

Part B Dispute Resolution Data Notes

2017-18 Reporting Year

This document provides information or data notes on the ways in which states collected and reported data differently from the Office of Special Education Programs (OSEP) data formats and instructions. In addition, the data notes provide explanations of substantial changes or other changes that data users may find notable or of interest in the data from the previous year.

Arkansas

- The State provided the following response to a large Year to Year change: In 2016-17, it was identified that the tracking of documentation from local education agencies for resolution sessions was not adequate. A new tracking system was put in place resulting in an increase of documentation and a more accurate count.

Colorado

- The State provided the following response to a large Year to Year change: The increase in the state's total mediation requests is most likely the result of increased dispute resolution activity for all three of IDEA's dispute resolution options, as well as the CDE's practice of encouraging parties to consider mediation—even when they have filed a due process or state complaint. Between 2016-17 and 2017-18, Colorado experienced increases across all 3 of IDEA's dispute resolution processes. Increases in overall dispute resolution activity may be related to the recent Supreme Court decision, *Endrew F.*, given that this case originated in Colorado. The most significant increases in dispute resolution activity were in the number of mediation only requests, i.e., mediation not related to a due process or state complaint, and the number of state complaints filed. CDE dispute resolution staff consistently encourage parents and school districts to consider mediation as an option when they call for information about dispute resolution and when they have filed a due process or state complaint. Combined, these factors have contributed to an increase in the state's total mediation requests.

Georgia

- The State provided the following responses to large Year to Year changes:
- Georgia reported a total of 170 written signed complaints for the 2017-18 school year. This represented an increase of 43 (33.86%) from the previous year. This increase was due to the large number of insufficient complaints reported during this school year.
 - Georgia reported a total of 140 requests for mediation during the 2017-18 school year. This represented an increase of 25 (21.74%) from the previous year. The Family Engagement and Dispute Resolution unit in the Special Education Division at the GaDOE works to ensure families are fully informed of their Procedural Safeguards including their due process rights. Mediation rather than due process hearings are a preferred route for resolving issues between families and LEAs. The number of mediations did increase, however the number of due process hearing requests decreased by 25.

Hawaii

- The State provided the following response to a large Year to Year change: In SY 2017-18, 43 due process hearing requests were filed statewide. This is a reduction in filings from the two previous years, where the statewide number of due process requests filed were 87 in SY 2016-17 and SY 2015-16. The potential reasons for the reduction we present here are speculative since the overwhelming majority of

the requests were filed by parents and they did not come forward to explain their reasons for not filing a due process hearing request.

One potential explanation for the reduction could be due to a change in the hearings officers. In SY 2016-17, a new contractor was hired to conduct IDEA due process hearings. The new contractor hired new hearings officers who were qualified and were well-trained by a trainer who had provided IDEA hearings officer training to many states for a couple of decades, in addition to having experience as an IDEA hearings officer.

However, we are not sure how that change would have exactly impacted the number of due process requests. During this transition, HIDOE did not change the IDEA due process hearing request filing requirements, nor the access parents had to the HIDOE dispute resolution process. Parents continued to file in the same manner they did so in previous years.

Another potential factor is that our schools are collaborating and partnering with parents to develop strong relationships to resolve issues early and to build confidence in decisions made by the IEP team. Schools are delivering free appropriate public education (FAPE) to students who are showing gains and parents have less complaints.

Finally, HIDOE has always offered informal resolution to parents through the school, complex area and state office. These parent inquiries usually come to the attention of HIDOE through a telephone call and parents are immediately given their rights (due process, mediation, state written complaint, and procedural safeguards notice) and an informal resolution attempt by contacting the complex area. Parents often want quick results without having to delay their concerns and HIDOE has been able to resolve many parents' concerns through a telephone call, thus avoiding a more formal complaint.

Indiana

- The State provided the following response to a large Year to Year change: Indiana has made the process for parents to file requests for due process complaints, mediations, and written signed complaints less cumbersome, which is a possible explanation. However, due process complaints for 2018-19 (ongoing) are down from previous years so this may not be the reason. All dispute resolution types were up in 2017-18, so this data is consistent with that trend.

Kentucky

- The State provided the following response to a large Year to Year change: Kentucky had 15 written signed complaints filed in 2016-17 and 40 written signed complaints filed in 2018-19, for an increase of 166.67%. The KDE believes this increase is largely the result of posting the forms parents and others use to file complaints and request due process hearings to a more prominent location on our web-site. This move made the forms more visible and accessible to parents and others with an educational interest in children and students with disabilities.

Maryland

- The State provided the following response to a large Year to Year change: Year-to-year change from the 2016-17 count to 2017-18 count of written signed complaints filed, increased by 20.38% which represent by an increase of 32 written signed complaints filed in the 2017-18 Dispute Resolution Count. This increase is due to the effectiveness of MSDE's continuing efforts to inform parents of their right to utilize the State complaint process, as a means through which to resolve their issues with school systems, when informal dispute resolution has not been successful.

Mississippi

- The State provided the following response to a large Year to Year change: The increased number of written complaints can be attributed to the Bureau of Parent Engagement and Support in conjunction with the Mississippi Parent Training and Information Center sponsoring Annual Parent Conferences each year, providing information on dispute resolution and other relevant topics. We are engaging parents on issues as they relate to being a part of their children's education.

