system attended at time of hearing] other than in regards to my other children. As far as [new school district], they have been cooperative. They have been very communicative and almost terrific.

It didn't really affect our relationship. I mean, what could they do? Their hands were tied. They could not do anything. My relationship with the school that he goes to now is cooperative.

Describing their relationship with the school as "uninvolved," parents made the following comments:

It's much more strained and harassing. Everyone hated my guts for causing waves.

It really hurt our relationship. Hurt it bad. I guess I'd describe it as uninvolved now. There would be too much conflict if we were involved. Our relationship with the special teachers is still pretty good, though.

Uninvolved and bitter you could say. Our relationship was cut off because I took her out of the school.

A "conflicting" relationship was described by the mother who said,

The conflicts do not occur between myself and the teaching staff or the immediate supervisory staff. It was admitted to me verbally that they had to follow orders. This was admitted to me at the beginning of the year by the supervisor of the . . . program and was reiterated to me over the phone recently. . . . It's indirect conflict. We went to IEPCs where . . . the supervisor of the program was on the phone taking orders from his boss and coming back to the table.

Describing a "very conflicting" relationship, a parent referred to the relationship as:

Thumbs down! They were derogatory, defensive, belligerent, and uncooperative.

Another "very conflicting" relationship was described by the parent as "hostile" and as having deteriorated even more after a meeting with the hearing officer where the school was told they must implement the decision. Not knowing quite how to characterize their relationship with the school, a parent first said the relationship had been "strengthened" and "improved," then went on to explain,

Three weeks ago I would have said very cooperative. Now it's zip! Right now they've kicked me off the board [P.A.C.]. Skeptical would probably be the best word. There is never any moment . . . that I could honestly say that I trust those people. . . . There is no way that I could sit back and say my son's education would be fantastic if we were not there constantly asking how he's doing. . . . If we were to back off . . . D. would have nothing. An example being, . . . special ed. rules say that

before you can expel a special ed. student you must have . . . an IEPC. The school board was in the process of having an open meeting and expelling a special ed. child without an IEPC. My wife stopped them. . . . The administration as well as the school board is not aware of what the special ed. rules are and do not observe them unless it is forced down their throats in a very strong manner.

If the current relationship as evaluated by the parent is considered with respect to whether the hearing decision favored the parent or the school, it is seen that no conflicting relationships were reported in cases where the hearing decision had favored the school (Table 110). Parents in that situation appeared to either establish a cooperative relationship with the school or to become uninvolved with the school. When the hearing decision favored the parent, cooperative relationships were reported by three of the six parents as opposed to two parents who reported conflicting relationships. Actually, two of the three parents who reported some "other" descriptor would more appropriately describe their relationship with the school, could have been described as uninvolved since they had withdrawn their child from the public school with which they had been in conflict. This would increase the number of parents who reported they were uninvolved with the school after a hearing decision from three to five.

#### Current Special Education Programing

At the time of the interviews two of the children were not attending any educational program. Two others were in private placements on a full-time basis, and one child was attending a combination of private school and public school while awaiting a court decision regarding the issues of the hearing held more than two years earlier. Three of the

children were in special education basic classrooms on a full-time basis, and three more were in a combination of special education classroom and general education (Table 108). Four of the children were the primary responsibility of the general education program with supportive and related services provided by special education.

Table 108.--Response to Question 133: What kind of educational programming is being provided for your child now?

Type	N	Percent
Self-contained full time	3	20.00
Self-contained/general education	3	20.00
General education/resource room	2	13.33
General education/teacher consultant	1	6.67
General education/related service	1	6.67
Private at parent expense	2	13.33
Combination private/public	1	6.67
Not in school	2	13.33

In addition to the instructional services indicated in Table 108, the children about whose educational programs the hearings were held were receiving related services as is indicated in Table 109. Four of the children were receiving more than one service.

Four of the parents reported they were satisfied with the child's current educational program, while seven reported they were not satisfied (Table 110). The one parent who reported she was "definitely" satisfied with her child's program had placed the child in a private school. Slightly less than half of the dissatisfied parents

Table 109.--Response to Question 134: What other special education services are provided?

Service	N	Percent
Speech therapy	7	46.67
Social work	4	33.33
Physical therapy	1	6.67
Occupational therapy	1	6.67
Psychological services	0	0
Physical education specialist	1	6.67
None	3	20.00
Not applicable	3	20.00

Note: Percentages equal more than 100% because some children were reported to receive more than one service.

indicated they kept their dissatisfaction to themselves rather than telling the school of their displeasure. One of these parents expressed her frustration saying there was nothing she could do because she is "only a parent" so she doesn't say anything anymore. Another indicated the things about which she is dissatisfied are just not important enough to jeopardize the relationship she has finally reestablished with the school. Still another of the parents who indicated she didn't complain to the school about her lack of satisfaction just keeps her child out of school.

Since the hearing two-thirds of the parents had confronted the school with some issue they felt was a violation of law or rules and regulations or inappropriate programming for their child (Table 111).



Table 110.--Response to Question 135: Are you satisfied with the program and services provided for your child now?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Definitely	0	0	1	6.67	0	0	1	6.67
Yes	2	13.33	1	6.67	0	0	3	20.00
Partially	1	6.67	0	0	0	0	1	6.67
No, but I don't complain	1	6.67	1	6.67	1	6.67	3	20.00
No, and I let the school know	1	6.67	1	6.67	2	13.33	4	26.67
Uncertain	1	6.67	0	0	0	0	1	6.67
None provided	0	0	2	13.33	0	0	2	13.33

Table 111.--Response to Question 137: Since the hearing have you confronted the school with any matter you felt might be a violation of law and/or rules or inappropriate programs or services for your child?

Response	Local Decision in Favor of							
	Parent		School		Uncertain		Total	
	N	%	N	%	N	%	N	%
Yes	4	26.67	4	26.67	2	13.33	10	66.67
No	2	13.33	2	13.33	1	6.67	5	33.33

#### Advice to Parents From Parents

After reviewing their experiences with the hearing process, parents offered suggestions to other parents who find themselves at an impasse in their discussions with a school regarding educational

programing for their child. All of the parents interviewed expressed the hope that their experience could be used to help others avoid as much of the pain and frustration involved with the hearing process as possible. Although some parents advocate looking to sources other than the public school for the help the child needs, others encourage parents to prepare carefully, seek assistance, and fight for what they believe is in the best interests of their child. Their suggestions, in their own words, are as follows:

Seek help outside the school system. It's too expensive to get it through the school. You can pay for a lot of tutoring with the attorney fees it takes to fight, and then you don't win. You end up with a happy attorney and nothing for the child.

Definitely contact an advocate. Hang in there! It might get better.

Get legal help. Don't sit and do nothing. Your child is entitled to what he needs. The school doesn't care. A parent must fight for the good of the child.

Parents have to know the subject matter thoroughly. They have to know that what they want is in the best interests of the child. They should get an independent evaluation and if it doesn't go along with what they like, I think they should seriously reconsider what they are asking for. If it does support what they want then they should continue through the hearing process. I feel that in our case, right now, as long as L. has been in private school and doing well that we are just building our case better and better. . . .We are proving by the private placement that what we are requesting works. It's not fair to insist on something without showing that you have a commitment to use it at home. If you can't provide privately what the child needs you still don't want to set up failure for the child. In other words, don't let the child fail just to prove a point. Find another way to get what the child needs.

I would advise them to go ahead and seek help and to at least let them [the school] know they are there. Think about a hearing because I think that even the threat of a hearing is sometimes enough to open the lines of communication. I think that sometimes

you are treated very different when they feel you know what your rights are, as opposed to thinking you are not really knowledgeable about what you can and cannot do.

Just stay with it and don't be intimidated by the professionals and be true to your own convictions. I don't think you have to be radical or run off the wall or anything, but don't be intimidated by the law or educators.

Spend a thousand on their phone bill! Call Lansing, write the Governor, call OCR, write the President, Speaker of the House, anybody and everybody they can . . . and tell them the way it is. Be very frank and forward with all their school board members and their superintendent, but don't threaten. Follow through with whatever you say you are going to do. Become totally educated and do not be intimidated. If worst comes to worst, get an advocate and start it rolling.

I would ask that they get ahold of a good advocate. If they can't afford a representative and there really is a positive side to their argument . . . they can proceed from there. They must know what the issues are. Define the issues and go to work on it just as a lawyer would. There are always two or three sides to every point. You can approach it three or four different ways. Look at all sides and fight for your kid. No one else will. I find that the school administrators are more concerned with financial matters. They aren't really sensitive to the child's needs.

If there is any way to find appropriate programming . . . on their own, go ahead and do it as long as the system is the way it is now. If there was a way to get appropriate programming without the school or a hearing I'd do it.

Bring in a third party.

First assess your own emotional stamina. If you can do it, fight. If you can't, move.

If there is no way it can be worked out, go to hearing. A hearing is the last resort. Try all other ways to settle the conflict.

If you're not happy, look to other outlets for information. What gets me is the school doesn't tell you anything. Talk to friends; some of them may have been involved [in a conflict situation] and they'll tell you. If the school is uncooperative, get an advocate. Get a private evaluation. Use your own sources of information. Why is the school so secretive?

Stick to it! Push forward! Get all the help you can afford. If your child wants to learn something and the school won't let her,

fight for it. Every child has potential and needs the opportunity to prove what she can do. There's no shame in failure. But if you don't try, shame on you.

Don't let things go too far before you do something. Keep a log documenting all your phone calls. Send certified letters. Call the ISD and file a complaint. Call an advocate.

The parents who were interviewed suggested the following list of "Do's" and "Don'ts" for a parent who has decided a hearing is the only way to settle the issue:

Do attempt to keep your anger under control during discussions with the school.

Do thoroughly assess your position to be sure what you are asking for is really in the best interests of your child.

Do have someone with a proven record of success represent you or at least help you prepare for the hearing.

Do request a closed hearing with witnesses sequestered.

Do find out whether the school will be using an attorney and if so hire one yourself.

Do prepare yourself to hear negative things about your child and what may appear to be untruthful testimony.

Do be prepared to focus all their energy and resources on preparation and the hearing.

Do become thoroughly familiar with Michigan Special Education Rules and Regulations.

Do request official interpretations from the State Department of Education.

Do seek an impartial third party opinion regarding the issue and your chances of receiving a favorable decision from the hearing officer.

Do document everything--particularly any conversations you have with school personnel regarding your child's progress and needs.

Do have someone who will be less emotionally involved attend the hearing with you if you decide to represent your child at the hearing.

Do write down everything you plan to say at the hearing as a witness and practice it with the person who will be asking the questions.

Do have in writing exactly what points must be made in support of your position during the hearing and check them off as they are accomplished.

Do insist upon a court reporter rather than having the proceedings tape recorded.

Do make your own tape recording of the proceedings.

Don't be intimidated by administrators.

Don't be "scared off" by fears of retaliation against the child.

#### Advice to Schools From Parents

Parents also provided suggestions to the school as to what they could do when impasse has been reached in discussions with parents regarding educational programming for a handicapped child. Parents felt very strongly that administrators should not control what their staff members say, that the professional opinion of each staff member should be expressed and respected by the administrators, and that there should be an attempt to strengthen a professional code of ethics. Parents asked that schools consider the welfare of the child and look critically at their own programs through ongoing evaluation to be sure they are in fact providing a free appropriate public education. They suggested that schools should be open to parent suggestions, that they should try what parents request, evaluate within a specified period of time and then as objectively as possible discuss it with the parent so that the parent can see whether placements and services are appropriate

for their child. Parents wanted schools to try to better understand how parents feel and to understand that

It really isn't a battleground. All we want is appropriate programs for our kids.

Parents also suggested that schools should do a better job of making parents aware of their rights and what they are entitled to, and should attend to having parents feel that they have been heard. Parents felt generally that schools needed to encourage parents to be active participants in planning the child's program and that they should help parents to feel that the school really wants to know what the parents expect and hope for. One parent expressed these feelings, saying:

Schools need to listen to parents more. The school people only see the child a few hours a day. . . . Parents have seen the child all its life and even though the parent doesn't have Ph.D. after his name, he does have some knowledge. The school should at least consider what the parent says.

Parents also suggested that schools carefully outline the criteria they have used in making decisions regarding the child--that they "lay it on the line" and talk to parents in a "straightforward manner." Along the same line, it was suggested that schools should work more closely with parents to help them understand and accept the child's disability. They felt that when a difference in opinion exists the school should suggest an independent evaluation. It was suggested by several parents that it would be helpful if the school could call in an impartial third party for another opinion, to be shared with the parent, before going to a hearing. Parents also thought it would be helpful if schools had written special education curricula so that

parents could know what to expect from a given program when a child was placed in it. Frequently parent comments highlighted the conflict caused by financial stress in local districts. One parent expressed it this way:

They are going to have to be willing to spend dollars to provide programming for students. Instead of looking at it as one student, they should look at it in terms of "How many other students have the same needs? If we have seven or eight other kids out here with similar problems we can develop a whole new program." They are going to have to start looking at the child's best interest rather than at their pocketbooks all the time. They say funding is not there. Parents cannot plan their children's futures on funding the school gets. Their kids' lives are at stake.

Speaking in terms of what the schools could do generally to improve their relations with all parents, most parents interviewed talked in terms of improved communication between parents and the school. They felt that schools needed to do a much better job of getting parents involved and in listening to parents in such a way that they feel like they have been heard and understood. They also felt that schools needed to provide parents with more information--information specific to their children and the kind of services available, plus information about rights and responsibilities to be exercised as participants in the planning of the child's educational program. Parents felt the schools should feel a responsibility to educate the parents so that they can truly be informed participants. A number of parents expressed concern that schools withheld valuable information from them, that they provided only what information was required by law, and that

they did not fully inform parents of alternative placements for their children or where they could get help outside of the school.

Parents expressed a desire to be respected by school personnel, to be treated "like fellow human beings," instead of having school people act "like they're better than the parent." One parent indicated she felt the greatest thing the school could do for the parent was to be supportive and to acknowledge the difficulties that arise in raising a handicapped child.

A mother expressed what she thought was an important issue in establishing helpful communication between home and school:

Sometimes it's so easy for parents to be put on the defensive by the school. Everything that's said is taken as criticism. The teacher can be very defensive, too. It is difficult. It's just not an easy thing to establish good communication between the home and school because . . . you want the school to do a good job for your child but you really don't want to be outshown either. It's all the old jokes and all those old feelings that are associated with having a child that's handicapped. Part of you is just so appreciative that somebody's willing to take the kid off your hands for two hours a day, and yet the other part of you is very protective. It has to be handled very delicately. Unfortunately, particularly at the administrative level, there are not a lot of delicate people. I think they get caught up in the legalities and they don't really concentrate on anything else.

