

SY 11-12 DUE PROCESS REPORT

**DUE PROCESS COMMITTEE
OCTOBER 2013**

CADRE CONTINUUM: STAGES OF CONFLICT RESOLUTION

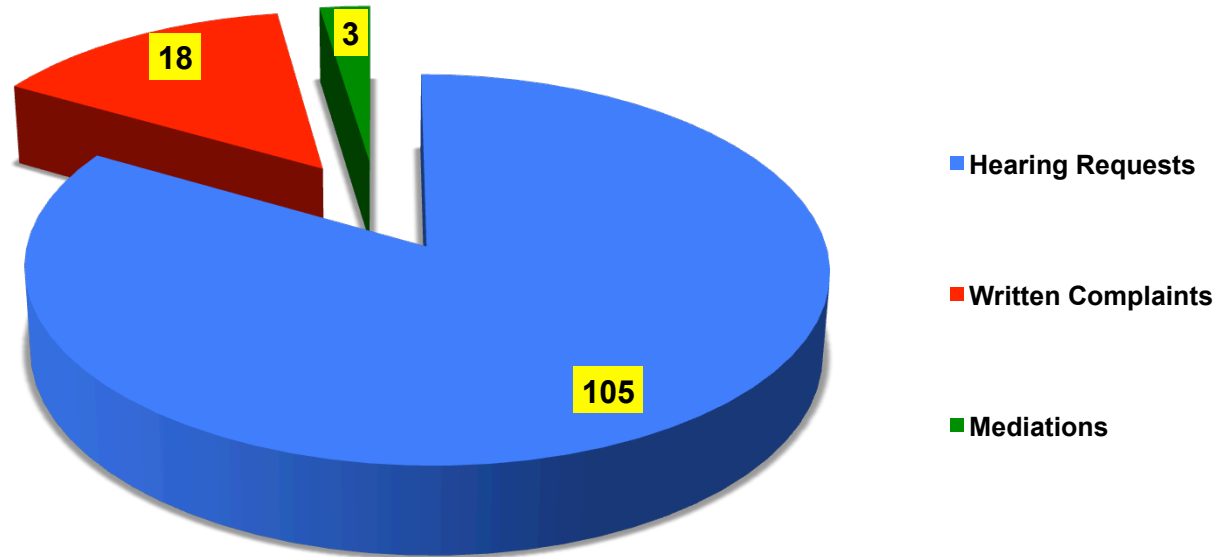
Stages of Conflict	Stage I			Stage II			Stage III			Stage IV			Stage V					
Levels of Intervention	Prevention			Disagreement			Conflict			Procedural Safeguards			Legal Review					
Assistance/ Intervention Options	Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent-to-Parent 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								



