

SEAC Due Process Report for SY 2020-21

MAY 13, 2022

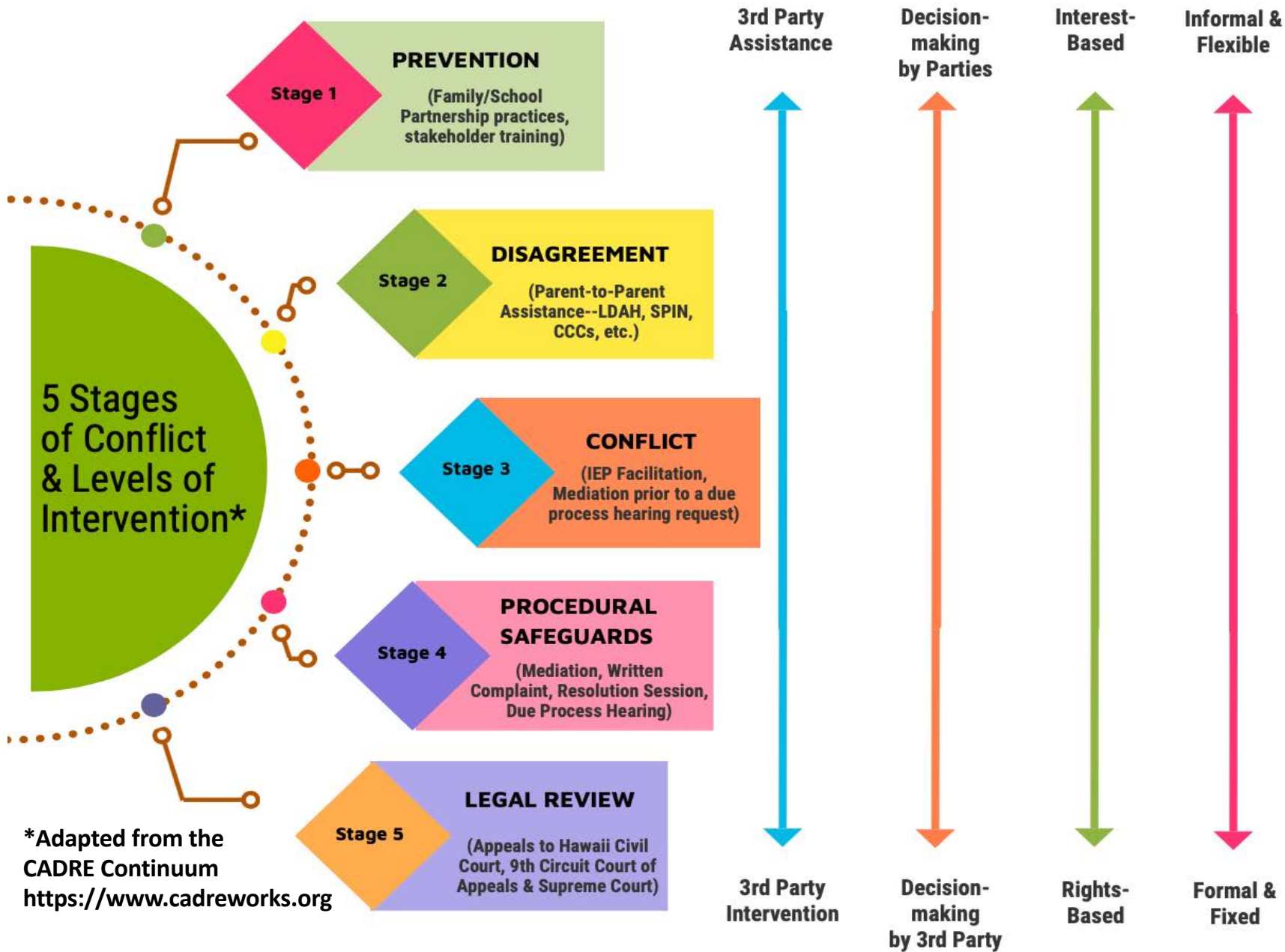


Purpose of Annual Review

Requirement of State Advisory Panels under IDEA to review due process hearing decisions

Annual Report a priority activity for SEAC since 2005

- Began with move from independent hearing officers to DCCA
- Effort to reduce high incidence of formal dispute resolution
- Proactive preference for early dispute resolution to save money and relationships



Two Foci for the Review

HAWAII VS. NATIONAL MEANS

Methodology: Compare Hawaii dispute resolution practices using 618 IDEA Dispute Resolution data