Parents also felt that administrators should work to come in closer touch with the realities of educating handicapped children. Parent meetings attended by teachers and administrators were suggested as one way for parents and school personnel to get to know one another better. Parents suggested that Parent Advisory Committees could do much to build parent confidence in the system if committee membership is not limited to just those parents who would "rubber stamp" the wishes of the administration. Parents believed that those who would



work for change should be given the same respect as those who are satisfied with the status quo.

Parents also expressed a desire to have teachers really know their children and to spend more time in the classroom and less time in meetings. One parent, saying she knew it was difficult for teachers, felt

The school should provide teachers with the means to know students as people rather than just a number.

It was also suggested that relations could be improved if parents saw the schools attempting to provide the opportunities for students that they "pay lip service to." For example, one parent said she is always hearing about the need for "socializing," but doesn't see schools offering the same opportunities for socialization to the handicapped population that they do to the nonhandicapped. Parents also felt the school district should be making a definite attempt to sensitize personnel and the student body to the needs of the handicapped.

Recognizing that an adversarial relationship between parent and school is unlikely to result in a productive working relationship for the benefit of the child, one mother stated,

If the school would just recognize that we really aren't the bad guys they think we are--that we're not out to win or lose--that we just want to help our kids. If schools could just get away from the thought that we're trying to harm them when we're not.

### Parents Recommend Changes in the Hearing Process

Most of the suggestions for changes in the hearing processes involved only slight modifications in the process as it now exists rather than radical change. There was a desire to assign greater responsibility and accountability to the school district and to equalize what parents viewed as an imbalance of power. There was also a desire to insure greater impartiality on the part of the hearing officer and to insure that parents were not placed at a disadvantage by a lack of knowledge.

A number of parents suggested that there should be a mandatory opportunity before the hearing for a less formal exchange of information than is allowed at the hearing. Some suggested mediation by name. Others described a conversation to take place around a conference table with an impartial third party presiding rather than having witnesses called to the witness stand. One mother explained her reason for feeling such a meeting should be required to take place before the hearing:

I think it's important for there to be another step to go through before the hearing. There needs to be an opportunity for the kind of exchange of information that went on at the hearing, but done on a more informal basis with more opportunity for spontaneity. . . . There needs to be somebody to moderate, . . . to be sort of in charge. Somebody that's not representative of the school district and is not representative of the parents. There's got to be more give and take. . . . There's something sort of frightening about the lawyers getting up there to do their part. . . . It's just a very uncomfortable situation when they start talking . . . with all the legal jargon. . . . I think it's enough to put anybody on edge. In talking to the people from the school that were there they had the same feelings I had. They were not thrilled to death to be there either. They were not all that excited about the opportunity to take the stand.

Although one parent suggested that the local hearing be done away with and the state-level appeal be used as the sole decision maker, most parents expressed a concern with the state-level appeal. The major concern expressed was that the state-level hearing officer has only the transcripts of the local hearing upon which to base a decision. It was suggested that the decision at this appeal step should be based on a more thorough investigation of the issue--that the investigation should build on the information provided at the local hearing, but that the hearing officer should look beyond that information in an attempt to consider factors that may have been overlooked, misunderstood, or misrepresented at the local-level hearing. It was further suggested that both parties should be allowed to introduce additional evidence and that the state-level hearing officer should have the authority to request that further testimony be taken or even that further evaluation be done if the data available appeared to be insufficient or lacking in the clarity necessary to make an informed decision.

Parents felt that where the issue to be decided by the hearing stemmed from a disagreement between the parent and the school related to diagnostic evidence, it should be required that an independent evaluation be done by an impartial party with the cost to be shared equally by the parent and the school. Further, it was suggested that a private evaluation obtained by the parents should be given weight equal to that of the evaluation done by the school.

Parents made numerous suggestions related to their concern that a parent challenging a school system is a definite underdog. They cited the vast difference in resources of a parent as compared with those of the school system. They felt that the school with its resources of professional personnel and attorneys all paid for with tax dollars contributed by the parent had an unfair advantage over the parent who may not have the necessary funds to hire an attorney or advocate and to pay the witnesses they may need to support their case. Some parents felt that the school should be required to pay all expenses--those incurred by the parent as well as the school. By some it was suggested that certainly if the school was going to use an attorney they should be required to also pay attorney's fees for the parent. One parent felt that schools should be limited in the number of professional staff members they could use as witnesses unless they are going to pay for an equal number of professional witnesses called by the parent.

Parents felt strongly that they should be provided more information about available hearing officers from an impartial source. They resented the fact that school districts gave them less than a complete list from which to choose. Several parents expressed concern about the close relationship of special education administrators across the state and the fear that hearing officers made decisions based on their desire to be hired again by the school district as a hearing officer and that they attempt to make decisions that they would not mind having to live with themselves. One parent referred to the relationship between special education directors and hearing officers in the state as

"incestuous." It was this concern that prompted the suggestion that hearing officers should be from outside the field of special education.

A parent who had been refused a request that witnesses be sequestered felt it was most important that a hearing officer should have to honor such a request by a parent. Another concern that was voiced by many of the parents interviewed was the amount of time it takes from the time the conflict arises until the hearing officer's decision is received. In one case, by the time the decision was received, the child was too old for the program requested by the parents. In another, a hastily moved program could not be returned to its original location because to do so would require another adjustment on the part of the students who had finally adjusted to the move to which the parents objected. Although one of these parents said he realized that in some instances the time involved could serve as a cooling-off period, there should be some provision for more timely decisions when it was obvious that time was of the essence.

Parents also felt that some provision should be made to insure that the hearing officer's decision was implemented in a timely fashion. Parents did not feel that after having gone through the hearing process and having won the decision that they should still be faced with convincing the school that they really do have to implement the decision. It was felt that the state should see that the decision was implemented. Parents felt strongly that some penalty for failure to implement a decision within a specified amount of time should be imposed upon the school district. They also felt that hearings that

were necessitated by the school's blatant defiance of the law, in what they saw as an effort to delay providing what they knew they would eventually have to provide, should result in a penalty to the school district. They did not feel that it was an adequate consequence for a school to be told they now had to provide what they should have been providing for a period of time leading up to the hearing.

Parents also felt they were at a disadvantage because schools know more about hearings than they do. Several cited examples of being surprised by procedural aspects of the hearing that they could have handled better if they had known in advance what to expect. For that reason they suggested that the State Department of Education publish a manual providing parents with everything they could want to know about a hearing--written in clearly understandable language. It should be assured that the procedures outlined in the manual would be followed by all hearing officers. Parents also suggested that the element of surprise could be taken out of the hearing if it were required that a prehearing conference be held several days before the hearing. They also felt that hearing officers should not allow the presentation of a new issue at the hearing. They felt the issue should be made clear during the prehearing conference.

Many of the parents did not know that the option of requesting arbitration rather than a hearing existed. Some did not know what the term "arbitration" meant. They felt that this information should be made known to parents and that the process should be explained in enough detail that parents could evaluate whether it could serve the

purpose of providing a timely decision without surrendering the child's right to a free appropriate education.

Although many of the parents professed not liking the hearing process, their greatest concerns were with the way the process is administered rather than with its design. With the exception of revising the state appeal process, the suggestions for change these parents provided were in actuality suggestions that procedural requirements be clearly defined and adhered to by hearing officers and that some provision be made for an equalization of power for the parties.

#### Parents Evaluate the Interview

At the conclusion of the interview, each parent was asked a series of questions regarding the way they felt about the interview and how they felt about having given it. Thirteen parents responded that none of the questions asked had been offensive to them. One parent indicated the question regarding income range had been offensive to her, and another felt there was no reason to ask any of the parent profile questions.

Parents were generally appreciative of the opportunity to have someone uninvolved in the situation listen to their story. They were unanimous in their response that it had not been difficult for them to discuss the subjects covered in the interview. One commented that she had "welcomed the opportunity." Another explained that although not difficult to discuss the hearing at that time, a year earlier it would have been impossible for her to do so. Another commented that it had

not been difficult, but that it had been a little upsetting to think back on all she had been through.

All of the parents indicated that they would definitely encourage other parents to participate in the study if they had the opportunity. In discussing the length of the interview, parents were again unanimous in saying they saw no way it could have been shortened. They felt all of the questions asked were important to understanding their experience with the hearing process. One mother commented, "When you have a long story to tell, it takes time." Another responded, "Even in an interview of this length, you can't tell all there is to tell about the impact on our lives that will remain forever."

When the interview was ended, most parents expressed their desire that the information they had provided could be used to help other parents and indicated that they were pleased they had chosen to participate. To describe the way they felt at the conclusion of the interview they used such words as "glad," "fine," "good," and "very comfortable." One mother summed it up by saying, "I feel good because possibly the information that I gave you and the feelings that I gave you might somehow, someday, relate back to the proper channels and maybe somebody else can identify with them and something will be done." Very similar feelings were expressed by another parent who said, "I hope it can help other parents, too, and maybe let the state know that this is going on and these are our feelings."

In most instances parents were more interested in having their stories told than in protecting their own identities. Concern was



expressed by more than one parent, however, that professionals who had been helpful and supportive to them during their time of conflict with the school not be identified for fear that their jobs could be threatened by their failure to support the official position of the school.

In all cases the interviewer sensed an eagerness to be heard and to be understood. Parents spoke freely and showed no signs of reluctance to explain either what had happened to them and to their child or how they felt about it.

## CHAPTER V

### SUMMARY AND RECOMMENDATIONS

This chapter provides a summary and discussion of the limitations and major findings of the study. Implications and recommendations for further research and possible action on the part of parents, schools, and the state are also presented.

#### Overview of the Study

This research, exploratory and descriptive in nature, consisted of 15 in-depth interviews conducted during the spring and summer of 1983 with parents of handicapped children who had been involved in a special education due process hearing regarding their child's educational program. The purpose of the study was to look at the hearing process through the eyes of the parents who had used it, in order to determine whether they perceived it to be a just and equitable system for resolving disputes with the school. The study sought to determine, from the parent's viewpoint, what caused the request for the hearing, what the parent-school relationship was like, both before and after the hearing request, the way in which the actual hearing and decision were perceived, whether the hearing officer's decision had been implemented in a timely fashion, what the effect was on the child and his educational program, and whether the hearing had served to end the conflict.

Suggestions for parents and schools who find themselves in a conflict situation and recommendations for improvement in the parent-school relationship in general and for changes in the hearing process were also sought.

The subjects for the study were drawn from the entire known population of parents in Michigan who had participated in local school district hearings between August 31, 1980, and September 1, 1981. A semi-structured interview guide, developed by the researcher, served as the basis and recording instrument for each interview. Interviews included both open- and closed-ended questions, and parents were provided the opportunity to explain their answers and add or seek information to the extent they felt was important to an understanding of the situation they were discussing.

Responses were analyzed and tables constructed in order to show the percentage of parents who selected each forced-choice answer to the closed-ended questions. Responses to open-ended questions were for the most part recorded with direct quotations from the parents. Where there was concern that parents might respond differently to a question based on whether the hearing decision had favored the parent or school position, tables were constructed to show the responses in relation to whom the decision had favored.

### Limitations

It is not known whether the 15 parents interviewed are truly representative of the target population of 41 parents. Confidentiality requirements in law and regulation prevented direct access to the

parents who had been involved in the hearings. Therefore, some of the parents in the target population could not be invited to participate. Slightly more than half (23 parents) of the target population were reported to have been contacted, 19 by school districts and four by others.

The feelings of these parents may or may not be representative of the totality of parents of handicapped students in the schools. The 15 children whose educational programs were the source of the conflict between parent and school which is discussed in this study represent only a miniscule percentage of the 160,187 who were provided with special education programs and services during that 12-month period.

In an effort to reach parents, letters were sent to the 30 directors of special education in school districts known to have had hearings during the 12-month period, asking them to forward requests for participation in the study to the appropriate parents. Of the 30 directors contacted, 14 (46.7%) forwarded the requests to all of the parents in their district who had had hearings during that time, and a fifteenth forwarded requests to some, but not all, of the parents involved in the hearings. Ten school districts (33.33%) indicated they had chosen not to forward the request to parents in their school districts. Four of the ten explained that their refusal to forward the requests was caused by either the fact that the issue was not yet resolved or a fear that if the researcher were to discuss the hearing experience with these parents the sparks of the conflict would be rekindled. Their written comments included:

The case in question is much too volatile. We have avoided a hearing for more than two years and cannot, because of the parents, take the risk of reopening old wounds.

The . . . hearings that you referred to were quite lengthy and emotional and have just now finally settled down in terms of the emotionality of the issues. I feel that any contact from my office could be detrimental to the smooth operation of our Special Education Department. I do feel, however, that you are studying an area that deserves an indepth investigation.

The conflict which precipitated the hearing has not been resolved as yet. . . .

The parents in question were not pleased with the outcome of the hearing, . . . and I would rather not have the parents contacted. Rekindling complex emotions seems too high a price to pay for the information you seek for your research paper.

The refusal of these directors to chance bringing memories of the hearing, prehearing, and posthearing events to the minds of the parents involved would appear to indicate that if, after the hearing, a peaceful relationship has been established between the parents and the school it is sometimes a tenuous one.

Parents with whom personal contact was made were generally anxious to tell their story. Of the 19 parents contacted by school districts, 12 (63%) consented to the interview. A question can be raised as to whether the parents who chose to be interviewed felt more strongly that their rights had been violated than those who declined the invitation. One must also consider the possibility that those who chose not to be interviewed had suffered greater emotional trauma and did not wish to recall painful memories. One parent who chose not to be interviewed provided evidence of the intensity of feeling that remained after the hearing by noting on the response form, "Mrs. . . . feels so badly

about the IEPC's that she cannot go through another discussion of them." Another parent contacted by the school district related concern with bias on the part of the interviewer, an employee of a local school district, as the reason she had chosen not to be interviewed. One can only speculate as to the reasons for the lack of participation by the remaining five parents. Of the four parents contacted by other sources, only one declined to be interviewed, and that was because the issue was about to be decided by the court and she was advised against participation by her attorney. The parent indicated that, personally, she would like nothing better than to be able to tell her story.

In considering the responses of the parents interviewed, it is important to keep in mind that those interviewed were, for the most part, those that districts were willing to have interviewed. One can only speculate as to whether those parents the districts did not want interviewed would have expressed more, less, or equally negative feelings than those interviewed. The obvious speculation is that directors would be less anxious to have parents who are angry or unhappy with the school district be interviewed than those with whom they have good working relationships. Although this study did not address the issue of how schools viewed the posthearing parent-school relationship, it would be a worthwhile topic for further research.

