SPECIAL EDUCATION DIRECTORS' EXPERIENCES PREVENTING AND RESPONDING TO REQUESTS FOR DUE PROCESS HEARINGS

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To my Grandparents, *Carmen T. Rodino* and *Regina E. Rodino,*
who loved all of their children unconditionally, found value in all individuals,
and advocated for the rights of people with disabilities.
Your compassion, work ethic, dedication, and perseverance
have always been a source of inspiration.

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Angela L. Balsley

SPECIAL EDUCATION DIRECTORS' EXPERIENCES PREVENTING AND RESPONDING TO REQUESTS FOR DUE PROCESS HEARINGS

This qualitative research study was conducted to (1) identify the leadership actions special education directors took to increase cooperation and mitigate conflict between families and schools and (2) analyze what special education directors experienced after receiving requests for impartial due process hearings. The researcher organized interview data from 10 special education directors into themes informed by a micropolitical framework. Findings indicated that although alternative dispute resolution such as mediation assisted directors in resolving conflict, the proactive leadership actions of special education directors were even more critical to avoid requests for due process. Additionally, directors received requests for due process unexpectedly and reported that the use of alternative dispute resolution was unproductive *after* a hearing request was filed. During the settlement window, directors allocated scarce resources and encountered negative experiences with parent attorneys. Finally, most directors worked to settle the requests before they proceeded to a hearing. Based on the findings and implications of this study, three recommendations for practice included: (1) *require* a tiered system of alternative dispute resolution; (2) reduce the involvement of attorneys; and (3) build the capacity of special education directors to be proactive leaders. The researcher also recommended that future researchers study the effectiveness of resolution meetings and the role of the zealous advocate.

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Chapter One: Introduction

It's the first day of a two-week spring break. I'm a special education director who is excited about the projects I plan to tackle before the students and staff return from vacation. At around ten o'clock in the morning, my secretary walks in carrying a thick stack of paper, still warm from the fax machine. "It's a due process hearing complaint," she says with a mixed tone of uneasiness and trepidation.

The Individuals with Disabilities Education Act (IDEA), a federal law articulating the rights of students with disabilities, prescribes that if parents and schools are unable to resolve a dispute concerning a student's education, then they can file a due process hearing complaint with their state education agency (e.g., Indiana Department of Education). This complaint starts a quasi-judicial process in which the parties either (1) settle or dismiss the complaint or (2) an independent hearing officer resolves the dispute through a due process hearing proceeding. A requirement of IDEA is that parents and schools must complete this administrative process before they can appeal the decision to a federal or state court. Thus, the filing of a due process hearing complaint is the first step of a lawsuit.

As I accept the fate of the papers placed before me, I wonder what harsh accusations lie within the text. I am unfamiliar with the family who filed this request. Not once had I been consulted about the alleged complaints that this family has described. Knowing that this process will cost my small rural school district roughly ten-thousand dollars regardless of the actions I, as the special education director, pursue, I pick up the phone to notify the superintendent. After calming his frustrations and assuring him that we'll be able to meet the rigid response timelines

despite that fact that all of his staff are not contracted to work over the next two weeks, I begin to gather mounds of related evidence.

Throughout the next few weeks, I spend most of my time dedicated to preparing a legally precise response to the broad and general allegations. The parents' attorneys use the same standard allegations in most due process hearing requests rather than clearly identifying the specific issues of this case. The process is frustrating because, without clarity on the specific issues and desired outcomes, I spend a significant amount of time preparing a response to the extraneous and erroneous details within the due process complaint. During this time I wonder why we couldn't have just worked this out through meetings with the parents. I am confident that we could have crafted an outcome similar to what the independent hearing officer would decide, and in doing so we could have prevented the hefty expense and time required to defend a lawsuit.

This situation, unfortunately, is my account of a recent experience of mine. I provide the vignette to offer some insight into special education director's experiences and to provide context to the study at hand.

As the family member of a person with a disability, I understand why students with disabilities have legal protections. My grandparents were advocates in the 1950's and 60's. They were members of the Association for Retarded Citizens (ARC) and actively advocated for the rights of individuals with disabilities including Tim, their son with Down Syndrome. When Tim was in middle school, he was dared by a friend to pull the fire alarm. School administration determined that Tim was a disruption to the educational environment and because of that, he was permanently expelled from the public school. Because parents' rights were not yet protected by law, my grandparents were forced to accept the decision of the school.

In addition to my familiarity and empathy with special education from the perspective of a family member, my experiences as a special education director who has received multiple requests for due process hearings contribute to my knowledge and drive my passion surrounding this research topic. I am aware of and understand the responsibilities involved in special education dispute resolution. I am frustrated, however, that the law doesn't require more engagement between families and schools to avoid costly legal interactions. For example, with the situation I described above, I never had an opportunity to speak with the parents before the request for due process was filed.

This dissertation is focused on a contemporary problem of practice that I was aware of based on my role as a special education leader. I studied current conditions as a way to make effective decisions about how to address the issues (Belzer & Ryan, 2013). By studying this problem of practice, I wanted to understand more about other special education directors' experiences and actions they took to prevent conflict from escalating to a point in which a parent felt compelled to request a due process hearing. Within my study I wanted to explore if other directors also received requests for due process without first having an opportunity to work with families to resolve their concerns. More specifically, I was interested in attempting to understand what was causing the gap in the process that is intended to be collaborative. I wondered if the situation was caused by the structure of the law that does not require a progressive ladder of resolution options or perhaps if it was caused by a lack of district level procedures to identify and respond to parents' concerns. I had a desire to examine literature to address my experiences and to guide my practice towards a more positive outcome. I also wondered if other special education directors had similar experiences and if they did not, what actions they took to prevent adversarial and costly dispute resolution.

To address my personal curiosity and to discover answers that may help guide practice for other special education directors, this study investigated the leadership actions and experiences of special education directors with due process hearing requests. This introductory chapter includes a statement of the problem and the policy context. Next, I articulate the purpose of the study and explain the methodology. I, then, describe the pertinent legal context and provide a rationale for the use of a micropolitical conceptual framework. Finally, I identify the implications and significance of my research.

Research Problem Statement

Despite my personal experiences that illustrated the significance of due process hearing requests, some of the existing research literature downplayed how serious due process hearing requests can be for school districts (Bailey & Zirkel, 2015; Number of Formal, 2003, Weber, 2014). This disconnect may exist because most research examines the *outcome* of due process hearings rather than closely examining the actions and experiences required to reach those outcomes. For example, Bailey and Zirkel (2015) chose to use the due process hearing decision as the unit of analysis in their study stating that "each court decision has associated costs and other impacts on districts and families" (p. 6). The problem with that level of analysis is that most disputes filed against school districts are resolved prior to being decided by a hearing officer. Additionally, it is difficult to assess the prevalence of litigation in schools because most cases settle outside of court (Decker, 2014).

Data on dispute resolution in Indiana from the Center for Appropriate Dispute Resolution in Special Education (CADRE) validate that most due process hearing request cases settle in Indiana where my study occurred. Specifically in Indiana, 64 requests for due process were filed during the 2015-16 school year. Of those, 63 were resolved or withdrawn prior to being heard by

an independent hearing officer. The large number of cases settling before proceeding to a hearing has also been confirmed at a national level. CADRE is an organization that the federal government funds to provide information about special education conflict resolution. CADRE (2016) found that while the number of due process complaints filed decreased slightly (between 2006-2015), the number of requests *filed* was more than three times the number of hearings that were actually *held*. Thus, state and national data illustrate that a majority of special education disputes are settling. Therefore, a need exists to study what occurs to resolve conflict *prior* to due process hearings.

Purpose of Study

Bailey and Zirkel (2015) acknowledged that their research was limited by not studying what occurs prior to the hearing by stating that, "the use of the *decision* rather than the *case* as the unit of analysis represented a trade-off as a measure of judicial activity under IDEA" (p. 10). The authors suggested that "adding the metric of judicial *filings* to the analysis" could advance the understanding of the adjudicative dimensions of IDEA which could "guide more tailored policymaking at the federal and state levels" (Bailey & Zirkel, 2015, p. 11). My research attended to this suggestion by studying the phenomena surrounding special education directors' experiences with preventing and responding to *requests* for special education due process hearings. My study also attended to the recommendation made by Mueller and Piantoni (2013) which suggested research focused on the experiences with prevention and resolution of other special education directors' experiences across the nation. Mueller and Piantoni conducted research in a western state, whereas this study represents a Midwestern state. It should be informative to compare and contrast the experiences of special education directors across the

nation. The findings of the study guide future practice and assist to fill the gap in the knowledge about the local implementation of federal policy.

Research Questions and Methodology

This study was conducted as a qualitative descriptive case study as this type of research provides important information about what is occurring within the education system which presents opportunities to understand and provide a critique of existing practices (Lochmiller & Lester, 2017). It sought to answer the following research questions:

1) *What leadership actions did special education directors take to increase cooperation and mitigate conflict between families and schools?*

2) *What were the experiences of special education directors after receiving requests for due process hearings?*

The data for this qualitative research was collected by interviewing 10 special education directors two times each. The interview protocol consisted of semi-structured questions and was crafted based on a review of relevant literature. The responses given in the interviews were recorded and transcribed, then coded for thematic analysis. The themes were analyzed and interpreted to elicit the findings of the study. The methodology will be discussed in greater detail in Chapter Three.

Policy Context of Research

My research study examined IDEA's special education conflict resolution process from a district-level perspective. The roots of IDEA's current legal requirements sprouted in 1975 when Congress enacted the Education of All Handicapped Children Act (EAHCA). In 1990, EAHCA

was renamed IDEA. The provisions of this landmark law have been modified several times, with the most recent amendments in 2004 (Cope-Kasten, 2013). Congress was scheduled to reauthorize IDEA again in 2011 but postponed the work because of congressional efforts devoted to the Elementary and Secondary Education Act (ESEA) and other education legislation (Pasachoff, 2014). Now that ESEA has been revised as the Every Student Succeeds Act (ESSA), advocacy groups are introducing legislative fixes and policy recommendations for the approaching work of the succeeding IDEA reauthorization (Pudelski, 2016).

When considering policy revision, such as the reauthorization of IDEA, it is critical to understand the issues and impact of federal policy implementation at the local, school-district level. The provision of special education to students with disabilities is not only a complex and individualized process involving many stakeholders, but it is also a practice that is governed by federal and state laws. The need to follow special education policy manifests itself in every school building in the United States and impact the lives of millions of individuals.

As legislators consider the need to amend IDEA, they may look at key studies to determine the magnitude of the impact of current policies before formulating potential changes. They may review articles such as the one written in 2015 by Bailey and Zirkel that asserts "proposals for national changes may be questionable from an objective, empirical viewpoint" (p. 10). In the article, the authors state that additions to the new provisions of IDEA reauthorization may "well be a wasted effort that would only result in shifting the skewed adjudicative balance further in favor of the schools" (Bailey & Zirkel, 2015, p. 11). However, the researchers' suggestion that due process is not a concern for most school districts because most due process requests settle or are dismissed before proceeding to a hearing is problematic because their level of data analysis was at the judicial level, not the school district level. Just because due process

hearing requests are being resolved before a hearing, one should not conclude that policy revisions surrounding dispute resolution are unneeded.

Moreover, policymakers might be drawn to the article from the 2003 United States General Accounting Office (GAO) with the headline reading "*Numbers of Formal Disputes Are Generally Low and States Are Using Mediation and Other Strategies to Resolve Conflicts*" (Number of Formal, 2003). Judging by title alone, policymakers may be tempted to pat themselves on the back for adding mediation and resolution options to a previous IDEA reauthorization. By only reading the headline and not looking closely at the wording in the data summary, it would be easy to miss the line stating that "according to the Association of State Directors of Special Education, while *requests* for hearings *increased* from 7,532 to 11,068 over a five year period, the number of due process hearings held *decreased* from 3,555 to 3,020" (Number of Formal, 2003, para. 2). While a 15% decrease in due process hearings is good news, attention must be given to a 47% *increase* in due process *requests*.

Legal Context of Research

The provision of special education to students with disabilities is tightly governed by federal and state laws. Additionally, case law, which derives from the opinions of court cases, serves to clarify and interpret the statutes. To understand the experiences of special education directors when faced with due process hearing requests, it is important to have a basic understanding of how the current laws evolved. In this section, I describe the crucial role of parent advocacy in the development of the laws. I, then, outline landmark legislation. Additionally, I discuss court opinions in addition to legislation which influenced existing practice surrounding special education due process. The legal context is provided to demonstrate

how the law is part of the disputes that special education directors must mitigate between families and schools.

The role of parent advocacy. Prior to the enactment of federal legislation in 1975, children with disabilities had no protected right to an education and their parents had no specific entitlement to provide input into their child's education (Kerr, 2000). Parents began advocating for the rights of their children with disabilities and throughout this advocacy, they were instrumental in the development, advancement, and implementation of special education law (Chopp 2012). Parent advocates utilized momentum from the civil rights movement (Skiba et al., 2008). "Cases such as *Plessy v. Ferguson* (1896) and *Brown v. Board of Education* (1954) paved the way for the integration of schools and equality in education" (Shuran, 2010, p. 13). Although those cases focused on the rights of African American students, advocates utilized the arguments to extend the rights to students with disabilities (Hyatt & Filler, 2011).

Local parent advocacy groups emerged throughout the 1930's and 1940's. These organizations provided an avenue of support for parents as well as the means to work together for change. The local groups eventually rallied and organized at the national level in the 1950's (Neal & Kirp, 1985). The National Association for Retarded Citizens and the Council for Exceptional Children assumed leading roles in efforts to lobby, mediate, and advocate for children with disabilities (Osgood, 2008). In the late 1950's and early 1960's, courts began to respond to the parent advocacy. Initially, Congress appropriated funds for teacher education programs and local school districts to meet their obligations. However, it was the outcomes of two parent-driven landmark court cases, *PARC* and *Mills*, which paved the way for meaningful action surrounding the right to education for students with disabilities and the associated due process protections (Neal & Kirp, 1985).

PARC. *Pennsylvania Association for Retarded Citizens [PARC] v. Pennsylvania* (1971) was a class action suit against Pennsylvania claiming that students with "mental retardation" were not receiving publicly supported education. The suit, filed on behalf of thirteen children with cognitive disabilities, argued that every child had the constitutional right to a free appropriate public education (Keogh, 2007). The case was based on three claims: (1) a violation of due process because there was no notice of hearing provided before the children with disabilities were excluded from public education, or their educational assignments were changed; (2) a violation of equal protection due to the lack of a rational basis for assuming that children with cognitive disabilities were uneducable and untrainable; and (3) a violation of due process because it was arbitrary and capricious to deny children with disabilities a right to education guaranteed by state law (Kerr, 2000). The District Court of the Eastern District of Pennsylvania found that the state was delaying or ignoring its constitutional obligations to provide a publically supported education for these students (Yell, et al., 1998).

PARC was resolved by a consent decree that set the stage for students with special needs to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). The agreement specified that school districts were required to identify and educate all children with intellectual disabilities between the ages of 6-21. School districts were to develop evaluation programs for the appropriate placement of the children. Additionally, the State Department of Education was required to submit plans describing available programs, financial arrangements, and teacher recruitment and training efforts (Pudelski, 2016; Yell, et al., 1998).

The decision in *PARC* is particularly relevant to my research study about special education directors' experiences navigating conflict because *PARC* established a full range of due process procedures (Romberg, 2011). According to Kerr (2000), the *PARC* agreement

defined the essence of the hearing processes that continue to be embedded in practice. The outcome established that parents have rights to representation by counsel, to examine their child's educational records, to cross-examine witnesses testifying on behalf of school officials, and to introduce evidence of their own (Kerr, 2000).

Mills. The court order from the U.S. District Court for the District of Columbia in *Mills v. Board of Education* (1972) reiterated the rights in *PARC* and extended them to all children with disabilities. *Mills* was a class action lawsuit filed in the District of Columbia by the parents and guardians of seven children with disabilities. These plaintiffs represented 18,000 students who were excluded from public school in Washington, D.C. The suit claimed that the students were improperly excluded without due process of law in violation of the Fourteenth Amendment to the U.S. Constitution (Yell, et al., 1998).

Mills established due process safeguards and procedures that are currently codified in IDEA including the procedures for assessment, identification, eligibility, exclusion, and written notice at all stages of the process (Neal & Kirp, 1985). The *Mills* decree provided that no child was to be excluded based on a lack of school resources. Also, if a child was excluded from the least restrictive environment that the child is provided adequate alternative educational service suited to the child's needs (Kerr, 2000).

In both *PARC* and *Mills*, parents of children with disabilities challenged the school systems to gain access to public education for their children (Itkonen, 2007). Both cases resulted in an increased awareness of how children with disabilities should be educated and laid the groundwork for future laws and policies that shaped the focus on procedural protections that exist in IDEA (Romberg, 2011). These court decisions solidified the need to adhere to due

process protections within special education, a base which has only been reinforced since the establishment in these cases.

Education of All Handicapped Children Act. *PARC* and *Mills* established the framework for the pre-cursor to IDEA and possibly the most well-known action in the history of special education. In 1975 President Ford signed P.L. 94-142, the Education of All Handicapped Children Act (EAHCA). According to Itkonen (2007), this law fundamentally changed the lives of children with disabilities, their families, and professionals by ending systemic, institutionalized exclusion. This law opened the door for all children to receive a public education, regardless of the type or degree of their disability.

The passage of the EAHCA contained specific language guaranteeing a free public education, due process, nondiscriminatory assessment, and the creation of the Individualized Education Plan (IEP) for every child with identified special education needs. The Act incorporated many of the procedural rights granted in *PARC* and *Mills* (Romberg, 2011). The law also stipulated that, as much as possible, educational services should be provided in the least restrictive environment (Itknonen, 2007; Neal & Kirp, 1985; Weber, 2014; Yell, Rogers, & Lodge-Rogers, 1998).

IDEA reauthorizations. Legislation since the passage of the EAHCA has served both to clarify and to extend the requirements of the original Act. According to Zirkel (2015), successive reauthorizations of IDEA have become increasingly detailed and prescriptive. IDEA, reauthorized in 1997, emphasized the inclusion of students with disabilities in general education curriculum and state and district assessments. With this revision, Congress added the option of mediation in an attempt to alleviate what was considered to be the overly adversarial nature of special education dispute resolution. Voluntary mediation was intended to encourage parents and

educators to use less oppositional methods as an initial way to resolve disagreements (Yell, Rogers, & Lodge-Rogers, 1998). Mediation is a voluntary process, provided without costs to districts or parents, in which a third party works with the school and the parents to resolve their disagreements. Once an agreement is reached, a binding agreement is signed by both parties. Mediation is relevant to my study because it is a dispute resolution option which is less litigious than requesting a due process hearing and can lead to a similar outcome for families and schools (Bon, 2017).

IDEA 2004. The 2004 reauthorization renamed the law, adding the word "improvement." The Individuals with Disabilities Education Improvement Act is still, however, commonly referred to as IDEA. The main guarantees of the current version of IDEA are that students with disabilities are entitled to a free appropriate public education (FAPE) in the least restrictive environment (LRE) (20 U.S.C. §1400 et seq., 2004). IDEA also provides rights for parents of children with disabilities to collaborate with teachers and school officials to create an Individualized Education Plan (IEP) designed to address the unique needs of the child and to confer educational benefit (Pudelski, 2016; Sparks, 2014). Under IDEA, parents also have the right to protest if their child with disabilities is removed from their educational placement or not provided an appropriate education (Kerr, 2000).

There were two changes to IDEA in 2004 which were particularly relevant to this study. The first was the change in options for parents to resolve their concerns with the school. In IDEA 1997, parents could either engage in voluntary mediation or request a due process hearing. The 2004 amendments added an option for resolution. When a parent files a request for a due process hearing, the parent and the school may meet and try to resolve the problem before a due process hearing may occur in what is referred to a as a resolution session. The difference

between a resolution session and a mediation is that resolution sessions are required after a due process hearing request has been filed whereas a mediation may occur either before or after a due process hearing request has been made. During the resolution session, parents are given an opportunity to discuss why they requested a due process hearing, and the school should have an opportunity to resolve the dispute (Bon, 2017). This addition to the law intended to give schools an opportunity to resolve the parent concerns without the need for lawyers and hearings (Mueller, 2014). The change to due process requirements in this revision also included the potential for the awarding of fees to the local education agency (LEA) or state education agency (SEA) for frivolous lawsuits brought by parents and their attorney (Smith, 2005).

Another relevant change in IDEA 2004 that pertains to this study is a three-part test intended to assist a hearing officer's determination if a violation of FAPE occurred. In matters alleging a procedural violation, the hearing officer may determine if the procedural inadequacies (1) impeded the child's right to FAPE; (2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or (3) caused a deprivation of educational benefits (20 U.S.C. §1415(f)(3)(E)).

IDEA's procedural protections. IDEA contains both procedural and substantive protections. The procedural protections derived from parents more general constitutional rights under the Fourteenth Amendment to due process and equal protection of the law. Some examples of procedural protections include parents' rights to access their child's educational records, to participate in the development of the IEP, and to receive prior written notice of actions a school proposes. Another one of the rights under IDEA is that parents of students with disabilities be meaningfully involved in the special education process. To ensure that parents are equal participants, Congress included an extensive system of procedural safeguards (Yell, Ryan,

Rozalski, & Katsiyannis, 2009). State and local education agencies that receive assistance under IDEA must establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards concerning the provision of a FAPE.

These rights have been critical components of legislative attempts to ensure that students with disabilities receive a FAPE. The rights of parents were reaffirmed in *Winkelman v. Parma City School District*. In May of 2007, the U.S. Supreme Court issued a unanimous ruling that granted parents independent, enforceable rights. The Court reasoned that the wording in IDEA states that one of the purposes of the law is to ensure both the rights of children with disabilities and the rights of their parents are protected. The decision of the high court essentially mandated parental involvement in the IEP process because they believed it was crucial to ensuring that children with disabilities receive FAPE (Yell et al., 2009). Parents, if unsatisfied with the results of the process, are accorded a detailed set of due process rights to challenge the district's decision (Romberg, 2011).

When challenging a district through the use of due process, parents and their attorneys bear the burden of proof. The 2005 U.S. Supreme Court decision in *Schaffer v. Weast* clarified that the party bringing the suit bears the burden of proof, concluding that persuasion usually falls upon the party seeking relief. The *Schaffer* decision was controversial as it was only applied to this particular case. The decision to leave the assignment of the burden of proof as a state decision led to policy tensions and uncertainty (Gelbwasser-Freed, 2009).

Skrtic (2012) noted an additional challenge with the procedural protections of IDEA. He believes that the procedural safeguards themselves have become a barrier to resolving special education dispute. Whereas the purpose of IDEA was to further the rights and entitlements of the collective group of *all* students with disabilities, the procedural safeguards have shifted the focus

such that the attention is on the *individual* rights of particular students. The requirement for parent participation and the due process provisions have *individualized* the activism for students with disabilities which has enabled parents to engage in disputes for their child's eligibility and accommodations. This individualization of advocacy has, however, resulted in a competitive environment that benefits educated and resourced families. The unintended outcome of the legal evolution can be contrasted both with the collective advocacy on which it was established and with the need to address the broader social concerns about the education of *all* students with disabilities (Skrtic, 2012).

IDEA's substantive protections. In contrast to the procedural protections of IDEA, which set forth many well-intentioned expectations and the structural nature of the procedures designed in the law, the *substantive* component of FAPE has been left largely undefined. Most people agree that students with disabilities have the right to free appropriate public education. However, policy conflicts and disagreements occur within the details, such as the special education setting or how to support students who exhibit disruptive behaviors (Itkonen, 2007). IDEA prescribes *how* decisions about a student's special education are made, but not *what* decisions to make (Romberg, 2011). Beyond general language stating that the education must be "appropriate" and must be provided according to the IEP, no specific criteria have been put forward to prescribe the exact implementation of these intentions (Romberg, 2011).

The well-intentioned expectations for parental involvement within the procedural protections of the law and the undefined substantive components fuel the conflicts of providing appropriate services to students with disabilities. In fact, it is the level of *appropriateness* that has been at the heart of the clashes between families and schools over the past several decades.

