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## Parent-School Conflict in the Education of Students with Disabilities: Causation, Prevention, and Resolution

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Parent-School Conflict in the Education of Students with Disabilities:  
Causation, Prevention, and Resolution

by

Julie Voyles

April 14, 2022

A Dissertation submitted to the Education Faculty of Lindenwood University in  
partial fulfillment of the requirements for the degree of  
Doctor of Education  
School of Education

Parent-School Conflict in the Education of Students with Disabilities:  
Causation, Prevention, and Resolution

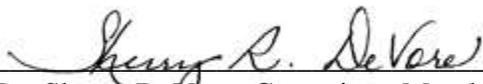
by

Julie Voyles

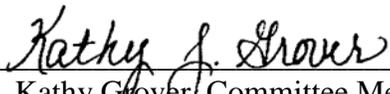
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of the requirements for the degree of  
Doctor of Education  
Lindenwood University, School of Education

  
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Declaration of Originality

I do hereby declare and attest to the fact that this is an original study based solely upon my own scholarly work at Lindenwood University and that I have not submitted it for any other college or university course or degree.

Full Legal Name: Julie Voyles

Signature: Julie Voyles Date: 4/14/2022

## **Acknowledgments**

I would like to thank Dr. Sherry DeVore and Dr. Kathy Grover for serving on my dissertation committee and for committing their time to provide invaluable feedback and guidance throughout this process. I want to express my gratitude to my dissertation chair, Dr. Shelly Fransen, for her advisement and constant support that made the completion of this journey possible for me. Additionally, I want to extend my appreciation to the Special Education Directors who gave their time to make this study possible. Through the interview process, they provided insight into their complex leadership role. Finally, I would like to express heartfelt thanks to my family for their encouragement. My husband, Michael, and daughters, Lauren, Sarah, and Anna, have provided unwavering support. Completing this degree would not have been possible without my parents, James and Marian, and their lifelong encouragement of my education.

## **Abstract**

Millions of children with disabilities have benefited from the Individuals with Disabilities Education Act (IDEA) (United States Department of Education [USDOE], 2010).

However, the law has also been a source of frequent litigation and conflict between schools and parents (Mueller, 2015; Pudelski, 2016). This study was initiated to examine the perceptions of special education directors regarding the effectiveness of alternative dispute resolution practices. Data for this study were acquired using a semi-structured interview guide designed to elicit special education directors' perspectives on the shared experience of parent-school conflict. Results indicated special education directors utilize three standard practices to prevent or ameliorate parent-professional disputes at the earliest stages of conflict: relationship building, clear communication, and valuing the parent as an Individual Education Plan (IEP) team member. Building upon the results, two implications for future practice were proposed. The first recommendation was for school districts to provide all building staff and parents/guardians with professional development on IEP team roles and duties. The IEP process requires parents and school employees to work together; however, early career special education instructors frequently report lacking the skills, attitudes, knowledge, and confidence needed to form collaborative relationships with parents during the IEP process (Jones & Peterson-Ahmad, 2017). Second, districts should monitor the delivery of special education and related services to ensure services and supports outlined in the IEP are provided and that students are progressing toward IEP goals.

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## **Chapter One: Introduction**

Millions of children with disabilities have benefited from the Individuals with Disabilities Education Act (IDEA; United States Department of Education [USDOE], 2010). However, the law has also been a source of frequent litigation and conflict between schools and parents (Mueller, 2015; Pudelski, 2016). The current dispute resolution structure of due process was criticized by Shaver (2015) as “inefficient, anti-collaborative, and prohibitively expensive” (p. 143). According to Pudelski (2016), numerous researchers have documented the discontent felt by all parties involved in due process, regardless of who prevails in court.

In this chapter, the background of the study includes the evolution of the IDEA from advocacy through parent support groups in the 1950s to court cases as a catalyst for the 1975 legislation, then known as the Education for All Handicapped Children Act (EAHCA), or Public Law 94-142 (Pudelski, 2016; USDOE, 2010; Weast, 2005). The continuum of processes and procedures for resolving disputes developed by the Center for Appropriate Dispute Resolution in Special Education (CADRE; 2018a) guided the study as the framework from which research questions were developed. In Chapter One, the statement of the problem, the purpose of the study, the research questions, and the significance of the study are outlined. Finally, detailed in this chapter are definitions of key terms utilized in the research and the delimitations, limitations, and assumptions of the study.

### **Background of the Study**

Prior to the EAHCA legislation in 1975, millions of children with disabilities were denied full access to an education in their neighborhood public schools (USDOE,

2010). Initial groundwork for the landmark EAHCA began in the 1950s when family support networks, such as the Association for Retarded Citizens advocated for legislation on behalf of children with disabilities and their families (Spaulding & Pratt, 2015; USDOE, 2010). President Johnson signed the Elementary and Secondary Education Act, also known as Public Law 89-10, into law in 1965 (Samuels, 2015). Authorized in this extensive statute were the following: funds to ensure that all students have access to a high-quality education; high academic expectations from all stakeholders, including students and parents; and accountability of public schools (USDOE, 2010).

In addition to legislation, court decisions further established the rights of students with disabilities to access educational opportunities (USDOE, 2010). *Pennsylvania Association for Retarded Citizens v. Commonwealth* (1971) and *Mills v. Board of Education of the District of Columbia* (1972) struck down existing laws that allowed districts to deny enrollment to some students with disabilities and instead established the right of all students to a free public education (Spaulding & Pratt, 2015; USDOE, 2010; Weber, 2014). Members of Congress launched an investigation into the education of children with impairments in the aftermath of the court verdicts and discovered,

statistics provided by the Bureau of Education for the Handicapped estimated that of the more than 8 million children with handicapping conditions requiring special education and related services, only 3.9 million such children are receiving an appropriate education. 1.75 million handicapped children are receiving no educational services at all, and 2.5 million handicapped children are receiving an inappropriate education. (United States Code Congressional and Administrative News, 1975, p. 1433; Weast, 2005, p. 15)

The congressional investigation resulted in legislators enacting the EAHCA in 1975 and guaranteeing the right to receive a free, appropriate public education in the least restrictive environment to students with disabilities (Pudelski, 2016; USDOE, 2010; Weast, 2005).