There is no doubt that this study provided a subjective view of the special education due process hearing. It can be no other way. The parents who provided the information upon which it is based have been, and are, emotionally involved in the situations they described.

No effort was made to verify that events happened as the parents remembered them nor to determine whether there was justification for the feelings they expressed. Whereas it was sometimes difficult for parents to remember details about events that had taken place in the past, they had no difficulty remembering how they had felt about those events. It was the task of the interviewer to record accurately and objectively what they had to say, not to judge or challenge them. What these parents have provided and what is presented in this study are their own thoughts and feelings--their perceptions of the special education due process hearing as they experienced it.

It may be argued that without factual data to support or refute the implied charges of these parents there is very little to guide one in rational reform or improvement. However, verification of the accuracy of events as remembered by these parents is not necessary in order to highlight some matters about which they feel strongly, matters about which those involved in the delivery of special education and the hearing process should be aware. The purpose of the study was to determine how these parents felt about the equity and justice of the system and it is important to attend to what they had to say, not in an effort to determine whether they are right or wrong, but to learn what they think of the process now that they have used it and to stimulate thinking regarding what can be done to make parents feel more a part of the team, all working together for the good of their handicapped child. It is the contention of this writer that if parents do not believe the hearing to be a just and equitable means of conflict resolution; if

they do not believe that decisions will be rendered fairly and in the best interests of the child, they will not use this mechanism designed to protect their rights. Consequently their rights may not be protected.

The special education due process hearing was designed as a mechanism to provide a guarantee of due process in special education. Experience with it is still limited and criteria for evaluation not firmly established. The fields of business, industry, and public employment, however, have much experience with due process and conflict-resolution mechanisms, and do have established criteria for evaluating these mechanisms. Experience has shown that the primary measure of the efficacy and utility of any employee appeals process designed to provide a guarantee of due process in the workplace must be the extent to which its components enhance the probability that employees will be treated fairly.

Because employees will not utilize an appeals mechanism that they feel is ineffective, the perceptions of employees as to the objectivity and fairness of the procedure is a second key evaluation criterion. (Pegnetter & Hayford, 1980, p. 27)

Applying this criterion to the evaluation of the special education due process hearing mechanism demands that we learn how parents feel about the process. For that reason this study was conducted. It provides one step in the direction of evaluation by presenting the perceptions of parents who have used the process as to the objectivity and fairness of the special education hearing as they have experienced it.



## Summary and Discussion of Findings

### Characteristics of Parents

All of the parents interviewed had disagreed with the school regarding educational programming for their child and had exercised their right to a special education due process hearing in an effort to resolve the disagreement. These parents cannot be characterized as being from any single educational background, socioeconomic level, or geographical area of Michigan. They do, however, present a picture of generally articulate, assertive, and well-informed parents who feel strongly that their handicapped children must receive the best possible education. Although their educational backgrounds ranged from having completed grade school through earning a doctoral degree, it is interesting that over 65% of the parents had at least some college education. Also noteworthy is the fact that these parents were for the most part active in parent affairs. Sixty percent claimed membership in some parent organization, and 40% reported holding positions on the Parent Advisory Committee at either the local or intermediate school district level. Many attributed their understanding of parental rights to their involvement with these organizations and the contact they had had with other parents through that involvement.

Parents reported their total annual family income the year of the hearing to range from Social Security payments only to over \$50,000. Their occupations ranged from blue-collar worker through professional. They lived in both urban and rural areas in the southern, northern, eastern, western, and central parts of the state.

The length of parental experience with special education ranged from the parents who were seeking initial identification of their child as handicapped through those whose child had been in special education classes for over 13 years. All of the parents related a long history of concern with regard to their child's disability. Four of these parents (26.67%) had more than one child who had required special education, and three parents (20%) had been involved in at least one special education due process hearing before the hearing discussed in the interview. Only two of the parents could be considered newcomers to special education. Even the preschoolers had been enrolled in special education programs before the year of the hearing. These data are insufficient to determine whether these results are suggestive of a relationship between the number of handicapped students in one given family and the probability that a family with more than one handicapped child will go to a hearing.

#### Characteristics of Children

The subjects of the hearings included eight females (53.33%) and seven males (46.67%) (Table 8). At the time of the hearing their ages ranged from 1.5 years through 20 years, with 9 of the 15 children (60%) being between the ages of 10 and 16 (Table 9). Four (26.67%) of the children were reported to be Educable Mentally Impaired, making it the most commonly reported primary disability (Table 11). The next most common categories reported, with three children (20%) in each category, were Physically and Otherwise Health Impaired and Learning Disabled, although one child reported to be Learning Disabled by the parent was

found not to be by the school and the hearing officer. Two children (13.33%) were reported to be Hearing Impaired and two (13.33%) Severely Multiply Impaired. Only one child (6.67%) was reported to be Emotionally Impaired. All but two of the children were in special education programs at the time the hearing was requested (Table 14), with 11 (73.33%) having entered special education programs before the end of their first year in school (Table 15).

#### Referral to Special Education

Special education assistance had been requested by their parents for 12 (80%) of the children (Table 24). Seven (46.67%) of the parents reported that no one had explained the referral/evaluation/placement process to them (Table 25), and some of those who did remember receiving explanations reported not really understanding what was involved in the process. Although some of these children were placed in special education before Rules and Regulations required that certain procedures be followed, it became apparent in talking with these parents that they felt schools should do a better job of explaining the process and the criteria they use for making decisions regarding planning and placement.

#### Parent Involvement Before the Hearing

Asked whether they felt they were expected to be involved in decisions the school would make regarding their child's educational future, six (40%) of the parents responded positively (Table 27).

Comments made by the parents, regardless of whether they responded positively or negatively to the question, generally indicated that although they felt they had a right to be included, and had a desire to be included, they did not feel the school wanted them involved. Only two parents indicated the school had contributed to a feeling that they should be involved in the decision-making process.

Parents had a difficult time remembering how and when and by whom evaluation results had been reported to them. They showed no difficulty in recalling whether they had felt the evaluation accurately described their child or whether they had felt the school person who explained the results was sensitive to their feelings regarding the child's handicapping condition. Ten (66.67%) of the parents felt the evaluation had not described their child accurately (Table 31), and only 6 of the 15 parents (40%) remembered feeling that the school person who had explained the results had been sensitive to their feelings about the child's disability (Table 32). Of nine parents (60%) who reported obtaining independent evaluations (Table 33), only one parent reported the school had paid for the evaluation (Table 34).

Only three (20%) of the parents remembered receiving explanations of what would take place at the IEPC (or EPPC) from school personnel before the meeting (Table 35). Another three (20%) reported they had received explanations from parent advocates. Six (40%) reported no one had provided an explanation. Eight parents (53.33%) reported they had no understanding of what to expect before the meeting and had just learned about procedures as the meeting progressed (Table 36).

Six parents (40%) remembered having been told which professional staff would attend the IEPC (Table 37). Two (13.33%) reported that after the school began inviting them to attend they had been told who else would be in attendance, but that before that time they had not been told anything other than where to sign. Six parents (40%) reported they had not been told whom to expect to be in attendance. Two parents (13.33%) commented that their requests that certain staff be participants in the IEPC were denied.

In spite of the fact that parents frequently felt schools had been lax in providing information necessary to their understanding of the process of special education, nine (60%) reported they had felt, before the hearing, that there was someone within the school staff with whom they could share their concerns regarding their child (Table 38). Eight (53.33%) reported, however, that they did not trust school personnel to recommend what was in the best interests of their child (Table 40). Although several parents described a gradual deterioration of the trust they had initially bestowed upon their child's educators, parents generally felt their relationship with the school had been a cooperative one before the issue that led to the hearing (Table 42).

#### Why Hearings Were Requested

All of the parents interviewed had requested the hearing (Table 47). None of the hearings were requested by schools. Eighty percent were seeking some change in the public school program that was being provided for their child at the time of the hearing request (Table 44). Only one parent was seeking private school tuition. Two were attempting

to have their children identified as learning disabled. In discussing reasons they felt the school had opposed their request, only one parent cited the welfare of the student as the cause, while five (33.33%) felt the cost of services was at the root of the conflict (Table 45). Over half of the parents felt that schools wanted to show them that parents could not dictate what would be done by schools and that professionals knew better than parents what was best for the child. It was difficult for parents to identify the specific moment at which they had decided to request the hearing. Most often they cited the attitude of school personnel and the impending implementation of an IEP with which they did not agree as the "triggers" of their hearing request.

#### Conflict-Resolution Techniques

Discussing methods that had been used to resolve the conflict before requesting the hearing, most often parents reported additional IEPC's had been held (Table 48). Although mediation was named as a conflict-resolution technique that had been tried before the hearing in two interviews, neither parent described the meeting in terms of the common definition of mediation, i.e., an impartial third party attempting to help the parties resolve their differences. Nine (60%) of the parents reported they felt an impartial third party would not have been able to settle the dispute (Table 51).

Seven (46.67%) of the parents reported they had been aware of arbitration as an option to the hearing process (Table 50), with three of them reporting it had been suggested as an alternative to the

hearing by the Director of Special Education (Table 54). Seven parents (46.67%) reported they were unaware the option existed, and some reported being totally unfamiliar with the term and its meaning. Reasons for not selecting the arbitration option cited by those familiar with its meaning and availability included not wanting to be stuck with the decision for a year, Director refusal, and the lack of an avenue to the courts in case the decision rendered was unacceptable to the parent. Because so many parents were unfamiliar with arbitration as an option, it is difficult to surmise whether its lack of use should be attributed to lack of understanding or its lack of appeal to the parties. It would seem that if school districts or parent and advocacy organizations were anxious to have the arbitration option chosen they would do a better job of making its availability and possible benefits known to parents. So many parents mentioned their displeasure with the amount of time the hearing process took, and their certainty that what they were requesting was what was right, that one is left to wonder if they might not have welcomed the speedy solution to conflict that arbitration could provide, if they had understood the process and its merits as well as its limitations.

The majority (66.67%) of parents had no hope of resolving the conflict between the time they requested the hearing and the actual hearing (Table 52). Over half did believe, however, that eventually the hearing officer would decide the issue in their favor (Table 53).

Requesting and Preparing  
for the Hearing

According to parents, when they requested the hearing only seven (46.67%) of the school districts offered information regarding where they could obtain assistance (Table 54). Even fewer districts (33.33%) were reported to have offered sources of free or low-cost legal aid. Parents were not asked specifically if they had received a list of agencies and organizations that deal with the needs of the handicapped, so it is possible that lists of agencies as typically provided by school systems were not recognized by the parents as sources of assistance or legal aid.

It appears that in some instances schools have attempted to frighten parents out of requesting a hearing. Six (40%) of these parents reported that the school district had suggested to them that they or their child would be hurt by participation in the hearing process. Seven parents (46.67%) reported the school district had tried to talk them out of requesting the hearing. Two-thirds of the parents reported no further attempts were made to resolve the conflict once the hearing was requested.

Although Michigan law provides that the date for the hearing shall be cooperatively set within timelines by the parents and the school, only nine (60%) of the parents reported the date for the hearing had been cooperatively arranged (Table 56). One parent reported that the hearing had been held without them when their request that it be rescheduled was denied by the local district and the State Department of Education. Only nine parents (60%) reported they had been involved



in the selection of the hearing officer (Table 57). Selecting the "right" hearing officer was a serious concern for most of the parents. In the case of the hearing that was held without the parents, it was primarily because they wanted a say in who the hearing officer would be that caused them to request the hearing be postponed. They explained that they were attempting to stall the proceedings until new Rules and Regulations would go into effect, giving them the right to be involved in the selection of the hearing officer. Even given the option of participating with the school in the selection of the hearing officer, parents sometimes feel they are at a disadvantage. Two of the parents interviewed who had been given a choice of hearing officer voiced a concern that they were not given a complete list of hearing officers available in the state, but were given instead only the names of those the school found acceptable. Given the full list, parents felt they might still have been at a disadvantage since schools with previous hearing experience would in all probability be more familiar with the names, credentials, and past decisions of the hearing officers than would parents using the process for the first time. To counteract this possible advantage, many of the parents interviewed sought advice regarding their selection from advocates and advocacy or parent organizations.

All but one parent (93.33%) reported having had assistance in preparing for the hearing (Table 59). Michigan Protection and Advocacy Service was cited as the source of assistance most often. Others obtained assistance from attorneys, paid advocates, friends, and in one

case, an intermediate school district special education administrator. In over 50% of the interviews parents reported the person who helped prepare for the hearing had attended at least one of their meetings with the school regarding their child and so was familiar with circumstances that had led up to the hearing (Table 60).

Just over half (56.67%) of the parents reported they had participated in a prehearing conference with the hearing officer and a representative of the school (Table 61). Generally, the prehearing conference did nothing to change the intensity of the conflict between the parent and the school (Table 63). Although parents were not asked specifically if the prehearing conference was useful in terms of understanding issues and procedures, the experience of one parent highlights the need to address the procedures aspect of the hearing before the day of the hearing. In this one case, parents who were prepared to present their case in three parts with three different presentors were frustrated to find they could use only one spokesperson. Had they known as they prepared for the hearing what the procedural requirements would be, they would have prepared differently. Although distance to be traveled by the hearing officer may make an in-person prehearing conference before the day of the hearing impractical, conference calls as reportedly used by some hearing officers appear to be a logical alternative. It may even be that when held immediately preceding the hearing, the prehearing conference is not recognized as such by the parents, who may view it as the beginning of the hearing.

### The Hearing and Decision

Five (33.33%) of the parents presented their own cases at the hearing (Table 64). Of those five, two received decisions at the local level that favored their position. Three had paid advocates present their cases, with two receiving decisions in their favor. Volunteer advocates represented three parents and received one decision in favor of the parent position.

While parents were represented by attorneys in only two instances (13.33%), schools used attorneys to present their case in six (40%) hearings (Table 65). Of those six, the school's position was clearly supported by the hearing officer twice, or one-third of the time. Special education directors presented the school's case in eight hearings (53.33%), with the school receiving favorable decisions in half of them. A case presented by the superintendent of schools was decided in the school's favor at the local level, then overturned on appeal.

In both instances where parents were represented by attorneys, schools were also represented by attorneys (Table 66). In a case where both sides were represented by an attorney, the decision was reported to favor the school. When represented by both an attorney and an advocate the decision favored the parent position, although it was reversed by a state-level appeal. In two instances parents presenting their own cases were opposed by attorneys representing the school. In one such instance the decision clearly favored the parent position, and

in the other, the decision, although highly unsatisfactory to the parents, was construed to be a partial victory for the parent.