1. Mediation
2. Written Complaints
3. Due Process Hearing Requests
4. Resolution Sessions

Hawaii	
IDEA Part B: Dispute Resolution	
School Year: 2020-21	
Section A: Written, Signed Complaints	
(3) Total number of written signed complaints filed	4
(1) Complaints with reports issued	3
(1) (a) Reports with findings of non-compliance	1
(1) (b) Reports with findings	2
(1) (c) Reports with amended resolutions	0
(2) Complaints pending	0
(2) (a) Complaints pending a due process hearing	0
(2) (b) Complaints withdrawn or dismissed	1
Section B: Mediation Requests	
(3) Total number of mediation requests received through all dispute resolution processes	4
(2) Mediations held	4
(2) (a) Mediations held related to due process complaints	1
(2) (a) (i) Mediations agreements related to due process complaints	0
(2) (a) (ii) Mediations held not related to due process complaints	3
(2) (b) Mediations agreements not related to due process complaints	2
(2) Mediations pending	0
(2) Mediations withdrawn or not held	2
Section C: Due Process Complaints	
(3) Total number of due process complaints filed	54
(1) Resolutions awarded	17
(1) (a) Written self-settlement agreements reached through mediation hearings	11
(1) Hearings fully adjudicated	15
(2) Decisions with resolution (article requested)	0

