

SY 11-12 DUE PROCESS REPORT

DUE PROCESS COMMITTEE
OCTOBER 2013

CADRE CONTINUUM: STAGES OF CONFLICT RESOLUTION

Stages of Conflict	Stage I			Stage II			Stage III			Stage IV			Stage V					
Levels of Intervention	Prevention			Disagreement			Conflict			Procedural Safeguards			Legal Review					
Assistance/ Intervention Options	Participant & Stakeholder Training																	
	Stakeholder Council																	
	Collaborative Rule Making																	
	Parent-to-Parent Assistance																	
	Case Manager																	
	Telephone Intermediary																	
	Facilitation																	
	Mediation Hybrid Models																	
	Ombudsperson																	
Third-Party Opinion/Consultation																		
Resolution Session																		
Mediation Under IDEA																		
Complaints																		
Due Process Hearing																		
Hearing Review (Tier II)																		
Litigation																		
Legislation																		
Dimensions that help clarify placement of the options along the Continuum	Third-Party Assistance												Third-Party Intervention					
	Decision Making by Parties												Decision Making by Third Party					
	Interest-Based												Rights-Based					
	Informal & Flexible												Formal & Fixed					



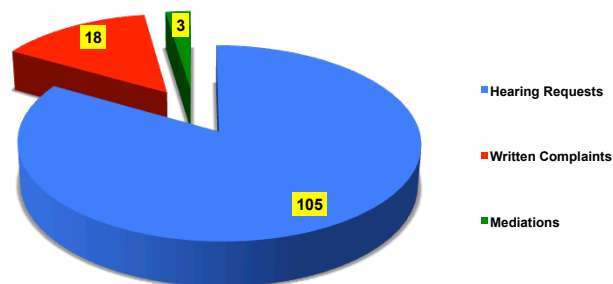
Developed by CADRE
www.directionservice.org/cadre/continuum.cfm



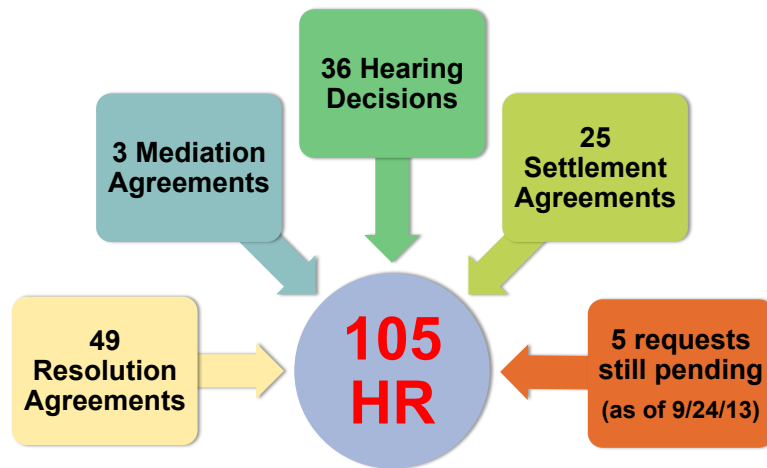
HAWAII'S CONTINUUM SY11-12

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Prevention	Disagreement	Conflict	Procedural Safeguards	Legal Review
?	Conciliation P-to-P (LDAH, SPIN, CCCs, HFAA)	Facilitated IEPs Mediation Prior to Hearing Request (2)	Mediation Related to Hearing Request (3) Written Complaint (18) Resolution Session (98) Due Process Hearing Requests & Hearings (105/36)	State Civil Court Review (15) 9 th Circuit Court Review (2)

2011-12 USAGE OF FORMAL DISPUTE OPTIONS



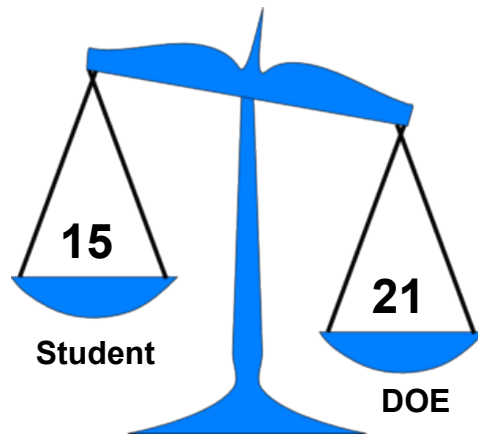
RESOLUTION OF SY 2011-12 HEARING REQUESTS