One of the four primary purposes of the EAHCA explicitly focused on providing families and students due process protections (Weast, 2005). Each subsequent reauthorization of the EAHCA was designed to ensure that parents of disabled children participate in their children's education by enforcing procedural protections (Mueller, 2015). In the 1990 reauthorization, EAHCA was retitled the Individuals with Disabilities Education Act, or the IDEA (Mueller, 2015). Subsequent reauthorizations of the IDEA have outlined the central tenants of the law (Weber, 2014; Zirkel, 2007).

Among the changes within the 1997 reauthorization of the IDEA were increased parental involvement in eligibility and placement decisions, clarification on the process of discipline for students with behavior problems, a requirement that the individualized education program (IEP) include measurable annual goals, as well as a requirement that schools report on the student's progress toward those goals (Francisco et al., 2020; Yell & Shriner, 1997). Also, within the 1997 reauthorization, Congress adopted mediation as an option to ameliorate what was seen as the unnecessarily combative aspect of special education dispute resolution by allowing parents and educators to utilize less confrontational approaches to resolve conflicts (Yell et al., 1998).

Three significant factors heavily influenced Congress's 2004 reauthorization of the IDEA (Yell et al., 2006).

The first was enactment of the No Child Left Behind Act of 2001 (NCLB), arguably the most significant piece of federal legislation since the Elementary and Secondary Education Act was originally passed in 1965. The second and third factors were the findings and recommendations of two influential reports: *Rethinking Special Education for a New Century* (Finn et al., 2001) and *A New Era: Revitalizing Special Education for Children and Their Families*, by the President's Commission on Excellence in Special Education. (U.S. Department of Education, 2002, as cited in Yell et al., 2006, p. 2)

Within the 2004 reauthorization, the IDEA's core structure and civil rights guarantees were preserved; however, the statute was significantly altered (Apling & Jones, 2005; Russo et al., 2005).

Congress focused on improving student outcomes (Apling & Jones, 2005; Russo et al., 2005). This focus was also featured in the name of the law, which was revised to the Individuals with Disabilities Education Improvement Act (IDEIA); however, the law is still commonly referred to as the IDEA (Apling & Jones, 2005; Russo et al., 2005). The IDEA's primary purpose is to help students with disabilities reach more desirable outcomes through the following adjustments: highlighting the "substantive requirements of the special education process" and connecting the IDEA with NCLB standards like "adequate annual progress (AYP), highly qualified teachers, the use of evidence-based methods," and changing eligibility requirements (Yell et al., 2006, p. 4). Furthermore, Congress amended the Individual Education Plan (IEP), disciplinary procedures, and the dispute-resolution mechanism within the IDEIA (Apling & Jones, 2005; Yell et al., 2006).

By including the "highly qualified" requirements from the NCLB in the IDEA renewal, Congress recognized the importance of having well-prepared instructors in special education classrooms and the impact of the teacher's expertise on student progress (Yell et al., 2006, p. 2). In order to obtain a highly qualified designation, special education teachers must secure a special education certificate or license, in addition to earning a bachelor's degree and demonstrating competency across subject matter (National Association of Special Education Teachers, 2021).

The 2004 reauthorization of the IDEA further incorporated high expectations and improved outcomes for students with disabilities by integrating the concept of AYP (Yell et al., 2006). Low expectations and a lack of attention on replicable research of established teaching and learning practices have historically hampered the education of children with disabilities (Cortiella, 2006). Therefore, within the reauthorization, Congress established that students with disabilities are entitled to high expectations and access to the general education curriculum in the regular education to "meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children" (IDEA, 2004, 1400.c.5).

Congress has sought to reduce conflict in special education by increasing alternatives for early dispute resolution in each of the last two extensions of the IDEA by adding mediation processes in 1997 and an additional resolution component to the process in 2004 (Feinberg et al., 2002). Mediation is a confidential method of resolving conflict between parties without the need for a formal due process hearing (Givens, 2019; Simon, 2018). Instead, the mediator supports the parties in expressing and understanding their respective points of view (Givens, 2019; Simon, 2018). Thus, instead of taking sides

or adopting beliefs, the mediator's role is to support the process (Mayes, 2019). Congress incorporated a clause in the 1997 amendment of the IDEA mandating each state to offer mediation as a means of resolving disputes prior to a due process hearing but after a request for a due process complaint notice (Feinberg et al., 2002). In addition, the 2004 IDEA requires mediation to be made available regardless of whether a due process hearing is requested, or not (Mayes, 2019).

Another significant provision in the 2004 IDEA is the inclusion of a "resolution session" requirement before a due process hearing (Apling & Jones, 2005; Zirkel & Scala, 2010). The parents, pertinent IEP team members, and a district official authorized to make decisions attend this preliminary meeting (CADRE, 2015; Mueller, 2015). However, the resolution session, unlike mediation, does not include a neutral third party who can aid the two parties in resolving their differences (Mayes, 2019).

The 2004 IDEA included crucial measures for expediting dispute resolution, including a statute of limitations and complaint disclosure requirements to the due process complaint notice (Zirkel, 2007).

A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law. (IDEA, 2004, Section 300.511e)

The nature of the complaint, pertinent facts, and a recommended solution must all be included in the complaint notice (Apling & Jones, 2005). Furthermore, the due process

complaint notice must be regarded as adequate by the party who receives it within a defined date (Wright, 2005). If the receiving party believes the notification is sufficient, they must respond and address each issue raised in the complaint (Wright, 2005). These disclosure rules are intended to fully notify all parties of the issues in dispute before any dispute resolution options are pursued (Cortiella, 2006).