***Rowley* and *Endrew*.** The most well-known case to define the levels of educational benefit that a school is required to provide a student with disabilities was the *Board of Education of the Hendrick-Hudson Central School District v. Rowley* (1982). The case involved a deaf child who relied mostly on lip-reading to learn in school. Her parents wanted an interpreter to be provided for her. The argument focused on the word 'appropriate,' a component of FAPE. The U.S. Supreme Court reversed a lower court decision that stated the system had not provided the appropriate services for the student with disabilities (Yell & Drasgow, 2000). The decision stated that the Education for All Handicapped Children Act of 1975 was not intended to guarantee a certain level of education, but merely to open the door of access to education for children with disabilities. The Court interpreted 'appropriate' within the IDEA's FAPE mandate to have a dual meaning, which was primarily procedural. The school district must provide procedural compliance with the Act. The substantive standard according to *Rowley* was that the eligible child's IEP must be reasonably calculated to yield educational benefit (Martin, Martin, & Terman, 1996; Zirkel, 2005). In reaching this decision, the Court "rejected the higher standards of commensurate opportunities, self-sufficiency, and maximization" (Zirkel, 2008, p. 401). In essence, the decision clarified that it is not the requirement of the state to increase the potential for children but to simply provide access to educational services. Romberg (2011) summarized the impact of *Rowley* stating that by minimizing the substantive protections of the Act, the Court instead "enshrined procedural safeguards as the Act's animating force" (p. 427).

Recently, in 2017, the U.S. Supreme Court revisited *Rowley* by answering a similar question in *Endrew F. v. Douglas County School District* (2017). In *Endrew,* the Court analyzed whether the Tenth Circuit Court of Appeals was accurate in its interpretation of what constituted an appropriate education. The Tenth Circuit had held that the school district only needed to

provide an education that conferred an "educational benefit [that is] merely…more than *de minimis*" (p. 997) for Endrew, a boy with autism. Endrew's parents contended that the final IEP proposed by the school was not reasonably calculated to enable Endrew to receive educational benefit. The district argued that Endrew's past IEP's demonstrated a pattern of minimal progress. The Supreme Court found that the *de minimus* standard was problematic. The Court reasoned that to meet the substantive obligation under IDEA, a school district must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. The decision reflected the notion that IDEA demands more than *de minimus*. The court declined to elaborate on what "appropriate" progress will look like from case-to-case, but stated that the "adequacy of a given IEP turns on the unique circumstances of the child for whom it was created" (p. 997).

Conflict between families and schools. Given the uniquely individualized nature of special education, differing perspectives regarding the design and delivery of students' educational services often occur. The needs of individuals with disabilities vary so greatly that it is nearly impossible to define the substance of the right to an education in general terms (Neal & Kirp, 1985). *Rowley* and *Endrew* are examples of how the absence of a clear substantive definition creates policy tensions. Courts are called upon to interpret what school districts are specifically required to provide (Itkonen, 2007).

According to Zirkel (2015), laws and court guidance that attempted to clarify are difficult to understand, cumbersome, and sometimes contradictory. For example, the most recent reauthorization of IDEA is more than 200 pages long and has extensive accompanying commentary (Zirkel, 2015). Special education laws are even further complicated by court decisions and the variety of requirements in state statutes and regulations. Lack of specificity,

according to Romberg (2011), has led to conflict with the application of the law. Neal and Kirp (1985) concur and add that this uneven implementation has led to disputes between parents and local school districts.

Congress has attempted to provide clarification and to respond to the voice of the parents by establishing statutory remedies in the form of entitlements for students with disabilities. Once the laws were enacted, there needed to be a mechanism to enforce the laws and ensure that school districts met the requirements (Itkonen, 2007; Skrtic, 1991). In contrast to other civil rights legislation, Congress decided to leave the role of enforcing these laws largely to the parents of students with disabilities (Pudelski, 2016). This action put parents in a necessary position of power and established an adversarial relationship between the families and schools. The special education director must work within that relational dynamic and act in accordance with the law in working with families to resolve the disputes that arise from the conflict associated with providing services to students with disabilities.

Micropolitical Conceptual Framework

In addition to being shaped by legal context, this study is also framed by micropolitics. Malen (1994) provides a working definition of micropolitics as the "process through which individuals and groups exercise power to promote and protect their interests" (p. 155). Because I studied how special education directors, representing school districts, and families interacted to resolve conflict, it was helpful to connect the study to a micropolitical framework that pays special attention to conflict, cooperation, adversarial relationships, allocation of scarce resources, and power.

A micropolitical lens has previously been applied to studies in school settings. LeChasseur, Mayer, Welton, and Donaldson (2016) conducted a case study examining the

micropolitics involved in school reform. Relying on the work of Malen and Cochran (2008), their study utilized a micropolitical understanding of schools as places where conflict, competition, cooperation, compromise, and co-optation exist (LeChasseur et al., 2016). Their study investigated how teacher inquiry was influenced by conflicting school priorities. District mandates, accountability pressures, and principal leadership were identified as influences of power structures. This study illuminated the competing demands and priorities that teachers and administrators face when performing their jobs. This understanding of power and competing demands helped to solidify my decision to apply a micropolitical framework to my study because of the power influences and competing demands faced by special education directors as they work to resolve conflict between families and schools.

In their book, *Kids in the Middle: The Micropolitics of Special Education*, Strax, Strax, and Cooper (2012) utilize micropolitical themes throughout the work to depict the effects of policy at the local level by describing the experiences of people with disabilities. They espouse that power, adversarial relationships, allocation of scarce resources, and language are among some of the many themes from micropolitics that influence the provision of special education to students with disabilities. They believe that, in its present form, the special education system is arranged to the liking of those who wield the power to maintain intact agreements that benefit them. In the preface to their work, the authors state that political scientists have ignored the politics on familial and local levels. They believe that by not understanding the key roles, actions, and concerns of parents and educators while interacting within the system of special education that the outcomes for children with disabilities will not improve (Strax, Strax, & Cooper, 2012). Their research informed my choice to link micropolitics to my study because the

impact on relationships and the allocation of scarce resources are a well-documented issues surrounding conflict resolution in special education.

Malen (1994) writes about the complex and competing demands, chronic resource shortages, uncertain supports, and value-laden issues with which schools are confronted. She acknowledges that schools face difficult and divisive allocation choices (Malen, 1994). This conflict is at the heart of most special education due process requests (Pudelski, 2016). The majority of special education due process hearing requests made by parents claim that the school district denied a student FAPE to which they were entitled under the law (Zirkel, 2015). Political and legal actions thus result from perceived differences between individuals and groups, coupled with the motivation to influence or protect personal interests (Blasé, 1991).

Another justification for the use of a micropolitical framework for this study is that micropolitics examine organizational operations, such as schools. For example, Ball (1987) defines micropolitics as the process which links the conflict and domination in organizational life. The concept encompasses the use of formal and informal power by individuals and groups to achieve their goals within organizations. This view of power recognizes that structures within an organization are neither neutral nor unchallenged (Willner, 2011). Organizational structures are not neutral because some actors are more privileged than others. The concept of unequal power distribution has been acknowledged as a negative effect of special education dispute resolution (Neal & Kirp, 1985, Pasachoff, 2011; Romberg, 2011). When power imbalances exist within organizations, they are challenged by actors who continually try to widen their scope of action and change the balance of power to their advantage (Willner, 2011). This dynamic interplay is also prevalent in special education law and policy development as evidenced by the

multitude of varying opinions and positions regarding the next reauthorization of IDEA (Bailey & Zirkel, 2015; Puldeski, 2016; Weber, 2014).

For example, The American Association of School Administrators, the School Superintendents Association (ASSA) released a position paper in April 2016 intended to spark dialogue about changes they deem necessary for the next reauthorization of IDEA. ASSA's position primarily contends that modifications to the current due process system could greatly reduce, if not eliminate the "burdensome and often costly litigation that does not necessarily lead to measureable educational gains" for students (Pudelski, 2016, p. 2). In considering the opportunity for reauthorization, ASSA believes that changes could focus on substantive issues rather than compliance requirements (Pudelski, 2016).

Yet another reason for viewing my study through a micropolitical lens is that it is an appropriate way to study the implementation of policy. According to Blasé (1993), micropolitical studies examine interactions in organizations, such as schools, as a useful way of analyzing the impact of political decisions. A micropolitical framework is needed because traditional organizational theories of education are not grounded in the day-to-day realities of school. Because of this, many of the resulting recommendations assume a rational, predictable, and controllable world that does not exist in schools (Blasé & Anderson 1995).

The micropolitical perspective of an organization highlights the fundamentals of human behavior and purpose surrounding power, conflict, and cooperation. It includes how people use power to influence others and protect themselves. It encompasses conflict and how people compete with each other to get what they want. It also includes elements of cooperation and how people build support (Blasé & Anderson, 1995). Cooperative and conflictive processes are integral components of micropolitical analysis which is why the use of this perspective is ideal

for studying special education dispute resolution which is itself a cooperative and conflictive process. For example, parents and schools must cooperate to develop an IEP for a child, yet IDEA fosters competition as evidenced by underfunded mandates which require districts to make decisions regarding the allocation of scarce resources. Existing policy encourages conflict by allowing parents to sue school districts. Legal battles then damage relationships and further prohibit the collaborative intentions of the law.

Implications and Significance

My study examines strategy to mitigate conflict and increase cooperation. The qualitative findings of my study provide understanding about the actual leadership actions and experiences of special education directors in preventing and responding to conflict in special education. The results provide school district personnel with insights about leadership actions that may resolve special education disputes. Additionally, the results of this study may be useful to policymakers to understand the experiences of school district personnel when implementing state and federal laws.

As mentioned, previous research has not focused on the impact to local school districts when due process hearings are requested, but settled before a hearing. This study offers significant findings to special education directors about how to prevent and respond to requests for impartial due process hearings. Chapter One provided an introduction to the topic. It outlined the background and scope of the research, described the conceptual framework, and explained the significance of the work. Chapter Two explores relevant literature on the topic, with content subdivided into five sections: (1) special education leadership, (2) leadership action to increase cooperation, (3) leadership action to mitigate conflict, (4) current data on dispute resolution, and (5) research surrounding special education dispute resolution. Chapter Two concludes with an

explanation of the gap in the literature in which this study sought to explore. Chapter Three explains the research methods used to conduct the study, with a detailed description of the participants of the study and the methodology utilized to gather data. Chapter Four presents the results of the study with a discussion of the findings. Finally, Chapter Five analyzes the findings to provide implications for practice and future research.

Chapter Two: Review of Literature

To inform my first research question, *what leadership actions did special education directors take to increase cooperation and mitigate conflict between families and schools,* I begin this chapter with background information about the complexities of special education leadership. Next, I present a review of the literature surrounding the leadership actions of special education directors to increase cooperation as well as their leadership actions to mitigate conflict. To inform my second research question, *what did special education directors experience after receiving requests for due process,* I summarize data about the current dispute resolution practices within IDEA. In the final section of this chapter, I explain how my research study helps to fill the existing gap in knowledge and to inform future practice and research.

Special Education Leadership

To better understand the interviewees of this study, I begin this section with a description of responsibilities of special education leaders. I also explain how the role of the special education director converges with other professionals within the school district.

The primary role of the special education director is to administer specialized programs for children with identified disabilities (Muller & Piantoni, 2013). The work of special education administrators involves negotiating interactions that occur among different processes and systems. Special education directors are responsible for ensuring that students with disabilities get what they need to learn and their teachers receive the support needed to do their jobs and remain in their positions (Crockett, 2004). Wellner (2012) described the practice of special education leadership as ongoing and cyclical, requiring a skilled leader to navigate perplexing processes and make confident decisions.

The Council for Exceptional Children (CEC) (2008), a leading organization for special education professionals, published a resource of ethics, standards, and guidelines to direct and enhance professional practice in the field of special education. Within this reference, CEC defines six Special Education Advanced Roles Content Standards to articulate the necessary skills for professionals in the field of special education administration. The six standards include (1) leadership and policy; (2) program development and organization; (3) research and inquiry; (4) individual and program evaluation; (5) professional development and ethical practice; and (6) collaboration.

As evidenced by the CEC standards, leaders in the field of special education do not work alone. They collaborate closely with general and special education administrators and teachers. Boscardin (2007) described the overlap as the commingling of knowledge and skills between special education and educational administration. Wigle and Wilcox (2002) conducted a study to investigate the perceived competencies of three groups of individuals when self-reporting on the leadership skills identified by CEC. The three groups included special education teachers, special education directors, and general education administrators. The results of the study indicated that special education directors reported strong skills in the areas of assessment, program development, and behavior management. The data also demonstrated that special educators and general education administrators rated themselves as less proficient in several areas in which special education directors rated themselves as having relatively high levels of competence. This finding indicates the importance of the specialized skill sets of special education directors and their ability to collaborate with and train special education teachers and general education administrators in the skills necessary to implement appropriate programs for students with disabilities (Wilgle & Wilcox, 2002).

Leadership Action to Increase Cooperation

One of the specialized roles of the director of special education is to resolve issues that arise between families and schools. According to Crockett (2007), the statutory changes within IDEA 2004 created higher expectations for administrators to build trust and negotiate conflict as they work with parents and other professionals to ensure the provision of special education services.

Communication, relationships, and trust. Research indicates that directors attempt to avoid conflict by increasing cooperation between families and schools. For example, in a qualitative study of special education directors' experiences with conflict prevention and resolution, Mueller and Piantoni (2013) identified seven key action-based strategies that directors utilize to prevent and resolve conflict with families. Those actions included (1) establishing communication; (2) providing parent support; (3) leveling the playing field; (4) intervening at the lowest possible level; (5) maintaining focus on the child; (6) finding a middle ground; and (7) understanding perspectives. The researchers reported that all of the directors interviewed for the study discussed the importance of utilizing conflict prevention strategies. One of those reported strategies included building trust through communication (Mueller & Piantoni, 2013). Wellner (2012) also studied the existence of trust in relationships between parents and district administration within the placement process of young students with autism. Her study identified three major categories of trust actions including (1) trust in relationship building; (2) trust in inter-personal communication; and (3) trust in problem-solving (Wellner, 2012). Mueller, Singer, and Draper (2008) also conducted similar research. In their study, all of the participants discussed the importance of maintaining positive relations between parents and school district members. Special education leaders in this study were described as having the skills necessary to

"interpret special education law, objectively evaluate the quality of educational services, include parents, and provide professional development" (Mueller et al., 2008, p. 222). Their study supports the notion of moving from reactive to proactive measures when dealing with conflict in the field of special education.

Building trust between parents and professionals is an essential component of collaboration. School districts have recognized the need to promote trust and positive relations with families to prevent conflict without litigation by changing the way in which districts address conflict. In their findings, Mueller and Piantoni (2013) indicated that "although directors shared many examples of proactive strategies they used to promote partnerships with parents, they still acknowledged the importance of knowing and using effective conflict resolution strategies" (p.10). Amicable relations between school districts and families can deteriorate during the process of resolving disagreements (Feinburg, Beyer, & Moses, 2002).

According to Margolis (1998), amicable outcomes are possible for parties who collaboratively seek solutions. When stakeholders make determined efforts to problem-solve and follow-up with skilled execution and implementation, concerns are frequently resolved through the negotiations that take place before litigation. When parties are not there to *win* the case, but to jointly meet the students' needs, there has been success in the face of discontent (Margolis, 1998). Zirkel (2015) advises all interested individuals to think twice before resolving concerns with litigation. He suggests that "whenever possible, using communication, compromise, creativity, and other skills that build mutual trust may be more effective than entrusting the matter to… courts" (Zirkel, 2015, p. 273).

There are several ways to resolve disagreements between parents and schools. A comparison chart of the dispute resolution options published by CADRE (2015) is included in

Appendix A. It is important to understand these avenues because they represent the options to families and schools to resolve their disputes. The methods can all result in similar outcomes for the student, but vary greatly in formality. In understanding the leadership actions of special education directors in resolving parental concerns, it is thus important to discuss all of the available options to resolve the conflict. Proactive strategies include conducting meetings or utilizing a facilitated IEP meeting as a form of alternative dispute resolution.

Convening meetings to resolve conflict. Many times disagreements between parents and schools can be resolved by having an informal meeting or by reconvening the IEP Team. IDEA defines an IEP Team as a group of specific individuals, as specified in the Act, who are responsible for developing, reviewing, or revising an IEP for a child with a disability (20 U.S.C. 1414(d)(1))B). In Indiana, the IEP team meeting is often referred to a case conference. Within this meeting, or case conference, Wellner (2012) believes that the success of the outcome relies on the leader's ability to encourage and generate open sharing of sensitive information, establish a clear purpose, and facilitate equal roles during the problem-solving process.

Facilitated IEP meeting. Though not described in IDEA, some states support a form of alternative dispute resolution referred to as a facilitated IEP meeting. This voluntary option for conflict resolution offers IEP teams a student-focused forum that facilitates open communication. The meeting is considered an IEP Team meeting, meaning that required notification must be sent and all applicable participants must attend. The goal of the meeting is to elicit agreements throughout the IEP process, resulting in a collaboratively designed plan for the student (Muller, 2009). A facilitated IEP is different from mediation in a couple of ways. First, the climate of a facilitated IEP meeting is more collaborative and less contentious because it occurs before a due process hearing request. If the parties are able to complete the process, an agreeable IEP exists as

a product of the process rather than a binding agreement as in mediation. Second, a facilitator does not impose a decision on the group (CADRE, 2004). Facilitators are professionals who are not employed by the school district and are trained in meeting facilitation (Mueller, 2004). The use of a neutral facilitator encourages the team to communicate productively, focus the efforts of the committee, and remain on-task (CADRE, 2004). Facilitators assist the team in creating an agenda and ground rules for the meeting. Throughout the meeting, they serve as a guide by keeping the team's energy focused on the student. The facilitator helps to maintain open communication by assisting members in the development and clarification of questions about issues.

Despite the benefits of IEP facilitation, there are no federal regulations that require this process and there is considerable variability related to the practice and those who serve as external facilitators (CADRE, 2004). Unlike mediation, state education agencies are not required to oversee a network of facilitators as they are mediators. Preliminary research regarding this alternative resolution option suggests that this practice can be successful in resolving disputes and maintaining positive parent-school relationships (Muller, 2009). According to CADRE (2004), the use of IEP facilitation is a growing trend and has proven useful when conflicts exist, or relationships are strained. The meetings are typically less stressful than formal proceedings and serve to build and improve relationships among IEP team members. There is also better follow-up from facilitated IEP meetings because roles and responsibilities can be discussed and planned (CADRE, 2004).

Leadership Action to Mitigate Conflict

When disagreements arise that cannot be resolved through an informal meeting, IEP Team meeting, or facilitated IEP, IDEA provides parents with access to legal remedies designed

to enforce the guarantees embedded within special education law (Chopp, 2012; Feinburg, Beyer, & Moses, 2002; Gilsbach, 2015; Mueller, & Piantoni 2013). IDEA contains four dispute resolution options including state complaints, mediation, resolution sessions, and impartial due process hearing (20 U.S.C. §1400 et seq., 2004).

State complaint. The first dispute resolution option is a state complaint. IDEA regulations require states to adopt and implement written procedures to provide an opportunity for an individual or organization to submit a complaint to the state (20 U.S.C. 1221e-3; 34 C.F.R 300.151(a)). Parents may choose to file a complaint, alleging violations of IDEA and state special education laws, rather than requesting a due process hearing (Zirkel, 2007). The nature of complaints are inherently procedural and typically do not involve the use of attorneys (Suchey & Huefner, 1998).

A complaint is a claim that the school has violated federal or state special education rules or has failed to comply with an order issued by an independent hearing officer. The complaint must allege a violation that occurred not more than one year before the date that the complaint was received (20 U.S.C. 1221e-3; 34 C.F.R 300.153(c)). The state must investigate whether the district violated IDEA as the complaint alleged (Zirkel, 2007). At the end of the investigation and review, the state education agency (SEA) issues a written decision, referred to as a finding of fact (Zirkel & McGuire, 2010).

Suchey and Huefner (1998) researched state complaints. They noted that although the procedure is utilized in all fifty states, little previous research had been conducted on the process. Their survey of the individuals responsible for complaint procedures within each state revealed an overall lack of systematic data collection surrounding state complaints. In their discussion of implications for future practice, Suchey and Huefner (1998) recommended more complete data

collection, better training of complaint investigators, and better notification to parents regarding the process.

In comparing the state complaint procedure with mediations and hearings, Suchey and Huefner (1998) noted a number of differences in the process. The scope of a complaint is broader and can exceed the substantive and procedural violations that are typically raised in a hearing which makes the complaint process more conducive to address systematic violations rather than focus on the needs of one student. Like mediation, the costs associated with the complaint process are paid for by the state education agency, not the parent or school district (Suchey & Huefner, 1998).

Mediation. IDEA's second resolution option is mediation. Mediation has been a formal option for dispute resolution since the 1997 reauthorization of IDEA. According to CADRE (2004), mediation may be utilized to deal with a broader range of issues in special education than in an IEP meeting. States are required to establish and implement procedures to allow parties to resolve disputes through a mediation process. The mediator assists negotiations between the family and school representatives and attempts to facilitate both sides into an agreeable resolution (CADRE, 2004; Mueller, 2009). It is a voluntary process that utilizes a qualified and impartial mediator who is trained in effective mediation techniques to work with the parents and school personnel to resolve their concerns (20 U.S.C. 1415(e)(1); 34 C.F.R. 300.506(a)). Mediation may be utilized both before a request for due process is filed or after. The purpose of a mediation session is to resolve the dispute through improved communication with the assistance, but not the decision, of a third party (Zirkel, 2007). Mediation is typically used when there is significant disagreement that the parties are unable to resolve (CADRE, 2004). Mediation may

not be utilized to delay or deny parents their right to an impartial due process hearing (20 U.S.C. 1415(e)(2)(A); 34 C.F.R. 300.506(b)(1)).

A request for mediation may be initiated by either the parent or public agency, but the mediation process cannot occur unless both parties agree to participate (20 U.S.C. 1415(e)(2)(A); 34 C.F.R. 300.506(b)(1)). The cost of mediation is covered by the state agency (20 U.S.C. 1415(e)(2)(D); 34 C.F.R. 300.506(b)(4)). If parties resolve the dispute through the mediation process, a written and legally binding agreement must be signed by the parent and the representative of the district/ local education agency. All discussions that occur in mediation are confidential and cannot be subsequently used as evidence in a due process hearing (20 U.S.C. 1415(e)(2)(F); 34 C.F.R. 300.506(b)(6)). When mediation is utilized, litigation has been reduced, and parties are usually able to resolve differences amicably (Margolis, 1998).

In contrast, research indicates limitations to the mediation process. Although high rates of success with mediation have been noted, participation is not mandatory, and the offer to mediate is often initiated too late in the dispute resolution process to be completely effective (Feinburg, Beyer, & Moses, 2002). The request process can be viewed as being reactive because it typically occurs once a party has filed a grievance. Additionally, a mediator's qualifications and training can also pose a limitation to the practice (Mueller, 2009). Beyer (1997) reports inconsistent mediation practices across the nation because of varying requirements for the position and training procedures. The IDEA requires that mediators obtain mediation training and demonstrate knowledge in the area of special education. However these requirements are flexible and contribute to reported inconsistencies (Mueller, 2009). Markowitz, Ahearn, and Schrag (2003) conducted a study of the mediation provisions and activities of 10 states. Findings regarding mediator requirements and training indicated wide variability (Markowitz et al., 2003).

The use of advocates and attorneys during the mediation process is an additional noted limitation (Feinberg & Beyer, 2000.)

Resolution session. The third option for dispute resolution within IDEA is referred to as a resolution session. This method works in conjunction with a request for an impartial due process hearing. Within fifteen calendar days of receiving notice of the parent's due process hearing request, the district/local education agency must convene a meeting with the parent and relevant members of the IEP committee to discuss the request and the associated facts. This resolution meeting is an opportunity for the parents and the school to talk about the issues in the due process hearing request to see if they can resolve them without a due process hearing. A parent may bring an attorney to the resolution meeting. If they do, the school may also bring an attorney. A resolution meeting may not be held if the parent and the school agree, in writing, to waive the meeting or agree instead to use the mediation process (20 U.S.C. 1415(f)(1)(B)(i); 34 C.F.R. 300.510(a)). If the parent is unwilling to participate in the resolution meeting, after reasonable attempts have been made and documented, the school may request that the hearing officer dismiss the parent's due process complaint (20 U.S.C. 1415(f)(1)(B)(i); 34 CFR 300.510(b)(4)). The research about resolution sessions merely defined them. I was unable to locate studies that evaluated the effectiveness of resolution sessions which validates the need to further study this option for alternative dispute resolution.

Impartial due process hearing. If the resolution session is not successful in resolving the dispute or the parents or schools waive it, then the hearing process proceeds. IDEA outlines that when parents and school districts are unable to agree on aspects of a child's education, the parents may file what is known as a due process complaint with the state department of education. This complaint is a request for a hearing. A due process hearing is a formal

administrative law proceeding, occurring in a quasi-judicial forum, in which parties dispute arguments and evidence before an impartial hearing officer (IHO). The IHO is hired and supervised by the state department of education, which oversees the administrative law proceedings. Utilization of due process hearing requests is the most formal and litigious way to resolve the conflict between families and schools (Bailey & Zirkel, 2015; Mueller & Piantoni, 2013). After parties have exhausted these administrative remedies, they are permitted to appeal to state or federal court.