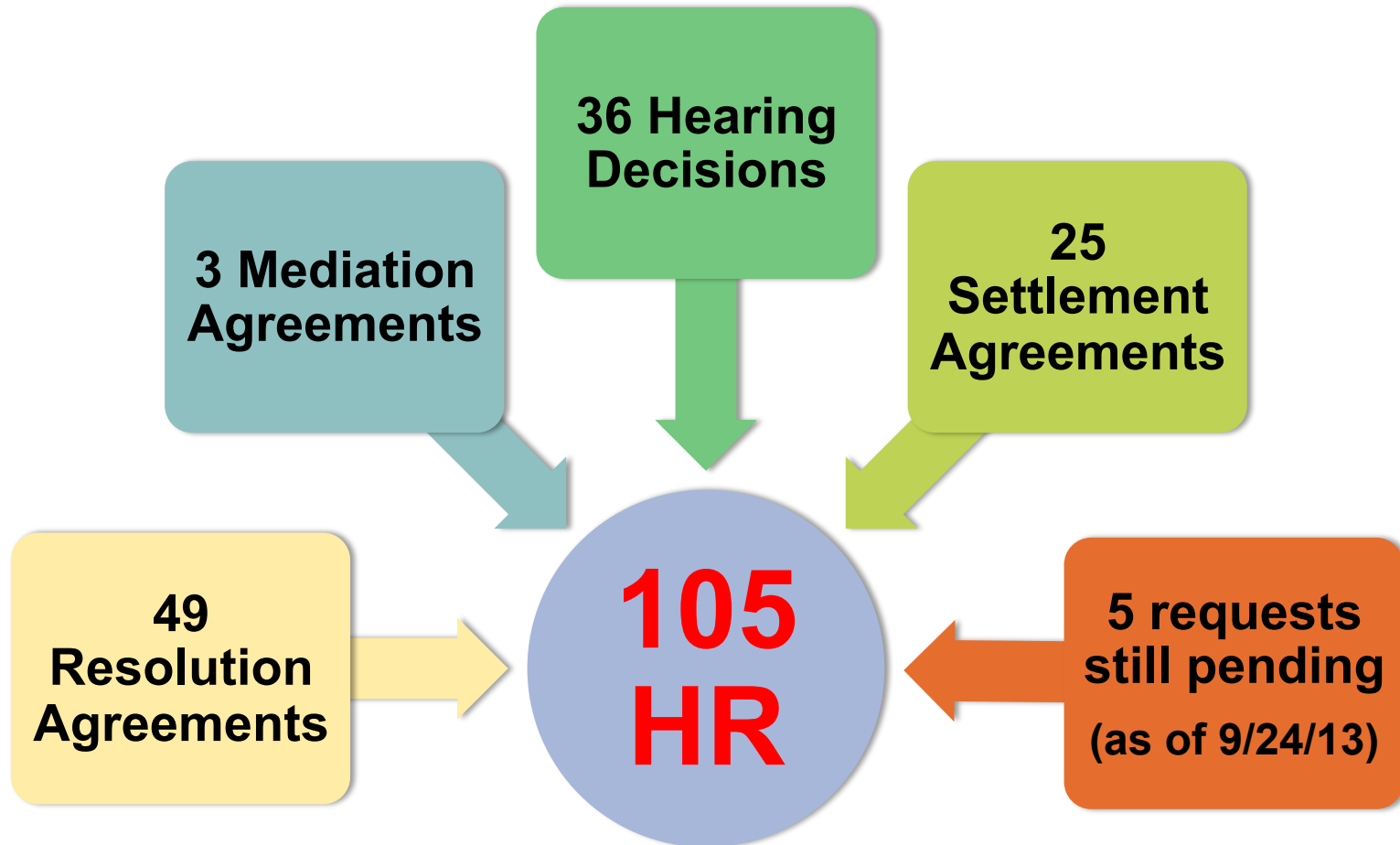
HAWAII'S CONTINUUM SY11-12

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Prevention	Disagreement	Conflict	Procedural Safeguards	Legal Review
?	<p data-bbox="517 518 736 551">Conciliation</p> <p data-bbox="508 608 745 729">P-to-P (LDAH, SPIN, CCCs, HFAA)</p>	<p data-bbox="807 518 1087 551">Facilitated IEPs</p> <p data-bbox="813 608 1081 729">Mediation Prior to Hearing Request (2)</p>	<p data-bbox="1174 518 1367 686">Mediation Related to Hearing Request (3)</p> <p data-bbox="1141 743 1400 819">Written Complaint (18)</p> <p data-bbox="1161 876 1381 952">Resolution Session (98)</p> <p data-bbox="1155 1009 1387 1219">Due Process Hearing Requests & Hearings (105/36)</p>	<p data-bbox="1470 518 1715 644">State Civil Court Review (15)</p> <p data-bbox="1470 701 1715 819">9th Circuit Court Review (2)</p>