In the 2004 IDEA, the procedures for a formal due process hearing, which either parents or schools may use to resolve disputes, underwent significant changes (Apling & Jones, 2005; Yell et al., 2006). The issues raised at a due process hearing are restricted to those stated in the due process complaint notice (Zirkel, 2018). In addition, the reauthorized law outlined new criteria for the hearing officer's role (Apling & Jones, 2005). A hearing officer must not be an employee of the state or local education agency involved in the dispute and must be knowledgeable in IDEA requirements, as well as federal and state case law (Boundy, 2005).

The 2004 IDEA mandated “a hearing officer shall make a decision on substantive grounds based on an assessment of whether a child received a free adequate public education” (Individuals with Disabilities Education Act, 2004, IDEA Regulations section). The substantive requirement emphasizes how critical it is for a student's IEP to be designed to “enable the student to make progress” (Weatherly, 2019, Section Nine). In addition to the substantive requirements, a hearing officer may determine a student with a disability did not receive a free appropriate public education (FAPE) should procedural errors prevent the child's right to FAPE, significantly hampers the parents' ability to engage in the decision-making process around FAPE, or result in a denial of educational benefit (Yell et al., 2020).

While the 2004 IDEA retained the fee-shifting provisions that permit a court to award reasonable attorneys' costs to parents when they win in due process, the update provides for attorneys' fees against a parent's attorney when the school district prevails (Apling & Jones, 2005; Butler-Arkow, 2006; Yell et al., 2006). These payments are given on a limited basis in circumstances where it is ruled that the parents' complaint was frivolous, irrational, or without substance, or if a parent continues to pursue litigation after the case becomes frivolous (Apling & Jones, 2005; Butler-Arkow, 2006; Yell et al., 2006). Butler-Arkow (2006) speculated that this amendment might impede IDEA enforcement proceedings brought on behalf of disabled children seeking an appropriate education.

Since 1975, the United States was "excluding nearly 1.8 million children with disabilities from public schools prior to EHA implementation to providing more than 7.5 million children with disabilities with special education and related services designed to meet their individual needs in the 2018-19 school year" (USDOE, 2020, para. 3). The IDEA has ensured eligible students with disabilities receive FAPE through governing how state education agencies provide intervention, special education, and related services (USDOE, 2021). Despite 40 years of progress toward the education of students with disabilities, school-parent conflict in the provision of FAPE for these students continues to increase (CADRE, 2018e).

### **Conceptual Framework**

The practices developed by the CADRE (2018c) were utilized in this study to align Lake and Billingsley's (2000) research with the mandated dispute resolution processes outlined in the IDEA, as well as additional alternative dispute resolution

options. Specifically, the continuum of dispute resolution options developed by the CADRE was selected as the conceptual framework for this study, as the CADRE operates on behalf of the USDOE's Office of Special Education Programs (2021). "CADRE works to increase the nation's capacity to prevent and resolve special education and early intervention disputes by fostering productive home/school/provider partnerships and the use of collaborative processes to improve outcomes for children and youth with disabilities" (CADRE, 2017, What We Do). The CADRE aids state education agencies in executing the IDEA procedural protection requirements and establishes high-performing dispute resolution systems by identifying and disseminating excellent practices in program design, implementation, evaluation, and improvement (USDOE, 2021).

Lake and Billingsley (2000) and the CADRE (2018a) placed a focus on the student at the center of the conflict and emphasized the importance of preserving parent-professional relationships, which benefits all involved parties. Lake and Billingsley (2000) identified and analyzed eight common factors which initiate or escalate conflict in special education: "discrepant views of a child or a child's needs, knowledge, service delivery, constraints, valuation, reciprocal power, communication, and trust" (p. 244).

Out of the eight factors, "discrepant views of a child" were identified to be a primary factor in conflict, with 90% of interviewees identifying the factor as a source of disagreement (Lake & Billingsley, 2000, p. 244). When IEP team members have differing views of a student, it is inevitable that members will have differing opinions when determining the type and amount of services and supports the students requires to make progress toward their educational goals (CADRE, 2018a; Lake & Billingsley, 2000; Leiter & Krauss, 2004). As disagreements fail to be resolved, communication and

trust between parent and school become strained and can result in a dysfunctional relationship (CADRE, 2018c; Lake & Billingsley, 2000; Mason & Goldman, 2017; Scanlon et al., 2018).

The CADRE (2018a) developed a “continuum of dispute resolution processes and practices” (Continuum section). The continuum is a database of dispute resolution practices categorized into five broad categories which emulate the five stages of conflict: “Stage I Prevention, Stage II Early Disagreement Resolution, Stage III Conflict Management, Stage IV Formal Procedural Safeguards, and Stage V Legal Review” (CADRE, 2018a, CADRE Continuum section). In the initial stages of preventing disagreement or early resolution, practices focus on avoiding conflict through effective communication, collaborative relationship building, and capacity building (CADRE, 2018a; Mueller et al., 2008).

As conflict progresses from disagreement to more advanced stages, dispute resolution moves from informal utilization of third-party mediators to facilitate collaborative conflict resolution to formal legal review, which may include hearing appeal and litigation (CADRE, 2018a; Mueller, 2009, 2015). The continuum of alternative dispute resolution processes and practices was utilized in the development of research questions for this study (CADRE, 2018a). Using the guide at the process level, this research focused on special education directors’ perceptions of the effectiveness of alternative dispute resolution practices at the initial phases of dispute versus the final dispute resolution practices outlined within the IDEA (Mason & Goldman, 2017; Moses, 2016).

## **Statement of the Problem**

In the 2004 reauthorization of the IDEA, three dispute resolution procedures were outlined: mediation, resolution meetings, and due process hearings (Blackwell & Blackwell, 2015; Mueller, 2009; Simon, 2018). Of the three resolution options, due process complaints are the most utilized option (Blackwell & Blackwell, 2015; National Council on Disability, 2018). In addition to being the most utilized, due process complaints are the costliest option (Blackwell & Blackwell, 2015; Mueller, 2009).