Twelve (80%) of the parents indicated they would advise another parent to have someone other than themselves present their case at the hearing (Table 69). Several mentioned the need to have an absolutely thorough knowledge of the law and procedural requirements, as well as the difficulty of presenting the entire case when one is emotionally involved, as the reasons for their recommendation. In selecting their representatives, parents advised others to seek someone with knowledge, "clout," and experience. Whether or not they had hired a representative, parents definitely resented the idea of having to pay someone to represent them while school systems used their tax dollars to provide a representative to oppose them. Of the nine parents in this study who did have a representative, only four incurred cost for that representation. Estimates of the cost of representation ranged from \$500 to \$1,800. Neither of the parents represented by attorneys incurred costs for their representation.

Although some parents reported they had arrived at the hearing feeling "inadequate" and/or "wishing they had not requested the hearing," most reported feeling "prepared" (Table 71). "Nervous," "scared," "apprehensive," "determined to win," "angry," "relieved," "terrified," "tired," and "nauseous" were other terms parents selected to describe their feelings when the time for the hearing to begin finally arrived. Twelve parents (80%) reported feeling no differently after the hearing officer's opening statement. Only half of the

parents felt confident the hearing officer would resolve the issue fairly. As they went into the hearing, nine (60%) of the parents felt their chances of receiving a favorable decision were as good as the school's (Table 89). In retrospect, whether or not they ultimately received a decision that pleased them, these parents generally felt that the school had a definite advantage over the parent.

In most of the hearings the school had more witnesses than the parents. In only four hearings did parents report having more witnesses than the school (Table 78). Parents expressed their concern that school districts had access to many professional witnesses, whereas a parent who needed a professional witness to support a position found it necessary to pay not only for the person's time at the hearing, but for the evaluation that necessarily preceded it. Parents reported feeling outnumbered and intimidated by the professional staff of the school.

Parents expressed their frustration at having to sit and listen to the testimony of school witnesses which they considered to be untruthful and/or misleading. Some parents felt that school personnel had testified according to the dictates of their administrators rather than stating what their professional judgment would indicate to be in the best interests of the child. Although this study attempted no verification of whether misinformation was presented during the hearings these parents discussed, or whether there has been misunderstanding or misinterpretation on the part of one or both parties, the beliefs of these parents give rise to certain questions. Have professional staff

members been pressured to testify according to the wishes of the school's administrative staff and against their own professional beliefs? Have professional staff refrained from telling parents what they do not want to hear until they are forced to do so on the witness stand? Have administrative dictates been used as reasons for recommendations by professional staff? The fact that parents are questioning the credibility of testimony the school has given should cause schools to look objectively at what they are telling parents during conferences and informal conversation as compared to testimony from the witness stand and attempt to discover if there are discrepancies and, if so, from what source they arise.

Of the ten parents who reported testifying at the hearing, four (40%) reported feeling better after their testimony, while two (20%) felt worse (Table 80). Only half of those who testified felt they had really been heard and understood by the hearing officer (Table 82). Nine of the 15 interviewed (60%) reported they felt there had been adequate opportunity for presentation of their case at the hearing (Table 81). Of these nine, four had received decisions in their favor, three had received decisions favoring the school's position, and two reported they were uncertain as to whom the decision favored. Eight of the 15 parents interviewed (53.33%) reported they felt they had been personally attacked by the school during the hearing (Table 84). Eleven parents described the experience of participating in the hearing as being either "upsetting" or "very upsetting" (Table 88).

The parent case was presented last at all of the hearings, when according to many parents, they and/or their representatives were feeling fatigued. Frequently parents felt they or their representatives had been rushed by the hearing officer. Some reported feeling that the hearing officer was beginning to feel tired and/or anxious for the hearing to end.

It is interesting that 10 of the 15 parents (66.67%) reported they felt the hearing had been conducted fairly (Table 86). Half of these parents had received a decision in their favor. The other half had received decisions either in favor of the school, or were uncertain as to whose favor the decision should be credited. Although ten parents reported feeling the hearing had been conducted fairly, only eight parents (53.33%) credited the hearing officer with being impartial (Table 87). The seven parents (46.67%) who questioned the hearing officer's impartiality all felt he had favored the school over the parents. Of those seven, two had received local decisions in favor of their position and four had received decisions in favor of the school position. Some parents expressed a definite concern that hearing officers and directors of special education had too many close ties and that hearing officers might be hesitant to deliver decisions that would be unpopular with the school district by whom they had been hired.

Parents cited poorly functioning tape recorders and incomplete or inaccurate hearing transcripts as additional sources of frustration and irritation. They also reported resenting the time, energy, emotion,

and money they had found it necessary to expend because of their involvement in the hearing.

#### The Hearing as a Conflict-Resolution Technique

Only three (20%) of the parents interviewed reported the hearing had ended the conflict between themselves and the school system (Table 96). These parents were quick to explain that an absence of conflict should not be meant to imply that a cooperative relationship had been established. Two of the three parents who reported an end to the conflict were no longer involved with the same school personnel since one child was in a private school and the other had moved to a different program. The third parent indicated that in the interest of keeping peace she had stopped complaining. The remaining 12 (80%) reported the degree of conflict to be the same as or worse than it had been before the hearing.

In spite of indicating in most cases that the hearing had not ended the conflict between parents and schools, only three parents chose to describe their relationship with the school as "conflicting." Two of the three had received decisions in their favor. Six of the parents described their current relationship with the school as "cooperative." The comments of the six indicated that although they did not choose to describe their relationship with the school as conflicting, there was evidence of a residual of resentment and mistrust of school personnel and a feeling that a constant vigil was necessary in order to assure that the child would receive appropriate



special education. Even parents who now classified their relationship as cooperative told of an extended period of hard feelings following the hearing. In situations where the decision supported the school's position, parents reported their relationship with the school to be either "cooperative," "uninvolved," or terminated through withdrawal of the child from school. The three parents who described their relationship as uninvolved explained that the lack of involvement was because to be involved would create too much conflict.

#### Parents Evaluate the Process

Whether or not parents felt the hearing process as designed was basically a fair way to resolve conflict between parents and schools regarding special education programming for a child did not appear to depend on whose positions the hearing decision had favored. Eight (53.33%) of the parents reported they felt the hearing process was basically fair (Table 102). Of those eight, four had received decisions in their favor. Six parents (40%) felt the process was not a fair way to resolve conflict. Two of the six parents reported receiving decisions in their favor, two reported decisions in the school's favor, and two were uncertain as to whose position the final decision favored. The reasons parents cited for feeling the process was unfair had to do primarily with the perceived imbalance of power and knowledge and the close ties they suspected hearing officers of having with school districts.

Seven (46.67%) of the 15 parents indicated they liked the idea of the two-step process, the local hearing and the state-level appeal

(Table 103). One parent suggested the local hearing could be eliminated in favor of having the decision made at the state level, while several parents expressed their concern with the state-level appeal. Their concern was that the hearing officer at the state level had only the transcript from the local-level hearing on which to base a decision. They felt the state-level hearing officer should not be limited to basing a decision solely on information presented at the local hearing, but should have the right to request further testimony, evidence, and/or evaluation as necessary to formulate a decision based on all the facts.

Although none of the parents interviewed said they were "very satisfied" with the hearing process in general, seven parents (46.67%) did report they were "somewhat satisfied" with the process (Table 104). Of those seven, four (57.15%) reported final decisions in their favor. Those who reported they were "very satisfied" with the local- or state-level hearing decision had all received decisions in their favor (Tables 105 and 106).

Thirteen parents (86.67%) reported they were dissatisfied with the response of the school to the hearing officer's decision (Table 107). Their reasons for dissatisfaction most often had to do with the school's slowness in implementing the decision, although in one instance a parent reported his displeasure was caused by a letter he had received from the superintendent informing him of the cost of the hearing to the district.

In discussing the effect of the hearing on the child, parent comments generally indicated they interpreted the question to refer to the entire period of conflict. Their responses ranged from saying the child knew nothing about the hearing and hence it had no effect, through saying the child suffered from the tension at home and the fact that parents were preoccupied with the hearing issue, to saying the child had suffered severe emotional problems or had been the subject of retaliation at school. Three of the children were kept out of school by their parents for periods of time both before and after the decision was rendered.

Parent perceptions of how the hearing had affected their child's educational program tended to reflect whether or not their position had been supported by the hearing officer. Of the six (40%) parents who reported the hearing decision had improved the child's educational program, four (66.67%) had received decisions favoring their position (Table 109). Of the five (33.33%) who felt the decision had been harmful to the child's program, only one had received the decision she wanted, and she explained the problem was not really with the hearing or the decision. What had caused her to label the effect of her child's educational program as "disastrous" was the fact that the decision had never been implemented. Parents did recognize that time out of school had had a detrimental effect on the child's educational progress. In one instance a child who had been retained was promoted to the next grade as the result of the hearing decision, but only after having spent the first four months of the school year in the lower

grade. His parents felt the time it had taken to resolve the conflict, and consequently the fact that the child had entered the grade to which he was promoted so late in the school year, had had a definite negative effect on the child's school performance and his attitude toward school. At the time of the interviews, two students were being kept out of school by their parents, and three had been placed in private schools, two on a full-time basis and one attending both private and public schools.

Four parents (26.67%) reported they were satisfied with their child's current educational program (Table 113). Of those four, only the children of two were still attending school in the district of the hearing. Seven parents (46.67%) indicated they were dissatisfied with the program provided, although three of them indicated they did not express their displeasure to the school. Ten of the parents (66.67%) reported that since the time of the hearing they had again confronted the school regarding some aspect of the child's program or a matter they felt might be in violation of rules and regulations (Table 114).

Eleven (73.33%) of the parents reported they would use the hearing process again if they felt it was necessary to obtain appropriate programming for their child (Table 108). They said they would do so only because there is no better way. These 11 included all six parents who received decisions in their favor. Of the four parents who indicated they would not use the hearing process again, all but one had received hearing decisions that were clearly in support of the school's position. Three of the parents who would not use the hearing process

again had other ideas about what they would do if they had it to do over again. One indicated they would use the money on private help for the child, the second would file a civil rights suit in federal court, and the third would seek an injunction from a judge.

### Parents Give Advice

Although some parents advocated avoiding the hearing process in favor of some other action, most would encourage parents to use the hearing mechanism to resolve an issue upon which they and the school disagree. They cautioned parents, however, to first thoroughly review and evaluate their position by seeking an impartial third-party opinion and then, if confident they are right in what they are requesting, to request the hearing, prepare carefully, seek assistance, and fight for what they believe to be in the best interest of their child. Specific suggestions to parents on their way to a hearing included:

1. Requesting a closed hearing with witnesses sequestered.
2. Insisting upon a court reporter and then tape recording the proceedings themselves.
3. Becoming totally familiar with Michigan Special Education Rules and Regulations.
4. Documenting all contacts with the school.
5. Rehearsing testimony to be presented at the hearing.
6. Preparing a written list of all points to be made at the hearing.
7. Obtaining an attorney if the school plans to be represented by one.

8. Requesting official interpretations of rules and regulations from the State Department of Education.

9. Doing what is possible to prepare themselves emotionally to hear negative things regarding their handicapped child.

10. Not to let professionals intimidate them.

These parents felt strongly that there was a need for improved communication between parents and the school. They felt the school was not providing parents with all the information they would like to have. They also felt that the school did not seek and/or use information the parent could provide regarding the child. Parents expressed a desire to have the school listen to them and to respect and value the contributions they are capable of making to the cooperative planning of the child's educational program. Parents also felt that administrators should work to come in closer touch with the realities facing handicapped children, and that there should be more opportunities for administrators and parents to get to know one another.

They felt schools had a responsibility to help parents become more knowledgeable with regard to their rights, rules and regulations, and the evaluation and planning process. They also felt schools should be more thorough in their interpretation of evaluation results and the child's daily progress in order to provide the parent with a realistic picture of the child's capabilities and progress. In talking with these parents it became evident that they sincerely believe schools knowingly withhold information from parents, whether it is information about procedures, available programs, the child's progress or evaluation,

names of hearing officers, or where to get help in preparing for a hearing.

They also felt strongly that programs and services should be recommended by school personnel on the basis of their professional expertise and not according to the dictates of administrators with budgetary concerns. Parents wished there were a way for a child to be provided service on a trial basis for a specific period of time when there is a difference of opinion. The placement decision could then be made on the basis of the actual evidence of the child's progress. In cases of disagreements regarding evaluations, parents suggested that independent evaluations and impartial third-party opinions be sought by the school. Parents felt some disagreements could be avoided if written curricula were available for special education programs and if schools more clearly outlined the criteria by which they make identification, placement, and service delivery decisions.

Parents had very few specific suggestions for change in the hearing process as it operates in Michigan. Several commented that the problem was not with the process as designed, but with the way it is implemented. The idea of mandatory mediation before a hearing or at least an impartial third-party opinion before the hearing received support from some of the parents, although not all felt it would help. It would appear that there is a need for someone who could determine the real bottom line of each party's position and clear up any misunderstandings or misconceptions. Several parents did mention the need for the kind of exchange of information that goes on at the

hearing but in a more informal setting. Only one parent suggested that the local hearing be done away with while most felt the state-level hearing should be a more thorough investigation of the issue. Parents felt something should be done to shorten the amount of time it takes from conflict to resolution using the hearing process. They felt also that some means of equalizing the power of the parties should be achieved and that someone other than themselves should be responsible for follow up after a hearing to see that the decision is implemented promptly. It was suggested that school districts should in some way be penalized for failing to provide a service until they are forced to do so by the hearing officer. Another suggestion was that the State Department publish a manual providing parents with everything they could possibly need to know about a hearing--including uniform procedural requirements and the names and credentials of hearing officers. Finally, parents felt it should be necessary to hold the prehearing conference sometime before the day of the hearing.

#### Implications and Recommendations

The discussion that follows is couched in terms of implications and recommendations rather than specific conclusions. Conclusions are probably unwarranted due to the limitations already cited, and in particular the size of the sample and the fact that this is a study of parent perceptions, not a study of demonstrable fact.

The responses of these parents as well as the reluctance of school districts to assist in contacting parents indicate that intense



feelings regarding a conflict that leads to a hearing do not subside quickly. Two years after the hearing parents were still angry and mistrustful of the school, and some special education administrators openly admitted being fearful of having the issue discussed with parents. It would appear that the adversarial positions taken by the parties at the time of the hearing do long-term and possibly permanent damage to the parent-school relationship. Parents who request a hearing are unhappy and dissatisfied with the school when they make the request, and it appears the actual hearing intensifies those feelings. The comments of these parents give cause to believe a cooperative working relationship between parties who have opposed one another in a hearing is almost nonexistent. In view of this and in view of the cost of the hearing in terms of time, money, energy, and emotion expended by these parents and their school districts, it becomes apparent that every effort should be made by both parties to resolve conflict without the trauma of a hearing.