North Carolina

- The State provided the following response to a large Year to Year change: The increase in number of written signed complaints filed (33.77%) and increase in total number of mediation requests received through all dispute resolution processes (31.25%) is commensurate with the increase in the number of attorneys filing on behalf of parents and subsequently engaging in mediation. NC attributes this correlation to parents seeking legal assistance with disputes and the ability for their legal representative to seek attorney's fees through the mediation process.

New Jersey

- The State provided the following response to a large Year to Year change: There are several possible reasons for the decrease in the number of written signed complaints filed in 2017-18. In 2017-18, the NJDOE completed a number of systemic complaint investigations. As these large investigations involved students across schools, grades and the district, parents did not file individually, which would reduce the overall number of complaint requests. In addition, the NJDOE implemented a statewide Facilitated IEP (FIEP) program, which is intended to encourage parties to collaborate and problem-solve prior to availing themselves of the dispute resolutions system, which includes state complaints. As the number of parents and districts participating in the FIEP process increases, an expected outcome is a decrease in the number of state complaints and mediation/due process requests.

New Mexico

- The State provided the following response to a large Year to Year change: The total number of written signed complaints filed went up due to the way NM was reporting this category in the past. We received information from EMAPS that we needed to report all dispute resolution processes in this area.

New York

- The State provided the following response to a large Year to Year change: The increase is mostly due to complaints filed in NYC. The NYC IH Office has indicated that it expects the numbers to continue to increase. We do not know the reasons for the increase in NYC; however, it may have something to do with administrative changes made by the NYC Mayor in 2014 that made it easier and less litigious for families with students with disabilities in private schools to seek reimbursement of tuition and related expenses. Data indicates that in the 2018-19 school year, to date, there have been 9,352 due process complaints filed with 8,913 of them in NYC and 439 in rest-of-state districts.

Ohio

- The State provided the following response to a large Year to Year change: The decrease in complaints is attributed to higher rates of alternative dispute resolution in Ohio, as the numbers of mediations and IEP facilitations have increased steadily over the last three years. Additionally, 2017-18 represented a decline in volume from frequent complaint filers for the first time in five years.

Oregon

- The State provided the following response to a large Year to Year change: One parent-complainant filed multiple separate due process complaints against the same school district regarding the same child and requested separate due process hearings for each. In another matter, one attorney representing multiple different families filed several separate due process complaints on the same day against the same school district, arising out of similar events. These two reasons in particular led to a significant increase in the number due process hearings filed in 2017-18.

Puerto Rico

- The State provided the following response to a large Year to Year change: During 2017-18, PRDE experienced a significant decrease in multiple dispute resolution data points due in large part to the impact of two significant hurricanes hitting Puerto Rico back-to-back (Hurricanes Irma and María) during September 2017.

In the aftermath of Hurricane Maria, a large number of PRDE public schools served as shelters for families and individuals. Additionally, several schools were closed and unable to serve these key roles for their communities following the hurricanes due to the significant levels of damage to their structure. By November 7, 2017, PRDE had been able to re-open approximately half of the schools that existed at the start of the 2017-18 school year. A total of approximately 20 schools that existed at the start of the 2017-18 school year never re-opened due to severe damages sustained as a result of the hurricanes. As a result of the hurricanes, significant numbers of families, including students, left Puerto Rico either temporarily or permanently. Additionally, as described above, schools were closed for significant period of time and when re-opened, significant focus was placed on addressing trauma, impacts to students and communities as a result of the storm, and helping return students to a sense of normalcy.

As such, the combination of less total students, less school days, and increased focus on addressing trauma and returning students to a sense of normalcy resulted lower numbers of certain dispute resolution data points for 2017-2018 as compared to the prior year, including (i) total number of mediation requests received through all dispute resolution processes, and (ii) total number of due process complaints.

Tennessee

- The State provided the following response to a large Year to Year change: Regarding the year-to-year changes in dispute resolution data, administrative complaints and due process hearings have decreased in large part to the addition of department staff to address and investigate complaints. These staff have made concerted efforts that have effectively resolved complaint issues before they have become written administrative complaints. The decrease in due process hearings could also be attributed to mediation agreements that prevented further action and due process hearings.

Texas

- The State provided the following response to a large Year to Year change: The State has determined that the drop in 2016-17 in the number of expedited due process complaint coincides with significant activity in the state involving OSEP listening sessions and onsite visits in which parents had access to express concerns directly to OSEP through in person listening sessions and online blog opportunities. Following the OSEP in-state activities in 2017-18, the state saw an increase in 3 of the 4 dispute resolution reported categories. The large year to year change in this category resulted due to the lower than normal request in 2016-17, followed by a higher than normal request level in 2017-18, which would not have triggered had the historic levels from prior years been the norm in 2016-17. The State

did not find any abnormal increases in any particular subject or reasons for expedited due process complaints.

Virginia

- The State provided the following response to a large Year to Year change: In part, the increase in the year-to-year reporting was due to an increasing level of discord and distrust between certain advocates and certain school divisions within the state.

Washington

- The State provided the following response to a large Year to Year change: Washington saw an increase in both mediation requests and the number of complaints filed.