Once the initial complaint is filed, a series of procedural steps are guaranteed by IDEA. There are many time limits that the local school district must follow when responding to the complaint. For example, within 10 days of receiving the parents' due process request, the district must send parents a written response that includes:

- An explanation of why the agency proposed or refused to take action raised in the due process complaint;
- A description of other options that the IEP Team considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- A description of the other factors that are relevant to the agency's proposed or refused action. (IDEA, 20 U.S.C. §1415 (c)(2)(B)(i)(1)]

A parent or district may file a due process hearing request relating to any violation of IDEA such as identification, evaluation, or educational placement of a child with a disability. However, when parents initiate a due process hearing request, the basis of their claim is often

that the school district failed to provide a free appropriate public education (FAPE) in the least restrictive environment for their child (Bailey & Zirkel, 2015).

The request must allege a violation that occurred not more than two years before the date the party knew, or should have known, about the alleged action that forms the basis of the due process complaint (20 U.S.C. 1415(b)(6)(B); 34 C.F.R. 300.507(a)(2)). The complaint must include a description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem. A proposed resolution of the problem, to the extent known and available to the party at the time, must also be included (20 U.S.C. 1415(b)(7)(A); 34 C.F.R. 300.508(a) and (b)). The party receiving a due process request must, within 10 days, send a response that specifically addresses the issues raised (20 U.S.C. 1415(b)(7), 1415(c)(2)(B)(ii); 34 C.F.R. 300.508(f)).

The independent hearing officer (IHO) conducts the impartial due process hearing. A hearing officer must not be an employee of the state or the school and must possess knowledge of and the ability to understand the provisions of the Act. The hearing officer must also possess the knowledge and ability to conduct hearings and render decisions in accordance with standard legal practice (20 U.S.C. 1415(f)(3)(A); 34 C.F.R. 300.511(c)(1)). At the due process hearing, the parent and the school district have the right to be accompanied and advised by an attorney who may present evidence and cross-examine witnesses (20 U.S.C. 1415(f)(2), 1415(h)).

At the conclusion of the hearing, the IHO determines the issues, findings of facts, and renders a decision based on federal and state statute and regulations as well as precedents established through other due process hearings, court decisions, or complaint findings (Feinburg, Beyer, & Moses, 2002). The ability of the hearing officer to issue orders is limited to determining the sufficiency of a student's disability classification and the implementation of the

IDEA's requirements. Once a determination has been made, a hearing officer provides a written opinion. If the parents prevail, the hearing officer orders the district to take corrective action to come into compliance with the law (Sparks, 2014). Such remedies may include compensatory education, reimbursement of parents' attorney fees, or tuition reimbursement.

So far in this chapter, I have provided a synthesis of literature to describe the role of the special education director and the leadership actions they take to increase cooperation. I have also detailed the processes within the law that directors utilize to mitigate conflict. Next, I share a summary of relevant literature to inform my second research question "*what did special education directors experience after receiving requests for due process?"* The remaining content of this chapter includes a synthesis of existing research describing the documented issues with special education dispute resolution. While the summary of the empirical evidence is not framed as the *experiences* of special education directors, the literature illuminates a platform for my study. In the final section of this chapter, I explain how my research study helps to fill a gap in knowledge about dispute resolution.

Research Surrounding Special Education Dispute Resolution

Parent dissatisfaction with special education services is a national problem. The original due process mechanisms from IDEA have proven to be overused and highly problematic for maintaining relationships between families and schools. Although the mechanisms are intended to protect parents' rights, due process hearings are by nature adversarial, expensive, emotionally exhausting, time-consuming, and strain the relationship between the family and the school district (Mueller, Singer, & Draper, 2008). Specific areas of concern regarding due process procedures are prevalent in the research. Scholars have written extensively about the extraordinary cost of due process procedures. Academics also report on the unintended

consequences of the legalized procedures including the negative impact on teacher retention and how the process takes an emotional toll on all involved, resulting in adversarial relationships between families and school personnel. Each of these documented themes is described in more detail below.

Allocation of resources. A noted concern of school districts with the current due process system is that such litigation is costly (Bailey & Zirkel, 2015; Mueller & Piantoni 2013). School districts spend over $90 million per year for conflict resolution (Pudelski, 2016) and regard the process as expensive, time-consuming, and a threat to their professional judgment and skill (Decker, 2014; Gilsbach, 2015; Heubert, 1997; Neal & Kirp, 1985). In the current fiscal climate of public schools, the possibility of spending tens of thousands of dollars on legal fees for a single student seems unconscionable. Often, district officials believe they must weigh the costs of complying with requests for services, programs, and placements against the potentially staggering cost of engaging in a due process hearing, even when the district personnel doubt that the request is unwarranted. Additionally, concerns have been expressed about the negative impact on students due to shifting funds away from educational purposes and re-allocating them to pay for legal battles (Mueller & Piantoni 2013; Pudelski, 2016).

Weber (2014) takes a different stance on the issues. He asserts that there may be some positive results of due process hearings, claiming that “due process is not a zero-sum game” (p. 512). He explains that sometimes parents request options that are less expensive for children such as a less restrictive placement than what the school district proposed. He further states that it is “not clear that there is a fixed pot of educational goods and that if the better-advocated-for children succeeded, the poorer-advocated-for children would have less” (Weber, 2014, p. 512). Weber suggests that districts could utilize the state risk pool, a state allocation for funding

education of children with high needs to offset the costs of litigation. He also points out that districts use insurance which allows them to take a stronger stand against parents because the financial loss to the district will not exceed their deductible. However, without regard to the effect of insurance in due process hearings, Weber does not address the amount districts are paying in insurance premiums nor the amount of the deductible that is typically expended each time a parent *requests* a due process hearing whether or not it the case is heard by a hearing officer.

Adversarial relationships. Litigation is also costly in terms of parent-district relationships (Bailey & Zirkel, 2015). In her study, Cope-Kasten (2013) found that the antagonistic nature of hearings destroy relationships between parents and schools and ultimately hurts the child's education. Attorneys aggravate the situation, rendering proceedings more legalistic and contentious than collaborative. Both parents and district personnel often feel dissatisfied with the due process system. According to Margolis (1998) "both the winners and losers often feel aggrieved, angry, and resentful" (p. 256). Non-prevailing parties often feel misunderstood and mistreated, which further impedes collaborative efforts (Margolis, 1998). Regardless of who is deemed the prevailing party, the process takes a great emotional toll on the personal and professional lives of both sides (Cope-Kasten, 2013; Decker, 2014; Feinburg, Beyer, & Moses, 2002; Mueller, & Piantoni 2013). Such sentiments can lead to less collaboration and a lack of trust between parties after the hearing (Neal & Kirp, 1985; Pudelski, 2016; Wellner, 2012).

Negative impact on teacher retention. The retention of special education personnel is another documented problem that is attributed to special education due process hearings. The emotional drain has resulted in educators leaving the profession (Heubert, 1997). The potential

of due process hearings may exacerbate the shortage of qualified special education personnel that already exists. If districts hope to retain these highly needed staff, it is essential that environments within the schools are created that support, rather than undermine the expertise of teachers (Pudelski, 2016). Neal and Kirp (1985) write that "the shadow of the law extends well beyond the formally affected parties" of a due process hearing meaning that the prospect of a hearing and the estimations of its likely outcome shape the behavior of participants (p. 77). In her study about special education teacher retention and attrition, Billingsley (2004) writes that the stress felt by these professionals was "one of the most powerful predictors of special educators' attrition" (p. 49).

Emotional toll. Litigation is particularly troubling for educators who already consider themselves over-worked, under-paid, and under-appreciated. Parents, like educators, also bear an emotional burden during the conflict resolution process. Due process hearings are not designed to provide relief for feelings of hostility and anger that parents often feel during heated disputes with the school district over their child's education. At best, they offer a form of vindication rather than a long-term remedy. Parents report that the rigidity and adversarial nature of due process hearings can have a negative long-term impact on the relationship between families and schools (Feinburg, Beyer, & Moses, 2002). Pudelski (2016) argues that students are never well-served by feelings of hostility between home and school. When the adults responsible for that student's education can't work together, a student's needs cannot be addressed effectively.

Conflict of interest. There is an issue that directors face when settling due process hearing requests which is less prevalent in the research, but still an important point to articulate. Special education directors have educational degrees. However, during the settlement period directors are working in a legal arena. The goal of the director to resolve the dispute in a

collaborative manner which will assist in developing rather than destroying relationships is contrary to the goal of a professional parent attorney who is under an ethical obligation to act as a zealous advocate on behalf of their client. This dynamic creates a conflict of interest between the special education director and the parents' attorney.

Interest of the special education director. Research on the extent of school employees' legal knowledge is limited (Decker & Brady, 2016). CEC (2008) standards for special education directors do include several references to legal knowledge and application. Although licensed special education directors have taken at least one school law class during their coursework (Heubert, 1997), many states do not require special education directors to obtain state credentials. Much of the training directors receive is gained through on-the-job experiences or obtained by reading professional journals and attending conference sessions. When faced with complex legal issues, special education administrators work with school attorneys to navigate the legal proceedings. Heubert (1997) provided suggestions for improving collaboration between educators and their lawyers. They rely on each other because many of the special education disputes today are in regards to educational strategies or pedagogical issues that lawyers aren't trained to answer. Decker (2014) also noted, that school "attorneys often have limited or no school law training because their practice areas often do not focus specifically on education law" (p. 4). Despite these limitations, school attorneys and special education directors must work together to resolve parent concerns. They also face the challenge of collaborating with parent attorneys who are acting on behalf of their clients.

Zealous advocate. The duty of the lawyer is to represent his or her client *zealously* and within the bounds of the law (Ventrell, 1995). The American legal system imposes upon the lawyer a professional responsibility to assist members of the public to secure and protect

available legal rights and benefits. The Model Code of Professional Responsibility and the Model Rules for Professional Conduct further require that the lawyer provide such assistance zealously and to the fullest extent possible within the bounds of the law (Haines, 1990). The adversarial system is premised on the notion that justice is the byproduct of able counsel zealously advocating each party's position. As an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As a negotiator, the lawyer seeks a result advantageous to the client but consistent with the requirements of honest dealings with others (Ventrell, 1995).

Attorneys are traditionally geared towards conflict, not cooperation. The traditional role of an attorney includes aggressive questioning and argument rather than collaboration. The mere presence of an attorney hinders the collaborative goal of alternative dispute resolution (Mueller, 2009). "Rights take on a life of their own in the hands of lawyers" as they bring a particular conceptual framework to the problem and complicate other ways of looking at solutions (Neal & Kirp, 1985, p. 70).

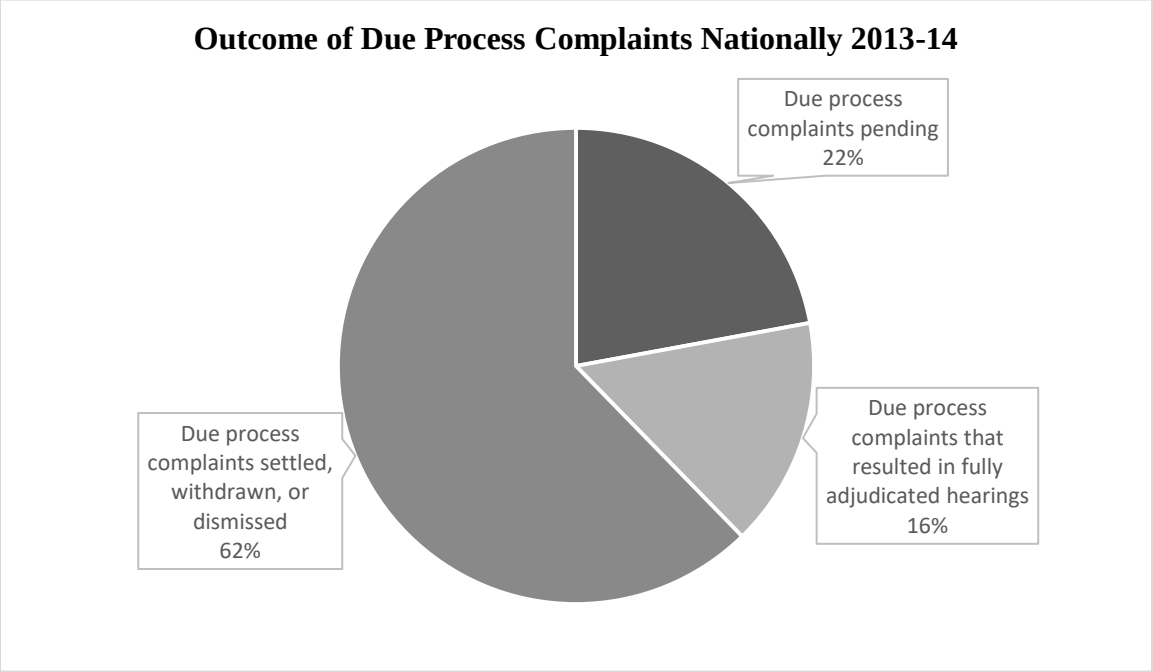
Haines writes about a shift in public opinion regarding the zealous advocacy. "Scholars and practitioners have challenged the role as being improperly regulated, morally bankrupt, inefficient, and damaging to the legal profession's image and prejudicial to the administration of justice" (Haines, 1990, p. 446). Kapp (2002) described a proposal to change the recommendation that the attorney always acts as a zealous advocate for the child to a recommended requirement of responsible advocacy instead. He describes the current system in guardianship law as adversarial and often entailing "scorched-earth, zero-sum tactics that multiply financial and economic costs and ultimately hurt rather than help" (Kapp, 2002, p. 1050).

This section of Chapter Two provided the literary context for my second research question, "*What did special education directors experience after receiving requests for due process hearings?"* I synthesized documented issues with special education due process including the allocation of resources, adversarial relationships, negative impact on teacher retention, emotional toll, and the conflict of interest between special education directors and parent attorneys. Next, I share current data about the national use of the dispute resolution processes before summarizing the gap in knowledge and significance of this study.

Current data. The 38th Annual Report to Congress on the implementation of the Individuals with Disabilities Education Act was issued in 2016. The data included in this report is from the 2013-14 school year and is the most current data available regarding the number of written complaints, requests for mediation, and requests for an impartial due process hearing. A total of 4,997 written complaints and 9,688 mediation requests were received nationally through the dispute resolution process.

Although the term "due process complaint" is utilized by the Office of Special Education, this is the beginning of a lawsuit. Data on due process complaints from the Congressional Report (2016) is depicted in Figure 1. A total of 18,011 due process complaints were received nationally during the 2013-14 school year. The complaint was resolved without a hearing for 11,222 (62.3%) of the due process complaints received. A hearing was conducted, and a written legal decision was issued for 2,813 (15.6%) of the due process complaints received. At the time of the report, 22.1% of the complaints were pending.

Figure 1: Outcome of Due Process Complaints Nationally



38th Annual Report to Congress on the Implementation of IDEA, (2016)

Gap in Knowledge and Significance of Study

A significant gap in literature exists with research on the period of time between when a request for a special education due process hearing is filed, but before it proceeds to a hearing. As reported above, nationally 11,222 (62%) of the requests for due process were settled, withdrawn, or dismissed before they proceeded to a hearing in the 2013-14 school year. The magnitude of this data illuminates the significance of the purpose of my research. This study is needed because, to improve practice and avoid the documented issues with due process, we must know more about the leadership actions to prevent and resolve conflict as well as special education directors' experiences responding to due process hearing requests. I studied this significant period of time before the hearing in order to learn if the negative impacts associated

with due process hearings were also present with *requests* for hearings. In conducting this study, I was able to capture the perspective of special education directors when implementing federal policy and also to understand ways that districts can resolve disputes with families to avoid the costs associated with litigation.

Chapter Three: Methods

My review of relevant literature indicated that special education due process hearings result in a negative impact on stakeholders (Bailey & Zirkel, 2015; Billingsley, 2004; Cope-Kasten, 2013; Gilsbach, 2015; Mueller & Piantoni, 2013; Pudelski, 2016) and that the leadership actions of special education directors mitigate the associated conflicts (Crockett, 2007; Mueller & Piantoni, 2013; Zirkel 2015). The literature also acknowledged the absence of an empirical review of the period of time after a due process request is filed, but before a due process hearing is conducted (Bailey & Zirkel, 2015; Decker, 2014; Mueller & Piantoni, 2013). Therefore, I chose to conduct a case study to examine the experiences and actions of special education directors. This method should allow my findings to fill this gap in the literature and inform future practice and policy development.

This chapter begins with the research questions that guided my study, followed by a description of my case study approach. Then, I describe the study's setting and participants, along with a rationale for my choices. Next, a description of the data collection procedures, instruments, and methods for analysis are shared. The chapter closes with a discussion of the limitations of my study's methods.

Research Questions

As the result of my literature review, I developed the following research questions:

1) What leadership actions did special education directors take to increase cooperation and mitigate conflict between families and schools?

2) What were the experiences of special education directors after receiving requests for

due process hearings?

Research Design

In designing this research inquiry, I considered the best possible methods to answer my research questions. In doing so, I contemplated a questionnaire or survey as the procedure to gather data for this study, but both presented limitations. A questionnaire would have allowed me to describe the prevalence of the incidence, but not to understand the experience of directors to inform practice. A survey could have resulted in data on the phenomena, but my ability to investigate the context of the study would have been extremely limited with a survey.

I choose to conduct a qualitative case study due to the descriptive nature of this form of inquiry. A case study is a method of inquiry that investigates a contemporary phenomenon in depth and within its real-life context (Yin, 2014). An additional reason for choosing a qualitative methodology is that this form of research is pragmatic, interpretive, and grounded in the lived experiences of people. A case study allows for a vividness and detail typically not present in more analytic reporting formats (Marshall & Rossman, 2011). These strengths of this form of inquiry are ideal to address my research questions which sought to study the actions and experiences of special education directors.

Furthermore, according to Yin (2014), case study methodology is the preferred social science method in situations when the researcher has little or no control over behavioral events. My study investigated directors' experiences with preventing and responding to special education dispute. The actions directors engage in to prevent conflict such as attending to relationships and establishing systems of communication are not isolated to one observable action, but are real-world events that are not operationally definable and do not happen on a

schedule. Rather the actions occur in context. Because of this, it would have been difficult to observe the directors engaged in proactive measures to avoid due process.

Additionally, this study investigated directors' experiences responding to requests for due process. As described in Chapter Two, there is a short window in which directors must respond to these legal requests which would have made it difficult for me to observe those activities. An additional reason I chose not to observe special education directors was due to the sensitivity and confidentiality of the situation. In Chapter Two, I described the stress involved by school administrators when responding to conflict. I did not want to add more stress by requesting to observe them in action during the response period. I also wanted to respect the confidentiality of the sensitive and personally identifiable information that is typically discussed during dispute resolution. Because of these reasons, I did not actively observe the special education directors to explore the questions of this research study. This research design decision aligns with Yin's (2014) belief that the case study methodology is preferred when examining contemporary events, but when the relevant behaviors cannot be manipulated.

However, by engaging directly with the special education administrators involved in prevention and response to conflict resolution through two interviews with each participant as part of a case study, I was able to have in-depth conversations about the experiences of the directors and to ask follow-up questions about their actions. This research design decision aligns with the work of Marshall and Rossman (2011) which espouses that case study research should focus on the lived experiences of individuals; therefore, it typically relies on an in-depth interviewing.

Though this study included multiple participants, I selected a single case design because of the common context under study. The objective for a single common case is to capture the

circumstances and conditions of an everyday situation because of the lessons it might provide about the social process (Yin, 2014). I defined my case as the *actions* and *experiences* of special education directors. The case is embedded within the context of the directors' work in preventing and responding to requests for due process hearings. By defining, and binding the case in this manner, I narrowed the scope for my data collection and analysis (Yin, 2014) to the actions and experiences of the special education directors in relation to their work in preventing and responding to conflict, particularly requests for due process hearings.

According to Yin (2014), the "research design is the logic that links the data to be collected and the conclusions to be drawn to the initial study" (p. 26). Yin (2014) recommended articulating study propositions to direct the attention to what should be studied throughout the course of the research investigation. The propositions act to clarify the scope of the study and indicate where to look for evidence during the investigation (Yin, 2014). This process also assisted in developing a descriptive framework which I planned to use during the analysis phase of the research. Therefore, to address this component of my research design, I incorporated concepts of micropolitics including conflict, cooperation, resource allocation, relationships, and power as a conceptual framework to guide my inquiry. These themes are present throughout the literature review in Chapter Two, interview questions, report of the findings in Chapter Four, and the implications of the study in Chapter Five. Additionally, by defining these propositions and articulating a conceptual framework, I am able to compare my findings to similarly situated research such as the micropolitical studies identified in Chapter One.

Setting Context

My study was conducted in Indiana, a Midwestern state. According to the Indiana Department of Education website, Indiana has 294 public school districts. The structure of

special education administration and the specific duties of special education directors are determined locally within each school district. Generally speaking, however, there are two main organizational structures of special education administration utilized in Indiana. Those are (1) local district administration or (2) a cooperative agreement.

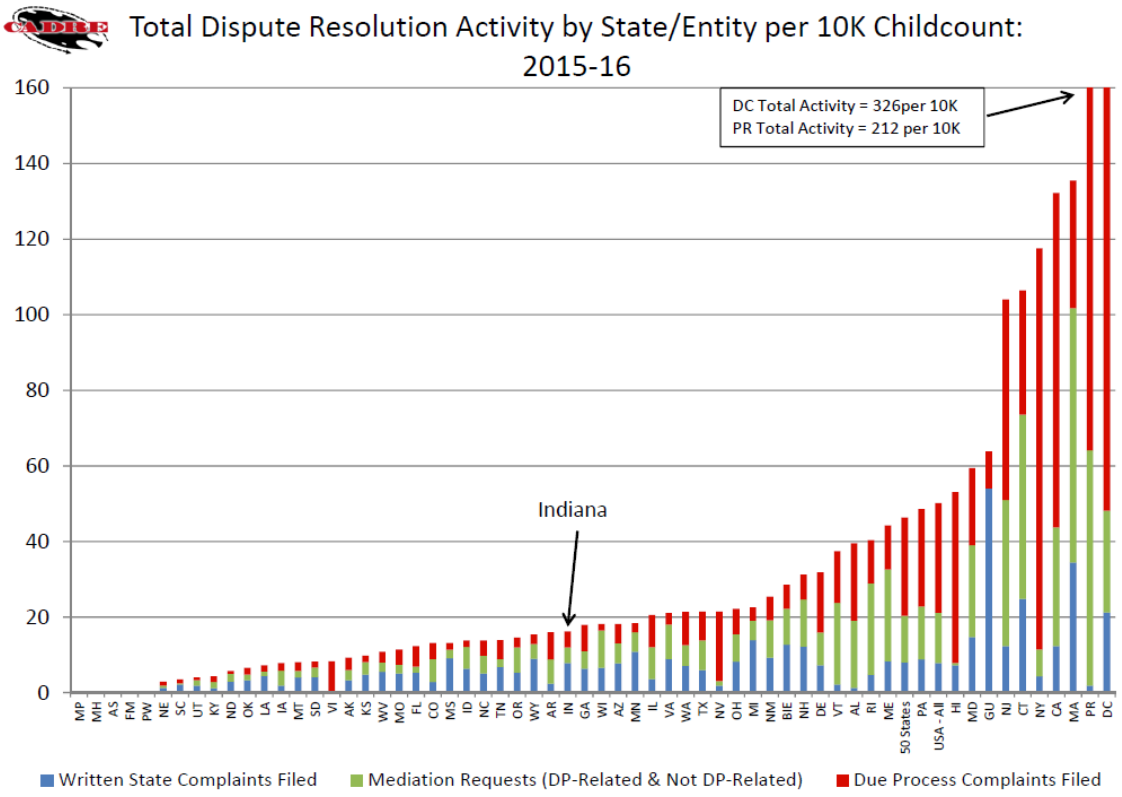
With a local district structure, school districts manage responsibilities for special education at the district level. Districts typically employ a special education director as part of their administrative cabinet or designate an administrator to be responsible for the operation of the special education program. Special education administrators in single districts typically also have other district responsibilities such as the coordination of other Federal programs like Title I and Title III. This is worthy of noting in relation to my study because the attention of this type of special education director is typically not solely dedicated to special education.

In contrast, the director of a special education cooperative is usually solely dedicated to the management of special education programming. In a cooperative organizational structure, school districts join resources to meet the needs of students with disabilities under IDEA and state law. Each special education cooperative structure is unique and is defined by a cooperative agreement. For example, the legal agreements typically define the terms of the fiscal arrangements and governance.