Pudelski (2016) provided the following statistics:

The average legal fees for a district involved in a due process hearing were \$10,512.50. Districts compelled to compensate parents for their attorney's fees averaged \$19,241.38. The expenditures associated with the verdict of the due process hearing averaged districts \$15,924.14. For districts that chose to settle with a parent prior to the adjudication of the due process hearing, the settlement costs averaged \$23,827.34. (p. 3)

Despite the costs associated with due process complaints, an average of over 2,000 due process hearings were held annually from 2001 to 2015 (National Council on Disability, 2018, p. 36).

According to the CADRE (2018b), during the 2016–2017 school year, 2,119 due process complaints were fully adjudicated (p. 12). At the school district level, the number of adjudicated due process complaints represents a minor portion of the 17,107 due process complaints, including 10,260 requests for mediation and 4,991 written state complaints filed during the 2014–2015 school year (National Council on Disability, 2018b, p. 36). Recommendations made in the National Council on Disability (2018b)

report on federal monitoring and enforcement of IDEA compliance included further study in determining how families select methods of dispute resolution and the positive and negative aspects of each mode of resolution.

The conflict between parents and school personnel in the education of students with disabilities has been a concern of administrators for over four decades (Mueller & Piantoni, 2013). According to the CADRE (2018e), the amount of due process complaints filed is on an upward trend; however, 85% of the due process complaints filed over the past 11 years have not proceeded to a fully adjudicated hearing (para. 2). Limited research has been conducted regarding which dispute resolution procedures have been employed by special education administrators to successfully prevent conflict from escalating to a due process hearing (Mueller & Piantoni, 2013; Mueller et al., 2008).

### **Purpose of the Study**

Current school district compliance with the IDEA differs substantially from 1975 when the EAHCA was passed (Mueller, 2015; Pudelski, 2016). Each reauthorization of the IDEA was designed to improve results for students with disabilities by increasing parental participation and enhanced procedures for dispute resolution (Mueller, 2015; Zirkel, 2007). As part of the 2004 authorization of the IDEA, Congress outlined three methods of dispute resolution: due process hearings, formal complaints, and mediation (Mueller, 2009, 2015).

The purpose of this qualitative study was to examine the perceptions of special education directors regarding the effectiveness of alternative dispute resolution practices. Through examination of the perceptions of special education directors, district-level practices were examined that support effective conflict resolution or prevent conflict

from initially occurring. Finally, common district-level dispute resolution practices perceived by special education directors to have a positive impact on preserving the parent-school relationship at each stage of conflict were identified.

### ***Research Questions***

The following research questions guided the study:

1. What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the initial stages of conflict?
2. What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the advanced stages of conflict?
3. What are common district-level dispute resolution practices special education directors perceive to have a positive impact on preserving the parent-school relationship at each stage of conflict?

### **Significance of the Study**

This study has practical applications for special education directors in identifying practices to prevent and resolve parent-professional disputes at the district level. Additionally, this study's results may provide more specificity about the cycle of conflict and options for alternate dispute resolution practices that may be employed at each level of conflict. The IDEA (2004) mandates all learners identified as having a disability must be provided with FAPE.

In order to provide FAPE, a district must provide students with specially designed instruction that is "appropriately ambitious" and "reasonably calculated to enable a child

to make progress appropriate in light of the child's circumstances" within the child's IEP at no expense to the parents (Brady et al., 2019, p.112; Cowin, 2018, p.591; Dieterich et al., 2019, p. 76; Sepiol, 2018, p. 4). This obligation requires the development of an IEP by a team of school professionals in collaboration with the child's parents to address the child's individual needs. (Sepiol, 2018). The IDEA regulations directing parental involvement in the development of IEPs bring together two distinct perspectives to work toward a common purpose of addressing students' academic, behavioral, and social needs (Mueller & Carranza, 2011).

Working as a team requires parents and school staff to reach a consensus on multiple aspects of the child's education; however, conflict is often unavoidable when consensus is not attained between the parent and school staff (Mueller & Carranza, 2011). This study is important because it may provide additional insight into the need to train all IEP team members, including parents. Additionally, this study's results may provide further insight into the roles and responsibilities of participating IEP team members in preventing and addressing conflict through appropriate IEP facilitation.

According to Feinberg et al. (2002), when conflict is not adequately addressed at early stages, the parent-professional relationship can deteriorate and become adversarial. Mueller (2009) promoted alternate dispute resolution over the singular formal path of dispute resolution, due process. This study may provide insight into the processes acting special education directors have employed to successfully ameliorate parent-professional disputes within their districts.

### **Definition of Key Terms**

For the purposes of this study, the following terms are defined:

### ***Due Process***

Due process is one of three administrative methods for resolving disagreements between parents and school districts defined in the IDEA (Blackwell & Blackwell, 2015).

### ***Education for All Handicapped Children Act***

In 1975 Congress enacted Public Law 94-142, also known as The Education for All Handicapped Children Act (Samuels, 2015; USDOE, 2010). The law required districts receiving federal funds to complete an evaluation of students with disabilities to develop educational plans with parent input to provide the students with a free, appropriate public education (USDOE, 2010).

### ***Individualized Education Plan (IEP)***

An IEP is a document developed through input provided by district personnel and the parents of a student with a disability which outlines the delivery of special education services, related services, and supplementary aids/services for the student to progress toward identified goals (Vandeven, 2017).

### ***Individuals with Disabilities Education Act (IDEA)***

The IDEA is a federal law that requires school districts to meet the *educational* needs of eligible students with disabilities (Kauffman et al., 2017). The law outlines requirements school districts must follow to ensure students with disabilities receive a free, appropriate education in the least restrictive environment (Kauffman et al., 2017).

### ***Mediation***

Mediation is a non-compulsory process involving the utilization of an impartial third party to assist parents and school districts in conflict to reach a suitable agreement (Missouri Department of Elementary and Secondary Education [MODESE], 2019a).

Mediation is a confidential process offered at no cost to any involved party (MODESE, 2019a).