ISSUES PRESENTED IN DUE PROCESS HEARINGS

TYPE OF ISSUE	NUMBER
Private School Tuition Reimbursement	21
IEP Adequacy or Timeliness	19
Evaluation	8
Placement (LRE)	8
Other	6
Parental Involvement in Planning	6
Compensatory Education	5
Extended School Year	5
Transition Plan to Public School	5
Preemption of Acts 128 & 129	2

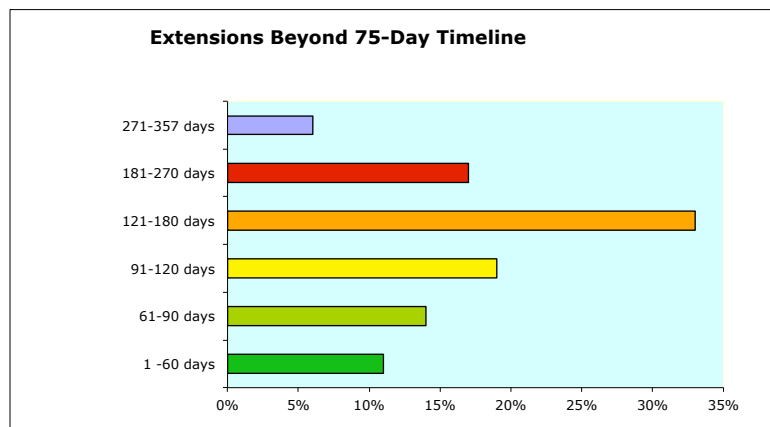
2011-12 PREVAILING PARTY



AFTER APPEALS

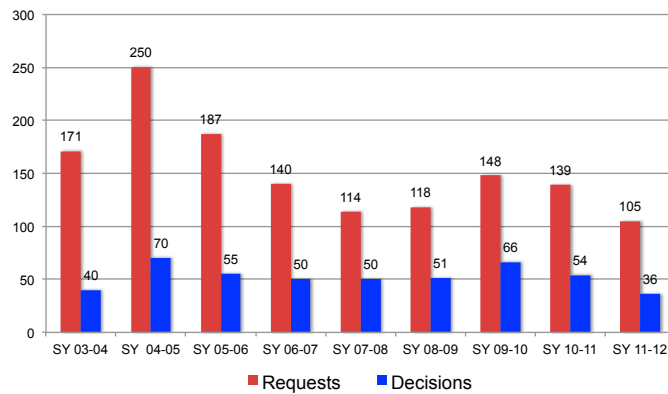
DOE	19 (53%)
STUDENT	17 (47%)

2011-12 EXTENSIONS

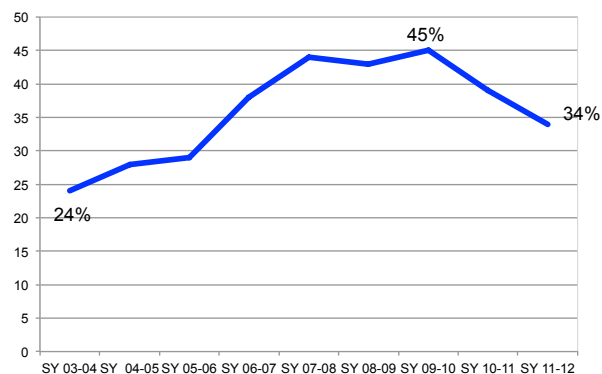


100% of hearings involved extensions beyond the 75 day timeline.

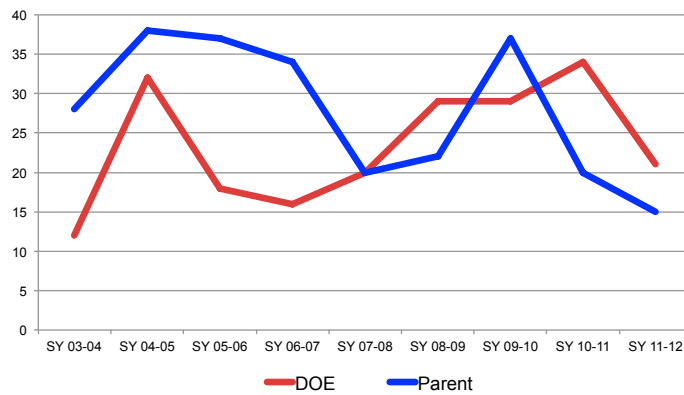
TRENDS IN HAWAII DATA: REQUESTS/DECISIONS