Participants in this study represented both types of organizational structures. Six of the participants directed cooperatives and four participants were local district directors. Regardless of the organizational structure for special education administration, all schools and districts are required to follow IDEA, the federal laws governing special education, as well as state laws which serve to clarify and extend the protections for students with disabilities under the IDEA.

In order to clearly understand the context of this study, it is important to note that Indiana has traditionally experienced a relatively low number of due process hearing requests. For example, data from CADRE (2016) positions Indiana's dispute resolution activity in comparison to other states. Figure 2 illustrates dispute resolution activity in Indiana relative to other US states and territories (CADRE, 2016). It is important to note this because findings from this study, conducted in Indiana, may be quite different from findings if the study had been conducted in New York, California, Massachusetts, Puerto Rico, or Washington D.C. where there is significantly more litigious activity.

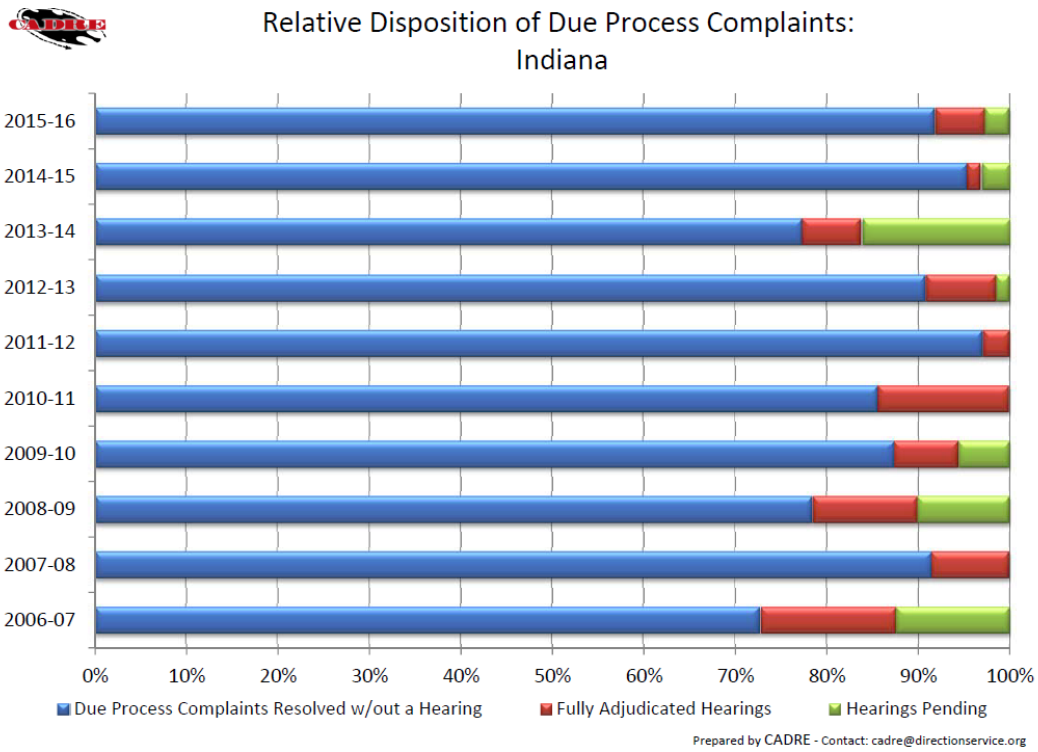
Figure 2: Total Dispute Resolution Activity by State 2015-16



Note. Reprinted from IDEA Dispute Resolution Data: Indiana from 2004-2015 from CADRE.

Additionally, data from CADRE (2016) in Figures 4 and 5, as well as the data in Table 1, illustrate that most requests for due process hearings in Indiana were resolved before proceeding to a hearing. This data indicate that families and school districts in Indiana have generally been able to resolve disputes before the conflict proceeded to an actual due process hearing. This distinction is critical to this study as it illustrates the significance of investigating the actions and experiences of special education directors in Indiana to prevent conflict and to respond to due process hearing requests.

Figure 3: Relative Disposition of Indiana's Due Process Complaints

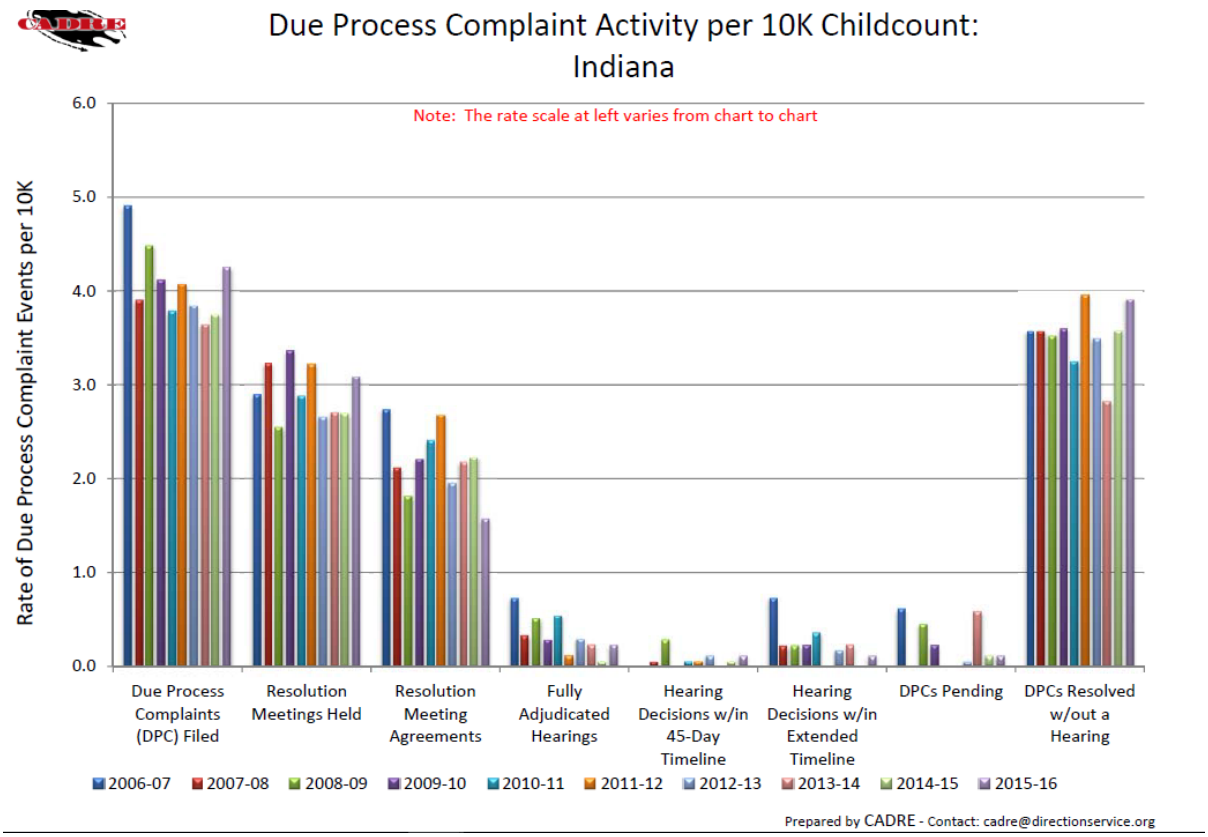


Note. Reprinted from IDEA Dispute Resolution Data: Indiana from 2004-2015 from CADRE.

As portrayed in Figure 3 (CADRE, 2016), at least 70% of the due process hearing requests were resolved without a hearing. In fact, in half of the 10 years reported, over 90% of the requests in

Indiana were resolved without a hearing. Figure 4 (CADRE, 2016) further illustrates the ability of families and school districts in Indiana to resolve due process requests without a hearing.

Figure 4: Indiana Due Process Complaint Activity



Note. Reprinted from IDEA Dispute Resolution Data: Indiana from 2004-2015 from CADRE.

Finally, Table 1 displays data from CADRE. The data display the actual number of due process hearing requests and their outcomes. Even in FY2011, the most litigious year as defined by the number of hearings, 86% of the due process hearing requests were resolved before they proceeded to a hearing.

Table 1: Due Prcess Requests in Indiana

Due Process Requests in Indiana: Hearings by Fiscal Year

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Hearings Requested	63	67	65	62	64
Hearing Requests Dismissed before a hearing	54	65	59	48	61
Adjudicated Hearings	9	2	5	4	1

Note. Reprinted from IDEA Dispute Resolution Data: Indiana from 2004-2015 from CADRE.

Finally, in defining the context of the setting of this study, it is worthy to note the use of facilitated IEP (FIEP) meetings. In the literature review, I discussed how the use of FIEP meetings is not required by law, but it is supported by many states. At the time of the study, Indiana supported districts' use of a FIEP process as a means to resolve conflict with families. This is evidenced by the information on The Indiana IEP Resource Center website. The Indiana IEP Resource Center is funded through the Indiana Department of Education to support the work of the state and the local district. The agency website included information on FIEP meetings such as the benefits, how to prepare for a FIEP, and how to request a facilitator. The IEP Resource Center website also indicated that the state employed trained facilitators who were provided at no cost to districts or families. No data was available on their website as to the number of requests or use of FIEP's in Indiana. Therefore, it is unknown the extent to which special education directors and other school administrators are aware of FIEP's and whether FIEP's are widely used in Indiana.

Research Participants

To address my research questions, I interviewed special education directors. I chose to focus my research on the person in this position because the director is the individual in the

district or cooperative who holds the main responsibility for responding to due process hearing requests. By nature of their position, directors are the most intimately involved with and knowledgeable of special education dispute resolution and therefore they were able to offer the most informative responses to my interview questions. My decision to interview special education directors was supported by Foster's (2004) study titled *Experiences and Perceptions of Special Education Directors Regarding the Due Process Hearing System.* In his study, he found varying perspectives based on the experience of the director. Directors with more experience were able to provide more insightful responses to his interview questions. His section on future research recommendations suggested "further clarification regarding the perceptions of directors who have the first-hand experience with a due process hearing" (Foster, 2004, p. 97). Thus, first-hand experience, obtainable only through time and practice, was a critical selection factor for the participants of my research.

Potential interviewees for my study were identified through a convenience sample, a purposeful sampling strategy (Merriam & Tisdell, 2016). I chose to gather a purposeful sample in order to focus on the unique context of my study by ensuring that the participants were special education directors who had experienced at least one due process hearing request. The sample was limited to Indiana as a convenience factor for my access to the participants (Miles, Huberman, & Saldana, 2014). To make initial contact with potential participants, I sent an email to the special education directors who were included in the existing email group with the Indiana Council of Administrators of Special Education (ICASE), the state's professional organization for special education administrators. The introductory email is included in Appendix B. The email described the study and requested participation from suitable participants. The study information sheet was also included in the email. Details of this communication identified the

measures I employed to protect the anonymity of the participants and the anticipated amount of time required by the interviewees to participate in the study. I included a link to an interest response form for directors who met the criteria for my study and were willing to participate. The response form collected basic identifying information and data about the number of due process requests each respondent received while serving as a special education director in their current position. I received 23 responses to the initial email contact. This initial response rate represents approximately 8% of potential special education directors from public schools in Indiana who are members of ICASE.

Using the special education directors' responses, I first narrowed the study's sample to 10 potential participants based on the location of the respondents. I chose to include 10 participants because I wanted to gather enough information to allow for a convergence of the data from the multiple perspectives of several directors who had experienced at least one due process hearing request during their career. I limited the study to 10 participants to keep the data collection process manageable and because I predicted that I would receive ample data from the 20 interviews of the 10 diverse directors.

One way in which I chose to ensure diversity of my participants was to select participants from both rural and suburban/urban districts. District demographics were reported as identified by the National Center for Educational Statistics (*n.d.*). School districts in locations with populations equal to or greater than 100,000 were identified as suburban/urban. School districts in locations with a population less than 100,000 were identified as rural. The categories of suburban/urban were combined to further protect the identity of the one urban district represented in this study. Because the study investigated sensitive information about past litigation, maintaining anonymity was vital. Additionally, it should be noted that participants in

the table identified as both rural and suburban/urban indicate cooperatives that include school districts in locations that met both demographic definitions.

The number of due process requests per participant is identified in Table 2. Ideally, I would have preferred for all of the directors within the study to have experienced multiple due process hearing requests. The decision to include participants with few requests embodied a trade-off to ensure that the participants selected were representative of the state rather than a concentrated focus in more populated areas.

Also, to ensure a sample representative of the entire state, I selected two participants each from the north, south, and east/west. I then selected four participants from the Indianapolis area which is the central, more densely populated, portion of the state. It is worthy of noting that 29 of the 37 school districts represented in this study were from outside of the central part of the state because many of the co-ops serve several school districts, therefore co-op directors can represent multiple school districts.

As I selected the participants from the regions of the state, I employed a second selection criteria. To assist with maintaining my positionality as a researcher and distance from the participants, I attempted to choose directors whom I did not already know through personal or professional association. Once the targeted participants were identified, I sent an email to each director to confirm their willingness to participate in the study and to schedule the first of two phone interviews. All 10 directors confirmed their willingness to participate in the study, and subsequently, all participated in the full research process.

Table 2 includes information about the participants in the study and the organizations they represented. Pseudonyms were assigned to protect the participants' identity. The directors

represented 37 public school districts and 19,658 students with disabilities. The directors experienced a combined 80 requests for due process within their current positions. Eleven of those requests, or 14%, proceeded to a due process hearing.

Table 2: Research Participant Information

Research Participant Information

Participant	# yrs experience	Org Structure	# Districts	Demographic	Location	# students with IEPs	# due process requests	# requests to hearing
Anne	5	Co-op	2	Suburban/Urban	North	1,793	3	0
Goldie	6	District	1	Suburban/Urban	Central	915	3	0
Judy	3	District	1	Rural	South	876	1	0
Keith	11	Co-op	5	Rural &Suburban/Urban	Central	3,109	23	2
Larry	3	District	1	Suburban/Urban	Central	4,890	11	1
Laurie	5	Co-op	9	Rural &Suburban/Urban	North	1,614	3	0
Len	18	District	1	Suburban/Urban	Central	2,192	17	6
Pat	11	Co-op	4	Rural	East	926	7	1
Rose	1	Co-op	8	Rural	South	2,379	2	0
Stephanie	14	Co-op	5	Rural	West	991	10	1
Totals			37			19,658	80	11

Data Collection

I conducted two interviews with each of the 10 special education directors to gain insights into each director's leadership actions and personal experiences when engaging in conflict resolution within their organizations. The questions were developed based on my review of the related literature and to inform my research questions, a research design element included to ensure a verifiable chain of evidence (Yin, 2014). The interviews consisted of semi-structured

questions which provided for a degree of uniformity between interviews but also allowed the opportunity for individual responses as well as for probing and clarification (Yin, 2014). The interview protocol is included in Appendix C. Each of the 20 interviews lasted 35-70 minutes.

All of the interviews were conducted over the phone. I obtained permission to record the interviews by requesting the verbal permission from the director prior to commencing each phone interview. Directors' responses were collected through audio recordings and researcher notes written on the interview protocol. The audio files were stored on a secure password-protected server. At the conclusion of the study, the audio files were destroyed. After each interview, I reflected on the experience and recorded researcher field notes. Field notes were a component of my database that allowed me to check my biases (Marshall & Rossman, 2011). The notes captured my opinions about what the interviewee stated in relation to my research questions as well potential follow-up questions (Yin, 2014). For example, one of my field notes stated "It seems he feels strongly about not utilizing FIEP. He would rather that his staff led the meetings. I wonder if this is because he believes he has built the capacity within his staff? Consider a follow-up question." The field notes were dated and tagged to the corresponding interview transcription in the Dedoose database. This allowed me to keep the notes organized, categorized, and available for later access, a process Yin (2014) refers to as an essential element of field notes since they were part of my data.

Data Analysis

Once the data were collected, I utilized an analytic strategy referred to as a case description which is a method of organizing data according to a descriptive framework (Yin, 2014). The findings from the case description were organized into topics that reflect the micropolitical framework of this study. For instance, because my first research question

examined cooperation and conflict, I specifically reviewed the data for evidence of communication, compromise, empathy, parent voice, preventing conflict, and relationships. Additionally, because my second research question explored directors' experiences in responding to requests for due process hearings, I specifically reviewed the data for evidence of effect on personnel, costs, time, factors considered when settling, resolution sessions, and issues with parent attorneys. I identified these categories based on the themes that emerged in my literature review.

Data was interpreted via a five-step iterative analysis. First, I transcribed the interview data and typed the field notes after each interview. This work was completed within one to three weeks of the interview. I chose to use a condensed transcription process which omits unnecessary utterances. This type of transcription process is commonly utilized for interviews which are part of case studies (Lochmiller & Lester, 2017).

Additionally, I created a case study database within Dedoose, a computer-assisted qualitative data analysis software, by entering the transcripts and notes into the system. A case study database is a way of organizing and documenting the data collected for the case study (Yin, 2014). The database included all of the transcripts and researcher field notes along with the demographic identifiers for each research participant. The database was an orderly compilation of all of the data from the case. During the process of analysis, I met with Dr. Chad Lochmiller, an Assistant Professor at Indiana University, specializing in methodology and co-author of *An Introduction to Educational Research, Connecting Methods to Practice* (Lochmiller & Lester, 2017) to review my case study database. We explored the sources of evidence and discussed themes that were beginning to emerge. Because the case study database can be reviewed by others, it increases the validity of the case study (Yin, 2014). The organization of the data in this

manner also assisted in creating a verifiable chain of evidence and validity of the findings (Yin, 2014).

Second, I conducted a preliminary exploratory analysis by reading each transcript to obtain a general sense of the data collected (Lochmiller & Lester, 2017). During this process, I created a memo of ideas and made notes about possible follow-up questions. The memos were also recorded within the case study database. Throughout the process of data transcription and analysis, I initially anticipated that I would need to follow-up with directors via phone or email for elaboration or clarification on their responses provided during the interview. However, I did not find it necessary to conduct any follow-up activities. Because I conducted two interviews with each participant, I was able to gather sufficient data and ask clarifying questions within the two interviews. During the initial analysis period, I also reviewed my researcher field notes. Reviewing the notes allowed me to examine any biases I may have held as the interview unfolded or as I reviewed the transcript.

Third, I engaged in a second reading of the transcripts specifically to find comments made by the participants that addressed my research questions. Within Dedoose, I applied descriptive codes to these relevant participant quotes. Some of the codes included trust, expense, parent voice, and impact on staff. Coding assisted me in developing themes from the data that began to address my research questions and align with the descriptive framework of the study. Examples of themes that emerged were relationships, issues with parent attorneys, and use of established conflict resolution methods. During the process of reviewing and coding the data, I also sought contrary evidence and looked for reoccurrence of evidence to indicate saturation of data, two strategies which enhanced the credibility of my research (Merriam & Tisdell, 2016). One example of contrary evidence was with the use of mediation. One director indicated that she

was able to use mediation in three cases to resolve requests for due process whereas all of the other participants indicated that they did not use mediation after a request for due process. Additionally, an example of reoccurring evidence was present within my findings about directors' experiences with parent attorneys. Specifically, most directors indicated that parents' attorneys increased conflict and that their involvement in conflict resolution increased the associated expenses.

Fourth, after the themes were developed, I constructed a narrative to explain the data about my research questions and to represent my findings. The narrative was organized into the themes that emerged from the data analysis. Fifth and finally, I organized the data to articulate conclusions and findings of the research within a case study report (Yin, 2014). The content of this report is included in Chapter Four.

Research Quality

Throughout the process of data collection and analysis, it was important to ensure that my findings and interpretations were accurate and credible. However, as the instrument of data collection and analysis, my own biases may have had the potential to influence my interpretation and representation of the data. To address this, Peshkin (1998) advocates an elevated state of awareness that stems from monitoring oneself as a researcher. A way that I addressed the trustworthiness of this study was to make efforts to stay aware of my positionality that could have influenced my research by employing strategies to check my biases throughout the research process. Because qualitative research is interpretive, it was necessary for me to reflect on my role in the research and how I interpreted the findings (Creswell, 2012).

Positionality. Before analyzing the data, I identified my positionality and noted its potential to shape my interpretations. As I mentioned in Chapter One, I am a special education director, and I have personally experienced four due process requests. All four requests were resolved prior to being heard by an independent hearing officer. Based on my own experiences and a review of literature, I became interested in studying the phenomena surrounding special education due process requests. I believe that if parents and school districts could work collaboratively, the majority of the issues raised through due process requests could be resolved without costly legal intervention.

Despite my belief in collaborative resolution, I focused my research so that I was not pursing or advocating for a certain orientation about conflict resolution in special education. To check my biases, I took actions throughout the research process to counteract my biases. For example, before conducting the interviews, my interview questions were written to answer my research questions and to reflect the identified micropolitical concepts. Additionally, my questions were reviewed by my dissertation chair and a colleague. During the interview process, I maintained my positionality by explaining to the directors that, as a director myself, I was interested in what they were sharing and I would have liked to engage in further two-way discussion with them that would allow me to also share my own experiences. However, I also explained that my objective was to maintain my role as a researcher and that I would not be able to engage in back and forth conversation about the questions. I believe that by explicitly stating this to the participants, it assisted me in maintaining my role as a researcher, but also it put the participants at ease in understanding the one-way questioning from a colleague.

Furthermore, the process of member-checking helped to ensure trustworthiness of the research (Merriam & Tisdell, 2016). Member checks involve seeking verification with research

participants with regard to the data that were collected by the researcher. For my research, this meant allowing my interview participants to review the transcripts from both of their interviews. Following all of my interviews, 9 of the 10 participants were emailed a copy of their interview transcript for review. To protect the anonymity of the data, I utilized their personal email addresses, rather than their school addresses. Rather than use his personal email, one director requested a hard copy of the transcriptions. After his interviews were transcribed, I mailed him a paper copy of the transcriptions for use in the member-checking process. The directors were asked to read the transcript and report any errors or issues with the content. The participants were asked to provide feedback to ensure that my interpretations captured their perspectives accurately. Participants submitted no corrections or additions.

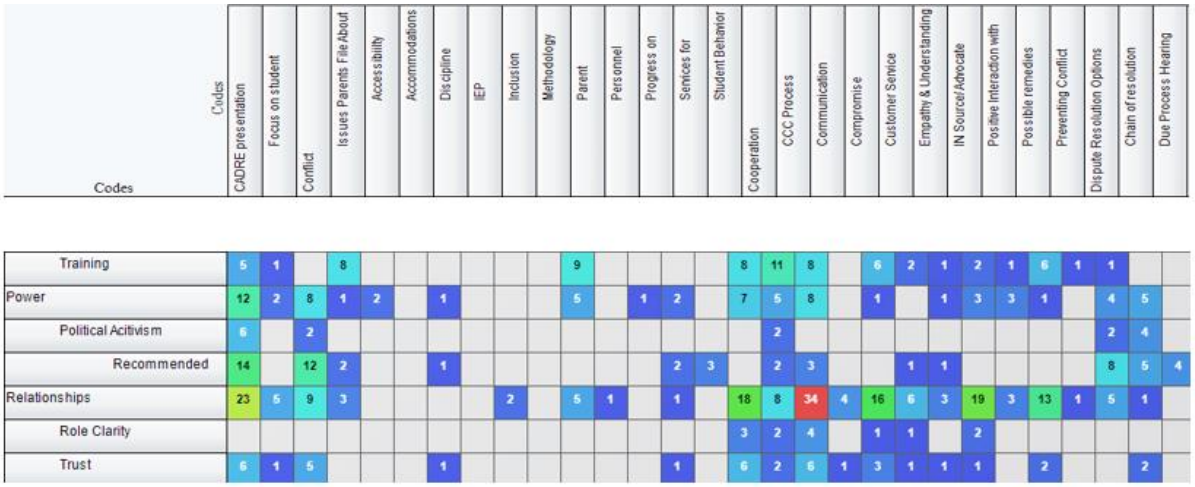
My study was framed to understand the topic and discover the themes and patterns that emerged based on the data collected. I utilized my knowledge of special education law to listen more effectively, ask guiding questions during the interviews, and summarize the evidence collected. In some ways my "insider perspective" strengthens this study. Nevertheless, my perspective is based on my experiences as a special education director and that is a noted limitation of this research.