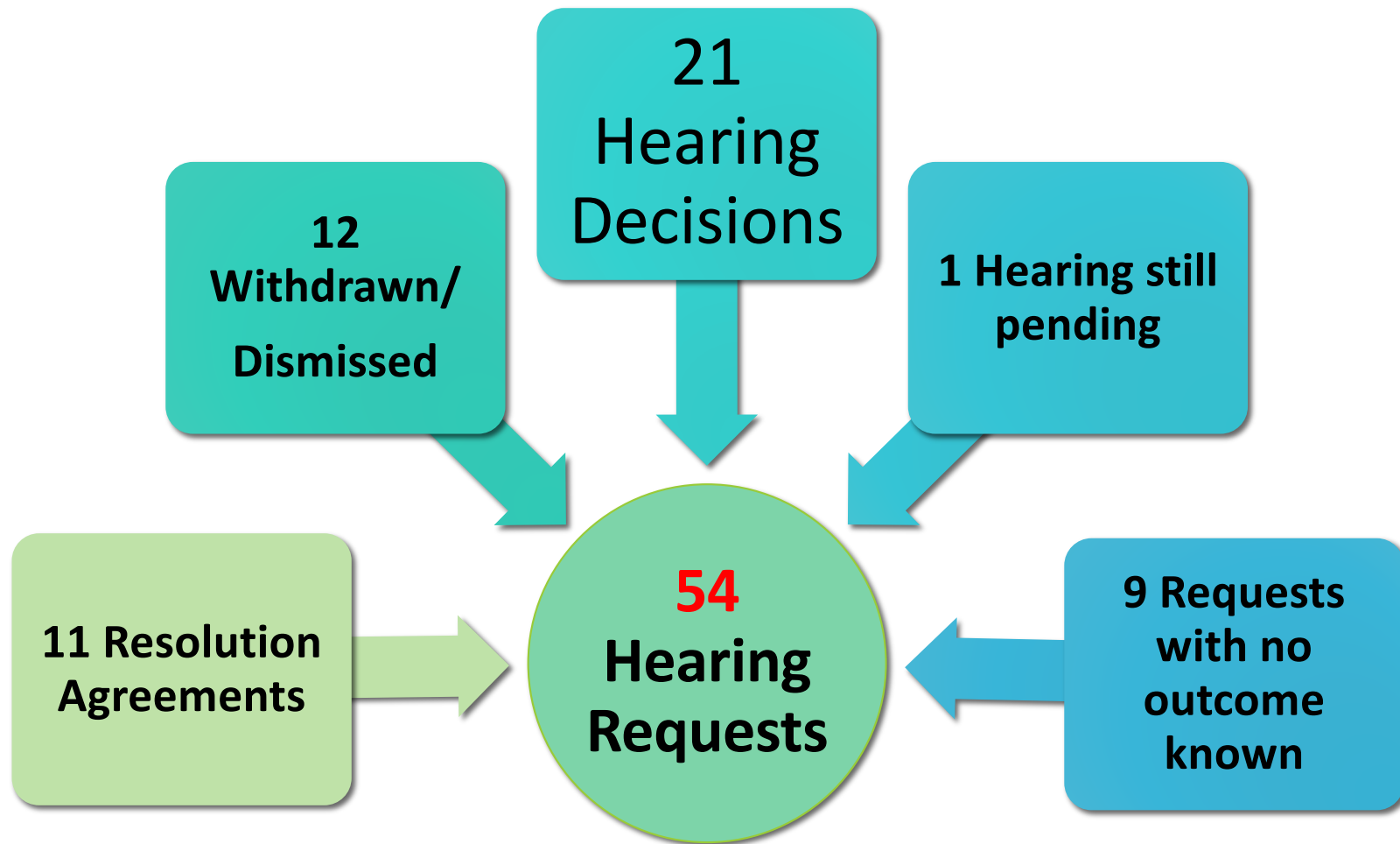
Table 6 - Discipline

HAWAII TRENDS OVER TIME

Methodology: Track all due process hearing requests filed in a school year (July 1st – June 30th)

1. Wait one school year to allow for all or most of the hearing requests to resolve.
2. Use these more complete data sets to compare due process activity over a span of years.

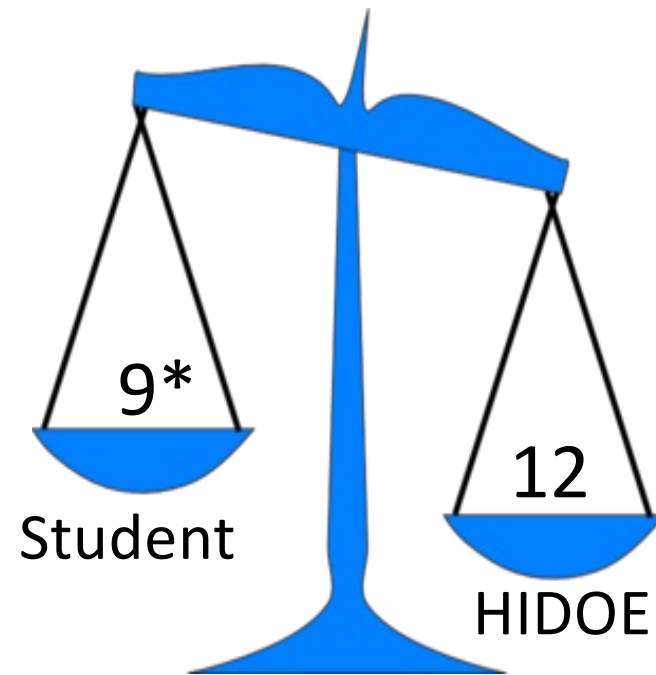
Resolution of SY 2020-21 Hearing Requests



Top Issues in SY 20-21 Due Process Hearings

TYPE OF ISSUE	FREQUENCY
Placement/LRE	12
Extended year services (ESY)	9
Private school reimbursement	9
Insufficient aids/services	9
Behavioral Interventions/ABA	9
Insufficient information/failure to provide knowledgeable persons at IEP meeting	8
Transition supports from private to public school	6
Lapsed/expired IEP	5
Parent participation	4
Evaluation/IEE	4

Prevailing Parties for SY 2020-21



- Includes 2 decisions where parents asked for reimbursement for private school placement for two years and only received one year of reimbursement.