A major step school districts could take toward reducing conflict and thus avoiding hearings is to improve the quality of their communication with parents. School districts must recognize and acknowledge the contribution parents can make to the effective planning and implementation of an educational program for their child. They must provide them with the information and training necessary to be informed participants in the planning process. Even special educators whose profession demands that they understand Michigan Special Education Rules and Regulations and the requirements of P.L. 94-142 are not always as

well informed as they should be and often differ in their interpretations of what is required of them. Yet parents are expected, with no training, to understand the roles they are entitled to play and the rules by which the school district makes decisions. It is not surprising that misinterpretations and misunderstandings occur.

Attention must be given at every step in the special education process--from referral, completion of the IEPC, and delivery of services--to parent understanding of what is happening and why. Each special education staff member has a responsibility to help parents gain an understanding of process and law and to foster a sense of deserved trust on the part of parents. A belief that professionals do indeed have the best interest of the child and his educational needs in mind each time a recommendation is made, is dependent on the actions and communications of all members of the school special education team. Every contact with a parent is an opportunity to work toward accomplishing this goal. Seeking parental input, keeping parents fully informed regarding evaluations conducted, the child's progress toward established goals and objectives, and any anticipated changes that will affect the child's program can contribute greatly toward dispelling the feeling expressed by so many of the parents interviewed in this study that schools wish to keep them uninvolved and uninformed.

Many of these parents felt the school was working against them instead of with them. To establish productive working relationships with parents, schools must make a concerted effort to promote a feeling of valued involvement on the part of parents. Providing opportunities

for school personnel and parents to participate in joint training programs could contribute greatly to a mutual knowledge base. Knowledge of law and rules and regulations, as well as skill in effective communication and collaborative planning, could be the focus of such programs. Parents and staff, and ultimately the child, could benefit from an opportunity to discuss hypothetical situations and to share differing opinions in an open forum. Participation by parents and staff in simulated IEPCs and parent-teacher conferences could contribute to a feeling of working together and an understanding of the role each plays in planning an effective educational program for the child.

Each of these parents needed to feel their child had an advocate within the school system. They needed to feel there was someone on the staff who would keep them informed, guide them through procedural requirements, and investigate any school-related concerns they might have before they reach the conflict stage. They needed to know there was someone they could trust to always have the best interests of their child in mind and to make recommendations accordingly. To be seen as an advocate for the handicapped children with whom they work should be the goal of every special educator who wishes to contribute to an improvement in parent-school relationships.

Special education administrators were most often seen as the "bad guys" by these parents. The thought that parents seldom expressed anger at the child's direct service providers, i.e., teachers, etc.; that they saw administrators as manipulating staff and being primarily

concerned with the budget rather than the needs of the child; and that they wished administrators would become "more aware of the realities" of the handicapped child should give administrators cause to evaluate the quality of their relationships with parents and to determine how they are viewed by the parents of the children in their special education programs. It is reality that administrators must be concerned with monetary and legal aspects of special education, but parents need to know they are also concerned with providing the best possible education for each handicapped child.

Even with effective communication between schools and parents there will probably always be some issues that can only be decided by someone with an objective viewpoint. Although more than half of the parents in this study indicated they did not believe an impartial third party could have resolved the issue without a hearing, they did express the need for some less formal means of determining and discussing the facts and for obtaining an objective third-party opinion of the issue before a formal hearing request. It has been suggested (Mange, 1982) that an impartial third party who has an understanding "that he or she will have no part in any further action" could assist school districts in determining whether "there is a true disagreement between parties as to the substantive matters requiring professional judgement regarding the identification and/or appropriate services and placements required for a given student" and hence cause for the hearing. The point is made that "if the applicable standards are clear and they are counter to the district's position, a hearing should not be considered" (p. 5)

by the school district. An impartial third-party opinion would be helpful to parents, also. A truly objective third-party opinion, available to both parents and school districts, could do much to define issues and assist the parties in determining the viability of their positions. Essentially, the success of such a concept would be the acceptance of the third party by the parties as a true neutral. Identifying qualified individuals who would be recognized by both schools and parents as impartial and knowledgeable could prove difficult. A possible source of such persons could be the numerous professionals who have been trained by the state of Michigan as hearing officers, but have never presided over a hearing. To identify certain of them who would volunteer to withdraw their names as potential hearing officers in order to provide preliminary unbiased third-party opinions and/or mediation as requested by either school or parent is an idea worth considering. Michigan Protection and Advocacy Service reports they have successfully resolved 84% of the cases in which they have been involved at the informal level (Exchange, Spring 1983, p. 1). If this is any indication of the success rate that could be expected from an unbiased third-party opinion combined with mediation, it certainly should be given a trial and carefully evaluated. The field of labor relations recognizes the goal of dispute-resolution systems to be

. . . maximizing the ability of the parties to effectively confront and resolve their conflicting interest with a minimum of dependence on outside parties and minimum disruptions to the public. (Kochan, 1980, p. 303)

If the word "child" is substituted for "public" in the quotation, it provides a goal worth striving for in a dispute-resolution system in

special education. For all too often it is the child's life that is disrupted when parents and school reach an impasse. It appears that once an impasse is reached, attempts to settle differences are abandoned by the parties as they await the hearing and decision. There is a definite need for a preliminary step in the process designed to facilitate the parties in reaching agreement and thus eliminate the polemical features of the hearing process whenever possible. To design such a process and study its effectiveness as a research project would be to make a significant contribution to the field of special education.

The hearing process, as a formal dispute-resolution mechanism, to be used only after less formal procedures have been implemented, is definitely needed as a guarantee of due process. In order for it to be a trustable guarantee of due process, however, the procedure must not inherently favor one side or the other. Parents must feel they have as great an opportunity of receiving a decision based on the merits of the case as does the school. Again, borrowing from the field of labor relations, "these procedures must be acceptable to the parties if they are to be successful and survive over any extended period of time" (Kochan, 1980, p. 292).

Parents in this study have raised questions as to the equity of the process. They have highlighted certain aspects of the hearing process and the way it is implemented which they feel put them at a disadvantage. Basic to that disadvantage is the feeling that parents often do not have an adequate understanding of procedural requirements.

This perceived disadvantage could be lessened by requiring that the prehearing conference be held well in advance of the hearing, perhaps immediately after the hearing is requested. That prehearing conference could then serve as an opportunity for developing an understanding of the procedures and timelines of the process upon which the parties have just embarked. Parents should at that time be provided with a booklet, developed at the state level so as to be uniform in all school districts, explaining in layman's language all a parent would need to know about the hearing process, including a proposed outline for presentation of their case and sources of assistance in preparing for the hearing. The prehearing conference should also serve to clearly define the issue so that there will be no surprises at the hearing.

Of serious concern to parents was the selection of the hearing officer. Michigan Special Education Rules state that

. . . the public agency shall designate an impartial hearing officer who is mutually agreeable to both parties. If the parent and the public agency cannot agree on a hearing officer, the superintendent shall request that the department appoint an impartial hearing officer. (Michigan Special Education Rules, 1982, R340.1724a[1])

Parents know they are to have a voice in who the hearing officer will be. Their concern is that the list of hearing officers provided to them includes only those hearing officers school districts find acceptable. Rules and regulations require that the school districts keep a list of hearing officers that includes a statement of their qualifications. That entire list should be made available to parents at the time they request a hearing. Hearing officers seen by the

parent as being well known to the school and selected primarily by the school are apt to have little credibility with the parent and consequently foster the feeling that because they are chosen and employed by the school district they are reluctant to rule for the parents. Various options for selecting hearing officers should be explored, tried, and evaluated in order to discover a means both efficient and acceptable to the parties.

Another concern expressed by these parents was inequality of power and resources between the parent and the school. What can be done to equalize the power and resources of the parties is an enormous question. No matter how the hearing is viewed, it is an individual against the system. An employee involved in an administrative hearing or arbitration is most often represented by a union or employee organization. That union or organization has had experience in the process and has developed skill in representing employees. In some businesses, employees who are not union members can request an administrator within the company to build their case and to represent them. The parent who goes to a hearing against the school system does not have such resources provided by the organization, nor in most cases does the parent have the benefit of previous experience with the hearing process. It cannot be denied that the school does have greater resources and knowledge than the parent. Parents would like to have similar access to professional witnesses, training sessions, legal staffs, and tax dollars. Parents should be made aware of the fact that Michigan Protection and Advocacy Service has been specifically charged



with protecting the rights of the handicapped and does receive both state and federal appropriations to support its work. Services particularly relevant to special education hearings include parent education, advocacy, direct assistance in the hearing, and litigation on behalf of handicapped persons. There are, of course, limitations on the services available, depending on personnel and the financial resources of the agency.

Parents have reported being intimidated by the professional backgrounds and the sheer number of professional witnesses the school is able to marshal against them. It is possible that feelings of intimidation experienced by parents confronted by a room full of professional witnesses, all prepared to testify against their position, could be reduced by limiting the number of school representatives in the room at the same time.

Parents expressed concern not only with the number of witnesses who testified in support of the school position, but even more important, with the substance of their testimony. Parents reported feeling that they had been personally attacked by school witnesses and feeling that testimony presented was in some cases dishonest or misleading. The substance of school testimony is of serious concern to these parents and leads to concern about the integrity of the process. Although there is no verification that school personnel gave untruthful or misleading testimony in the hearings discussed in this study, parents seriously questioned the validity of the testimony of some school witnesses. All schools involved in hearings should critically evaluate

the manner in which their cases have been presented, and will be presented in the future, to assure that professional standards of integrity are established and maintained. If, in fact, school witnesses have testified according to the wishes of their administrators rather than in accordance with what their professional judgment would dictate, they are creating a mockery of special education as a "helping profession."

A serious source of frustration to some parents was the quality of the verbatim record of the hearing. Parents found poor-quality tape recordings delayed the decision of the hearing officer, and in some instances parents felt the transcript did not accurately report testimony as it had been provided. To avoid questions regarding the accuracy of the transcript, schools would be well advised to provide two recordings of the hearing when electronic recording devices are used or to provide for a court reporter. A parent can have little faith in a decision that is felt to be based on an inaccurate record of the hearing.

Parents also expressed concern with the decisions of the hearing officer. Their concerns related to both substance and form. In some instances parents felt the hearing officer's decision was based more on his personal philosophy than on the testimony and evidence presented at the hearing. Written decisions were not always understood by parents with regard to what the hearing officer had intended or how the decision was reached. A written decision must show clearly on what evidence the decision was based and how the hearing officer decided

what would be appropriate programming for the child. Shrybman (1982) presented a format for the written decision that is designed to assure the reader that the decision reached was not arrived at in "an incompetent, arbitrary, or capricious manner" (p. 415). Perhaps a mandated format for decisions written by hearing officers could eliminate some of the questions raised by the written decisions. The requirements of the program ordered must be written specifically enough that there can be no question on the part of parents or the school about what is required, when, where, and why. An analysis of written decisions and consumer understanding and satisfaction could highlight specific strengths and weaknesses and lead to suggestions for improvement.

Parents felt it unfair that after the decision was rendered they were charged with the responsibility of seeing that it was implemented and were required to take the initiative to file a complaint if it was not. By the time the hearing is over, parents reported being exhausted and felt the responsibility for follow-up should rest with someone other than themselves. This burden should be removed from parents. The Michigan Department of Education in cooperation with intermediate school district compliance officers should be charged with the responsibility of insuring that there is no willful or accidental noncompliance on the part of school districts and that hearing decisions are implemented in a timely fashion. The basic statutory authority for investigating any aspect of programs and services provided by constituent districts is already provided in Michigan's

P.A. 451, Sec. 380.1711(1)(h). In cases of noncompliance, the state also has the authority under Section 380.1702(3) to direct the ISD to operate programs necessary for compliance. Section 380.1702(4) states that when such is done the complying program or service "shall be funded as if provided by the local school district and the local school district board shall contribute to the ISD the unreimbursed cost of the programs or services." Consistent with the authority and intent of these provisions, it is reasonable to assume and to expect that the Michigan Department of Education could provide a procedure to insure compliance within seven days of a local hearing decision or, if appealed, within seven days of the appeal decision.

The concerns of these parents regarding the state appeal process also deserve consideration. A party who feels the hearing officer ruled for the school because the parent case was presented poorly at the local level has little hope of more success by appealing the decision if the hearing officer has only transcripts, which have occasionally been incomplete, upon which to base a decision. Michigan Special Education Rules provide that the hearing officer can, at his own discretion, seek additional evidence, conduct another hearing, and/or "afford the parties an opportunity for oral or written argument" (R340.1725). The parents in this study were unaware that the appeal could involve more than a review of the record of the local hearing. It should be made known that the option for a more thorough

review is available to the hearing officer if it is deemed necessary in order to make a decision based on all the facts.

Michigan Special Education Rules (R340.1725b) require that no more than 45 days transpire between the request for a hearing and the decision. Add the seven days allowed for filing an appeal and the 30 days allowed for the final review decision, and nearly three months have gone by. In many instances extensions, requested by one party or the other, and granted by the hearing officer, measurably increase the time period. In addition, many parents waited for considerable periods of time before they made their hearing request, hoping the issue could be resolved without a hearing. Consequently, the period of conflict in some cases extended far beyond the three-month period before a decision was made regarding the child's program. A way must be found to resolve conflict between parents and schools in a more expeditious manner before a pattern of distrust and hostile attitudes can become established where a cooperative and productive working relationship is so badly needed. Irretrievable time in the lives of children is being lost as conflict rages between their parents and the school. Researchers could provide a valuable service by identifying methods that are successfully being used by school districts to avoid hearings.

The special education hearing was designed as a tool of due process. The parents who participated in this study have highlighted some aspects of the process that cause them to question whether the hearing process is, in fact, a just and equitable system for resolving conflict. Their greatest concerns may be briefly summarized according

to three categories, those of a general nature, those pertaining to the process itself, and those pertaining to the substance of the hearing.

General concerns reported by parents include:

1. Parents often do not have enough information regarding the hearing process.
2. Schools do not always provide information regarding sources of assistance.
3. Hearing officers and schools sometimes appear to have close ties.
4. Schools have more resources than parents.