Validity. The validity of qualitative research can be defined as the degree to which data aligns with the reality experienced by the subject (Lochmiller & Lester, 2017). Since my research sought to understand special education directors' actions and experiences, it was critical that the synthesized data accurately portrays the directors' reality. One tactic I utilized to increase construct validity was the use of multiple measures of the same phenomena of interest. Yin (2014) described this as "a behavioral event, with the converged findings implicitly assuming a single reality" (pp. 121-122). The use of evidence from multiple participants

increased the confidence that my case study rendered the actions and experiences of the special education directors accurately (Yin, 2014). To achieve this with my study, I relied on the code co-occurrence feature within Dedoose. This step was important to ensure that systematically reviewed the data collected from the directors. For example, codes that reoccurred frequently were relationships and communication. Figure 5 illustrates an overlap in participants' quotes between relationships and communication 34 times. These converging lines of inquiry strengthened the construct validity of this study.

Figure 5: Code Co-occurrence Table

Code Co-occurrence Table from Dedoose Database



By interviewing 10 directors, I gathered sufficient data to provide rich descriptions of the personal accounts of the participants. The multiple interviews provided for saturation of the data, and the reoccurrence of codes as indicated in Figure 5, which I was able to crystalize into one clear and convincing view within my research findings.

Validity is often considered regarding trustworthiness, the degree to which data collection, analysis, and presentation of findings are presented in a thorough and verifiable manner (Lochmiller & Lester, 2017). A second tactic I utilized to increase construct validity

included the use of a chain of evidence (Yin, 2014). To achieve a verifiable chain of evidence, first I ensured that the case study report, or content of Chapter Four, was adequately cited to the relevant sources of data I used to arrive at specific findings. The second link in the chain of evidence is that if those sources were to be inspected within the Dedoose database, it would be found that these sources contain the actual evidence (Yin, 2014). Third, the findings within the case study report are consistent with the specific questions contained within the case study protocol. In other words, the protocol links to the questions that were actually asked of the participants. Finally, the questions and evidence all link back to the research questions and conceptual framework of the study.

In summary, I took several steps throughout the research process to ensure the trustworthiness and validity of the findings of this study. I was aware of and took measures to check my positionality. I conducted multiple interviews which provided sufficient data to match patterns within the responses which indicated converging lines of evidence in response to my research questions. Additionally, I created an organized database which assists in the verification of the chain of evidence and allowed me to systematically review code co-occurrence. Finally, I engaged in the member-checking process with the participants of the study.

Limitations

Despite sound research methods, this study has potential limitations that must be kept in mind when reviewing the results of this research. The major limitations of this study are attributed to my choice to use data from my interviewees and my own field notes. Also, there are limitations posed by my selection of the research participants.

Source of data. Because of concerns for the confidentiality of the data being collected and the specific period under study, only two sources of data were collected. The findings of this study are reported based solely on the responses of special education directors provided during phone interviews and my field notes. The study did not include observations or review of documents, except for demographic data from the National Center for Educational Statistics and state level data about due process from CADRE. Utilizing mostly interviews as the source of data is a limitation because I was unable to observe the lived experiences of the participants. Interview data reported is based only on participant recollection of their personal experiences. Because participants are reporting on their own actions, it is possible that they may report their views in a more positive light than what may have been captured through a more objective method such as an observation. For example, the directors in this study reported positive ways in which they work with parents. While directors may desire to implement this type of culture between the school and parents, it is possible that direct observations of day to day interactions within the district may have resulted in contrasting data. I attempted to off-set this limitation with the credibility measures identified above including the convergence of data. However, a consumer of the findings of this study should keep this methodology limitation in mind.

Participant Perspective. The other major limitation of this study was created with my decision to limit the study to special education directors in Indiana. My choice of participants was appropriate, given my research questions and the scope of this work. However, the limitations created by my choice of participants must be acknowledged. First of all, the perspectives of parents, principals, classroom teachers, and attorneys are also important to the topic of special education due process. I did not interview these other individuals, such as parents and attorneys, who are also critical to dispute resolution. Each of these individuals has a unique

interest in the prevention and resolution of dispute in special education. As noted throughout the findings of this research, dispute resolution is a cooperative process based on trust and relationships involving multiple stakeholders. Not including the perspective of the other stakeholders is a significant limitation of the findings of this study because the data collected is one-sided. Parents, parent advocacy and attorney groups, and school administrators may discredit the findings of this research since their views were not represented within the study. To attempt to address this, I did review the findings and considered how it would be viewed from the perspective of others such as parents and parents' attorneys. However, I am not the parent of a student with a disability or attorney of a parent and thus, the study is limited without their perspective. However, to overcome this limitation, future research should expand the inquiry to include the perspectives of the other key individuals.

Furthermore, I placed a participant selection qualifier on the experience of the special education directors who were interviewed. The special education directors selected as participants in the study all experienced at least one due process request during their career and were members of the Indiana Council of Administrators of Special Education. This qualifier excluded participants who had no due process requests. It is possible that the directors with no requests for due process within their career may have a different approach to conflict prevention and resolution. For example, directors who have not experienced requests for due process may utilize effective prevention strategies. However, because my research was focused on the experiences of directors who had personal experience responding to requests for due process, the perspective of directors who have not experienced due process requests was not part of this study.

Finally, the location of participants is a limitation. All research participants were from Indiana. Participant selection criteria was employed to ensure that the sample of participants was representative of the state. However, the level of litigious activity varies across the country as indicated in Figure 2. The experiences of the selected participants are relative to only one area of the United States and therefore do not represent the possible variance based on location. These variances could be attributed to the use of alternative dispute resolution, such as facilitated IEP meetings or possibly the support provided from the Indiana Department of Education. When considering the findings of this study, it is important to keep these limitations in perspective.

Summary

This descriptive case study incorporated valid and trustworthy research methods to understand the leadership actions of special education directors to increase cooperation and mitigate conflict. Additionally, this research investigated the directors' experiences during the point in time between when a request for an impartial due process hearing was received, but before it proceeded to a hearing. By interviewing experienced special education directors, this research fills a void in the information available for this specific and important period within special education law processes. Although the period studied is short in duration, there is well-documented evidence of the related extraordinary costs, high levels of stress, adversarial relationships, and questionable outcomes that result from the process. When it is possible to achieve the same results with less adversarial methods, it is important to understand the intricacies of this process so that potential revisions to practice and policy may incorporate avenues to alleviate some of the ill effects of the current law.

Chapter Four: Summary of Findings

In this chapter, I present the findings from my research in response to my two research questions:

(1) What **leadership actions** did special education directors take to increase cooperation and mitigate conflict between families and schools?

(2) What did special education directors **experience** after receiving ***requests*** for due process hearings?

In terms of leadership actions to reduce family-school conflict, I found that the special education directors (1) attended to relationships; (2) attempted to understand the concerns of parents; (3) trained stakeholders; and (4) used alternative dispute resolution procedures. In response to my research question about what directors had experienced as a result of due process complaints, my interview data revealed that they had (1) received requests unexpectedly; (2) responded to litigation quickly; (3) allocated scarce resources; and (4) encountered negative interactions with parent attorneys.

Summary of Findings

The ten special education directors interviewed reported receiving a collective 80 requests for due process in their role as director of their organization. As shown in Figure 6, of those requests received by the participants of this study, 86% were settled without proceeding to a hearing.

Figure 6: Participants' Due Process Outcomes

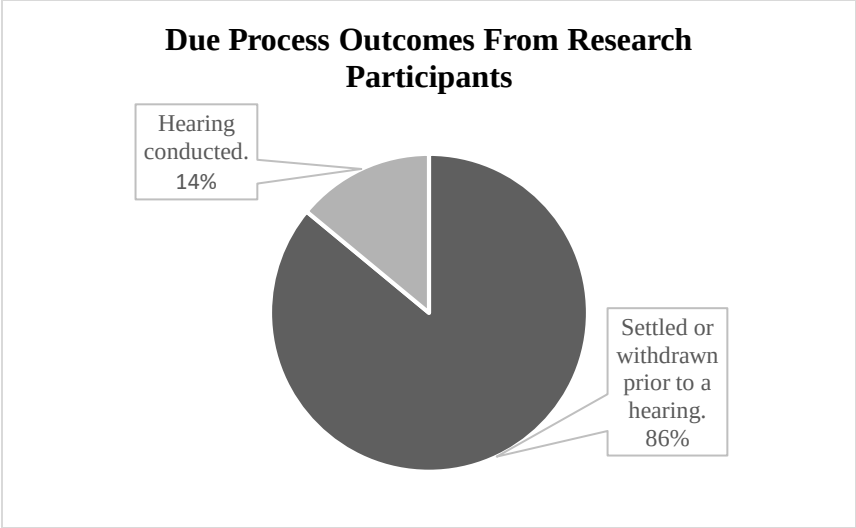


Table 3: Participants' Experiences with Due Process Hearing Requests

Research Participants' Experiences With Due Process Hearing Requests

Participant	# of requests	# resolved	# to hearing
Keith	23	21, 91%	2, 9%
Pat	7	6, 86%	1, 14%
Laurie	3	3, 100%	0, 0%
Anne	3	3, 100%	0, 0%
Goldie	3	3, 100%	0, 0%
Stephanie	10	9, 90%	1, 10%
Larry	11	10, 91%	1, 9%
Len	17	11, 65%	6, 35%
Judy	1	1, 100%	0, 0%
Rose	2	2, 100%	0, 0%
Total	80	69	11

Table 3 provides a summary of the due process hearing request experiences of the directors within this study. Half of the directors reported having all of their requests for due process settle before a hearing. Len's suburban/urban district accounted for 55% percent of the hearings, positioning his experiences as an outlier within the data set. If this outlier were excluded from the data, 92% percent of the requests would have been settled without proceeding to a hearing. The data reported by Keith could also be considered an outlier because the number of requests he received far exceeded most other participants. There are many reasons that may explain why Keith received the elevated number of requests. For example, Table 3 illustrates that Keith has been in his position for 11 years and operated a cooperative which served five school districts. Collectively, those five districts have the second most number of students with IEPs when compared with other organizations within the study.

RQ1: Leadership Actions

My first research question examined the leadership actions special education directors took to increase cooperation and mitigate conflict between families and schools. Four distinct themes arose from directors' descriptions their leadership actions. Directors reported that they (1) attended to relationships; (2) became aware of concerns; (3) trained stakeholders; (4) and used alternative dispute resolution procedures.

Attended To Relationships

Directors recognized that having relationships with families was critical in working together to resolve conflict. Four of the ten directors explicitly mentioned building relationships was a key strategy to avoid due process. For example, Stephanie stated "I think relationships are key in hoping to not go to due process. If you build that good relationship, [parents] can come to

you and share their concerns, and you can work through [the issues].” Len concurred that relationships with families created trust and assisted in avoiding due process. Directors also reported that they trained their staff to attend to relationships with families. Len shared “I [train my staff to attend to relationships] because we know when we have that relationship, [the concern of the parent] is far less likely to end up in a formal complaint.” To attend to relationships, directors reported that they prioritized availability and responsiveness, expressed empathy, and created a customer service-oriented culture.

Prioritizied availability and responsiveness. To attend to relationships, directors discussed the need to be available and responsive to parents and school teams. One director reported that families must know that special education directors are a resource to assist them in resolving their concerns. Stephanie shared that “as you’re forging that relationship, find some way to communicate that you’re their director and that you can be called upon to help in times of need.” Laurie shared her strategy for being visible with parents. She attended events for kids with special needs at the community athletic center. “I’m there, [at the community event] talking with the parents [of children with special needs].”

Additionally, directors reported that they responded quickly to parent concerns. Goldie indicated that “I always reach out to the parent within 24 hours to let them know that I care about their concern.” Goldie expressed the benefit of becoming involved early in a situation. “I spend the time on the front end because not only does it help diffuse the situation often, but it also starts a relationship with the family.” She shared that this level of responsiveness helped to build relationships with families. She indicated that it was beneficial for her to know the parents, and have that relationship, because they work together for multiple years over the course of a child’s educational career.

Expressed empathy. Directors reported that they prioritized empathy as a means of attending to relationships with families. For example, Len expressed a desire for schools to have an increased focus on the awareness of families' situations. Len shared that

> I can't emphasize enough the relationships that schools have to build with parents and kids. One of the bad habits [of schools] is not recognizing the peaks and valleys and sometimes nightmarish things that families sometimes go through with a child with a disability. [In special education] we have to understand where the parent is coming from and connect with them before we are ever going to work through what their kids need.

Len was not the only director who indicated that he used empathy as a strategy to attend to relationships with families. Stephanie also shared that she attempted to have an understanding approach with the parent and acknowledged that the perspective of school personnel was limited to the time the child was within their care. She indicated "we don't have any idea what [parents] encounter or what's going on at home." Goldie discussed a sympathetic paradigm in working with families as well. For example, she stated, "I sometimes wonder if parents are going through some grief processing and sometimes that's why we see them act [angry and hostile]." To help others adopt an empathetic orientation, Laurie reported that she reminded her staff not to be judgmental because they don't understand the daily experiences of parents with children with disabilities. She also cautioned staff not to approach a meeting thinking that they know all of the answers. She reiterated the need to work with parents on how the school can best educate their child.

Created a customer service-oriented culture. Several directors reported that they created a customer service-oriented organizational culture to attend to relationships and increase cooperation between families and schools. Customer service was an unexpected theme that

emerged from data. Larry directly referenced the term ‘customers’ when he discussed his expectation for personnel when interacting with parents. He described this expectation as a strategy he used to prevent parent dissatisfaction from escalating to a due process request. Len and Goldie shared leadership approaches they utilized to bring the paradigm of customer service to life in their districts. Len discussed how he worked with his staff on customer service. His leadership was framed through two book studies. One book was about building trust, and the other was a business book about providing excellent customer service. Len shared the reasons he focused on customer service within his district. He explained that schools work with parents’ most precious resource, their children. Because of this, the expectation in his district was for staff to perform at a higher level. Goldie also led through the use of book studies. She reported the she used a book which incorporated inclusive practices with families since families and students are the customers of school districts.

One of the means by which directors reported that they created a culture of customer service within their districts was to work with staff to have the right attitude and keep the focus on the student. Three of the ten directors indicated that the attitude of the staff was a critical component to establish a culture of customer service. Len described the importance of having the right attitude.

> You have to store your ego and control your emotions. If you can do that, [momentum shifts] from feeling [defensive to focused on the student] and working with the family. When an administrator or teacher digs their heels in, and they aren’t listening anymore, their ship is sinking. You’ve got to be able to let go of those things and be open to how we make this work.

Similarly, Anne shared how she focused on the student and not on the 'win' by stating "I am not going to go down the line for somebody else's ego or money. It has to benefit the kid." Anne identified this as strength in her organization. She shared "we do a good job keeping the student as the center of our discussions and not worrying about staff availability or the [impact on our] budget. Instead, we focus on what is right for the student."

Attempted To Understand the Concerns of Parents

The second theme that emerged related to understanding the concerns of parents. When asked how directors became aware of parent perceptions and concerns within the district, several directors indicated that they became aware by receiving complaints. Other ways they became aware of parent concerns included direct contact with the parent, being asked to attend an IEP meeting, and receiving feedback from a building employee. To effectively understand the concerns of parents, directors reported actions that enabled them to become aware of concerns early and to ensure parents were heard.

Established systems for communication. Directors reported the need to establish systems of communication. They discussed the importance of having an early awareness of concerns and the importance of communication structures within their organizations.

Four directors emphasized that it was important to have an early awareness of issues. Goldie shared reasons she wanted to have an early awareness of conflict between families and the school.

> The critical thing is that [directors] know the family is hot and know [the situation] is escalating. [Directors are] going to look at it with a different lens than a building principal or a superintendent. [Special education] is our area of expertise. Nothing makes

> me more upset than when something is brewing, and lots of people know about it, and I don't know because… I am going to see something that maybe others don't."

Goldie stated that when parents expressed concerns, the director needed to be involved to think through the law and work with the family to resolve the issues. She reported that this practice saved time and reduced frustration for staff and the families.

Rose described her experience with a parent who had filed a due process request against the district before she was aware a concern existed. This situation illustrated the importance of the director having an awareness of the issues to avoid due process. Rose relayed how she tried to figure out why the situation had escalated to a request for due process. In speaking with the parent, Rose discovered that the parent was angry because the principal had sent the parent a bill for property damage that his child had created when he was upset. The parent told Rose that receiving the bill for the damage was why he filed due process. In reflecting on this situation, Rose stated that the parent "felt like he didn't have a partner." The parent didn't know to call the director and the director didn't know the situation was occurring.

Larry discussed recent changes he made to the structure of his organization to address the flow of communications within his district to enable the special education administration to become aware of concerns more quickly.

> There is an [experienced] person in each building [responsible for] special education who gets training and support from our office systematically. [Issues] get directed to them… [which creates] a clear escalation protocol so if [legal concerns are raised by the parents], it's [addressed more effectively]. (Larry)

He reported that this new structure provided a process that has led to improvements in the flow of communications and enhanced his awareness of concerns.

Ensured parents were heard. Directors discussed the importance of listening to the concerns of the parent as a way to increase understanding and cooperation. In their responses, directors noted that school personnel needed to listen to parents. In addition to this being a requirement in the law, Goldie shared why this was important.

> I think one of the keys is that we don't… push [parents] to the side. We need to validate what they have to say and… take their thoughts and their ideas into consideration… If they are part of the team, part of the decision-making, then there is no reason [for them] to disagree.

Goldie expressed that parents know their children better than anyone. However she believed that the parents' voice is often minimized at conferences with school personnel. She reported how she helps parents to feel that they are part of the team. Goldie reported that she told parents "you are the most important person here. We need to hear from you. We need to hear your voice." She indicated that the effect of this action was that parents "felt validated and that they had the capability and the authority to speak up."

A few directors reported that listening to angry parents was challenging, but the directors realized that the families were advocating for their children. For example, Anne shared

> Even the [parents] that come at you so angry and are screaming at you, they are there as a parent, and they are advocating for their child. We need to respect that all of our parents are here to advocate for their kids. Some do it in a more effective way than others. Even if they are screaming, I can hear what they need.

Directors indicated that the use of a neutral party was a common way for parents to gain a voice and feel heard in conferences. Neutral parties included advocates, facilitators, and mediators. Two directors reported they often referred parents to the state-funded parent advocacy agency. Pat expanded on her reasoning for making the referral.

> Sometimes I feel that parents are overwhelmed by the number of people at the table from the school versus one or two that they have on their side. I think the outside person provides some level of relief to the parents. [Parents feel] they can be heard and they are an equal at the table with the school.

One director shared the response of a parent after using an advocate at a meeting. The parent reported that she hadn't understood things correctly and that the advocate was able to explain it to her. The advocate sent the parent information which made her feel more comfortable participating in the meeting. The director reported that she felt the conference ended well because of the involvement of the advocate.

Trained Stakeholders

The third theme that emerged from the first research question about directors' leadership actions to increase cooperation and mitigate conflict was to train stakeholders. Directors elaborated on the provision of training to two key groups including professionals and parents.

Professionals. Directors shared why they believed it was important to engage their employees in professional development. They identified who they trained and also their process for how they provided the training. Finally, the directors described what training was provided to the employees within the organization.

Aside from the basic reasons why directors would provide training to district employees such as writing compliant IEPs and providing individualized instruction, two other interesting reasons emerged from the data. The first reason was the need to educate teachers who did not receive traditional teacher preparations and are on emergency permits due to teacher shortages. Stephanie shared that "a lot of my special education staff are not licensed in special education or even in education. They are going back to school to get the transition to teaching license." The second unique reason that directors noted as a reason that they provided training for their employees was an outcome of a complaint or meditation. For example, Laurie stated, "I had to [provide] professional development last year because of a mediation." She shared that while it started as a reactive reason for creating the training, she capitalized on the opportunity to provide the same presentation to her other school corporations as well.

Whether it was an obvious or a unique reason why directors educated professionals within their district, a related decision that directors made was whom to train. Common responses of who directors trained included teachers, administrators, guidance counselors, and public agency representatives. Since the public agency representative, a term within Indiana's law that is used to designate the person responsible for the flow and outcome of the IEP meetings within their districts, directors trained them on the specifics of special education law and their role in the meeting.

Most directors indicated that they provided training for district administrators on compliance with the law and proper procedures to address discipline issues for children with disabilities. However, Larry described a unique perspective in regards to training district administration. He shared that he desired to empower principals. Larry described why he felt this type of training was important when he stated "if you think about most issues in a building, the

principal is the end all, be all. Some of the beasts that I have to deal with is because a principal had a problem with a parent." Larry described the work in his district to achieve his vision of empowering principals.

> One thing that has been a priority of mine is that principals own special education in their building. It's not like 'those kids' that the district supports. 'Those' are general education students first. 'They' are all your kids.

Larry's training with the principals emphasized that all students are part of the general education and that special education is utilized to provide students with additional supports.

Directors identified methods they used to deliver information to professionals. Several directors recounted providing professional development on an as-needed basis, whereas, other directors reported a more structured and systematic approach used to train their employees. A co-op director of nine rural school districts explained her reason for using an individual approach to professional development was because she had different cultural climates in each of her schools. She customized her presentation to the needs of the staff and to keep them in compliance with the law. Additionally, several directors reported conducting annual training, typically at the beginning of the school year. A couple of participants noted having their attorney conduct training with their administrators whereas other directors received the training themselves and then shared it with others.

Finally, directors considered the content of their training. Nearly all directors reported training personnel on compliance with the law. Others noted topics included working with parents, resolving conflict, and refusing requests. Larry ensured all of his staff were trained on their responsibilities to parents. Goldie stated that "it is a lot of making people aware of what's

reasonable and what's not." She indicated that it was important for school staff to understand the obligations of the school and what parents will likely view as reasonable. She indicated that this knowledge was important to help the school resolve conflict.

Parents. In addition to educating educators, directors also reported that they provided education and training to the parents of students with disabilities, the second key stakeholder group. Laurie conveyed positive outcomes when the school communicated with parents in an understandable manner and took time to inform the parents about the reasons for their recommendations. For example, Laurie stated, "from the initial evaluation process through placement and then programming, our leadership [informs] the parents so that they understand what the schools are doing."

Several directors discussed explaining Procedural Safeguards, Indiana's document outlining parents' legal rights that is required by IDEA, at conferences as their primary method used to educate parents. Beyond that broad approach, most respondents indicated that they provided training for parents on an individual or as needed basis. Len shared that "we don't do [group] parent training. It's more of a case by case situation." Judy indicated that she wished they did more parent training, but then noted previously low attendance as a rationale for the lack of priority.

In contrast, Larry indicated intentionality to parent training in his district. He described the reasons his district made it a priority to educate parents.

> We've taken our responsibility to train parents seriously. We know that in our community we have some parents that are taking advantage of it. They have less opportunity to brush

> shoulders with attorneys, advocates, and support groups, so we want to be their support group.

To meet that need, his district conducted a series of parent training at the schools. Laurie indicated that she has also provided parent training. She shared that she did not organize the trainings herself, but she volunteered to host trainings conducted by partner agencies or universities.

A topic of parent education that recurred within the data was the need to educate parents about their rights within the law to resolve disagreements. Keith explained that "I have come to understand the difference between a complaint and due process, but I think that's a hard thing for parents to understand." Len elaborated on the impact of parents' lack of knowledge about the options for resolving their concerns.

> The current system is not a progressive step system for resolving concerns. This causes problems because parents can transition from seemingly content to filing a due process. There are times that [district staff] did not even know how upset the parent was [until] they filed due process. We have no indicators that we're heading in that direction, but it jumps straight to due process over mediation or even speaking to the local director or building administrator to try to figure it out.

Len reported that the current process allowed for parents to file due process instead of having a level of steps for the parents and the school to work through before they required the assistance of attorneys to resolve their issues. He stated that he believed that if a step-wise system existed that the parties would be able to work more collaboratively to resolve concerns.

Several directors reported the need to provide more training to parents about the options for dispute resolution. Anne shared that her colleagues have been hesitant to provide information about dispute resolution options indicating that they "didn't want to put that in the parents' heads." However, she reported being open with parents and letting them know their rights. Anne shared that when parents were getting upset, she walked them through their options and even directed them to the complaint process section of the Department of Education website.

In addition to knowing of the processes, Larry felt that parents needed education on the terminology within the law and the differences between the resolution options. For example, he stated that "when [parents] are seeking to make a complaint, they don't know all of the vernacular. They don't see the [tiered levels of resolution options such as mediation before due process hearings]." While he acknowledged his preference for parents to call him first, he stated that he didn't mind when parents filed a complaint. He noted that mediation was more involved because of the need to work with a third party. He stated that his real concern, however, was with parents' lack of understanding regarding a due process hearing request. Larry shared that

> [a due process hearing] is court, an administrative lawsuit. I don't think the language is strong enough when it is shared with parents of what they are initiating. It seems like it's just some sort of an advanced complaint. Which it is, but it involves an administrative law judge and in most cases, attorneys. [Parents] don't [know that] when [they see due process listed as a resolution option]. [Most parents] don't know that they're initiating an administrative lawsuit.