2011-12 USAGE OF FORMAL DISPUTE OPTIONS



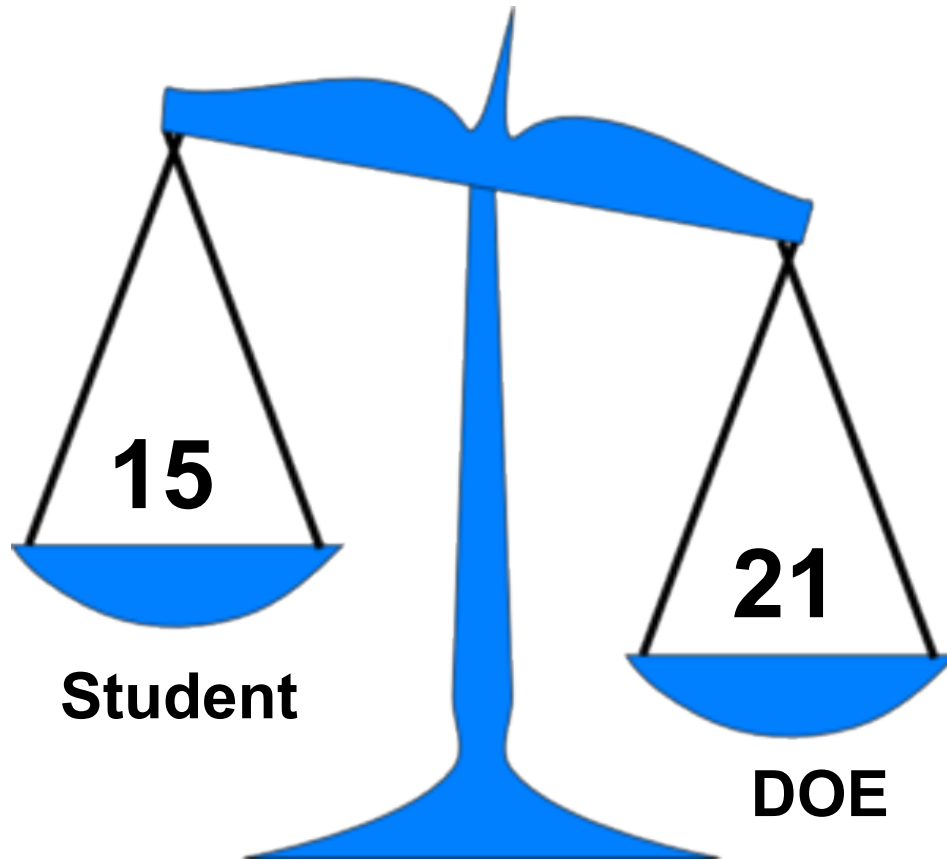
RESOLUTION OF SY 2011-12 HEARING REQUESTS