### **Delimitations, Limitations, and Assumptions**

The scope of the study was bound by the following delimitations:

#### ***Time Frame***

Data for the study were collected within a limited time frame between March and April 2020.

#### ***Location of the Study***

The study was limited to the southwest portion of Missouri.

#### ***Sample***

The sample was comprised of special education directors from southwest Missouri school districts selected through convenience sampling.

#### ***Criteria***

Only special education directors who had experience with parent-school conflict were considered when selecting the sample.

The following limitations were identified in this study:

#### ***Sample Demographics***

The demographics of special education directors who responded to interview questions were a limitation. The participants in the study were primarily employed by districts in southwest Missouri; therefore, their experiences may not have been representative of all special education directors across the state.

### ***Instrument***

The instrument utilized to collect data for this research study consisted of interview questions created by the researcher.

### ***Perceptions of Participants***

The perceptions of Missouri special education directors participating in the study were a limitation, as their perceptions of dispute resolution may not have been representative of the perceptions of the families also involved in the conflicts.

The following assumptions were accepted:

1. The participants' responses were given voluntarily and honestly.
2. All participants interviewed in the study had direct knowledge of dispute resolution options utilized within their district's special education department.

### **Summary**

Parent-professional conflict in the education of students with disabilities has been an area of concern since the inception of the IDEA in 1975 (Mueller & Piantoni, 2013). Financial costs of remediating disputes through the use of the procedural safeguard of due process can be prohibitive to both school districts and parents (Blackwell & Blackwell, 2015; Mueller, 2015). The aim of this study was to examine parent-professional disputes at the initial and advanced stages of conflict and determine what district-level dispute resolution practices special education directors perceive to have a positive impact on preserving the parent-school relationship.

An introduction and a background of the research study were provided in Chapter One. The continuum of dispute resolution processes and practices developed by the CADRE was reviewed to establish a conceptual framework for the study. Additionally,

the statement of the problem, the purpose of the study, and the research questions were reviewed. An examination of the significance of the study, definitions of key terms, delimitations, limitations, and assumptions concluded Chapter One.

Chapter Two includes a review of literature. A focus on dispute resolution during the four stages of conflict in special education is provided. Finally, informal and formal IDEA conflict resolution options are detailed.

## Chapter Two: Review of Literature

The need for further research regarding alternative dispute resolution methods of conflict in special education has been cited by numerous researchers in the field of special education over the last 10 years (Blackwell & Blackwell, 2015; CADRE, 2018c; Moses, 2016; Mueller, 2009, 2015; Mueller & Piantoni, 2013; Mueller et al., 2008; National Council on Disability, 2018; Pudelski, 2016; Scanlon et al., 2018; Shaver, 2015; United States General Accounting Office [GAO], 2003). Chapter Two begins with a review of the conceptual framework, the *Continuum of Dispute Resolution Processes & Practices* (CADRE, 2018a). The main topics in the literature review include dispute resolution best practices at each of the following stages of conflict: “Stage I Prevention, Stage II Disagreement, Stage III Conflict, and Stage IV Procedural Safeguards” (CADRE, 2018a, CADRE Continuum section). Informal dispute resolution options, including IEP facilitation, are examined, and formal IDEA conflict resolution options, such as mediation, child complaints, and impartial due process hearings are presented.

It is critical in the field of special education for administrators to not only have an understanding of legislative statutes mandating the education of students with disabilities; but it is imperative administrators also have an understanding of case law (Rodriguez & Murawski, 2020). Judicial decisions play a significant role in interpreting and applying a statute within the U.S. legal system (Arons, 2021; Yell et al., 1998). When a court is requested to handle a dispute between two or more parties, case law is created, and the court must interpret what the law means in that context (Arons, 2021; Yell et al., 2015). As separate courts resolve cases and set precedents, the meanings of terminology, such as “least restrictive environment” and “meaningful educational benefit” evolve (Arons,

2021; Yell et al., 2015). According to Arons (2021), “a precedent is a rule established in a previous court case that is either binding or persuasive depending on which court issued the decision” (p. 1). The reliance on previous decisions, or precedent, to clarify legal ambiguity and guarantee consistency across similar instances is a distinguishing feature of the legal system (Hennes & Dang, 2021).

Most Americans believe the Constitution guarantees a right to public education; however, this belief is incorrect (Forte, 2017; Osborne & Russo, 2020). States are responsible for the education of children, and thus the legal rules for how public education is conducted are outlined in each state’s constitution (Simons & Earley, 2018). Yell et al. (1998) advised:

The Tenth Amendment of the U.S. implies that education is the responsibility of the state government. That education is a state – not federal matter – was seen as essential by the founders of this country. This was because state governments were seen as being closer and more connected to the needs of the people. (p. 219)

Despite enacting compulsory education laws at the state level, the barring of children with disabilities from public schools was upheld through state statutes and rulings within the state court system (Yell et al., 1998).

The Massachusetts Supreme Judicial Court upheld a ruling in *Watson v. City of Cambridge* (1893), excluding from schooling a student who was “weak in mind” and could not profit from education, was a nuisance to other children, and could not take “ordinary, respectable, bodily care of himself” (p. 5633). The court determined “by reason of imbecility, [the student] should not be permitted to continue in the school” (*Watson v. City of Cambridge*, 1893, p. 563). Yell et al. (1998) noted court rulings

upholding exclusion of students with disabilities continued throughout the first half of the 20th century.