Larry has attempted to educate parents about the impact of a due process hearing request. He described how he explained to parents that it is within their rights, but he also clarified that the

parents are suing the school. He encouraged parents to sit down with him and work out their concerns.

Used Alternate Dispute Resolution Procedures

Attending to relationships, understanding the concerns of parents, and training stakeholders were the first three themes that emerged from the data. Engaging in alternative dispute resolution procedures to resolve conflict was the fourth, and final, theme that answered my first research question, *what leadership actions did special education directors take to increase cooperation and mitigate conflict between families and schools*. Directors reported that was it their duty to work with the families and schools to resolve concerns. They engaged in leadership actions to discuss, mediate, and agree to the terms of resolution. Directors participated in alternative dispute resolution options including facilitated IEP meetings, state complaints, and mediation.

Facilitated IEP. One of the alternative dispute resolution processes that directors employed to resolve disputes was a facilitated IEP meeting. A few directors reported that they utilized this option. For example, Len indicated how a neutral facilitator bridged tense relationships and helped the parties move forward. Len stated that "the argument was about school staff and not FAPE. And so we had a third party come in and help buffer [the issues and create resolution]."

All of the participants acknowledged being aware of the availability of state-funded facilitators, however, several directors reported reasons why they did not use the optional facilitated IEP process. Some of the directors who reported not using the free resource through the state indicated that they incorporated components of the facilitation techniques such as an

agenda, building agreements, and other facilitation strategies to get similar results. Len stated that "the meetings are belabored, and the outcome can be unclear." Another director indicated that he preferred to demonstrate a local willingness and investment in the IEP meeting process without the need of an outside facilitator.

State complaint. Another form of alternative dispute resolution that directors participated in to resolve disputes was the state complaint process. Many directors reported being able to resolve state complaints without having a finding of fact issued by the Department of Education. Larry reported relatively positive experiences responding to complaints. Larry shared his district usually performed a self-correction before a ruling was issued. Most respondents indicated willingness to correct mistakes and rectify the situation for the student. Stephanie explained that "sometimes the parent is right." She described a situation in which the teacher did not provide an accommodation for a student. The school reconvened the IEP meeting and revised the document. Another director shared that when a mistake was made, the district put a training plan in place and provided compensatory services to the student.

There were a few noteworthy responses from directors about state complaints. First of all, a suburban director reported that there had not been many state complaints filed against his district. He attributed that to the higher socio-economic status of the families in his district. Len explained that "[parents] would rather go straight to the top than to start with a state process. In the second noteworthy response, two directors reported state complaints that evolved into more involved forms of dispute resolution. Larry recounted having one complaint resolved through mediation and another complaint progress into a due process hearing request. Anne described another unusual situation in which a parent filed a complaint, requested a mediation, and requested a due process hearing all in one day. She shared that "it was like they were exhausting

all of their options." In the final noteworthy response, a couple of directors discussed their decisions to let the complaint process take its course. Anne justified this decision as a way to narrow down the content of the complaint. She stated that "I am apt to let the Department of Education investigate [the complaint]. Once they go into their response, they pull out one or two things and we can respond to those very easily." Additionally, Stephanie shared that the state complaint process motivated unwilling personnel to come into compliance with the law. She described that "there have been times when I've asked the school to try to work with me to rectify a situation, and they've [resisted]. I told the DOE to proceed with the investigation."

Mediation. Mediation is an additional alternative dispute resolution process that directors participated in to mitigate disputes between families and schools. Directors indicated engaging in mediation when the school and the family reached an impasse in discussions. For example, Keith shared that it was a benefit to have the assistance of an outside person after he and the family reached the point of disagreement. He also noted that there was no cost for mediation except for his time.

One reported concern with the mediation process was that the outcome was dependent on the quality and training of the mediators. Anne stated that

> It depends heavily on the mediator. I've had some mediators who have more experiences in education, and special education in particular. Their knowledge of [state special education law] is very helpful. I've had other mediators who are just professional mediators. They are used to working with families, but they don't understand [state special education law] and those responsibilities. Those [mediations] have been less successful.

Other than the concern with the skill of the mediator, directors reported positive outcomes from the mediation process. Goldie indicated that she preferred mediation over due process because with mediation "at least you have an opportunity to talk." Pat shared that the mediation process allowed the parent to have an equal voice. She stated that "I think that the parent felt that her needs were being heard as equally as the schools' were being heard. She just wanted to make sure that she had an equal voice." Goldie reflected on one of her experiences with the mediation process. She shared that it was effective because "we both gave a little bit and we were able to stop what would have very likely been a due process. We landed in the middle which is what mediation is supposed to do."

When asked if mediation improved the relationship between the family and the school, responses were mixed. Goldie elaborated

> In the first case, I don't think it improved the relationship at all. In fact, it may have hurt it slightly just because she was only open to her outcome. I think that she felt like we were ganging up on her. In the second case, I think that it helped us because she saw that I would give as well and that I wasn't drawing a hard and fast line. I was willing to come off of my stance for the district and meet in the middle.

Another director indicated that mediation forged a personal relationship between the school staff and the parent which allowed the parties to understand each other's point of view better.

Directors engaged in three leadership actions to increase cooperation between families and schools. They attended to relationships, understood the concerns of the parent, and educated stakeholders. Directors also participated in alternative dispute resolution to mitigate conflict between families and schools. While these leadership actions described above helped to increase

cooperation and mitigate conflict, there were still times when parents requested an impartial due process hearing.

RQ2: Directors' Experiences

My second research question examined special education directors' **experiences** after receiving ***requests*** for special education due process hearings. Four distinct themes arose from directors' descriptions of their experiences after receiving due process hearing requests. Directors reported that they: (1) received requests unexpectedly; (2) responded to litigation quickly; (3) balanced conflicting demands; and (4) endured negative interactions with parent attorneys.

Received Requests Unexpectedly

The first theme that emerged from the data in response to my second research question about directors' experiences was that directors received requests unexpectedly. Several directors reported this experience. Len elaborated, when he stated that "we had no indicators that we were headed that direction. A lot of the due process hearings that I am getting filed now… are moving fast." He shared that some requests escalated directly from no indication of dissatisfaction to a due process hearing request. Larry also shared that he received requests for due process unexpectedly.

> More often than not, I have not known about [the concern], or the case has not been previously escalated. It's either come out of the blue or… it has not been a major concern, and then it gets pushed into due process.

Larry indicated that there were several cases that did get escalated to his attention. However, with the due process requests, he was not usually involved with the case until after the request was filed.

District size did not seem to be a factor that impacted this reported phenomena of unexpectedly receiving due process requests. Pat, a rural co-op director, shared comparable experiences.

> [Due process requests in our district] haven't come from unresolved conflict. Anytime that a due process has been filed, it's been filed kind of out of the blue. Or we knew that things were a little off, but we didn't know they were that far off.

Of the seven requests she received, she reported that most of them have been unexpected. Pat stated that she was "surprised they went to that extreme."

In addition to the reported surprise of the requests for due process, directors also reported receiving due process requests at inconvenient times. Pat shared that "more often than not, [due process requests] tend to come in on Friday afternoons at the end of the day. It's difficult to do much within the first 24 hours because it's the weekend." Judy reported receiving a due process request the Friday before spring break.

Responded to Litigation Quickly

The second theme that emerged from the data in response to my second research question about directors' experiences after receiving requests for due process was that directors took immediate action to respond to litigation. Directors explained how they investigated claims, engaged in mediation and resolution sessions, and decided to settle the complaint or proceed to a hearing.

Investigated claims. As soon as directors received the due process hearing request, they engaged in immediate actions to respond and resolve the concerns. When asked about these actions, directors interviewed reported a similar response. All of the directors specified that their first action was to notify the key stakeholders who included district administration, legal counsel, and the corporation insurance carrier. Directors also shared that they gathered communications, investigated claims, and worked with their legal counsel.

Directors indicated that they gathered communications. For example, Goldie explained that her attorney directed her to gather communications. Goldie shared that, "we want to know what's out there. I usually have [the technology department] run an email search. We [gather all available communications]." Goldie shared that she gathered and compiled the information because it helped her determine a course of action. We start [gathering records promptly] because it is a [time consuming process]." Directors indicated that they collected all of the student's IEPs, data, and other existing documents. Stephanie also stated that she gathered copies of the student's attendance, discipline records, and parent communications. Directors used the communications and records and worked with their teams and attorneys to investigate the claims against the district that were made within the complaint.

Directors described how they worked closely with counsel and investigated the claims. For example, Goldie explained that, "[our attorney] started the fact-finding process with us. I feel like [the attorneys] are the experts, so I let them direct the [response actions.]" In contrast, Keith, the director who experienced the most due process requests of the directors interviewed, described how his involvement with the attorneys waned after he gained more experience responding to due process requests.

Engaged in mediation or resolution session. Once directors received a request for an impartial due process hearing and investigated the claims, they reported that they participated in two formal processes with the law in an attempt to resolve the issues before the request proceeded to a hearing. Those options included the use of mediation and a resolution session.

Only one director reported a successful mediation outcome after she received a request for due process. Goldie participated in mediation, after a hearing request, to resolve three complaints. One of the complaints was about discipline. She stated that case shouldn't have gone to due process because the school made an error in discipline decisions. The second complaint was regarding a procedural error with a discipline decision. The school and family were able to come to a resolution by returning the child to the school environment with additional supports. The third request she resolved through mediation was an issue with accessibility to a playground.

Directors reported that the mediation and the resolution session are similar which could be a reason why directors reported that mediations are used less frequently. Len stated that the law changed to require a resolution session. Keith explained that, "because you have the required resolution session, I will often hear that the attorneys won't mediate because we have to do the resolution session." Judy reported a similar experience in which her attorney did not recommend the use of mediation.

The other process within the law for resolving disputes after a due process request was filed, but before it proceeded to a hearing was a resolution session. All directors reported that they participated in resolution sessions in good faith and with a willingness to engage in compromise. Anne shared why she engaged in resolution sessions. "It's worth giving it a shot. It's not going to hurt to spend that time. If you can resolve [some of the issues], that's going to put you in a better place when you walk into the hearing."

A couple of directors noted that they were able to resolve the issues shortly after the resolution meeting when parents were represented by themselves or an advocate as opposed to an attorney. For example, Larry described his experiences with resolution when parents were not represented by an attorney. Larry explained that, "the resolution session was extremely fruitful. We were able to hash through the major issues. If we didn't resolve it [at the first meeting], we were then able to resolve the issues [at a subsequent meeting]." Keith described similar experiences when the option of resolution sessions was first added to the law.

> I think going back to when resolution sessions were first introduced; we had some success in using resolution sessions to settle things. It was an opportunity for myself or someone new to be introduced to try and settle it. Sometimes that was enough to get the parent to agree to something and drop the due process request.

The positive outcomes reported by Larry when attorneys were not involved and by Keith when the resolution process was a new option within the law were two of the few comments reported by the directors that indicated a positive experience in regards to a resolution session as a dispute resolution option. Many directors indicated negative experiences with resolution sessions. Directors repeatedly reported that the involvement of parent attorneys in the resolution session was the reason for this negative experience. These experiences are described in more detail below in the section about directors' negative experiences with parent attorneys.

Decided to settle or proceed to a hearing. Directors shared their experiences when they decided to settle the complaint or to proceed to a due process hearing. The level of confidence with the case was a commonly reported factor when directors decided to proceed to a hearing or settle the complaint. Directors described having confidence in the case, or strength of their position, when the school was in compliance with the law and the student was making progress

on their goals. Additionally, directors reported considering the legitimacy of the complaint. For example, Keith shared that in his first case, "the parents were asking for something that didn't make sense. We were confident that what we were presenting was appropriate for the student." His other case that proceeded to a hearing involved an advocate who represented herself at the hearing rather than hiring an attorney. Keith described this experience

> Again, we were confident we had offered an appropriate program. We were more than 90% sure that we would prevail on both of these and so we went forward with the hearing. If after talking with the people who will be a potential witness and we're confident we'll prevail, we go forward. If we're less than 80% confident, we work hard to settle because there is such an expense connected with losing that we need to make sure we're going to prevail before we get into it.

Similar to how Keith reported how he determined his confidence with the case, Stephanie reported that she made the decisions to settle or proceed to a hearing as she worked to balance the provision of FAPE and the reasonableness of the demands of the parents. Stephanie explained

> I typically look to see if the school was in violation and if they failed to provide FAPE. If I know that [we are in error], then I try to rectify that through resolution. If I know that the school was not at fault and that the parent was just bull-dozing, I have [decided] we can move forward with the due process.

Laurie also reviewed the law and compared it to the benefit for the student when she decided to settle or proceed to a hearing. Laurie explained, "if we know under [state law] that the school has done what we believe would best benefit the kid, that's where I put all my stock." Larry

determined what he described as the strength of the district's position when he decided to settle or proceed to a hearing. Larry stated that, "we look at the legitimacy of their complaint and the issues of the complaint. If we present an offer that we believe meets the FAPE requirements, then we are more likely to [proceed to a hearing]."

Two directors shared experiences in which, after they investigated the situation and the strength of their position, they decided not to proceed to a hearing. Keith described his actions when he reviewed an IEP and identified problems such as incomplete or incorrectly completed sections. Keith explained, "I'll say to our attorney behind closed doors; we need to make this go away. We need to settle this." In another example, Goldie reported an experience in which a teacher had sent a negative email about the parent. Goldie shared that, "we pulled back at that point because we knew we had this damaging email and we knew we had misstepped." She also described a situation in which her investigation revealed several procedural errors. She stated that, "we had a teacher who struggled with paperwork and timelines. He had made so many mistakes that [the attorneys] would have just picked us apart on the paperwork alone. We knew we didn't have a strong case." She shared that those situations dictated the path of resolution and the district worked to settle the complaints.

Allocated Scarce Resources

The third theme that emerged in response to my second research question *what did special education directors' experience after receiving requests for due process* was that directors allocated scarce resources during the settlement window. The settlement window was the period of time from when a director received a request for due process until the complaint was resolved. The parents and the school district were the two parties engaged in conflict resolution during the settlement window. Throughout the process, parents were fully represented

by their attorney. As reported in the literature review, parent attorneys had one obligation during the settlement window. They were to be zealous advocates on behalf of their clients, working for the best possible outcome. Within the interview responses, the narrow focus of the parent attorney was contrasted with the many conflicting demands special education directors experienced during this same period. The school was also represented by an attorney during the settlement window. However, the special education director accepted the advisement of the attorney and balanced it with a multitude of conflicting demands they faced when they made decisions regarding the settlement of due process hearing requests. Directors reported that they allocated resources during the settlement window. The three resources frequently reported by directors included time, money, and human capital.

Time. Larry described his experiences with responding to due process requests as "very resource intensive." He brought together everyone that had been involved in the case before he compiled the response within the short window allowed within the law. Larry elaborated on the process.

> It's a file review at the most detailed level. We're going back and mapping out the timelines from the last two years. We're looking at what has and hasn't happened. We look at what the [allegations within the due process request] and our response to those and any other related facts.

Larry estimated approximately 100 hours of staff and attorney time to respond to a due process hearing request.

Rose stated that it was hard to calculate the exact amount of time dedicated to responding to a due process request, but she did report a significant loss of productivity. Rose explained that

"it took an enormous amount of time. I didn't get to work on a lot of projects that I wanted to work on." She also reported that the response preparations absorbed the time of the superintendent as well as the teachers and principals that were involved in the process to investigate the claims. Rose shared that, "it cost hundreds of thousands of dollars in man time. It's way more than the cost of the attorneys and the insurance deductible." Keith reported a response similar to Rose.

> Obviously, it takes my time. I'm suddenly spending a lot of time on one student and not doing other things. It pulls on the time of the teacher, administrator, and folks in the building to pull records together, to meet with me, to meet with the attorney. So they are not providing instruction during that time. Instead, they are preparing for a hearing or helping us prepare.

Len's response was consistent. He stated that the biggest resource used to respond to a request for due process was time. He described a year in which he received six due process hearing requests. Len indicated that, "80% of my time from November to the end of the school year was involved in those six cases." He explained the impact of this drain on resources. His time became focused on the due process requests and his assistant directors' time became focused on things he would have typically done such as working with the staff and attending IEP meetings. He shared that it pulled him and his team away from supporting curriculum and instruction. In contrast, directors of smaller organizations reported their experiences when they don't have other administrators on their team. Pat described how responding to a due process request absorbed her time. "It's a high dollar cost when you look at all of the hours that I, as a director, spend on a due process situation, even if it just goes to resolution. I've put a lot of hours in and time is money" (Pat).

Money. Directors in the study also reported managing financial demands. Even when due process hearing requests were resolved quickly and without proceeding to a hearing, districts incurred expenses. Len stated that "we're automatically on the hook for $10,000 to resolve the case" when his district received a request for due process. Stephanie described how the expenses accrued even without a hearing. For example, Stephanie shared that, "I've been able to settle several in resolution before the due process hearing. But we've still retained our attorneys. The state has issued the independent hearing officers, so those costs are [accumulating] while you're having the resolution meeting."

Pat reported that recently the recommendation from her attorney has been to settle because of the cost involved. For example, Pat explained that, "my deductible is $10,000 and then add in the cost for the hearing officer and transcriptionist and I'm probably going to [spend] $50,000-60,000 in a good situation, just for the hearing." Pat also shared how her district would also have to pay for outcomes ordered by the hearing officer such tuition in a private school. Because of this reality, Pat shared that she has been told that "it's just cheaper, in the long run, to try to settle. Larry reported that he received similar legal advice. Larry shared that, "our law firm basically said we should cave. We ended up having to pay out pocket a significant amount for their attorneys' fees, reimbursements for evaluations, and the placement itself." Goldie reported that she felt that the general public would not favor this approach to resolving concerns and the associated costs. Goldie stated that, "I think if the public understood how the process worked and understood how much money we shell out as school corporations, they would be shocked."

Keith discussed how he managed the financial decisions when he responded to a request for a due process hearing. Keith stated, "we estimate our likelihood of prevailing by doing a cost-benefit analysis to figure out if it is worth going to hearing or not. If we lose, it goes to our

insurance, and our premium goes up next year." Anne also reported how she analyzed the decision. Anne explained that, "we always weigh the costs to determine if it is worth the amount of money we're going to spend on our attorney, a hearing officer, and the time for all of our people." She described that she was transparent with parents about the costs. She told the parents that "we're spending money, you're spending money. Let's see where we can come together to take care of these issues and direct those dollars towards the student versus all of these experts and things outside."

Directors reported that they managed the costs through insurance. Most directors reported that they had a $10,000 insurance deductible. Stephanie was part of an insurance trust and was able to keep her deductible to $2,500. Len shared that the deductible for their district was $5,000 a couple of years ago, but because of their loss history, it had risen to $10,000. Larry was the only director that reported that the district was self-insured. Larry stated that, "our district chooses that rather than to pay insurance premiums."

Human capital. The third scarce resource directors reported that they managed during the settlement window was human capital. Several directors indicated that the response to a due process hearing request took an emotional toll on teachers and administrators. Anne indicated that "the stress really wears on the people who work for you." Pat described some of the feeling and emotion that wore on the staff. She indicated that staff felt shocked and upset when they saw the claims parents and their attorneys had made when they filed the request for due process. She stated that many of the claims weren't true or valid.

Stephanie reported on her hesitancy to notify the special education teacher when the district received a due process hearing request for a child in that teacher's classroom. Stephanie explained that, "it makes [teachers] so nervous and they are still dealing with that child. And I

don't want them to have a biased opinion of the student in their classroom." Administrators attempted to reassure the teachers and coached them not to worry. However, Stephanie shared that teachers naturally felt worried. Anne described due process as a scary for teachers. Anne stated that, "it is a huge emotional drain on staff and administrators because it is usually an unfamiliar process." Keith shared his experience when he interviewed teachers to prepare response to a due process.

> I feel like I'm constantly prefacing that I'm asking [the teacher] a hard question. But I want to know the answer here rather than find it out later. I'm really interrogating them as to whether they have done everything the IEP says they should have been doing. That's an uncomfortable situation for everybody.

Goldie reported that a due process hearing request nearly put her staff into a panic. She shared that she spent time consoling and supporting her staff through the process.

Another conflicting demand that directors navigated during the settlement window was the relationship between the school and the family. For example, Rose shared that, "knowing you need to have a working relationship with the parents after whatever happens is a factor too. You have to work with this family going forward. That is the nature of that relationship."

Most directors reported an adverse effect on relationships between families and schools once a request for due process was filed. For example, Anne stated, "I've seen [due process] destroy relationships between a parent and the school." Pat shared a similar sentiment. She stated that "when you are in that situation, relationships are strained or broken." Rose described how communications are halted during the settlement window. Rose elaborated "when you get a due process [request], the communication stops. [Parents] are not answering emails. The parent who

has always been pretty responsive is no longer responsive." Larry explained why he felt that due process destroyed the relationship.

> I think people get entrenched when it is a lawsuit. I have even tended to do that once it gets lawyered-up. Lawyers are very good at arguing. It damages the relationship between the parent and the school. Sometimes that takes years to recover. It is very detrimental to the relationship.

Goldie reported that due process changed the relationship with families. She discussed how she worked to repair the relationship.

> As a director, I work very hard to rebuild and repair with families once we have [settled a due process request], particularly if it is a student we will have for a long time. But it puts everybody on guard forever. Once a family has filed, it is known that they have filed. Also, I think teachers get very nervous and are afraid to misstep because one of their worst nightmares is to be in a legal proceeding of that kind. It just forever alters that rapport and relationship with the family which is unfortunate.

Len experienced seventeen requests for due process in his career and six of those requests went to a hearing. He reported that he worked to resolve concerns as quickly as possible because in his experiences with due process, relationships were impacted and outcomes were bleak. Len stated that, "nobody wins, even when we prevail." He noted that parents perceived that they lost face and integrity and relationships crumbled. Of his cases that went to hearing, he reported that all six families moved out of the district after the hearing concluded. Len summarized his thoughts when he stated, "even if we win, we lose for the child. No matter what."

Encountered Negative Interactions with Parent Attorneys

The fourth theme that emerged from the data in response to my second research question *what did special education directors experience after receiving requests for due process* was that special education directors perceived interactions with parents' legal counsel as negative. Directors indicated overwhelmingly negative experiences with parent attorneys while engaged with them during conflict resolution surrounding requests for an impartial due process hearing. Recurrent issues included that parents' lawyers escalated conflict, strained relationships, and increased litigation costs.

Attorneys escalated conflict. One reported way that the parent's lawyers escalated conflict was the inhibition of collaborative processes. Directors reported that one reason they chose not to participate in mediation after a request for due process was because of the involvement of attorneys. Larry stated that he felt that the mediation process was tainted by the involvement of attorneys. Larry explained that, "I think when the attorneys get involved, people get entrenched in their sides. It becomes much more difficult to bring people together and come to [an agreement]." Anne shared a similar sentiment regarding attorney involvement in mediation. Anne avoided including attorneys in mediation because of the cost and stress it created. For example, Anne shared that, "[involving] the attorney drastically increases the stress level of staff. Also once you get attorneys involved, the expense is outrageous."

When parent attorneys were involved in the resolution sessions, directors utilized the words "worthless, pointless, and frustrating" to describe the experience. For example, Rose shared

> The parents have been instructed not to agree to anything. We'll come in and listen. We'll summarize what their complaints were. They will say they asked for things that were asked for in the due process. But they don't engage in any discussion.

Directors reported that parents are coached by their attorney to attend the resolution session, but not to make any agreements or sign a resolution document. Keith described what he reported as a frustrating process. Keith stated that

> We often agree with the parent, but the parent has been instructed by their attorney not to sign anything. So the parent will leave and then the attorney will come back and [alter the agreements.] The negotiations go on, and the attorneys' fees continue to grow.

Pat reported similar experiences when she attempted to engage in resolution sessions with parents represented by one particular parent attorney group. She stated that she felt that the parents' attorneys told [the parents] not to agree in the resolution session. Pat described that the "[resolution] has not been very effective. It just seems to be a motion that we participate in. The parents have had no desire and no willingness to attempt to resolve at that stage."

When asked if he has ever been able to execute a resolution agreement which led to the dismissal of the due process request, Len reported that he had not. Len explained

> No. Never. Because the attorneys won't sign it and agree to it. They won't advise the parents to sign it either. They want to go back into the issues. And really what they want to do is to get the parents fired back up against the school. Because when [parents] sit with my team and me, we can resolve it and work cordially together. But then it gets stirred back up because they won't sign it.

Len stated that when he entered into a resolution meeting, he believed he could resolve the issues with the parents in an agreeable manner 99% of the time. However, he stated that, "[attorneys] twist it around and don't let it get resolved. They start pulling in new issues or maybe going more in-depth on the issues that they filed on."