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

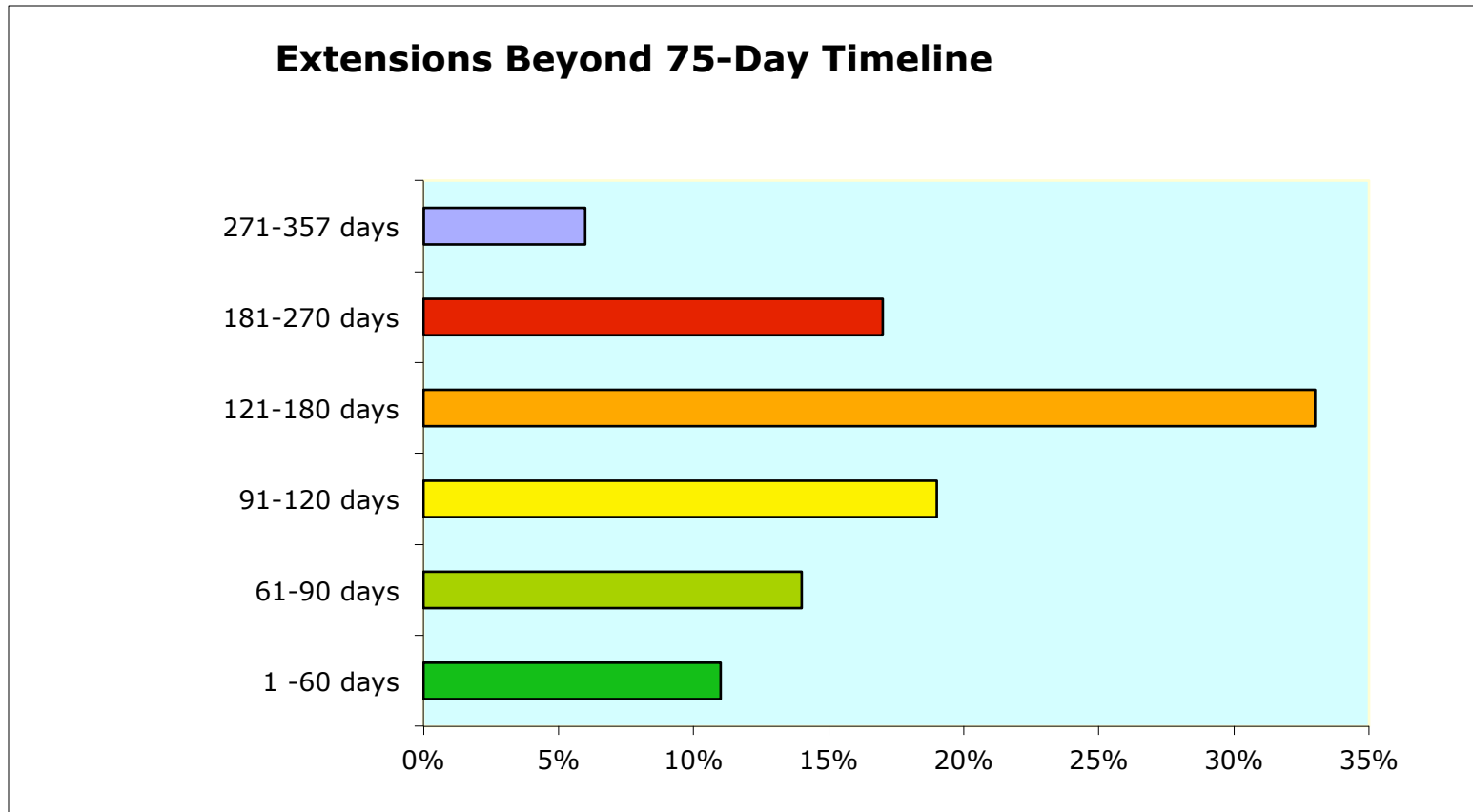
2011-12 PREVAILING PARTY



AFTER APPEALS

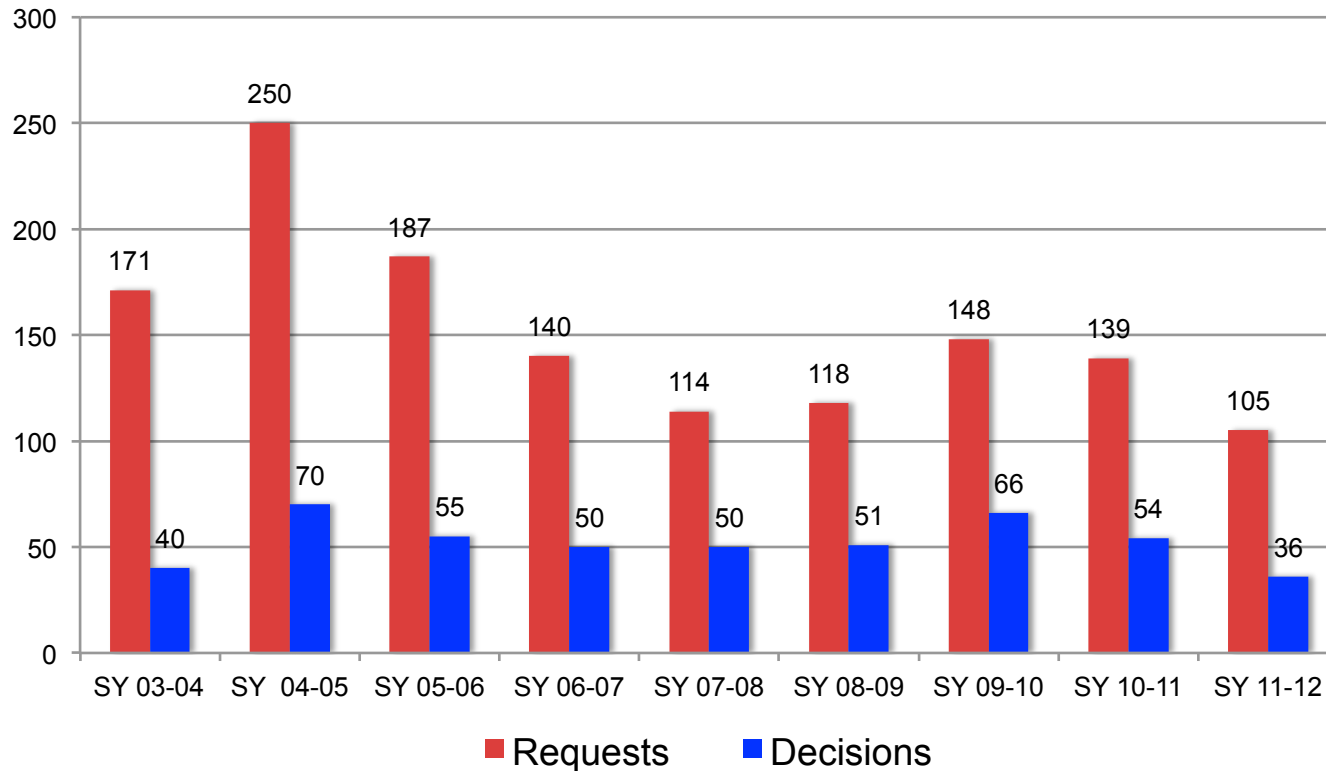
DOE	19 (53%)
STUDENT	17 (47%)