The main concerns reported by parents regarding the substance of the hearing are that:

1. School testimony often appears untruthful and hostile.
2. Written hearing decisions sometimes leave unanswered questions regarding the basis for the decision and specific requirements of the program ordered.
3. Hearing officers do not always appear impartial.

Concerns with the process and the way it is implemented which were stated by parents include:

1. The names of hearing officers from which parents are afforded a choice are usually those chosen by the school district.
2. Prehearing conferences are sometimes not held far enough in advance of the hearing to be helpful to parents.
3. Often by the time the parent case is presented parents are tired and the hearing officer appears tired also.

4. Extensions of timelines sometimes cause the process to drag on too long.

5. There is no provision for a third-party, nonbinding opinion before the hearing request.

6. There is no less-formal and less-adversarial mechanism for conflict resolution required before the formal hearing request.

7. A state-level appeal consisting only of a review of the transcript of the local district hearing may not provide an adequate understanding of the issue.

These parents have shared their experience and concerns in the hope that others can benefit. They were pleased to have been asked what they thought of this process designed to protect their rights. Other parents should be given similar opportunities to have their concerns heard, as should school districts. If the process is effectively to protect the rights of parents and their children, evaluation must be an ongoing process and change must come about as a result of what is learned.

One could be led to believe that the Michigan special education due process hearing procedure is of little or no value based on the number and types of concerns expressed by parents in this study. Such a conclusion is unwarranted from the data. Eleven of 15 parents indicated they would use the process again--because it is the only available process short of litigation. Six of 11 who responded yes or may felt their child had benefited from the hearing decision. Eight parents described the process as designed as being basically fair.

This is not to say that improvements are not needed and cannot be made.

The problems and suggestions offered are an effort toward this end.



## APPENDICES

**APPENDIX A**

**MICHIGAN SPECIAL EDUCATION RULES PERTAINING TO  
DUE PROCESS HEARINGS AND APPEALS**

MICHIGAN SPECIAL EDUCATION RULES PERTAINING TO  
DUE PROCESS HEARINGS AND APPEALS

**R 340.1724 Impartial due process hearing.**

Rule 24. (1) A parent or a public educational agency may initiate a hearing on any of the matters described in R. 340.1723a(1)(a) and (b).

(2) The hearing shall be arranged and conducted by the operating district directly responsible for the education of the person, and the district of residence shall reimburse the operating district for all direct costs incurred as a result of arranging and conducting the hearing.

(3) The public agency shall inform the parent in writing of any free or low-cost legal or other relevant services available in the area if the parent requests the information or if the parent or the agency initiates a hearing under this rule.

(4) The public agency and parent may, at any time, by written stipulation, agree to be bound by the determination of the mutually agreeable third party with respect to any matter described in R 340.1723a(1)(a) and (b). Such stipulation shall comply with all of the following:

- (a) It shall set forth procedures that the parties have agreed upon, such as selection of the arbitrator, payment of costs, representation, and timelines.
- (b) It shall be entered into by the parent only after having been given proper notification pursuant to R 340.1723a and R 340.1723b.
- (c) It shall constitute a waiver on the part of both parties to proceed further with the matter during the period covered by the agreement under R 340.1724, R 340.1724b, R 340.1725, or R 340.1725a or the education for all handicapped children act of 1975, 45 C.F.R. 121a.506, 508, 510, and 511 (August 23, 1977). The agreement shall contain the acknowledgement of both parties that notification has been given pursuant to subdivision (b) of this subrule and such waiver.
- (d) It shall provide that the determination of the third party is final and binding upon both parties for a stated period of time not to exceed 1 calendar year. Such determination shall be implemented pursuant to R 340.1722e and R 340.1722(1).
- (e) It shall provide that upon showing a substantial change in circumstances, either party may request a modification of

the determination for the previously agreed upon third party or the newly agreed upon third party, if necessary.

(5) The hearing or appeal procedure may be suspended, delayed, or terminated at any point upon written stipulation by the public agency and the parent without approval by the state board of education or its designee.

(6) Interpreters shall be provided for persons of limited English speaking ability and for the deaf.

#### **R 340.1724a Impartial hearing officer.**

Rule 24a. (1) The superintendent of the public agency shall designate an impartial hearing officer who is mutually agreeable to both parties. If the parent and the public agency cannot agree on a hearing officer, the superintendent shall request that the department appoint an impartial hearing officer.

(2) A hearing shall not be conducted by any of the following individuals:

- (a) A person who is an employee of a public agency involved in the education or care of the person.
- (b) Any person with a personal or professional interest which would conflict with the person's objectivity in the hearing.
- (c) An employee or board member of the involved local school district, of another local district within the same intermediate school district, or of the intermediate school district of which the involved local district is a part.

(3) A person who qualifies to conduct a hearing under subrule (2) of this rule is not an employee of the agency solely because the person is contracted to serve as the hearing officer.

(4) Each public agency shall keep a list of the persons who serve as hearing officers. The list shall include a statement of the qualifications of each of those persons.

(5) The hearing officer may render a decision in regard to any of the matters described in R 340.1723a(1)(a) and (b).

#### **R 340.1724b Hearing rights.**

Rule 24b. (1) Any party to a hearing has all of the following rights:

- (a) The right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped persons.
- (b) The right to present evidence and confront, cross-examine, and compel the attendance of any witness testifying for the public agency and any official, employee, or agent of the public agency who may have evidence upon which the proposed action may be based.

- (c) The right to prohibit the introduction of any evidence that has not been disclosed to that party and less than 5 calendar days before the hearing.
- (d) The right to obtain a written or electronic verbatim record of the hearing.
- (e) The right to obtain written findings of fact and decisions. The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the state advisory committee established under section 9a of Act No. 287 of the Public Acts of 1964, as amended, being 388.1009a of the Michigan Compiled Laws.
- (2) The parent may request alternative forms of the verbatim record to be provided in the parent's native language.
- (3) Parents involved in hearings shall be given both of the following rights:
  - (a) The right to open the hearing to the public.
  - (b) The right to have the person who is the subject of the hearing present.
- (4) The decision made by the hearing officer is final, unless a party appeals under R 340.1725.

**R 340.1725 Administrative appeal; Impartial review.**

Rule 25. (1) Any party aggrieved by the findings and the decision of a hearing conducted under R 340.1724 may appeal to the department within 7 calendar days of receipt of the decision.

(2) If there is an appeal, the state educational agency shall conduct an impartial review of the hearing. The official conducting the review shall do all of the following:

- (a) Examine the entire hearing record, which shall be provided to the state by the public agency in written verbatim form.
- (b) Insure that the procedures at the hearing were consistent with the requirements of due process.
- (c) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in R 340.1724b apply.
- (d) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.
- (e) Make an independent decision on completion of the review. The reviewing officer may affirm, reverse, or modify the decision of the hearing officer or may remand the matter to the hearing officer for further proceedings.
- (f) Give a copy of written findings and the decision to the parties, subject to R 340.1723b(2) and (3).

(3) The decision made by the reviewing official is final, unless a party brings a civil action under R 340.1725a.

**R 340.1725a Civil action.**

Rule 25a. Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.

**R 340.1725b Timelines and convenience of hearings and reviews.**

Rule 25b. (1) The public agency, upon receipt of the individualized educational planning committee's report, shall have 7 calendar days to appeal pursuant to R 340.1724.

(2) The parent, upon receipt of notification from the public agency, shall have 7 calendar days to appeal pursuant to R 340.1724.

(3) A hearing shall be scheduled not less than 15 nor more than the 30 calendar days following receipt of the request from a parent or the public agency.

(4) The hearing officer shall, not later than 30 days after the hearing, do both of the following:

(a) Reach a final decision regarding the hearing.

(b) Send a copy of the decision by certified mail, receipt requested, to each of the parties and to the department.

(5) The total number of days stipulated in subrules (3) and (4) of this rule shall not be more than 45 calendar days.

(6) The department, upon receipt of a written request for a review, and upon the receipt of the transcripts and exhibits, shall insure that within 30 calendar days a final decision is reached in the review and a copy of the decision is sent by certified mail, receipt requested, to each of the parties.

(7) A hearing officer may grant specified extensions of time beyond the periods set forth in subrules (1) to (5) of this rule upon request of either party and upon mutual agreement of both parties if such extensions are not in conflict with other provisions of Act No. 451 of the Public Acts of 1976, as amended, being 380.1701 et seq. of the Michigan Compiled Laws. If the parties cannot agree upon the request, the request may be reviewed by the department which shall make a determination in the request. At the request of either party, a reviewing officer may grant extensions of time beyond the periods set forth in subrule (6) of this rule and R 340.1725(1).

(8) Each hearing and review involving oral arguments shall be conducted at a time and place reasonably convenient to the parties involved.

**R 340.1725c Student's status during proceedings.**

Rule 25c. (1) During the pendency of any administrative or judicial proceeding pertinent to this part, unless the public agency and the parents of the person agree otherwise, the person involved in the hearing shall remain in their present educational placement.

(2) If the hearing involves an application for initial admission to a public school, the person, with the consent of the parents, shall be placed in the public school program until the completion of all of the proceedings.

## **APPENDIX B**

### **INTERVIEW GUIDE**



**PARENT PERCEPTIONS  
OF THE  
SPECIAL EDUCATION DUE PROCESS HEARING**

**INTERVIEW GUIDE**

Interview # \_\_\_\_\_

Date \_\_\_\_\_

Date of hearing \_\_\_\_\_

## BACKGROUND INFORMATION

1. Decision in favor of (1) Parent or (2) School?
  2. Appealed? (1) Yes (2) No
  3. Hearing # (1) (2) (3) (4)
  4. Is your child still attending school in the same school district?  
(1) Yes (2) No
  5. Do you have other children who have received Special Education?  
(1) Yes (2) No
  6. Do you have other children? (1) Yes (2) No How many? \_\_\_\_\_
  7. Disability \_\_\_\_\_
  8. Current age \_\_\_\_\_
  9. Age at time of hearing \_\_\_\_\_
  10. Grade at time of hearing \_\_\_\_\_
  11. (1) Male or (2) Female
  12. Was your child enrolled in school prior to the time the hearing was requested? (1) Yes (2) No
  13. Was he/she enrolled in a (1) Public or (2) Private school?
  14. Was your child receiving any special education services at time hearing was requested? (1) Yes (2) No
- When did your child first enter Special Education? (age or grade)
15. Age \_\_\_\_\_
  16. Grade \_\_\_\_\_
  17. Year 19\_\_\_\_

18. Under what label was your child originally found eligible for Special Education?
1. Severely mentally impaired
  2. Trainable mentally impaired
  3. Educable mentally impaired
  4. Emotionally impaired
  5. Hearing impaired
  6. Visually impaired
  7. Physically and otherwise health impaired
  8. Speech and language impaired
  9. Preprimary impaired
  10. Specific learning disability
  11. Severely multiply impaired
  12. Other \_\_\_\_\_
19. What was your child's original special education placement?
1. Self-contained classroom full time
  2. Self-contained classroom and general education
  3. General education with learning resource center
  4. General education with teacher-consultant
  5. General education with related services
  6. Other \_\_\_\_\_
20. What other special education services were provided?
1. Speech therapy
  2. Social work service
  3. Physical therapy
  4. Occupational therapy
  5. Psychological services
  6. None
  7. Other \_\_\_\_\_
21. In what special education program was your child enrolled at the time of hearing request?
1. Self-contained classroom full time
  2. Self-contained classroom and general education
  3. General education with learning resource center
  4. General education with teacher-consultant
  5. General education with related services
  6. None
  7. Other \_\_\_\_\_
22. What special education services was your child receiving at the time of the hearing request?
1. Speech therapy
  2. Social work service
  3. Physical therapy
  4. Occupational therapy
  5. Psychological services
  6. None
  7. Other \_\_\_\_\_

23. At the time of the hearing request what portion of the day was your child in general education?
1. None
  2. 1 hour or period
  3. 2 hours or periods
  4. 3 hours or periods
  5. 4 hours or periods
  6. 5 hours or periods
  7. Other \_\_\_\_\_
24. Did your child's placement remain the same during the time between the request for a hearing and the hearing decision?
- (1) Yes      (2) No

If not, please explain.

#### PREHEARING EXPERIENCES

25. By whom was your child originally referred for special education? Did you request the help or did the school suggest your child needed evaluation and/or special assistance?
1. School personnel
  2. Parents
  3. Other \_\_\_\_\_
26. WHO explained what would have to be done to determine whether your child would be eligible for special education and how it would be decided what services would be provided?
1. Classroom teacher
  2. Principal
  3. Special education administrator
  4. Special education teacher
  5. Social worker
  6. Psychologist
  7. Teacher consultant
  8. Speech pathologist
  9. A friend or acquaintance
  10. Organization or agency \_\_\_\_\_
  11. Other \_\_\_\_\_
  12. No one
27. HOW was this evaluation/identification/placement procedure explained to you?
1. It was explained to me in person
  2. It was explained to me over the telephone
  3. I was given something to read
  4. I just learned as things happened
  5. I never did really understand what was going on
  6. Other \_\_\_\_\_

28. Did you feel that you were expected to be involved in any decisions the school would make regarding your child's educational future?
1. Yes, very much so
  2. Yes
  3. I didn't really know
  4. No
  5. No, it was clearly the school's decision

What made you feel that way?