Part of this reported problem was a systems issue, but parent's legal counsel also played a role in hindering cooperation as a means of resolving conflict. For example, Len shared that part of the cause of this problem was because of the way the law is written. However, Len also stated that "it's being driven by the attorneys that know that they can go from not even anything being on my radar to… a due process request. They are not obligated to [make any efforts at collaborative resolution]." Len indicated that he felt that the system was set up to prevent collaboration and cooperation between the school and the family. Len shared that

> If we had a system that [parents] can get to me to help resolve this before they filed due process, and the attorneys are involved, we would solve these problems. They are not earth-shattering problems. Sometimes we are just not on the same page, and we have to work through that.

Anne agreed with this sentiment. She stated that, "I wish that the attorney and advocate would have just said let's go back to a conference before jumping into this. I think it could have been done without the due process request." She felt that the school tried to cooperate with the parents to resolve the concerns, but once it was escalated to a due process request, the parent attorneys didn't let the families participate in a collaborative resolution process. While the law allowed parents to choose due process as a resolution option without first requiring families to discuss their concerns with the school district, one director stated that the acceleration was driven by the attorneys that knew they could escalate the complaint directly to the most contentious form of dispute resolution. Larry shared that parent attorneys had no obligation to assist in resolving parent concerns in a more collaborative or cost-effective manner.

Another way in which directors indicated that parent attorneys escalated conflict was through their actions which directors' viewed as attempts to intimidate and gain power. Larry

relayed his experience with opposing counsel in a resolution session. Larry stated that, "I think about [a particular parent attorney] walking into the negotiations, dropping a folder on the table and leaning back in the chair almost like a movie character and I think about how belligerent, inappropriate, and unprofessional the behavior was." Larry felt that the attorney was essentially trying to gain power. Anne recalled her experience with one particular parent attorney that "wanted to make it a gigantic fight." She stated that attorneys made the process more adversarial than it needed to be. Larry shared an additional example of poor behavior from the parents' attorney. Larry explained that, "it was bad in terms of the posturing. They didn't negotiate in good faith. It was perceived by our attorneys and myself like manipulating the parents." He shared that in one case, the parent attorney would not let him speak directly to the parent. A final example of poor behavior on behalf of the parent attorney was relayed by a director. He stated that he wasn't sure if the parents' attorney were sharing every settlement offer with the family, which ethically they were obligated to do. He felt that the parents' attorney may have been harboring the offers because agreement was reached on all of the terms except the attorneys' fees. He shared that he couldn't fathom why the parent wouldn't settle based solely on disagreement with the amount of the fees. Larry stated that "the parent doesn't care. We're paying those attorney's fees." He felt that this behavior raised ethical concerns.

Attorneys strained relationships. The second reported negative interaction with parent attorneys that arose from the directors' responses was in regards to the strain attorneys created on relationships. Much of this strain was caused by the attitudes and behaviors already mentioned. However the effect on the relationship was significant enough within the data to expand the description. For example, Len shared that, "lawyers are very good at arguing. I feel like it damages the relationship between the parent and the school." Because of this dynamic, one

director reported doing everything possible to avoid due process. Keith reasoned that "the attorneys will stop us from developing or taking advantage of the personal relationship we have." Larry expressed his frustration with the strain attorneys placed on the relationship. He shared that, "I felt like I had been misrepresented and manipulated in that attorney-parent relationship, to be made out to be some villain who doesn't care about kids. That's just so far from the truth. It's destructive in those ways."

Attorneys increased litigation costs. In addition to escalated conflict and strained relationships, the third negative interaction with parent attorneys that emerged from the data was the reported way in which parents' attorneys increased the costs of resolution and litigation. One way directors reported that attorneys did this was through the use of similar language each time they filed a due process hearing request on behalf of their clients. Pat described how an attorney group utilized what she referred to as a laundry list approach. Pat stated that "they have a very lengthy due process request form many items listed. [The request] was 20 pages long with items A-Z." Larry's response expanded on this same concept.

> My experience is that they'll give boilerplate language. It's just plug and play language. They are …essentially generating more work to respond. I think that's strategic. They know the economics of it just like we do. The time for our staff and our attorneys is more likely to push us to settle even if we have offered FAPE.

Keith felt that the parent attorneys filed on numerous issues so they had room to negotiate. In describing one particular parent attorney group, Keith stated that "they negotiate real hard. They play a lot of games. We don't trust them as much as we do the other [parent attorney groups]." Keith elaborated

> We seem to spend more money when there is a request than we used to. It seems as if the parents' attorneys have figured out the deductible. They have a lot more billable hours [in the beginning of the process] to [drive the cost] closer to our deductible. I sound cynical, but I think that is a game the attorneys are playing.

Another director gave an example of this type of situation. He described a recent case in which the district acknowledged the issues and they were able to talk through the challenges with the parent at the resolution session. Larry felt that the school and parents had built a good relationship in the process and the parent was pleased with the settlement offered at the resolution session by the school. Larry reported that the parent almost signed the resolution agreement at the meeting, but declined at the advice of her attorney. At that time, attorney's fees for the parents were estimated at $2,500. Three months later, the due process hearing request was settled with the exact same student outcome, but the attorney fees had risen to $25,000. It was situations like this that left directors reportedly feeling that the leverage was all with the parents' attorney. Len explained that, "they want to get their pay. It's hard to come to resolution unless you're willing to pay those attorneys' fees. I've never been able to do it" (Len).

When asked if he had insights as to why he thought attorneys would prevent an agreeable outcome, Len stated, "because they want $10,000 or $20,000 from the school district instead of just the fee for filing the due process because that is all they have done at that point. So they are not making any money on it." Len stated "the biggest thing that I see happening now is the attorneys drag it out to make money. And then at 8-10 weeks, they are ready to resolve for what we would have resolved back at the start." Len shared that he felt that the resolution process was fruitless because there was no risk for the parent and there was only gain by the attorneys to take steps without trying to work it out.

In summary, special education directors reported that they engaged in three main leadership actions to increase cooperation. Directors attended to relationships, attempted to understand the concerns of parents, and trained stakeholders. Directors reported that they utilized alternative dispute resolution processes as the one main leadership action to mitigate conflict between families and schools. Additionally, special education directors described their experiences when they unexpectedly received due process requests and responded quickly to litigation as well as their experiences as they allocated scarce resources and encountered negative interactions with parents' attorneys.

Chapter Five: Discussion

The purpose of this research study was to inform practice by investigating the experiences of special education directors engaged in the prevention and resolution of conflict. My study attended to Bailey and Zirkel's (2015) suggestion to explore special education directors' experiences with preventing and responding to *requests* for special education due process hearings. My investigation also incorporated the recommendation made by Mueller and Piantoni (2013) to research special education directors' experiences with conflict prevention and resolution.

My research inquiry was formulated following an extensive review of relevant literature which was synthesized in Chapter Two. The data collection procedures of this descriptive case study, detailed in Chapter Three, yielded valuable information to answer the research questions of this study. The findings of the two research questions were presented in Chapter Four. In the subsections that follow, I discuss how the information I gathered from special education directors answered my research questions and I situate those findings within the literature. The chapter concludes by addressing implications for practice followed by my study's limitations and recommendations for further research.

Summary of Findings

Generally speaking, the directors interviewed participated in alternative dispute resolution processes to mitigate conflict and engaged in proactive leadership actions to increase cooperation. Based on the responses of the directors, I discovered that alternative dispute resolution assisted directors in resolving conflict, but the proactive leadership actions of special education directors were even more critical to avoid requests for due process. Stated differently,

IDEA contains options for alternative dispute resolution, such as mediation, to resolve special education conflicts. However, it appears that the actions of special education directors, outside of the use of options within the law, were important to successfully prevent conflict.

My second research question examined the experiences of special education directors after receiving requests for due process hearings. Generally speaking, special education directors interviewed received requests for due process unexpectedly. Directors reported that the use of alternative dispute resolution was unproductive after the hearing request was filed. During the settlement window, directors allocated scarce resources and encountered negative experiences with parent attorneys. Most directors worked to settle the requests before they proceeded to a hearing.

Discussion of Findings

In this section, I share my interpretation of the findings of my study which I support with existing literature and data gathered from the participants. First, I discuss how the documented negative impacts of special education due process hearings are also present when responding to *requests* for hearings even when the requests do not proceed to a hearing. I, then, describe how much of the conflict is associated with the involvement of attorneys and I highlight how the conflict reported by the research participants is contrary to the collaborative intent of IDEA. Next, I share the intentions of alternative dispute resolution compared with the reported experiences with the processes by participants in this study. Finally, I explain that the directors interviewed conveyed that increasing cooperation among stakeholders through leadership actions was an effective way to avoid due process hearing requests.

Requests cause negative effects similar to hearings. Authors such as Bailey & Zirkel (2015) downplayed the impact of due process hearings when they chose to use the hearing as their unit of analysis rather than the case. Because many due process requests do not proceed to a hearing, the researchers suggested that no efforts should be devoted to revisions of the dispute resolution processes during the upcoming reauthorization of IDEA. However, findings from my research which studied the due process complaints prior to proceeding to hearings, indicate that attention must be directed to the impacts associated with due process hearing requests. Findings from my research indicate that the documented negative impacts of due process hearings are also associated with *requests* for due process even when the requests do not proceed to a hearing. This is a critical finding, particularly in Indiana where most requests for due process are settled or dismissed without a hearing

Directors reported that responding to requests for due process was expensive, time consuming, and a drain on human capital. The experiences identified by the directors aligned with the findings reported in the literature that described experiences with due process hearings. A documented concern with the due process system is that litigation is costly (Bailey & Zirkel, 2015; Mueller & Piantoni 2013). School districts spend millions of dollars per year for conflict resolution (Pudelski, 2016) and regard the process as expensive, time-consuming, and a threat to their professional judgment and skill (Decker, 2014; Gilsbach, 2015; Heubert, 1997; Neal & Kirp, 1985). I discovered similar findings within my study. For example, two directors reported that even when due process hearing requests were resolved quickly and without proceeding to a hearing, their districts typically spent at least $10,000 to resolve the issue. To approximate the financial impact of responding to due process hearing requests for one state, consider data from Indiana during the 2015-16 school year. Sixty-four of the 65 requests for due process were

withdrawn or resolved prior to a hearing. If each district spent $10,000 for their insurance deductible when responding to due process hearing requests, then $640,000 of tax payer dollars were utilized to resolve *requests* for due process that did not proceed to a hearing in Indiana in one school year.

In addition to the significant expense associated with requests for due process hearings, there are other negative impacts as well. According to the literature, both educators and parents reported that due process hearings were emotionally exhausting (Feinburg, Beyer, & Moses, 2002; Heubert, 1997; Mueller, Singer, and Draper, 2008; Neal & Kirp, 1985; Pudelski, 2016) and had a negative impact on the relationship between the family and the school (Cope-Kasten, 2013; Decker, 2014; Feinburg, Beyer, & Moses, 2002; Mueller & Piantoni 2013). Additionally, directors indicated that the process of responding to requests for due process was time consuming. Several directors reported a significant loss of productivity while responding to due process hearing requests. My research findings regarding the experiences of directors when responding to requests for due process mirror the negative experiences documented within the literature surrounding due process hearings. For example, several directors in my study indicated that responding to a due process hearing request took an emotional toll on teachers and administrators. Most directors also described an adverse impact on relationships between families and schools once a request for due process was filed. For example, one director commented that she feels like she needs to provide counseling to her staff because of the level of stress they feel when involved in a due process hearing request. This added stress to teachers and administrators may contribute to attrition and the shortage of qualified professionals, especially in special education.

Conflict attributed to involvement of attorney. The findings of my study indicated that much of the conflict in responding to requests for due process was attributed to the involvement of attorneys. For example, directors in my study reported that parents' attorneys escalated conflict, strained relationships, and increased litigation costs. One reported way that parents' attorneys escalated conflict was the inhibition of collaborative processes. This is contrary to the collaborative intent of IDEA which requires parent involvement through the case conference process. Larry explained that parent attorneys had no obligation to assist in resolving parent concerns in a more collaborative or cost-effective manner.

Directors also reported that attorneys created a strain on relationships. For example, Keith shared that "attorneys stop us from developing or taking advantage of the personal relationship we have." In addition to escalated conflict and strained relationships, the third negative interaction with parent attorneys that emerged from the data was the reported way in which parents' attorneys increased the costs of resolution and litigation. For example, directors reported that attorneys increased costs by using similar language each time they filed a due process hearing request on behalf of their clients and that they delayed settlement by inhibiting the intentions of the resolution session.

Contrasted roles. Directors' negative experiences in resolving conflict with families and their attorneys may be explained in light of the contrast between the objectives of the special education director and the parent attorney. The primary role of the special education director is to administer specialized programs for children with identified disabilities and to negotiate interactions that occur among different processes and systems (Crockett, 2004; Muller & Piantoni, 2013). Directors work collaboratively with families and school personnel to involve parents in the process of developing an IEP for their child (Kerr, 2000; Mueller, 2014; Neal &

Kirp, 1985; Romberg, 2011; Smith, 2005; Yell, Rogers, & Lodge-Rogers, 1998; Yell, Ryan, Rozalski, & Katsiyannis, 2009). In contrast to the collaborative problem-solving nature of special education directors, the duty of lawyers is to represent their clients zealously and within the bounds of the law (Haines, 1990; Ventrell, 1995). In some cases, the traditional role of an attorney includes aggressive questioning and argument rather than collaboration. The presence and mindset of attorneys hinder the goal of collaborative dispute resolution (Mueller, 2009; Neal & Kirp, 1985).

Alternative dispute resolution effective before due process request filed. One way that directors work collaboratively with families and avoid negative interactions with zealous attorneys is to engage in alternative dispute resolution practices. Findings from my research indicate that alternative dispute resolution was helpful to resolve conflict. The three alternative dispute resolution processes to mitigate conflict included state complaints, mediation, and facilitated IEP meetings. Directors reported that these processes were generally useful in resolving dispute, however directors did not frequently rely on these strategies.

A state complaint is a claim that the school has violated federal or state special education rules or has failed to comply with an order issued by an independent hearing officer. The complaint must allege a violation that occurred not more than one year before the date that the complaint was received. The state must investigate whether the district violated IDEA as the complaint alleged. At the end of the investigation and review, the state education agency (SEA) issues a written decision, referred to as a finding of fact. Directors in this study were involved in responding to state complaints that parents had filed. Suchey and Huefner (1998) reported that the nature of state complaints are inherently procedural and typically do not involve the use of attorneys. The directors in this study described similar experiences. Many directors reported

being able to resolve state complaints without having the Department of Education conduct an investigation or issue findings of fact. For example, Larry shared that his district usually performed a self-correction before a ruling was issued.

Another method directors participated in to mitigate conflict was mediation. Mediation is a voluntary process that utilizes a qualified and impartial mediator who is trained in effective mediation techniques to work with the parents and school personnel to resolve their concerns. The purpose of a mediation session is to resolve the dispute through improved communication with the assistance, but not the decision, of a third party. The mediator assists negotiations between the family and school representatives and attempts to facilitate both sides into an agreeable resolution.

Finding from this study aligns with research from CADRE (2004) which reported that mediation was typically utilized when there was significant disagreement that the parties were unable to resolve. For example, Keith shared that it was a benefit to have the assistance of an outside person after he and the family reached the point of disagreement. Directors in this study reported positive outcomes from the mediation process. For example, Goldie indicated that she preferred mediation over due process hearings because mediation provided an opportunity for the school and the family to communicate. Goldie's experience aligns with literature from Zirkel (2007) which reported that the purpose of a mediation session was to resolve the dispute through improved communication with assistance of a third party. Goldie shared that mediation was effective because "we both gave a little bit and we were able to stop what would have very likely been a due process. We landed in the middle which is what mediation is supposed to do." This finding also aligns with existing literature which reported that mediators assisted negotiations

between the family and school and attempted to facilitate an agreeable resolution with both sides (CADRE, 2004; Mueller, 2009).

A concern noted from the directors in this study was that the outcome of the mediation was dependent on the quality and training of the mediators. For example, Anne stated that mediation sessions led by mediators who were not familiar with special education law were less successful. This concern is consistent with findings within the literature which indicated that a mediator's qualifications and training can pose a limitation to the practice (Beyer, 1997; Markowitz et al., 2003; Mueller, 2009).

Facilitated IEP meetings was the third alternative dispute resolution procedure reported by directors. IDEA and state law do not mandate this alternative dispute resolution process. While state complaints and mediation are processes required by IDEA, facilitated IEP meetings are not. However, CADRE (2004) describes this process as a best practice and recommends that schools and families choose to have IEP's facilitated by a neutral party as a way to have all voices heard and to assist with a collaborative meeting process. A facilitated IEP is different from mediation in a couple of ways. First, the climate of a facilitated IEP meeting is more collaborative and less contentious. If the parties are able to complete the process, an agreeable IEP exists as a product of the process rather than a binding agreement as in mediation. Second, a facilitator does not impose a decision on the group (CADRE, 2004). Facilitators are professionals who are not employed by the school district and are trained in meeting facilitation (Mueller, 2004). The use of a neutral facilitator encourages the team to communicate productively, focus the efforts of the committee, and remain on-task.

Contrary to CADRE's (2004) finding that IEP facilitation is a growing trend and is useful when conflicts exists, responses from the directors in this study indicated that few used

facilitated IEP meetings. All of the participants acknowledged being aware of the availability of state-funded facilitators, however, several directors reported reasons why they did not engage the facilitated IEP process. For example, some directors reported that they utilized components of the facilitation techniques such as an agenda, building agreements, and other facilitation strategies to demonstrate a local willingness and investment in the IEP meeting process without the need of an outside facilitator.

Based on the responses of the directors, it was noted that most directors responded to a few complaints and mediations and also utilized FIEP a couple of times, but I did not collect data to quantify these experiences. However, it can be noted that directors' seemed to view mediation and FIEP as effective, but under-utilized resolution methods. Directors consistently indicated positive outcomes from the use of alternative dispute resolution. Literature on alternative dispute resolution promotes the practices because they have been shown to be successful in resolving disputes and maintaining positive parent-school relationships (CADRE, 2004; Mueller, 2009). During this study, I discovered that directors participated in alternative dispute resolution less frequently than I would have predicted. My conclusion is similar to Feinburg, Beyer, and Moses' (2002) finding about the facilitated IEP process. They reported that although high rates of success with facilitated IEP meetings have been noted, participation is not mandatory and the offer to use the strategy is often initiated too late in within the dispute resolution to be completely effective.

Alternative dispute resolution undproductive after receiving hearing request. There are also two alternative dispute resolution options within IDEA that families and schools can utilize to resolve disagreements after a parent requests a due process hearing, but before the hearing is conducted. Those two options are mediation and resolution sessions. Most directors

reported that they did not use mediation after they received a request for due process because they conducted a resolution meeting instead. Directors reported that mediation was similar to resolution and that because of the tight timelines to respond to a request for due process, there was usually not time to do both. For example, Keith explained that, "because of the required resolution session, attorneys often won't engage in mediation."

The directors all engaged in resolution sessions with parents. A resolution session works in conjunction with a request for an impartial due process hearing. Within 15 calendar days of receiving notice of the parent's due process hearing request, the public agency must convene a meeting with the parent and relevant members of the IEP committee to discuss the request and the associated facts. This resolution session is an opportunity for the parents and the school to talk about the issues in the due process hearing request to see if they can resolve them without a due process hearing.

Directors reported that the resolution sessions gave them an opportunity to talk to the parent which led to a better understanding of the heart of the parents' concerns as opposed to the boilerplate allegations included within the official due process hearing request that was filed with the state by the attorney. However, none of the directors concluded a resolution session with an agreement signed by the parent. Many directors indicated that their inability to fully resolve the concerns during the resolution process was because of the interference of parent attorneys. For example, Rose shared that the parents have been instructed not to engage in discussions during the resolution meeting and not to agree to settlement offers presented by the school district. Keith expressed that his district often agrees with the parent, but because the parent has been instructed by their attorney not to resolve the concerns during the resolution session that they are unable to move forward on behalf of the student. The effect of this is that the negotiations proceed for

weeks after the resolution session, attorneys' fees continue to grow, and decisions on behalf of the student remain undetermined.

One of the reasons that alternative dispute resolution procedures are not being utilized before parents file a request for a due process hearing could be attributed to the way the law is written. The options available for parents to resolve their concerns are voluntary and not a tiered system. Despite the varying degrees of intensity with the available options, there is no order required for using these procedures. Parents are able to file due process request without first allowing the school district an opportunity to resolve the concerns with a more collaborative approach. Additionally, it is possible that parents may not utilize alternative dispute resolution because they may not be aware of the options.

Findings within my study indicate that the lack of required and leveled resolution options is problematic. For example, several directors reported receiving requests unexpectedly. In those situations, many directors shared that they were previously unaware of the parents' concerns. For example, Pat shared that "[requests for due process] haven't come from unresolved conflict. Anytime that a due process has been filed, it's been out of the blue." Several directors reported that they were not aware that the parents were frustrated or angry enough to feel compelled to request a due process hearing. For example, Len shared that some requests escalated directly from no indication of dissatisfaction to a due process hearing request. Additionally, Larry stated that there were several cases that did get escalated to his attention. However, with the due process requests, he was not usually involved with the case until after the request was filed.

There is little existing empirical evidence investigating the directors' awareness of concerns before parents filed a due process hearing request. Mueller, Singer, and Draper (2008) did elude to the notion that the original due process mechanisms from IDEA have been overused.

This finding is partially supported by data from the 2016 Annual Report to Congress on the implementation of IDEA which cited that of the 18,011 due process complaints that were received during 2013-14 school year that 62.3% were resolved without a hearing. Additionally, CADRE data for Indiana indicated that 98% of the 64 requests were resolved prior to a hearing. Additionally, CADRE (2016) reported that the number of requests *filed* was more than three times the number of hearings that were actually *held*. Thus my research findings as well as state and national elude to the idea that parents and schools can resolve their concerns more often than not without the need for a due process hearing.

Leadership is critical. Because of the documented evidence supporting that schools and parents are often able to resolve their concerns without a hearing, a significant finding of this study was that the special education directors emphasized their leadership actions more than alternative dispute resolution as a critical means to avoid and resolve conflict. Leadership actions included the work of directors to attend to relationships, connect with parents, and provide training to stakeholders. Directors reported that if they were involved with parents early that typically they were able to work together to resolve the issue and the concern did not proceed to a hearing request. The theme of leadership was also present within the literature. Zirkel (2015) wrote that "whenever possible, using communication, compromise, creativity, and other skills that build mutual trust may be more effective than entrusting the matter to… courts" (Zirkel, 2015, p. 273).

A study conducted by Mueller, Singer, and Draper (2008) also supported the notion of proactive actions when dealing with conflict in the field of special education. The participants of their research discussed the importance of maintaining positive relationships between parents and school districts and were described as having the skills necessary to interpret special

education law, objectively evaluate the quality of educational services, and include parents (Mueller et al., 2008). My study found similar results; four of the ten directors explicitly mentioned that building relationships was a key strategy to avoid due process hearing requests. For example, Len shared that building relationships with families created trust and assisted in avoiding due process. Len also described how he trained his staff to attend to relationships.

Another study that provided support that leadership actions matter was conducted by Mueller and Piantoni (2013). They reported that all of the directors interviewed for their study discussed the importance of utilizing conflict prevention strategies. The researchers identified seven key action-based strategies that directors utilized to prevent and resolve conflict with families. Those actions included (1) establishing communication; (2) providing parent support; (3) leveling the playing field; 4) intervening at the lowest possible level; (5) maintaining focus on the child; (6) finding a middle ground; and (7) understanding perspectives (Mueller & Piantoni, 2013). Many of my findings align with this study. The three themes of leadership actions from my research were that directors attended to relationships, attempted to understand the concern of parents, and trained stakeholders.

Implications and Recommendations

The qualitative findings presented in this study are meant to provide understanding of the actual leadership actions and experiences of special education directors in preventing and responding to conflict in special education and to inform future practice. Additionally, results of this study may be useful to policymakers to understand the experiences of school district personnel when implementing state and federal laws. Based on the findings and implications of this study, I present the following recommendations: (1) be a proactive leader; (2) build the

capacity of special education directors; (3) reduce the involvement of parent attorneys; and (4) *require* a tiered system of alternative dispute resolution.

Be a proactive leader. As identified in this study, the leadership of special education directors is critical to increase collaboration and avoid the conflict associated with requests for due process hearings. In addition to the requirements within the law and district practices, the data from this study present a clear and pressing argument for special education directors to be strong leaders who engage in proactive actions to resolve conflict before it escalates to a contentious battle between the families and the schools. Special education directors have the power. They can choose not to implement proactive strategies and rather wait and hope that conflict doesn't arise. Or they can include conflict prevention as part of their vision and priorities.