2011-12 EXTENSIONS

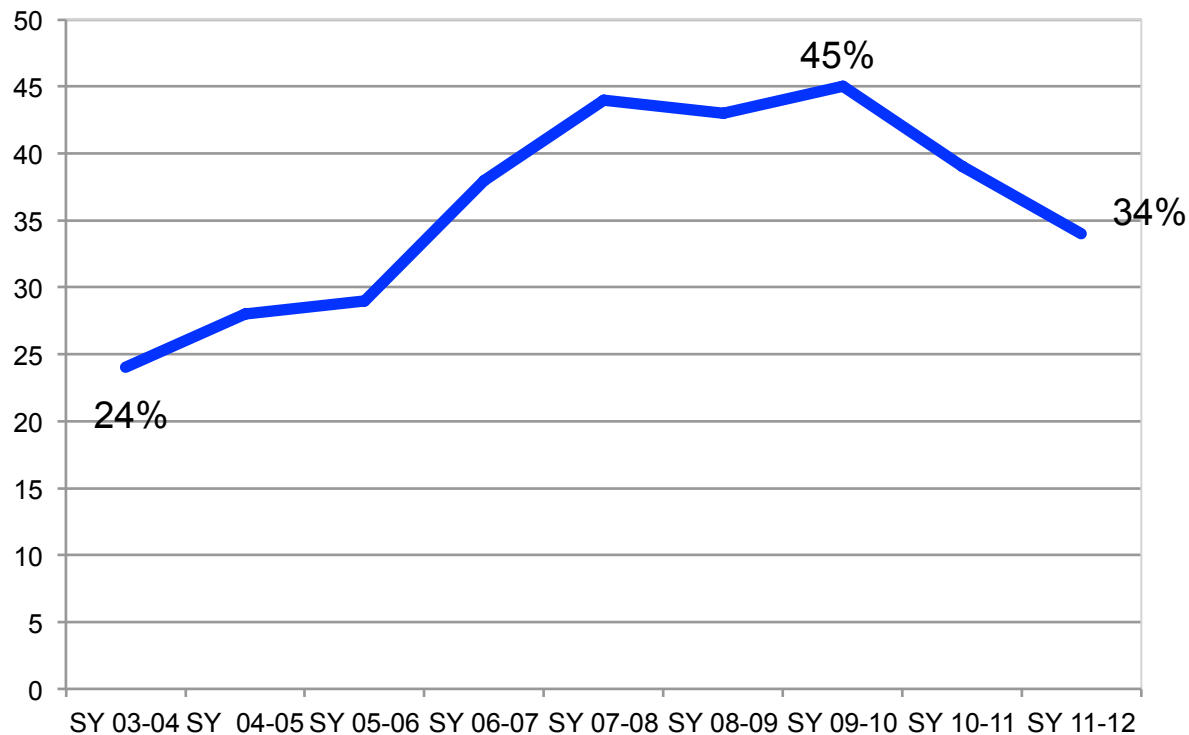


100% of hearings involved extensions beyond the 75 day timeline.