29. WHO provided you with the results of the evaluation conducted by the school?
1. Classroom teacher
  2. Principal
  3. Special education administrator
  4. Special education teacher
  5. Social worker
  6. Psychologist
  7. Teacher consultant
  8. Speech pathologist
  9. No one
  10. Other \_\_\_\_\_
30. WHEN were the results of the evaluation explained to you?
1. Before the IEPC
  2. At the IEPC
  3. After the IEPC
  4. Never
  5. NA
31. HOW were the results of the school's evaluation explained to you?
1. A meeting was held at school for that purpose
  2. Someone from school came to my home to explain them
  3. They were explained to me over the telephone
  4. I heard them at the IEPC
  5. I was given a written report
  6. NA
32. Did you feel the evaluation done by the school accurately described your child?
1. Definitely
  2. Yes
  3. I don't know
  4. No
  5. Definitely not
  6. NA

33. Did you feel the school person who explained the evaluation results was sensitive to your feelings regarding your child's handicapping condition?
1. Definitely
  2. Yes
  3. I don't know
  4. No
  5. Definitely not
  6. NA
34. Did you obtain an independent evaluation? (1) Yes (2) No
35. Who paid for the independent evaluation?  
(1) Parents (2) School (3) NA
36. WHO explained the procedure to be followed at the IEPC to you?
1. Classroom teacher
  2. Principal
  3. Special education administrator
  4. Special education teacher
  5. Social worker
  6. Psychologist
  7. Teacher consultant
  8. Speech pathologist
  9. No one
  10. Other \_\_\_\_\_
37. HOW did you learn about the procedure to be followed at the IEPC?
1. It was explained to me in person
  2. It was explained to me over the telephone
  3. I was given something to read
  4. A friend or acquaintance explained what would happen
  5. I just learned as things happened
  6. I never did really understand what was going on
38. Were you told what school personnel would be attending the IEPC?
1. Yes
  2. No
  3. Yes, but those weren't the people who were there
39. Was there some one member of the school staff with whom you felt you could share your concerns regarding your child and his/her educational progress?
1. Definitely
  2. Yes
  3. I didn't know
  4. No
  5. Definitely not

40. If yes, whom?
1. Classroom teacher
  2. Principal
  3. Special education administrator
  4. Special education teacher
  5. Social worker
  6. Psychologist
  7. Teacher consultant
  8. Speech pathologist
  9. Other \_\_\_\_\_
  10. NA
41. Did you trust any school person to recommend what was in the best interests of your child?
1. Definitely
  2. Yes
  3. I didn't know
  4. No
  5. Definitely not
42. Were you pleased with previous educational plans developed for your child?
1. Definitely
  2. Yes
  3. Partially
  4. No, but I didn't complain
  5. No, and I let them know I wasn't pleased
  6. There were no previous plans
43. Would you describe your relationship with the school prior to the dispute that led to the hearing as
1. Very cooperative
  2. Cooperative
  3. Uninvolved
  4. Conflicting
  5. Very conflicting
  6. Other

#### THE ISSUE

44. What did you actually want for your child when the hearing was requested?
45. Would you have settled for anything less?
- (1) Yes      (2) No      (3) Maybe

If so, what? \_\_\_\_\_

46. What was the school's position? \_\_\_\_\_

47. Why do you believe the school opposed your position?
1. Welfare of the student
  2. Cost of services
  3. Generally antagonistic toward me
  4. Wanted to show that parents can't boss the school around
  5. To prove professionals "know best"
  6. Other \_\_\_\_\_
48. All issues brought to hearing must fall under one of four broad categories. As you understand it, was yours an issue of:
1. Identification
  2. Evaluation
  3. Placement
  4. Provision of a free appropriate public education

#### REQUESTING THE HEARING

49. Who requested the hearing? (1) Parent (2) School
50. What methods of resolving the conflict were used before requesting the hearing?
1. Mediation
  2. Discussion with special education staff
  3. Discussion with special education director
  4. Another IEPC
  5. None
  6. Other \_\_\_\_\_
51. From which of the following sources did you learn about the right to request a hearing?
1. Special education personnel
  2. Other school personnel
  3. Agency or special interest group
  4. Media information
  5. Friends or acquaintances
  6. Other \_\_\_\_\_
52. Did you realize you could have requested arbitration rather than a hearing? (1) Yes (2) No
- If yes, why did you choose not to use arbitration?
53. What actually triggered your decision to request a hearing? (Was there something the school did or did not do that made you feel the issue could be resolved only through a hearing?)
54. Was there something the school could have done that you feel would have made the hearing unnecessary?



55. Do you think an impartial third party could have helped to resolve the conflict without a hearing?
1. Definitely
  2. Yes, probably
  3. Don't know
  4. No, probably not
  5. Definitely not
56. Did you believe the issue would be resolved before the time of the hearing?
- (1) Yes      (2) I was hoping so      (3) No
57. Did you expect that if the issue did go before the hearing officer that the decision would favor your position, that you would win?
- (1) Yes      (2) I was hoping so      (3) No
58. How long was it between your request for a hearing and the school's response?

The next few questions relate to how the school responded to your request for a hearing:

59. Did they offer information regarding sources of assistance?
- (1) Yes      (2) No      (3) Don't remember
60. Did they offer information regarding free and/or low-cost legal aid?
- (1) Yes      (2) No      (3) Don't remember
61. Did they suggest further discussion before going to a hearing?
- (1) Yes      (2) No      (3) Don't remember
62. Did they suggest further evaluation before going to a hearing?
- (1) Yes      (2) No      (3) Don't remember
63. Did they suggest mediation?
- (1) Yes      (2) No      (3) Don't remember
64. Did they offer a compromise solution?
- (1) Yes      (2) No      (3) Don't remember
65. Did they try to talk you out of requesting a hearing?
- (1) Yes      (2) No      (3) Don't remember
66. Did they suggest arbitration?
- (1) Yes      (2) No      (3) Don't remember

67. Did they ignore your first request?  
 (1) Yes (2) No (3) Don't remember
68. Did they suggest you or your child would be hurt by the process?  
 (1) Yes (2) No (3) Don't remember
69. If the school's response was not explained by any of the above, how did the school respond to your request for a hearing?
70. How many days were there between the time the hearing was requested and the date it was held?
1. Less than 15 days
  2. Between 15 and 30 days
  3. More than 30 days

If less than 15 days or more than 30, Why?

71. How was the date for the hearing set?
1. The school contacted me to determine an agreeable date
  2. The school told me when the hearing would be held
72. How was the hearing officer selected?
1. School offered names and credentials of hearing officers from which I could chose
  2. I told the school who I wanted
  3. School told me who it would be
  4. Other
73. Were any attempts made to resolve the conflict between the time you requested the hearing and the hearing date?
- (1) Yes (2) No What methods? \_\_\_\_\_
74. Who helped you to prepare for the hearing?
1. Volunteer advocate Organization \_\_\_\_\_
  2. Paid advocate What was the cost? \_\_\_\_\_
  3. Agency staff
  4. Friend
  5. Special educator from another district
  6. Special educator from same district
  7. No one
  8. Attorney What was the cost? \_\_\_\_\_
  9. Other \_\_\_\_\_
75. Had the person who helped you prepare for the hearing attended any of your meetings with the school?
- (1) Yes (2) No
76. How much notice did you have of the hearing date?

77. Was there a prehearing conference with the hearing officer?  
 (1) Yes (2) No

When was it held?

78. If there was a prehearing conference, who attended?
1. Special education teacher
  2. Special education director
  3. Parents
  5. Parent advocate
  6. Others
  7. NA
79. Did the prehearing conference (1) Reduce, (2) Increase, or  
 (3) Not Change the intensity of the conflict?

#### THE HEARING

80. Who presented your case at the hearing?
1. Attorney
  2. Parent
  3. Paid advocate
  4. Volunteer advocate Organization? \_\_\_\_\_
  5. Other \_\_\_\_\_
21. Who presented the school's case at the hearing?
1. Attorney
  2. Special education administrator
  3. Other
82. Were you aware, prior to the hearing, of who would be representing the school? (1) Yes (2) No
83. Did this influence your decision regarding who would represent you?  
 (1) Yes (2) no

If yes, in what way?

84. Why did you choose to be represented by an attorney or advocate?
85. What was the cost to be represented by this person?
86. Would you advise others to have someone other than themselves present their case at the hearing? (1) Yes (2) No

Why or why not?

87. If you would advise parents to have someone other than themselves represent them at the hearing, who would that be?
1. Attorney
  2. Volunteer advocate
  3. Paid advocate
  4. Other
88. How did you feel when you actually arrived at the hearing?
1. Nervous
  2. Scared
  3. Apprehensive
  4. Angry
  5. Calm
  6. Determined to win
  7. Relieved
  8. Confident
  9. Wishing I'd never requested the hearing
  10. Inadequate
  11. Prepared
  12. Other
89. Did you feel differently after the hearing officer's opening statement? (1) Yes (2) No (3) Don't know
90. If so, how?
1. Less anxious
  2. More anxious
  3. Other \_\_\_\_\_
91. Did you feel confident that the hearing officer would resolve the issue fairly?
1. Definitely
  2. Yes
  3. Don't know
  4. No
  5. Definitely not
92. What was the occupation of the hearing officer?
1. Attorney
  2. College professor
  3. Special educator
  4. Retired special educator
  5. Other \_\_\_\_\_

93. What witnesses testified for you?
1. Private tutor
  2. Medical doctor
  3. Child's previous teacher
  4. Mother
  5. Father
  6. Psychologist      Private\_\_\_\_\_      School\_\_\_\_\_
  7. Psychiatrist
  8. Parent advocate
  9. None
  10. Other \_\_\_\_\_
94. Did you have to pay any of these witnesses? (1) Yes      (2) No  
What was the cost?
95. Did you testify at the hearing?      (1) Yes      (2) No
96. If you testified, did you feel (1) Better, (2) Worse, or  
(3) No Different after having done so?
97. Did you feel there was adequate opportunity to present your side  
of the issue?      (1) Yes      (2) No      (3) Not sure
98. Did you feel you were really heard and understood by the hearing  
officer?      (1) Yes      (2) No      (3) Not sure
99. What witnesses testified for the school?
1. Classroom teacher
  2. Principal
  3. Special education administrator
  4. Special education teacher
  5. Social worker
  6. Psychologist
  7. Teacher consultant
  8. Speech pathologist
  9. Superintendent
  10. Other \_\_\_\_\_
100. Was the testimony of the school what you expected?
1. Completely
  2. Mostly
  3. Half n' half
  4. Very little
  5. Not at all

If not, why not?

101. Did you feel that you were personally attacked by the school?
1. Definitely
  2. Somewhat
  3. Don't know
  4. Not really
  5. Not at all

102. How did you feel about the degree of formality?
1. Too formal
  2. Fine the way it was
  3. Too informal

Comments:

103. Did you feel the hearing was conducted fairly?
1. Yes, very fairly
  2. Yes, it was fair
  3. Not sure
  4. No, it didn't seem fair
  5. No, it was very unfair

Why?

104. Did you feel the hearing officer was impartial during the proceedings?
1. Yes, very impartial
  2. Yes, he/she was impartial
  3. Not sure
  4. No, he/she seemed to favor one side
  5. No, he/she definitely favored one side

If not, whose position did he favor?

105. Was there anything in particular that made you feel that way?

106. How upsetting was it to participate in the hearing?
1. Extremely upsetting
  2. Somewhat upsetting
  3. I don't know
  4. Not very upsetting
  5. Not at all upsetting

107. Did you feel that you had as great a chance to win as the school did?
1. Yes, definitely
  2. Probably so
  3. Don't know
  4. Probably not
  5. No, definitely not

108. Why did you feel that way?
1. We or they had more impressive witnesses
  2. We or they had a better spokesperson
  3. Our or their case was just stronger
  4. We or they had the law on our side
  5. The hearing officer seemed to favor us or them
  6. Other \_\_\_\_\_
109. What was the most frustrating aspect of the hearing for you?

#### THE DECISION

110. Did you feel that the hearing officer's decision was definitely in support of one side or the other?
1. Yes, definitely
  2. Yes
  3. Don't know
  4. No
  5. No, absolutely not
111. If not, was it a (1) Compromise or a (2) New Solution?
112. Were changes required in your child's educational program?
- (1) Yes      (2) No
- If so, what changes?
113. How long after the hearing did you wait for the decision?
114. How was the decision presented to you?
1. Received decision in mail
  2. School called
  3. Hearing officer called
  4. Other
115. What was your immediate reaction to the decision?

#### AFTER THE HEARING

116. How soon was the program ordered by the hearing officer implemented?
1. Immediately
  2. Within two weeks
  3. More than three weeks later
  4. Never      Why not?

Comments:

117. Did you feel there were unnecessary time delays at any time during the process? (1) Yes (2) No (3) Maybe

At what points?

118. Did the hearing end the conflict between you and the school regarding this issue?
1. Yes
  2. Somewhat
  3. Really didn't make a difference in the degree of conflict
  4. No
  5. Things are worse now

119. Was there a state-level appeal? (1) Yes (2) No

120. Who requested the state-level appeal? (1) Parent (2) School

121. What was the results of the state-level appeal?

122. Did either you or the school initiate civil action with regard to this issue? (1) Yes (2) No

Result?

123. Was an official special education complaint regarding this issue filed in accordance with Rule 151 of the Michigan Special Education Rules and Regulations?
- (1) Yes (2) No

124. Do you feel that the hearing process is basically a fair way to resolve conflict between parents and the school?

1. Definitely
2. Yes
3. Uncertain
4. No
5. Definitely not

125. Do you like the two-step process, the local hearing and state-level appeal prior to going to court?
- (1) Yes (2) No (3) No opinion

126. How would you rate your level of satisfaction with the hearing process?
1. Very satisfied
  2. Somewhat satisfied
  3. Uncertain
  4. Somewhat dissatisfied
  5. Very dissatisfied



127. How would you rate your level of satisfaction with the local-level decision?
1. Very satisfied
  2. Somewhat satisfied
  3. Uncertain
  4. Somewhat dissatisfied
  5. Very dissatisfied
128. How would you rate your level of satisfaction with the state-level decision?
1. Very satisfied
  2. Somewhat satisfied
  3. Uncertain
  4. Somewhat dissatisfied
  5. Very dissatisfied
129. How would you rate your level of satisfaction with the school's response to the decision, i.e., the way the decision was implemented?
1. Very satisfied
  2. Somewhat satisfied
  3. Uncertain
  4. Somewhat dissatisfied
  5. Very dissatisfied
  6. Nothing to implement
130. What effect do you think your involvement in the special education due process hearing had on your child?
131. What effect did the decision have upon your child's educational program?
1. Improved it greatly
  2. Improved it somewhat
  3. No real difference
  4. Hurt it
  5. Disastrous
  6. Other
132. How did the hearing affect the relationship between you and the school?
- How would you now describe your current relationship with the school?
1. Very cooperative
  2. Cooperative
  3. Uninvolved
  4. Conflicting
  5. Very conflicting
  6. Other

133. What kind of educational programming is being provided for your child now?
1. Self-contained classroom full time
  2. Self-contained classroom and general education
  3. General education with learning resource center
  4. General education with teacher consultant
  5. General education with related services
  6. Other \_\_\_\_\_
134. What other special education services are provided?
1. Speech therapy
  2. Social work service
  3. Physical therapy
  4. Occupational therapy
  5. Psychological services
  6. None
  7. Other
135. Are you satisfied with the program and services provided for your child now?
1. Definitely
  2. Yes
  3. Partially
  4. No, but I don't complain
  5. No, and I let the school know I'm not pleased
136. Knowing what you know now, would you request the hearing again?
- (1) Yes      (2) No
- Why?
137. Since the hearing have you confronted the school with any matter you felt might be a violation of law and or rules, or inappropriate programs or services for your child?
- (1) Yes      (2) No
- Why?
138. What advice would you offer to parents who have reached an impasse in their discussions with the school regarding educational programming for their handicapped child?
139. Is there further advice you would offer to parents once they have decided to have a hearing?
140. What advice would you offer to schools who have reached an impasse in their discussions with parents regarding educational programming for a handicapped child.