In *Beattie v. Board of Education* (1919), the Wisconsin Supreme Court determined school officials could expel a student who had attended public school until the fifth grade (State ex Rel. *Beattie v. Board of Edn.*, 1919). The student's disorder caused excessive salivating, contortions of the face, and impacted the student's speech (Forte, 2017; State ex Rel. *Beattie v. Board of Edn.*, 1919; Yell et al., 1998). In addition, the symptoms of the student's disability, according to school administrators, made instructors and other pupils sick, took up too much teaching time, negatively impacted school discipline and growth of the school as a whole (Forte, 2017; State ex Rel. *Beattie v. Board of Edn.*, 1919; Yell et al., 1998). Therefore, the student was expelled from school and advised to attend a school for deaf students (Forte, 2017; State ex Rel. *Beattie v. Board of Edn.*, 1919; Yell et al., 1998). In a 1934 Ohio ruling, The Cuyahoga County Court of Appeals determined the state statute requiring compulsory school attendance for minors aged six to 18 granted the state department of education the ability to exclude particular students determined incapable of profiting substantially by further instruction in the schools (*Board of Education v. State, ex Rel. Goldman*, 1934).

Courts upheld legislation that barred pupils who school administrators believed would not benefit from public education or who could be disruptive to the education of other students, as recently as 1958 and 1969 (Jaeger & Bowman, 2002; Yell et al., 1998). For example, in *Department of Public Welfare v. Haas*, the Illinois Supreme Court found the state's established compulsory attendance laws did not require Illinois to provide public education for children who had cognitive disabilities which rendered the child

unable to retain the benefits of public education due to their limited intelligence (Frost & Kersten, 2011; Jaeger & Bowman, 2002; Yell, 2006; Yell et al., 1998). Additionally, in 1969, North Carolina made it illegal for parents to continue to insist upon the attendance of a student with a disability after the student had been expelled from public school, due to being unable to benefit from instruction (Frost & Kersten, 2011; Jaeger & Bowman, 2002; Yell et al., 1998).

The history of state court rulings upholding exclusionary school policies began eroding with the landmark United States Supreme Court ruling on *Brown v. Board of Education of Topeka* in 1954 (Forte, 2017). Within the unanimous Brown decision, issued in 1954, the Supreme Court avowed segregation based upon race in public schools unconstitutional, effectively putting an end to racial segregation as a matter of law previously established through *Plessy v. Ferguson's Separate but Equal* doctrine established in 1896 (Forte, 2017; Kanaya, 2019; Kraus & Stevens, 2019). The Brown ruling specified that separate, segregated schools were fundamentally disparate and violated the equal protection clause of the Fourteenth Amendment (Forte, 2017).

Furthermore, the Brown court stated:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to

adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. (Brown V. Board of Education of Topeka, 1954, p. 483)

Dr. Gunnar Dybwad, Executive Director of the advocacy organization National Association for Retarded Children, brought parent and disability advocacy group attention to the Supreme Court ruling on Brown, noting the case had the potential to significantly impact educational opportunities for students with disabilities (Forte, 2017).

In 1971, Thomas K. Gilhool, an attorney for the Pennsylvania Association for Retarded Children (PARC), cited *Brown v. Board of Education* in a class-action lawsuit (Disability Justice, 2021). The suit was filed on behalf of 14 Pennsylvania children who had been excluded from public schooling based on a state law that allowed schools to bar children who did not have the cognitive ability of a typical five-year-old (Disability Justice, 2021). The plaintiffs claimed their rights under the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment were violated by their exclusion from public schools (Disability Justice, 2021). *Pennsylvania Association for Retarded Children v. Commonwealth* established that all children with intellectual disabilities could benefit from public education (Hammann, 2020). The landmark consent decree required free public programs of instruction tailored to the learning abilities of all students with intellectual disabilities between the ages of six to 21 years (Anderson, 2021; Disability Justice, 2021; Rosenberg & Phillips, 1981). Additionally, the judgment secured the development of individualized evaluations and educational plans, prompt

notice of choices to parents, and due process procedures to resolve parent-school disputes regarding the education of students with disabilities (Rosenberg & Phillips, 1981).

Furthermore, the landmark decree laid the foundation for the concept of educating students with disabilities in the least restrictive environment:

among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of program of education and training (PARC v. Commonwealth of Pennsylvania, 1972, Section 1260).

The procedural protections outlined in *PARC v. Commonwealth* formed the foundation for the Education for All Handicapped Children Act (PL 94-142) enacted in 1975 (Public Interest Law Center, 2016).

*Mills v. Board of Education* was comparable to the landmark Pennsylvania case, not only backing the ruling, but expanding the scope of the ruling to define a larger population of students with a right to education beyond PARC (Minnesota Governor's Council on Developmental Disabilities, 2021). *Mills* ruled a student's mental, behavioral, physical, or emotional disability could not prevent a student from getting a public education (McDonald et al., 2021; Minnesota Governor's Council on Developmental Disabilities, 2021). *Mills* focused upon the policies of public schools in the District of Columbia regarding suspension, expulsion, and reassignment of children with disabilities from regular education classes (Weast, 2005). The school district's defense primarily centered not on the students' right to an education but on the cost of educating students

with disabilities (Weast, 2005). The opinion, written by Judge Waddy in the Mills case, stated:

These defendants say that it is impossible to afford plaintiffs the relief they request unless: (a) The Congress of the United States appropriates millions of dollars to improve special education services in the District of Columbia; or (b) These defendants divert millions of dollars from funds already specifically appropriated for other educational services in order to improve special education services. These defendants suggest that to do so would violate an Act of Congress and would be inequitable to children outside the alleged plaintiff class. This Court is not persuaded by that contention. The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly supported education for these “exceptional” children. Their failure to fulfill this clear duty to include and retain these children in the public school system, or otherwise provide them with publicly supported education, and their failure to afford them due process hearing and periodical review, cannot be excused by the claim that there are insufficient funds. (Mills v. Board of Education, 1972, p. 868)

The Mills decision provided the foundation for the provision of a FAPE and due process procedural safeguards now defined in the IDEA, including procedures for assessment, identification, eligibility, exclusion, and prior written notice (Balsley, 2018).

In 1982, the Supreme Court provided its first ruling interpreting legislation in the decision on *Board of Education of the Hendrick-Hudson Central School District v. Rowley* (Marsico, 2018). In the Rowley decision, the Supreme Court outlined the two

issues it would decide: First, what does FAPE mean under the EAHCA? Second, what role do courts play in reviewing school district decisions? (Conn, 2017; Rozalski et al., 2021). Conn (2017) noted that the Supreme Court referenced the definition from the EAHCA statute when determining what the requirement of FAPE entails.