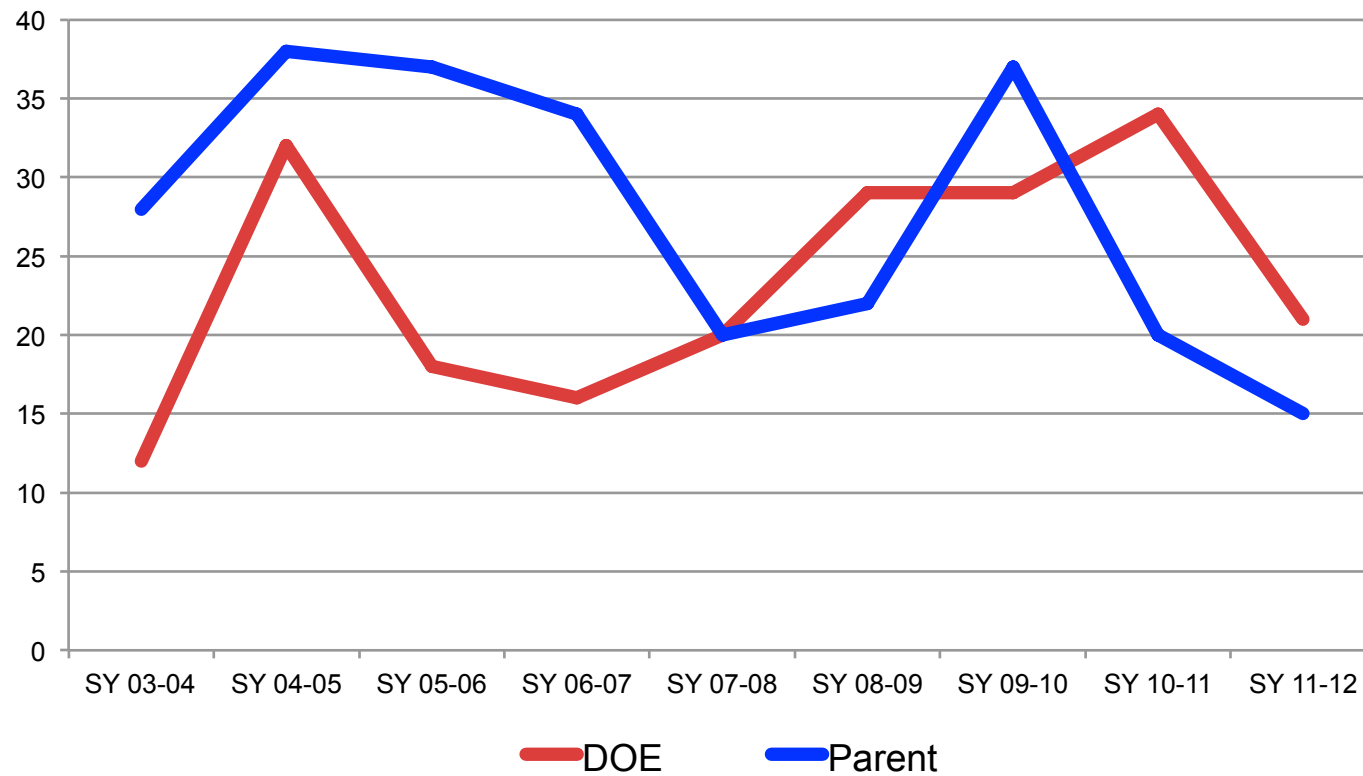
TRENDS IN HAWAII DATA: REQUESTS/DECISIONS



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)