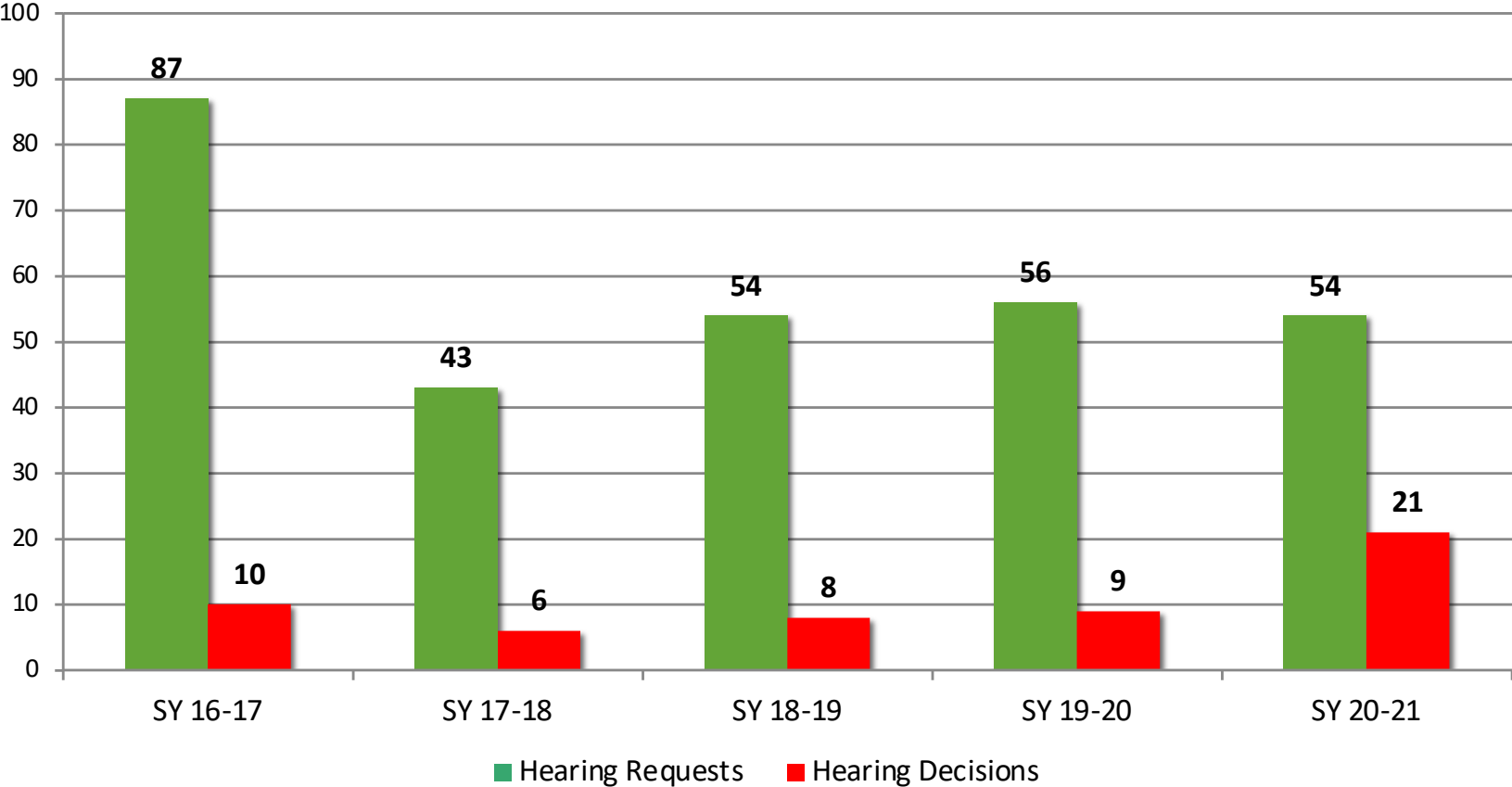
Comparison to National Data

All Complaints (per 10K SPED Students)

Dispute Resolution Method	National Average SY 19-20	Hawaii SY 18-19	Hawaii SY 19-20	Hawaii SY 20-21
Written Complaints with Reports	5.2	2.0	1.5	1.5
Hearing Requests Filed	30.7	26.0	28.0	27.0
Hearings Held	2.7	2.0	4.5	10.0
Mediations Held	8.6	2.5	3.5	2.0

Source: Part B 618 Data Tables

5-Yr Comparision of Hawaii Hearing Requests and Hearing Decisions




Areas of Concern: Timeliness

Chapter 60 and IDEA set a timeline of **75 days** for completion of a hearing and delivery of the decision to the parties. This includes **30** days to allow for the resolution process and **45** days from the time the hearing is convened to the rendering of the decision.

Hearing officers may grant an extension to this timeline at the request of either party, but **only for good cause** and **no more than 45 days**.

The clear intent of IDEA is to **expedite the hearing process to minimize harm to the student**.



Areas of Concern: Timeliness

Of the 21 hearing requests filed in SY 20-21 that resulted in a due process hearing:

- only one was completed within the 75-day timeline;
- two hearings spanned over 250 days from pre-conference to decision;
- one hearing request from SY 20-21 is still pending; and
- most written hearing decisions were filed a full month after the hearing, and in one case, the decision was filed three months later.



Areas of Concern: Availability and Affordability of Plaintiff Attys.

Of the 21 hearing requests filed in SY 20-21 that resulted in a due process hearing:

- 18 of the 21 requests were **represented by the same plaintiff attorney.**
- SEAC has received reports from **families who were not able to retain a plaintiff attorney** to represent them in a due process hearing
- It is unclear whether the services of the plaintiff attorney are provided on a **contingency basis vs. out-of-pocket.**

Areas to Explore?



What factors led to the increase in parents in SY 20-21 who did not resolve their complaint prior to hearing?



Why did so few parents opt to utilize mediation, either prior to or after filing for a due process hearing?



Where is the dispute resolution activity occurring?