The term “free appropriate public education” means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required. (Board of Education v. Rowley, 1982, p. 188)

The Court went on to interpret the definition, citing the four parts of the act’s definition as a “checklist for adequacy,” and concluded, “If personalized instruction is provided with sufficient supportive services to allow the child to benefit from the instruction,” the child is receiving FAPE (Conn, 2017, p. 8). The Supreme Court devised a two-question test to assist hearing officers and judges in determining whether a school system had met the EAHCA’s FAPE criteria (Conroy & Yell, 2019; Rozalski et al., 2021).

The first question was whether the school district followed the act’s procedures (Conroy & Yell, 2019; Rozalski et al., 2021; Yell & Bateman, 2017). The second question was whether the drafted IEP was “reasonably calculated to enable the child to receive educational benefits” (*Rowley*, 1982, pp. 206-207). According to the High Court, a district had met the FAPE criteria if the two requirements were met (Conroy & Yell, 2019).

The Supreme Court established the standard for school districts to provide students with disabilities, FAPE, with the Rowley decision in 1982 (Marsico, 2018). However, in the decision, the Court did not benchmark how much educational benefit would be sufficient to fulfill the FAPE requirement (Yell & Bateman, 2017). Because the Supreme Court did not articulate what constituted educational benefit, lower courts have attempted to interpret the standard through subsequent litigation (Marsico, 2018).

Thirty-five years later, the Court established what level of special education services and supports constitutes FAPE in *Endrew F. v. Douglas County School District RE-1* (Conn, 2017; Marsico, 2018). Together, Rowley and Endrew F. established a two-part test hearing officers and judges must apply to the circumstances of the case when assessing whether or not a school district has provided a student FAPE (as cited in Rozalski et al., 2021). The Rowley decision forms the basis of the first segment of the test, which analyzes whether the school district followed the IDEA procedures in the development of the IEP document (Rozalski et al., 2021).

The FAPE test's second component, educational benefit, is based on the Endrew F. judgment (Cowin, 2018). The second question is posed to examine if a student's IEP is "reasonably calculated" to allow him or her to "make progress in light of his or her circumstances" (Conroy & Yell, 2019, p. 21-22; Rozalski et al., 2021, p. 6). Endrew F. raised the educational benefit threshold from Rowley and required an IEP to give more than insignificant or "de minimis" educational benefit to the student (Cowin, 2018, p.591; Rozalski et al., 2021, p.4). In the Endrew F. opinion, Justice Roberts noted the IEP to be a fact-driven effort in which the school staff and parents of students with disabilities collaboratively develop a special education program designed to advance an individual

student's academic and functional performance (Endrew F. v. Douglas County School District, 2017; McKenna & Brigham, 2021).

### **Conceptual Framework**

The conceptual framework of this study was viewed through the lens of dispute resolution. Lake and Billingsley (2000) identified eight common factors regarding the instigation or escalation of conflict between parents and school personnel in special education with the mandated dispute resolution processes outlined in the IDEA. The CADRE (2018a) analyzed these eight factors and developed a dispute resolution framework for school personnel to utilize when addressing conflict between parents and the school. Moses (2016) stated:

Fundamentally, two central realities—that the family and the school system will probably have a long-term relationship and that they share an interest in the child's education and development—suggest that conflicts related to special education programs are best ameliorated through non-adversarial, collaborative dispute resolution mechanisms. (p. 35)

School districts with exemplary dispute resolution processes have operational practices instituted across all stages of the dispute resolution continuum; these districts have developed practices to prevent or ameliorate disputes at the earliest stages, while guaranteeing parents are informed of dispute resolution options outlined in the IDEA (CADRE, 2018c). As viewed through the lens of the continuum framework, this study was focused on the perceptions of special education directors regarding the utilization of informal dispute resolution practices at the initial stages of conflict and perceptions of

formal conflict resolution options included in the final stages of the continuum (CADRE, 2018a).

The continuum developed by the CADRE (2018a) consists of dispute resolution practices categorized across five broad categories, which align with the stages of conflict. Within the continuum, practices in the initial three stages include “Stage I Prevention, Stage II Early Disagreement Resolution, and Stage III Conflict Management” (CADRE, 2018a, CADRE Continuum section). The initial three stages focus on addressing conflict through effective communication, relationship building, and developing the capacity of team members (CADRE, 2018a; Mueller et al., 2008).

As the conflict between parents and school personnel progresses to “Stage IV Procedural Safeguards” and “Stage V Legal Review,” dispute resolution escalates from the utilization of informal alternative dispute resolution to formal legal review, which may include hearing appeal and litigation (CADRE, 2018a, CADRE Continuum section; Mueller, 2009, 2015). The formal dispute resolution options included in the IDEA are incorporated into the continuum at “Stage IV Procedural Safeguards” and “Stage V Legal Review” (CADRE, 2018a, CADRE Continuum section). While the dispute resolution options outlined in the IDEA are vital in their design to safeguard the civil rights of students with disabilities, employment of these formal measures frequently has a significant detrimental influence on the long-term relationship between the parent and school (CADRE, 2018c; Mueller, 2009).

### **Conflict in Special Education**

Lake and Billingsley (2000) defined conflict as “real or perceived differences that arise from specific educational circumstances that engender negative emotion as a

consequence” (p. 240). Sreenivasan and Weinberger (2018) asserted conflict is inevitable in human relationships. Additionally, conflict itself is not a problem; instead, the response to conflict and the outcomes of those responses are problematic (Lake & Billingsley, 2000; Sreenivasan & Weinberger, 2018). Therefore, it is crucial to identify methods to resolve inevitable instances of conflict before the parent-school relationship is damaged through escalated, ongoing disputes (Akl, 2015; Scanlon et al., 2018).