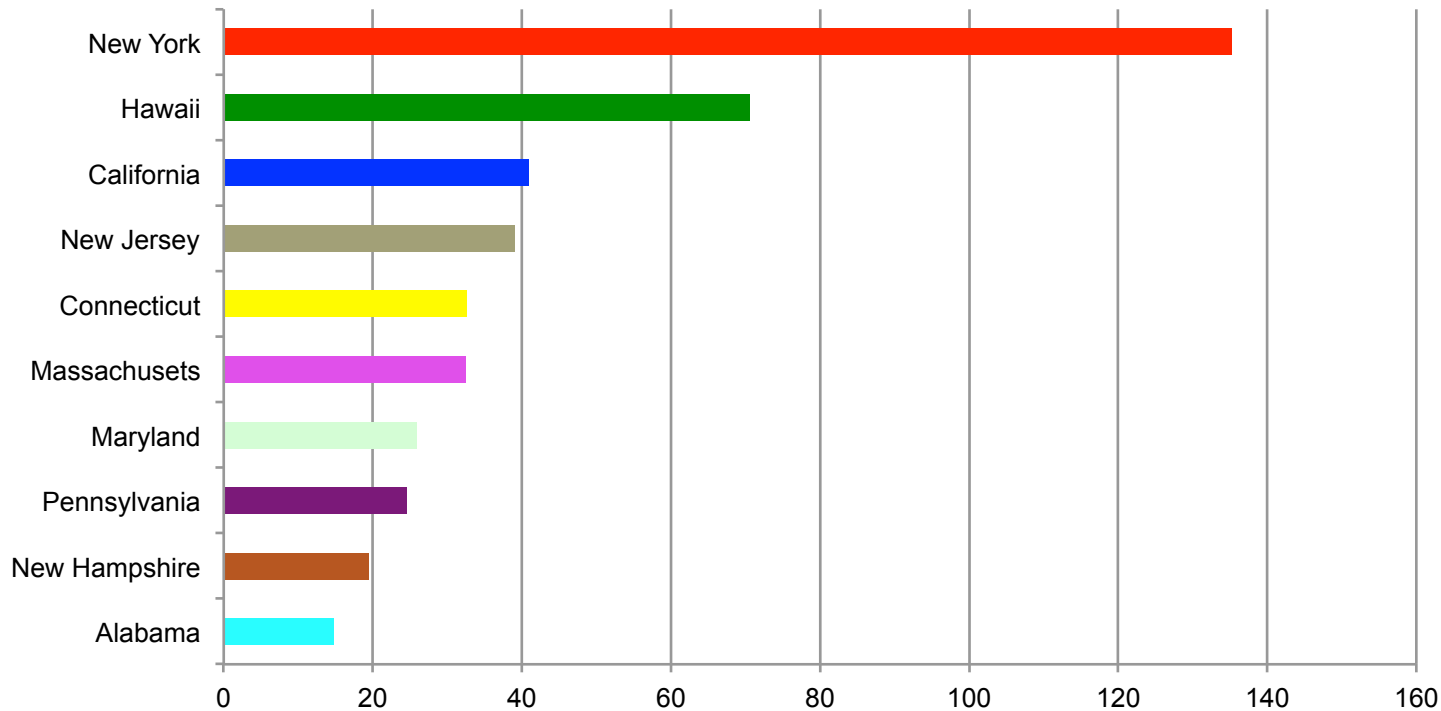
*Taken from Hawaii's APR reports (with cases pending)

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

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

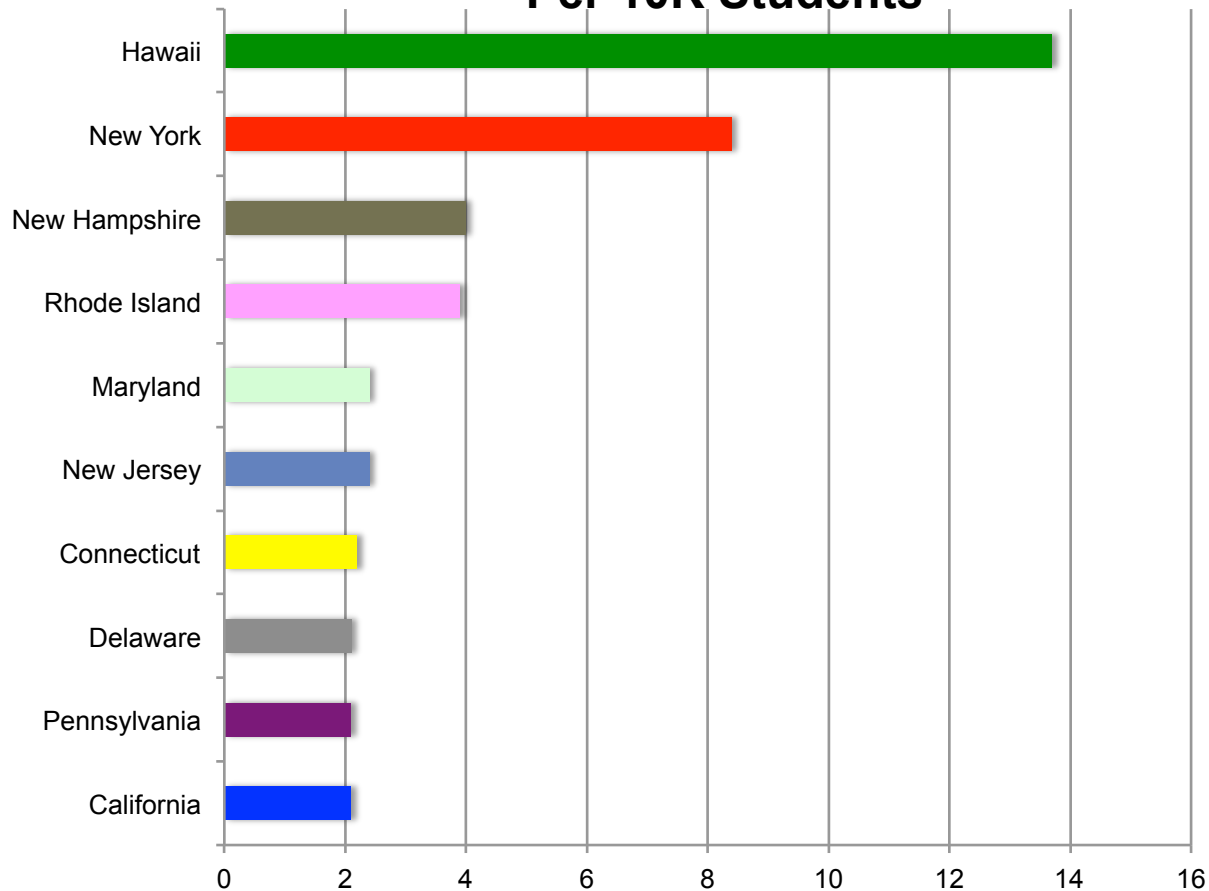
COMPARISON TO NATIONAL DATA: HEARING REQUESTS (SY 10-11)