141. What advice would you offer to schools in order to help them improve their relations with parents?
142. If you could institute changes in the hearing/appeal process what would they be?
143. When you requested the hearing, were you acting strictly for the benefit of (1) Your Child, or did you hope to benefit (2) Other Children as well? (3) Don't know

#### PARENT PROFILE

Now I'd like to ask you a few questions about yourself. The purpose of these questions is to determine if the parents who have requested hearings have certain characteristics in common other than the facts that they have a handicapped child and that they have been in a conflict situation with the school.

144. Are you a member of the Parent Advisory Committee?  
(1) Yes (2) No
145. Are you an active member of any parent organization?  
(1) Yes (2) No
146. Did you or family members suffer from any illness during this time of attempted conflict resolution with the school?  
(1) Yes (2) No
147. What is the occupation of the primary wage earner in the home?
148. What is the highest level of education that you or your spouse?
1. No formal education
  2. Some grade school
  3. Completed grade school
  4. Some high school
  5. Completed high school
  6. Post high school technical training
  7. Some college
  8. Completed college Major \_\_\_\_\_
  9. Some graduate work
  10. A graduate degree Degree \_\_\_\_\_ Major \_\_\_\_\_

149. What was your approximate family income from all sources, before taxes, at the time of the hearing?
1. Less than \$15,000
  2. \$15,000 to \$20,000
  3. \$21,000 to \$30,000
  4. \$31,000 to \$40,000
  5. \$41,000 to \$50,000
  6. Over \$50,000
  7. Don't know

#### PILOT QUESTIONS

150. Were any of the questions asked offensive to you?
151. Was it difficult for you to talk about the things we've just discussed?
152. Would you advise another parent to participate in this study?
153. I know the interview was long; do you think an effort should have been made to shorten it?
154. Now that it's over, how do you feel about having given this interview?

**APPENDIX C**

**LETTER TO DIRECTORS OF SPECIAL EDUCATION**

LETTER TO DIRECTORS OF SPECIAL EDUCATION

March 25, 1983

Dear

The results of a recent study conducted at Michigan State University by Dr. Charles Mange and Dr. Charles Henley indicate that the average cost to school districts for forty hearings conducted between September, 1980, and August, 1981, was \$5,998.32, ranging from \$1,188.83 to \$16,317.48. There is very little information available to determine whether these costly hearings do effectively bring an end to the conflict.

A study is being conducted by Cherie N. Simpson, a doctoral candidate at Michigan State University, to determine how Michigan parents who have been involved in a hearing perceive the process, the effect upon their child's educational program and their continuing relationship with the school. This study is endorsed by Dr. Edward Birch, State Director of Special Education, who believes that this effort is one of several that are necessary to gain a better understanding of the hearing process and to implement changes to maintain the original intent of the hearing process: conflict resolution.

It is our understanding that on DATE, a hearing was held in your district. Mrs. Simpson would like to conduct a controlled interview with the parents involved in that hearing. Information obtained from these interviews will be shared with the Michigan Department of Education, the public schools, and others interested in improving the process. Responses will not be identifiable by name or district.

Your assistance is necessary to contact the parents while respecting their legal right to privacy. Would you please forward the enclosed letter and response form to the parent involved in the DATE, hearing in the DISTRICT. It is important that we obtain a realistic view of the hearing process as experienced by parents. We do hope you will choose to assist with this most necessary study by forwarding the request for participation to the appropriate parent.

Please drop the enclosed postcard in the mail when you mail the letter to the parents so that we will know that the parents has been contacted. Thank you in advance for your cooperation. We look forward to sharing the results of this study with you.

Sincerely,

Charles V. Mange  
Professor

Cherie N. Simpson  
Doctoral Candidate

## **APPENDIX D**

### **LETTER TO PARENTS**



## LETTER TO PARENTS

March 28, 1983

Dear Parents,

Since 1974 parents in Michigan have used the special education due process hearing as a means of resolving disagreements with school districts regarding the provision of special education programs and services for their handicapped children. A study is being conducted by Cherie N. Simpson, a doctoral candidate at Michigan State University, to determine whether parents who have used the hearing process feel it is an effective means of resolving conflict. The Special Education Services of the Michigan Department of Education is interested in obtaining the results of this study.

Privacy laws protect the identity of students and families who have been involved in the hearing process. Therefore, in order to provide you with the opportunity to express your feelings about the hearing process while still protecting your right to privacy, your child's school district has forwarded this letter to you.

You are being asked to participate in this study along with other parents who were involved in a special education hearing between September 1, 1980, and August 31, 1981. Mrs. Simpson would like to meet with you and discuss your experiences with the hearing process. The information you and other parents provide will contribute to a better understanding of how parents feel about the hearing process in Michigan. Results of this study will be made available to the Michigan Department of Education, to you, and to others interested in improving the process. Your individual responses will be kept strictly confidential by Mrs. Simpson. Your participation is extremely important to obtaining a clear and complete view of how well the hearing process is working and how it may be improved to accomplish the important task for which it was designed.

If you are willing to participate in this study, please sign and mail the enclosed form. A stamped addressed envelope is enclosed for this purpose. Mrs. Simpson will then contact you to arrange a convenient time for the interview. You may be assured of complete confidentiality.

It is important that we obtain a realistic view of the hearing process as experienced by parents. I do hope you will choose to participate in this most necessary study. Thank you in advance for your cooperation.

Sincerely,

Charles V. Mange  
Professor

Cherie N. Simpson  
Doctoral Candidate

Enclosures

**APPENDIX E**

**PARENT CONSENT FORM**

## PARENT CONSENT FORM

Please fill in blanks, sign, and return in enclosed envelope if you are willing to participate in this study. If you do not wish to participate, please check here \_\_\_\_\_ and return this form without filling in blanks. Thank you.

TO: Cherie N. Simpson  
941 Dursley  
Bloomfield Hills, Michigan 48013

I would like to participate in your study to determine parent perceptions of the special education due process hearing. I understand that no personally identifiable information obtained through this study will be released.

Please call me to schedule an interview. The best time to reach me by telephone is:

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## **APPENDIX F**

### **DIRECTOR RESPONSE POSTCARD**

DIRECTOR RESPONSE POSTCARD

Cherie N. Simpson  
941 Dursley Road  
Bloomfield Hills, Michigan 48013

RESPONSE CARD

- \_\_\_\_\_ I have forwarded the request for participation  
in your study to the appropriate parent(s).
- \_\_\_\_\_ I have not forwarded the request for participa-  
tion in your study to the appropriate parent(s)  
because:  
\_\_\_\_\_ address is unknown  
\_\_\_\_\_ chose not to  
\_\_\_\_\_ other
- \_\_\_\_\_ I would like to receive a copy of the results of  
your study.
- Name: \_\_\_\_\_  
District: \_\_\_\_\_

## REFERENCES



## REFERENCES

- Abeson, A., Bolick, N., & Hass, J. A primer on due process: Education decisions for handicapped children. Reston, Va.: The Council for Exceptional Children, 1975.
- Bateman, B. So you're going to hearing. Northbrook, Ill.: Hubbard, 1980.
- Beekman, L. Current problems with special education placement hearings: Alternatives. In Institute on special education hearing procedures: Final report. Lansing, Mich. 1976.
- Bersoff, D. N. Procedural safeguards. Due process: Developing criteria for the evaluation of due process procedural safeguards provisions. Department of Health, Education and Welfare, Office of Education, Bureau of Education for the Handicapped. Philadelphia, Pa.: Research for Better Schools, Inc., 1979.
- Board of Education of the Hendrick Hudson Central School District, Westchester County v. Rowley ex rel. Rowley, 485 U.S. 176 (1982).
- Borg, W. R., & Gall, M. D. Educational research. 3rd ed. New York: Longman, Inc., 1979.
- Brown v. Board of Education of Topeka, 347 U.S., 483 (1954).
- Budoff, M. Implementing due process safeguards: From the user's viewpoint. Due process: Developing criteria for the evaluation of due process procedural safeguards provisions. Department of Health, Education and Welfare, Office of Education, Bureau of Education for the Handicapped. Philadelphia, Pa.: Research for Better Schools, 1979.
- Budoff, M., & Orenstein, A. Due process in special education: On going to a hearing. Cambridge, Mass.: The Ware Press, 1982.
- Budoff, M., Orenstein, A., & Abramson, J. Due process hearings: Appeals for appropriate public school programs. Exceptional Children, 1981, 48, 180-184.
- Daynard, C. I. The impact of special education adversarial proceedings on school personnel and parents. Ph.D. dissertation, Boston University, 1980.

Diamond, G. P. An analysis of due process cases in selected Illinois administrative units of special education. Ph.D. dissertation, Northwestern University, 1980.

Dillman, D. A. Mail and telephone surveys: The total design method. New York: John Wiley and Sons, 1978.

Education for the handicapped law report. Supplement 41. Washington, D.C.: CRR Publishing Co., 1981.

Eighty-four percent of P & A cases resolved informally. Exchange (Michigan Protection and Advocacy Service for Developmentally Disabled Citizens, Inc.), 1983, 4, 1.

Family Educational Rights and Privacy Act, 20 U.S.C. 12326 (1974).

Federal Register. Washington, D.C.: Government Printing Office, August 23, 1977.

Gage, N. L. Handbook of research on teaching. Chicago: Rand McNally & Co., 1963.

Gilhool, T. K. Education: An inalienable right. In Frederick J. Weintraub (Ed.), Public policy and the education of exceptional children. Reston, Va.: The Council for Exceptional Children, 1976.

Goss v. Lopez, 419 U.S. 565 (1975).

Halpern, R. Impact of P.L. 94-142 on the handicapped child and family: Institutional responses. Exceptional Children, 1982, 49, 270-273.

Halpern, R., & Parker-Crawford, F. Study of the impact of P.L. 94-142 on the handicapped child and family: Institutional responses and their consequences. Ypsilanti, Mich.: High/Scope Educational Research Foundation, 1981.

Harbin, G. L., & Rzepski, B. Problems in due process: Factors which result in more adversarial procedures. Chapel Hill, N.C.: Triad System for Technical Assistance and Resources, n.d.

Hayford, S. L., & Pegnetter, R. Grievance adjudication for public employees: A comparison of rights arbitration and civil service appeals procedures. The Arbitration Journal, 1980, 35, 22-29.

Institute for Research on Educational Finance and Governance. How fair fair hearings? A California study. IFG Policy Notes, 1981, 2, 4-5.

- Kammerlohr, B., Henderson, R. A., & Rock, S. Special education due process hearings in Illinois. Exceptional Children, 1983, 49, 417-422.
- Kerlinger, F. N. Foundations of behavioral research. New York: Holt, Rinehart & Winston, 1973.
- Kotin, L. Recommended criteria and assessment techniques for the evaluation by LEA's of their compliance with the notice and consent requirements of P.L. 94-142. Due process: Developing criteria for the evaluation of due process procedural safeguards provisions. Department of Health, Education and Welfare, Office of Education, Bureau of Education for the Handicapped. Philadelphia, Pa.: Research for Better Schools, Inc., 1979.
- Kuriloff, P., Kirp, D., & Buss, W. When handicapped children go to court: Assessing the impact of the legal reform of special education in Pennsylvania. Philadelphia: Pennsylvania University, 1979.
- Mange, C. V. Due process hearing--Or not? Statewide Communication and Dissemination System Newsletter, September 1982, p. 5.
- Mange, C. V., & Henley, C. E. Cost analysis of special education due process hearings in Michigan, 1980-81. East Lansing: Michigan State University, 1982.
- Michaeles, C. T. Home and school partnerships in exceptional education. Rockville, Md.: Aspen Systems Corp., 1980.
- Michigan Department of Education. A model for a special education due process hearing. Lansing: MDE, 1977.
- Michigan Department of Education. Institute proceedings: The special education due process hearing. Lansing: MDE, 1980.
- Michigan State Board of Education. Michigan special education rules. 1977.
- Michigan State Board of Education. Michigan special education rules. 1980.
- Michigan State Board of Education. Michigan special education rules. 1982.
- Mills v. Board of Education of the District of Columbia, 348 F. Sup. 866 (D.D.C. 1972).

Mitchell, S. Parent perceptions of their experiences with due process in special education. A preliminary report. Paper presented at the Annual Meeting of the American Educational Research Association, San Francisco, California, April 19-23, 1976.

Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 343 F. Supp. 249 (1972).

Polifka, J. C. Compliance with Public Law 94-142 and consumer satisfaction. Exceptional Children, 1981, 48, 250-253.

Scandary, J. Analysis of local level hearings, October 1, 1977-August 10, 1979. Compliance and Approval Program, Michigan Department of Education, 1979.

Scandary, J. Informational overview: A personal evaluation. Report of site visitation to Massachusetts Department of Education, Division of Special Education Appeals, March 1981. (Typewritten)

Shrybman, J. Due process in special education. Rockville, Md.: Aspen Systems Corp., 1982.

Silberberg, N. G. Schools have home court advantage. Amicus, 1979, 4, 89-90.

Smith, T. E. C. Status of due process hearing. Exceptional Children, 1981, 48, 232-236.

State of Michigan. Act No. 451, Public Acts of 1976. 78th Legislature. Regular Session of 1976.

State of Michigan. Constitution of the State of Michigan, 1963. Article 8, Section 2.

Strickland, B. Parental participation, school accountability, and due process. Exceptional Education Quarterly, 1982, 3, 41-49.

Sullivan, M. B., Brightman, A. J., & Roberts, M. Disabled children and their families: The impact of Public Law 94-142. Belmont, Mass.: Cambridge Workshop, Inc., February 1980.

Turnbull, A. P., Strickland, B., & Turnbull, H. R. Due process hearing officers: Characteristics, needs, and appointment criteria. Exceptional Children, 1981, 48, 48-54.

Turnbull, H. R., & Turnbull, A. P. Procedural due process and the education of handicapped children. Focus on Exceptional Children, 1978, 2. Denver, Col.: Love Publishing Co., 1978.

U.S. Congress. Public Law 94-142: Education for All Handicapped Children Act of 1975. 94th Congress, 1975.

U.S. Constitution of the United States.

Witt, E. (Ed.). The Supreme Court and individual rights. Washington, D.C.: Congressional Quarterly, 1980.

Zimmerman, W. W. Due process: A right for some but not for all. Paper presented at the Council for Exceptional Children Conference on the Exceptional Black Child, New Orleans, Louisiana, February, 1981.