Special education directors need to do more than focus their work on the procedural components of the law. Special education directors should engage in proactive leadership actions to build relationships with the parents of children with disabilities and the school teams who serve those students. Special education directors should be visible and available to parents and school personnel. Additionally, special education directors should train special education teachers, school building administrators, and other school personnel who attend IEP team meetings to know special education law and how to be responsive to students' individualized learning needs.

A finding in this study was that directors were unaware of concerns before requests for due process were filed. As another action of proactive leadership, directors should train building level personnel how and when to escalate concerns to the attention of the director to allow for an early opportunity for conflict resolution. Special education directors should also train parents on

their rights within the law and how to advocate for their children. Parents need to understand the entitlements and protections with the law along with the associated vernacular and acronyms. Parents also need to know how to work with the school to resolve concerns. Just handing the parents a copy of their rights is not sufficient because it is likely that many parents do not understand the terminology or have familiarity with special education processes. Therefore, it is important that schools help parents to understand the nuances of the law. For example, Skrtic (2012) noted that the evolution of procedural safeguards has resulted in an individualized, rather than a collective, advocacy. A proactive special education director, who is knowledgeable of case decisions, should learn from the individual cases and apply the court decisions to other students, as appropriate. This action, while not required of a special education director, would aide in returning to the democratic and collective efficacy intended within the origins of IDEA that were established with cases such as *PARC* and *Mills*. Therefore, I recommend that directors engage in proactive leadership actions to improve the educational provisions for students with disabilities within their districts not because the law requires it, but of their own accord as a leader. The spirit of IDEA is not about encouraging litigation, but about advancing the rights and entitlements of students with disabilities.

Build the leadership capacity of special education directors. Based on the findings of this study, my second recommendation is to build the leadership capacity of special education directors. The practice of special education leadership requires a skilled leader who is able to navigate perplexing processes and lead district teams in a manner that results in positive outcomes for students. Consideration should be given to the training and development of special education directors. Specifically, professional development for special education directors should include an emphasis on legal literacy, negotiation skills, and instructional and organizational

leadership. Legal literacy is a critical skills for special education directors as they must not only know the laws, but also the intentions and application of those laws.

Furthermore, professional literature and conferences should include content about effective *leadership actions* that directors can engage in to build the capacity of their employees to achieve desired results. For example, I would rather read an article in a professional journal that explains *how* an effective leader *works with teachers* to develop their skills to write an effective goal than I would read an article stating that effective goals lead to outcomes for students. As a leader, I know we need effective goals. Directors need assistance in *how* to make that happen. Directors need articles that incorporate adult learning theories and organizational management along with technical specifics on how to develop and sustain effective implementation plans. My recommendation is for the organizers of professional conferences and the publishers of professional journals to *cultivate the leadership capabilities* of special education directors.

Reduce the involvement of attorneys. The way the law is currently written, parents are able to engage legal counsel and file a due process hearing request without first sharing their concerns and ideas for resolution with the school district. This claim is supported in my findings which indicated that most directors reported receiving requests for due process unexpectedly. Directors need to know of the concern of the parent and be given an opportunity to resolve it before parents should be allowed to request a due process hearing. The intent of IDEA is to actively involve parents in the process of developing an individualized education plan for their child. When attorneys are involved, my study indicated that collaboration is inhibited and relationships are negatively impacted. The role of the parents' attorneys is to be a zealous advocate for their client. They are under no obligation to resolve conflict in a collaborative or

cost effective manner. Requiring alternative dispute resolution before a parent may file a request for a due process hearing would be a more cost effective solution to dispute resolution mainly because it would reduce the involvement of attorneys. It is documented within this study and the existing literature that attorneys significantly raise the cost of dispute resolution in special education. I recommend that the use of school and parent attorneys be reserved only for cases which have been unable to be resolved through the required and tiered alternative dispute resolution system.

Given my recommendation to limit the involvement of attorneys, it is critical for the school to recognize that one of the reasons parents hire attorneys is because of the power imbalance. Therefore, schools should take proactive measures to reduce power imbalances such as providing the parent an opportunity to meet with just the director so a parent does not feel like they are facing off against an entire team of school professionals. School districts should also develop processes by which parents may safely express their concerns and in which those concerns are addressed in an expedient manner. Additionally, I want to note that parents may eventually need the assistance of an attorney when districts are wrongful or negligent in their actions. Attorneys are an important safeguard to ensure some students with disabilities don't languish and fail. Furthermore, in acknowledgment that parents may rely on their attorneys to be their advocates and to lead them through the cumbersome special education processes, if new laws were to limit the involvement of parent attorneys, other avenues to support parents' understanding of special education, and their rights within the law, must be devised. To this end, I recommend that the parent training and advocacy networks in each state develop an online parent education module to teach parents about their rights, the process, and the terminology within the laws. Parent resource networks already exist and are provided without cost to parents

and school district. This expanded role would provide parents the advice and direction they need as they navigate a complex process without engaging costly attorneys.

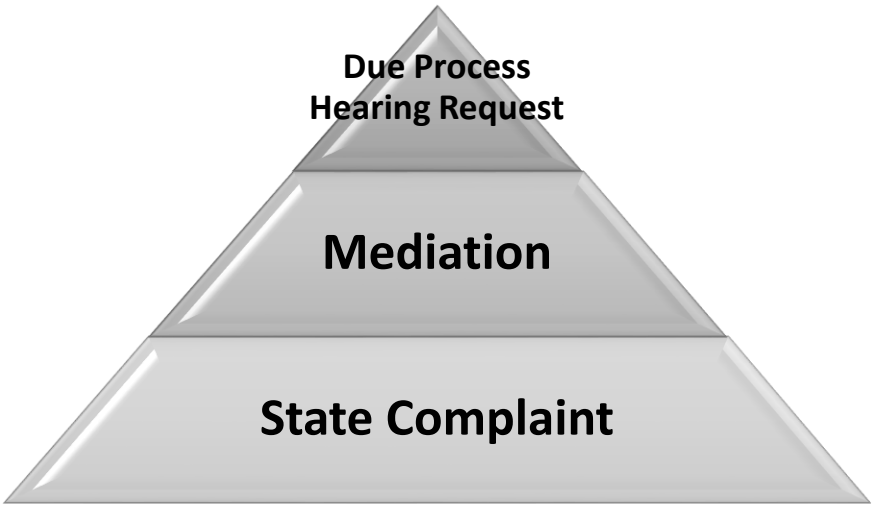
Require a tiered system of alternative dispute resolution. National and state data demonstrate that families and schools can often resolve conflict without engagement in a due process hearing. Findings from this study indicated that directors were, many times, unaware of parents concerns before a due process hearing request was filed. Partner the ability of families and schools to resolve conflict against the well-documented negative impacts of engaging in a due process hearing. Now consider the finding from this study which concludes that the same negative impacts of a due process hearing also exist with *requests* for due process, even when those requests do not proceed to a hearing. Combine the element of the role of the zealous advocate and consider the public funds that are being utilized to engage in dispute resolution. These findings, considered together, clearly support the need for a tiered system of dispute resolution, a system that attends to the rights of parents and also addresses a collaborative opportunity for the full IEP team to address the concerns without the negative impact of litigation. That is the *intention* of the law, but because the options are not required nor sequential, due process hearings and all of the associated negative impacts are being experienced without districts first being provided the opportunity to resolve parent concerns.

Under IDEA, we must have a way for parents to resolve their concerns and for them to ensure that their children are provided with FAPE in the least restrictive environment. Previous research and findings from this study indicate that alternative dispute resolution is effective in resolving concerns between families and schools in a more collaborative and cost-effective manner than due process hearings. Because of the documented effectiveness of these processes, parents and schools should be *required* to use a tiered system of alternative dispute resolution

before they can file a request for a due process hearing. Directors must also ensure that parents are aware of these options. Requiring the use of alternative dispute resolution, prior to the option of filing a due process hearing, will lead to the resolution of conflict in a more collaborative and cost-effective manner.

In contrast to the current *voluntary* options of alternative dispute resolution, I recommend that the law be revised to *require* a tiered system of alternative dispute resolution. I believe this tiered system could utilize the existing alternative dispute resolution options, but in an organized and progressive manner.

Figure 7: Tiered System of Resolution Options



I recommend that a party wishing to resolve a concern that is unable to be resolved through a case conference committee meeting, first be required to file a state complaint. A state complaint requires the party filing to specifically identify their concern and to articulate their desired outcomes. Findings from this study support that directors were typically able to resolve complaints before the Department of Education issued a finding of fact and that most complaints

did not proceed to a more intensive form of dispute resolution. The state complaint process is administered by the state without cost to the parent or the school district. These reasons provide evidence that state complaints are an effective and cost neutral process.

If a party believes that their concerns are not fully addressed through the state complaint process, the party would then be able to request a mediation. In contrast to current mediation practice in Indiana, the revised process would *require* the participation of the parents and the school and would also highly discourage the involvement of attorneys. Like state complaints, the state also bears the cost of the mediation process and documented evidence of the effectiveness of the process exists both within this study and existing literature. Discouraging the involvement of attorneys would allow for collaboration between the parent and the school and would keep the process affordable without incurring legal fees. The use of a neutral facilitator would allow both parties the opportunity to fully be heard. The outcome of the mediation process results in a legally binding agreement between the parents and the school. To ensure the ultimate success of the mediation process, the states should also adopt a robust and consistent mediation training process. This recommendation attends to the outcomes of this study and existing literature which found that the success of mediation is dependent on the skills of the mediator.

If parents and schools require assistance to develop an IEP that reflects the outcomes of the mediation, the parties may utilize the facilitated IEP process. This is a resource that already exists in many states, including Indiana. FIEP is also free of cost to both parties, and is documented as an effective practice.

Specifically in Indiana, the state leadership needs to promote the use of facilitated IEPs as an option to resolve conflict. As mentioned earlier, there is information for parents and school districts on the Indiana IEP Resource Center webpage. Schools may know of that website, but it

is very unlikely that parents would know of it. Currently, when parents have a complaint with special education, they are directed to the ICHAMP website. ICHAMP is an acronym that stands for Indiana Complaint, Hearing, and Mediation Processes. The options of a FIEP is not at all mentioned on the ICHAMP website. Additionally, INSource, the state funded special education support network website also does not include information about FIEP's. The INSource website menu includes tabs with more information both about IEP meetings and dispute resolution, but neither tab includes information about the facilitated IEP process.

In summary of my fourth recommendation, schools and parents should be required to participate in a tiered system of alternative dispute resolution before they are able to file a due process hearing request. This recommendation aligns with the collaborative intent of IDEA and provides a solution to correct the overuse of legalized processes which are costly, stressful, a drain on capital, and harmful to relationships. The state of Indiana and its network of affiliated and state funded resource centers should actively promote the use of facilitated IEP's as well.

In conclusion and based on the findings of this study, I recommend that school leaders engage in proactive actions to ensure the intent of IDEA is implemented within their programs. Additionally, I recommend that professional organizations and publications dedicate their efforts to building the capacity of special education directors to refine their leadership skills. Furthermore, by limiting the involvement of zealous attorneys, families and schools will be able to engage in more collaborative and cost effective measures to resolve disputes in special education. Finally, I recommend that the law be revised to require a tiered system of alternative dispute resolution that reflect the evidence supporting the effectiveness of these practices.

Limitations and Suggestions Future Research

There are documented concerns with special education dispute resolution as described throughout this study. While this research has added descriptive data illuminating the leadership actions of special education directors in preventing conflict and their experiences in responding to due process hearing requests, this study leaves many unanswered questions. Future researchers should investigate the effectiveness of resolution meetings, the role of the zealous advocate, the costs associated special education dispute resolution, and should expand this study to include the important perspective of the other stakeholders who engage in special education dispute resolution.

Effectiveness of resolution meetings. The option of a resolution session was added to IDEA in 2004. This addition to the law intended to give schools an opportunity to resolve the parent concerns without the need for lawyers and hearings. Findings from this study indicated that directors were unable to fully resolve parent concerns with the resolution meeting and that the main deterrent in this outcome was influenced by parents' attorneys. While literature exists about alternative dispute resolution, no empirical evidence was located that investigated the use of resolution meetings. A study to specifically investigate the efficacy of resolution meetings would be useful to know if the additional resolution option is assisting in resolving disputes as it was intended.

Costs associated with special education dispute resolution. A noted concern within the literature is that special education litigation is costly (Bailey & Zirkel, 2015; Mueller and Piantoni 2013). Pudelski (2016) noted that school districts collectively spend over $90 million per year for conflict resolution. Most directors within my study reported spending $10,000 dollars for their insurance deductible each time the district received a request for a due process hearing. Because schools are stewards of public funds, I believe the public should be made aware

of the costs utilized to resolve special education disputes. This quantifiable data could provide evidence for *requiring* districts and parents to utilize more cost-effective means to resolve their disputes, data which would support my recommendation to require a tiered resolution system.

Role of the zealous advocate. Given the finding from this study of the significant negative impact that parent attorneys had on the collaborative resolution process, a study investigating the behaviors and tactics of attorneys representing parents in special education dispute and the impact of those interactions would be illuminating. Furthermore, a study of how to mute the negative experiences encountered because of the involvement of attorneys could be informative to policy development. These studies could expand the work of Haines (1990) and Kapp (2002) into the arena of special education dispute resolution.

Include the perspective of other stakeholders. The critical perspectives of parents, principals, classroom teachers, and attorneys are important to the topic of special education dispute resolution, however they were not included within this study. This is a noted and important limitation because IDEA is intended to be a collaborative process. These other stakeholders are also likely to have differing perspectives which could enhance the realm of possible solutions to resolve the documented concerns with special education dispute resolution. For example, parents are the most knowledgeable of the needs of their child and most familiar with the services and supports they have or have not received to ensure their child's independence as an adult. Additionally, attorneys are familiar with the law and how to navigate legal complexities. Attorneys are also familiar with court decisions and the experiences of other families in ensuring the entitlements to advance the rights of individuals with disabilities. It is recommended that additional research be conducted to include these other valuable perspectives

and that the findings be considered within the context of improving practice to best serve the needs of individuals with disabilities.

Summary

This was an important study because it educated practioners and policymakers about district-level implementation of state and federal laws. Requests for due process hearings and the documented negative impacts associated with them are a significant issue for school districts. *Requests* for due process occur much more frequently than due process hearings and are resource intensive. This study was needed to improve practice and avoid the documented issues with due process by informing leadership actions to prevent and resolve conflict in special education.

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Appendix A: Dispute Resolution Process Comparisons

Processes	Facilitated IEP	Mediation	Resolution	State Complaint	Due Process Hearing Request
Uses	When a parent and school are unable to agree on important issues related to the child's IEP or when a meeting is expected to be controversial	Anytime there is a disagreement between the parents and educators about special education	To resolve issues listed in a due process hearing request	Anytime there is a concern about a particular child or an issue that affects children system-wide	To resolve disagreements related to the identification, evaluation, placement, or provision of FAPE for a child
Initiation	A parent or school may request. A state agency may recommend as an alternative to a more formal process	A parent or school may request. A state agency may recommend as an alternative to a more formal process	The school must hold a resolution meeting within 15 calendar days of receiving notice of a parent's request for a due process hearing	Any person or organization may file a state complaint	A parent or school may file a due process hearing request
Process Differences	An impartial facilitator assists the IEP team with communication and problem-solving	A mediator helps the team communicate with each other and resolve their disagreements	A meeting that takes place after a due process hearing request is filed, but before the hearing is conducted	A written document to request an investigation into an alleged violation of IDEA	An independent hearing officer issues a written decision to resolve a formal complaint
Desired Result	An IEP that is supported by the team members and benefits the child	A signed, legally enforceable, written agreement	A signed, legally enforceable, written agreement that resolves the issues within the due process hearing request	A written decision that includes findings, conclusions, and actions to address the needs of the child in relation to the complaint	A written decision with findings of fact and conclusions of law, which may order specific activities be carried out
Decision-maker	IEP team	Participants work on solutions together & control the outcome	Parents and school district identify terms of agreement	The state ensures completion of investigation	A hearing officer or administrative law judge

Center for Appropriate Dispute Resolution in Special Education. (2015). *Quick guide to special education dispute resolution processes for parents of children with youth ages 3-21.*

Appendix B: Introductory Email

Greetings Colleagues

I am writing you today both as a colleague and a researcher engaged in the dissertation process through Indiana University. The purpose of my qualitative case study is to investigate special education directors' experiences with *requests* for due process hearings. The goal of the research is to inform practice and policy.

A majority of the previous research related to my study appears to have investigated due process requests from the administrative judicial level which uses a hearing decision as the unit of measure. The problem, from a practitioner's perspective, with that level of analysis is that most disputes filed against school districts are resolved prior to being decided by a hearing officer. According to data from the Indiana Department of Education (2016), 64 due process requests were filed during the 2015-16 school year. Of those, 63 were resolved prior to being heard by an independent hearing officer. By not studying the phenomena surrounding *requests* for special education due process hearing that are *filed and yet do not proceed to a due process hearing*, a significant gap in knowledge exists about the impact of federal policy.

I am seeking ten special education directors to be participants in my study. I will collect data by creating an audio recording of two one-on-one interviews with special education directors. The recordings will be transcribed and coded for analysis. Participation is voluntary and confidential. No personal or district identity will be revealed in this study. I plan to conduct interviews this summer. I anticipate that each of the two interviews will last approximately sixty minutes. The interviews will be scheduled at the preferred time and location of the participant and may even occur via phone. I will provide each participant with a copy of the transcription of the interviews to ensure that I've accurately captured the information relayed during the exchange. It is possible that I may follow-up with participants via phone or email during the data analysis process to seek clarification on responses.

In order to be a participant in this study, you must have personally experienced at least one due process request that was settled prior to being heard by an independent hearing officer. When the request was received, you must have been serving as the special education director for the district or cooperative.

This is an important topic in our field. My work has already captured the attention of the Indiana Department of Education Office of Special Education (IDOE-OSE), Indiana attorneys, LuAnn Purcell of the Council for Administrators of Special Education (CASE), and Sonia Trainor, the Executive Director of the Council of School Attorneys (COSA). I am optimistic that I will receive a strong response of interested and potential participants to assist me with this research.

If you are willing to be a participant in this study and you have personally experienced a request for a due process hearings while serving as a special education director, please complete this short Interest Response Form.

Your time and consideration is valued,

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Appendix B: Interview Protocol with Potential Interview Questions

Interview #1

Time of interview:
Date:
Location:
Interviewer:
Interviewee:

[Describe the project]. The purpose of this qualitative case study is to analyze special education directors' experiences after a request for an impartial due process hearing is filed against their school district. The information gathered will be useful to inform future practice and policy development. I will be conducting one-on-one interviews with up to 10 special education directors. All participants in the study will be assigned a pseudonym and only I will know the name of the participant and the district in which that participant is employed. I anticipate this interview lasting up to ninety minutes.

[Have the interviewee read and sign the consent form.]

[Turn on the recording device and test it.]

Questions

1) Describe your experiences with resolving parent concerns in your district.

Probing questions: When do you generally first have an indication that the parents have unresolved concerns? When is your presence requested at a case conference? When you attend, what is your role? Do you use an agenda? Is the building principal in attendance when you are a member of the CCC?

2) What have been your experiences with other options available to parents to resolve their concerns such as facilitated IEP meetings, state complaints, and mediations? What were the outcomes of those meetings? Who recommended these resolution processes? Did it resolve the issue? Build trust? Lead to positive outcomes for the students?

3) Describe the alternative dispute resolution options utilized prior to the due process requests you experienced. Were the processes utilized prior to receiving the request for a due process hearing? If so, what was the outcome? If not, why do you believe the other options were not first utilized?

4) Imagine I filmed your experiences with your most recent due process hearing request. What would I see?

Probing questions: How did you receive the request (mail, fax, email, hand-delivered)? Who first notified you of the request? What were your initial reactions/feelings upon receiving the request? Who is the first person you shared with about the request? What was the reaction of that person? Within the first 24 hours, who are the stakeholders that you informed of the request? What was your process for informing them? What were their reactions?

5) Did you engage in a resolution session with your most recent due process hearing request? If so, tell me about that experience. If not, tell me why you didn't. Did you waive the district's right to the resolution meeting? Why or why not?

Probing questions: Where was it held (location)? Who attended? Were attorneys involved? In-person or by phone? How long did it last? Who lead the process? Describe your feelings during the resolution meeting. Do you believe you were able to resolve the concerns during that meeting? What was the outcome? Were you able to sign a resolution? Was the request dismissed because of the resolution meeting?

6) Describe your work in supporting school personnel during the period of time from which the due process request was received and when it was resolved. What have been your observations about the reactions of other staff members who are involved? (ie; Principals, Teachers, Therapists, Psychologists). What have you done to support them? What have you observed to be some of the consequences of their experience?

7) Describe the dynamics between yourself and the parents before the hearing request. Did the dynamics change once a request for a due process hearing was filed? If so, how did they change?

8) Describe your work in educating others about special education due process in your district.

Probing questions? What training have you provided? To whom? How often do you provide this training? What efforts have you undertaken to help parents understand the special education process and their rights? How do you ensure that TOR's provide parents with a copy of the Procedural Safeguards? Do your teachers give a verbal summary of parents' rights prior to the case conference? Have you recommended the use of advocate? If so was your recommendation verbal? Did you provide contact information? Did you call on behalf of the parent? Parent trainings? Training on CCC process?

9) What general patterns have you observed with the due process requests?

Probing questions: Elementary or secondary? Socioeconomics of the families. Education level of the parents. Were advocates involved? Were the advocates from one particular agency? Have the requests been from one certain school or under the leadership of a certain principal?

10) Do you believe changes are needed with the conflict resolution processes within IDEA's upcoming reauthorization? If so, what changes do you believe are needed and why? If not, why?

Interview #2

1) What were the reasons for the due process request?

Probing questions: What were the allegations? What outcomes were the parents seeking? What do you believe were the underlying issues?

2) Describe your experiences with your superintendent during the period of time from which the due process request was received and when it was resolved.

Probing questions: What is the level of involvement of the superintendent? Did you debrief the Board? What were the affective experiences with the superintendent (was he/she supportive, demanding, upset)?

3) Describe the implications for your district when due process hearing request is received. Talk about the time and resources that are devoted to responding to the request.

Probing questions: What staff are involved? What about other commitments of those staff?

What does your district do most effectively to prevent parent concerns from getting to the litigation stage? What do you feel it could do even better to prevent those problems from occurring and from going to litigation?

How much is the district insurance deductible for each due process request?

4) Do you believe that "resources" have been a factor in the requests you've received for due process hearings? Why not or how so?

5) How were the experiences with your most recent request the same or different from previous requests? In your opinion, could the issues have been resolved without a due process hearing request? Explain your thinking.

6) What do you believe are potential root causes as to why the district has X # of due process requests in the past three years?

7) Have you ever conceded to a parent demand to avoid due process? Tell me more about why or why not.

8) What recommendations do you have for special education directors that you believe might limit potential litigation for their system?

Curriculum Vitae

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Education

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Indiana University

B.S., Special Education (1998)
Cum Laude
Ball State University

Professional Experience

Executive Director, Earlywood Educational Services (2014- Current)

- Innovates program practices and use of resources
- Prepares and executes multi-million dollar budgets
- Leads the provision of special education services for six member school districts
- Negotiates contracts, leads Association Discussions, & evaluates employees
- Board Member of Insurance Trust

Assistant Director, Special Services of Johnson County & Surrounding Schools (2012- 2014)

- Recruited, developed, and evaluated speech personnel
- Facilitated contemporary professional development
- Supported special education service delivery in two districts
- Led implementation of the teacher evaluation process
- Prepared & managed budgets and sought supplemental funds through grants
- Participated with negotiations, discussions, Central Roundtable and ICASE

Director of Special Services, Bremen Public Schools (2007- 2012)

- Administered district-wide Special Education, Title III, Title IX, alternative learning, Response to Instruction, and Section 504 programs
- Allocated financial resources by managing local, state, and federal budgets and grants
- Recruited, developed, and evaluated departmental personnel
- Coordinated the provision of curriculum, instruction, services and alternative programming
- Interpreted and ensured compliance with federal statutes, school law, and state regulations

Special Education Teacher, Elkhart County Special Education Cooperative (1998- 2007)

Recognition and Awards

Distinguished Humanitarian
Kiwanis Club of Bremen (2010)

Outstanding Leader Award
Indiana Lakeland Girl Scout Council (2001)

Distinguished Community Service Award Assoc. for the Disabled of Elkhart Co. (1999)