Due Process Hearing Requests in “Top 10” States
Per 10K Students



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

Due Process Hearings in “Top 10” States
Per 10K Students



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

Hawaii

2 in Requests

#1 in Decisions

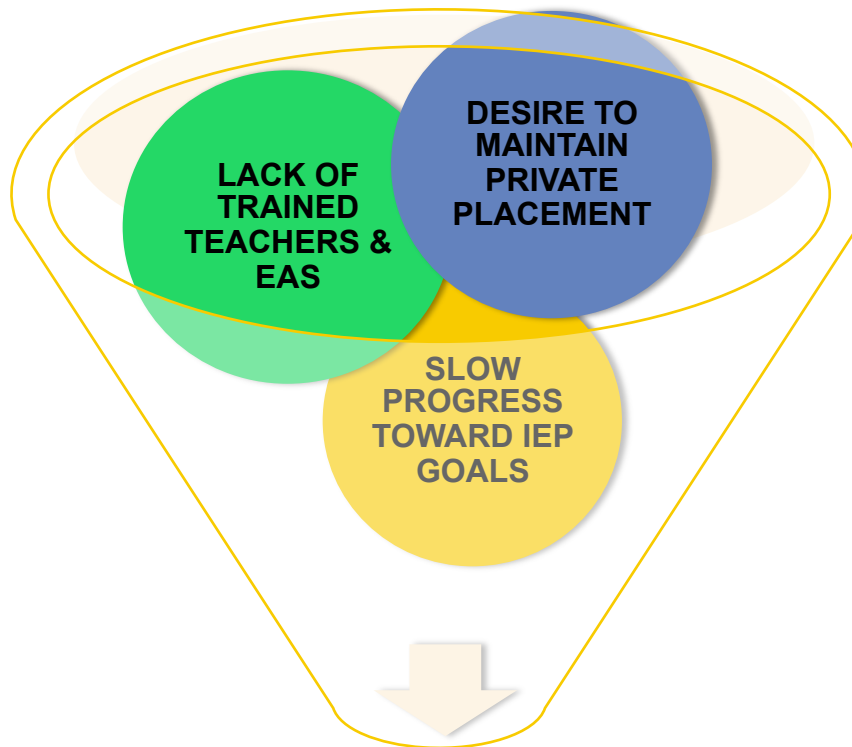
**2/3 of decisions
for DOE appealed**

Other State
Averages





AN OVER-REPRESENTATION OF STUDENTS WITH AUTISM



PARENTS SEEKING PRIVATE PLACEMENT



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

National average of hearings involving extensions is 39% (SY 09-10)

Extensions add to the cost of due process and may harm students by preventing timely interventions

100% of 11-12 Hawaii hearings involved 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.

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.

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>