TRENDS IN HAWAII DATA: % REQUESTS RESULTING IN HEARINGS



TRENDS IN HAWAII DATA: PREVAILING PARTY



TRENDS IN HAWAII DATA: RESO SESSION AGREEMENTS

SCHOOL YEAR	# RESOLUTION SESSIONS	# OF AGREEMENTS	% OF AGREEMENTS
2005-06	160	26	16%
2006-07	128	8	6%
2007-08	105	42	40%
2008-09	114	41	36%
2009-10	139	50	36%
2010-11	131	62	47%
2010-12	98	49	50%

COMPARISON TO NATIONAL DATA: ALL COMPLAINTS (PER 10K SPED STUDENTS)

DR Method	Nat'l Avg. (09-10)	Hawaii 07-08	Hawaii 08-09	Hawaii 09-10	Hawaii 10-11	Hawaii 11-12
Written Complaint	7.4	11.3	6.5	7.0	7.1	9.2
Hearing Request	12.2^	54.3	58.6	74.2	71	53.8
Hearings Held	1.2^	22.9	19.4* 23.2**	21.1* 33.2**	14.4* 28.9**	9.7* 18.4***

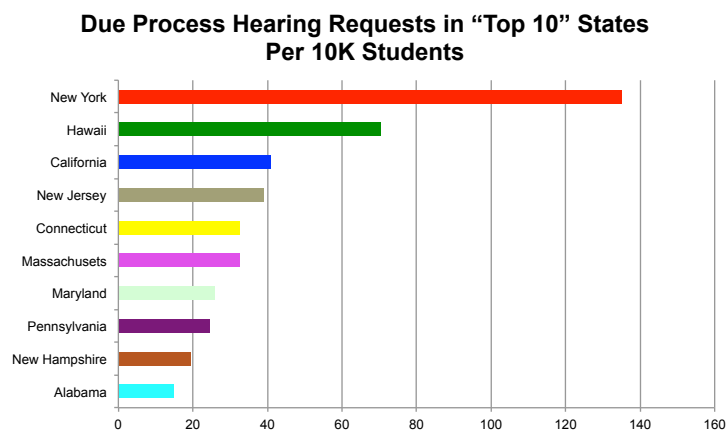
^Calculated with states only (no territories)

*Taken from Hawaii's APR reports (with cases pending)

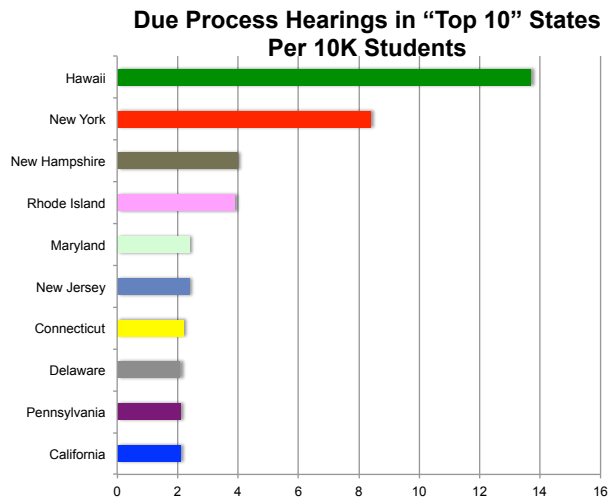
**True rate calculated by SEAC (with no cases pending)

*** True rate calculated by SEAC (with 5 cases pending)

COMPARISON TO NATIONAL DATA: HEARING REQUESTS (SY 10-11)



COMPARISON TO NATIONAL DATA: HEARING DECISIONS (SY10-11)



RED FLAGS - 2013 REPORT



There have been some improvements in Hawaii's capacity to settle school conflicts, but our formal DR rates remain some of the highest in the nation.



A number of parents of children with autism do not believe DOE can meet their child's needs.

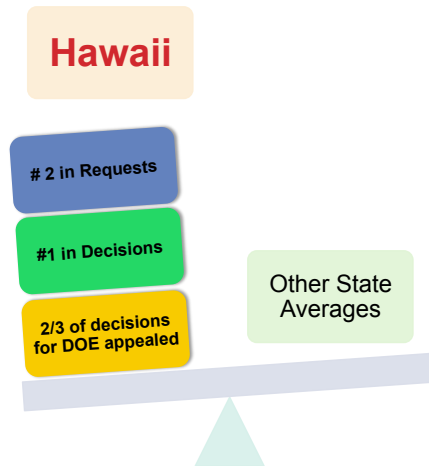


The cost of formal dispute resolution appears to be high, and there are still hidden costs that are not published..

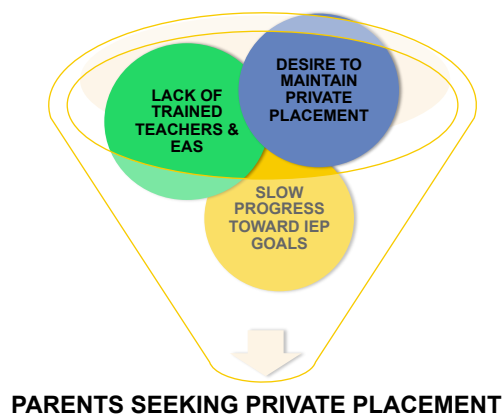


NO due process hearings were concluded within the 75-day timeline.

HIGH NUMBERS OF HEARING REQUESTS, HEARINGS & APPEALS



AN OVER-REPRESENTATION OF STUDENTS WITH AUTISM





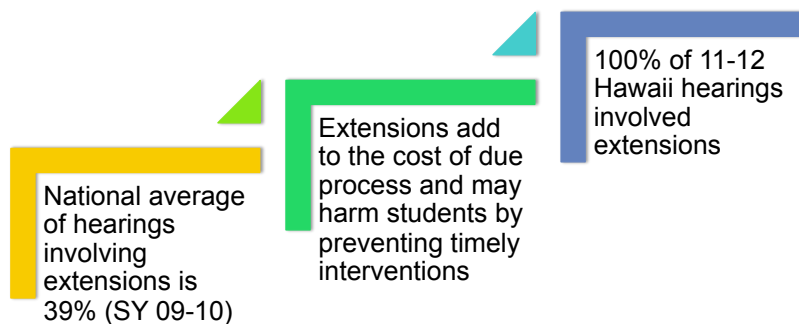
COSTS RISING

	2007-08	2008-09	2009-10	2010-11	2011-12
Loveland	\$4,569,642	\$5,727,908	\$6,128,796	\$6,931,142	?
Pacific Autism	\$904,653	\$1,454,892	\$1,410,116	\$1,125,731	?
Horizons	\$570,265	\$877,674	\$1,410,116	\$1,125,731	?
Variety School	\$233,184	\$282,028	\$140,650	\$138,766	?
AOP	\$111,570	\$102,315	\$116,750	\$116,610	?
Assets	\$2,175	0	\$20,500	\$57,757	?
Island Pacific	\$25,219	\$13,725	0	0	?
Redemption	\$1,360	\$13,853	\$7,280	0	?
# of Students	59	71	61	68	?

Taken from August 13, 2012 **StarAdvertiser** article by Mary Vorsino



HIGH NUMBERS OF HEARING EXTENSIONS

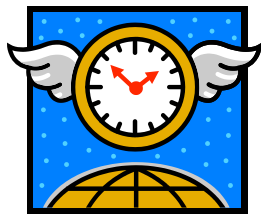


RECOMMENDATIONS



- ◆ Encourage more IEP recommended placements to accredited private schools when schools are unable to provide an appropriate program for a student with unique needs
- ◆ Expand the array of services to students with Autism Spectrum Disorders in public schools

RECOMMENDATIONS



- ◆ Improve the timeliness and effectiveness of hearings by expanding key personnel needed (i.e. Hearing Officers).
- ◆ Make information available to SEAC and the public regarding the issues, ages and disabilities represented in hearing requests as well as which districts have the most requests/decisions.

RECOMMENDATIONS



Utilize representatives from SEAC, the Children's Community Councils and other family stakeholder groups as resources to the SEA on alternative dispute resolution review and improvement activities.

November 14, 2011 WestEd Report to the Hawaii DOE

RECOMMENDATIONS



Convene a state-level, under the lead of the Federal Programs Office, co-chaired with OCISS and the Special Education Advisory Committee (SEAC), with broad stakeholder representation to develop guidelines and implementation strategies for ongoing communication and partnerships with families.

November 14, 2011 WestEd Report to the Hawaii DOE

RESOURCES

The Center for Appropriate Dispute Resolution in Special Education (CADRE)

<http://www.directionservice.org/cadre/>

DOE Listing of Due Process Decisions

<http://hidoereports.k12.hi.us/DueProcessHearings/Pages/default.aspx>

Due Process Decisions Summary and Appendices

<http://www.spinhawaii.org/SAP/sap>