In Lake and Billingsley’s (2000) research, knowledge refers to the understanding of parent and school parties across multiple capacities: problem-solving, communication strategies, and knowledge of special education law. A professional’s lack of ability to effectively communicate problem-solving strategies and a lack of parental knowledge on special education law requirements combine to escalate conflict between parents and school personnel (Lake & Billingsley, 2000; Mueller, 2015). Service delivery can become a point of contention when parents do not believe school personnel are able to fully answer specific questions about how services are being delivered to their child (Goldman & Mason, 2018; Lake & Billingsley, 2000).

Beattie et al. (2014) expanded on how school personnel’s inability to answer questions regarding service delivery can fuel disputes. According to Beattie et al. (2014), “Parents consider the lack of appropriate responses as a sign of something wrong with the services and begin to raise even more questions” (p. 353). Feinberg et al. (2002) concurred with Lake and Billingsley (2000) regarding service delivery as a frequent source of parent-school conflict. Disputes concerning appropriate service delivery are heightened, due to parental allegations that district personnel have failed to implement

mutually agreed upon services, which brings into question the competence of service providers (Feinberg et al., 2002).

Constraints were defined by Lake and Billingsley (2000) as “resources of time, money, personnel, and materials” (p. 246). Parents, school personnel, and mediators who took part in Lake and Billingsley’s (2000) research reported financial constraints to be a potential source of conflict. Within the IDEA, legislators have required districts to provide students with disabilities a free, appropriate public education (Individuals with Disabilities Education Act, 2004). Additionally, case law upheld contentions districts may not place any financial restrictions on, either the development of an IEP or the plan itself (Special Ed Connection, 2017). A special education advocate interviewed by Lake and Billingsley (2000) reported that when school districts are unable to cite financial constraints honestly in relation to service provision, parents may begin to suspect the legitimacy of explanations personnel provide regarding the provision of services. Goldman and Mason (2018) reported parent-professional disagreement on issues related to budgetary constraints led to high rates of parental dissatisfaction.

Lake and Billingsley (2000) defined valuation as “who and what people care for and about” (p. 246). When parents perceive they are devalued by school personnel or believe school personnel does not value their child, conflict accelerates (Lake & Billingsley, 2000; Lasater, 2016). Akl (2015) expanded upon the definition of valuation and specified, “In the field of special education, valuation is measured subjectively, based on the emotions and feelings of the parents and professionals and how each party perceives that the other values them as a partner” (p. 53). Parents reported devaluation

indicates the school has a lack of trust and respect for them in the parent-school relationship (Beattie et al., 2014; Yales, 2016).

The sixth factor identified by Lake and Billingsley (2000) in parent-school conflict is reciprocal power. Lake and Billingsley (2000) noted both parents and school personnel use power, either consciously or unconsciously, to prevail in disputes. Perceived or actual imbalances in power may directly result from the environment in which IEP meetings are held (Goldman & Mason, 2018; Lake & Billingsley, 2000). Parents may perceive an imbalance of power due to the number of school staff attending an IEP meeting, the use of educational jargon, and parents' lack of knowledge about special education law (Akl, 2015; Goldman & Mason, 2018; Mueller et al., 2019). Subsequently, imbalances of power generate parental feelings of confusion and exclusion, which negatively impact parent participation in IEP meetings (Gershwin & Vick, 2019).

Lake and Billingsley (2000) identified communication as a factor that can initiate or escalate the parent-school conflict. Avoidance of difficult conversations, infrequent communication, failure to follow-up, miscommunication, and the timing of attempts at clarifying communication play a role in parent-school conflict (Lake & Billingsley, 2000; Mueller, 2017). Akl (2015) noted, "Numerous researchers have emphasized the importance of communication between parents and teachers in enhancing parental involvement, partnerships, and family-centered approaches to service delivery" (p. 60). Azad et al. (2016) recognized communication as the leading facilitator for collaboration and a central source of conflict in parent-professional relationships. Additionally, at the school district level, special education directors most frequently identified

communication as a factor in maintaining positive parent-school relationships (Mueller & Piantoni, 2013).

Trust is the eighth factor in conflict identified by Lake and Billingsley (2000). When trust is established between parents and schools, parents report they believe the school is acting in good faith in their child's interest (Azad et al., 2018; Lake & Billingsley, 2000). Furthermore, parents with trust in school personnel are resilient to minor, periodic negative interactions and continue to have positive feelings concerning the school's intentions (Angell et al., 2009; Lake & Billingsley, 2000). Conversely, when trust is broken, parents report an expectation of continued negative interaction between themselves and school personnel, believing school personnel is harmful to their child's well-being (Lake & Billingsley, 2000; Wellner, 2012). Parents who no longer have trust devalue school personnel, which obstructs the utilization of communication to resolve disputes (Akl, 2015).

### **Dispute Resolution Best Practices During the Stages of Conflict**

The CADRE (2018a) *Continuum of Dispute Resolution Processes and Practices* categorized the five dispute stages into the following overarching process levels: "Stage I Prevention, Stage II Disagreement, Stage III Conflict, Stage IV Procedural Safeguards, and Stage V Legal Review" (CADRE Continuum section). Within each process level, potential intervention practices are outlined (CADRE, 2018a). The earliest stages of the continuum focus on preventing conflict (CADRE, 2018a; Feinberg et al., 2002). At this level, disputes are prevented by proactive measures, which include parent involvement, communication skills building, and other dispute prevention practices (CADRE, 2018a; Martin, 2018). Disagreements not prevented through initial preventative measures move

through increasingly restrictive levels, which may involve third-party support, or if necessary, formal administrative or legal proceedings outlined within the IDEA (see Figure 1) (CADRE, 2018a; Fulfrost & Tomsy, 2019).

**Figure 1**

*CADRE Continuum of Dispute Resolution Processes and Practices*

<b>CADRE Continuum of Dispute Resolution Processes &amp; Practices</b>																		
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	Parent Engagement	Participant & Stakeholder Training	Stakeholder Council	Collaborative Rule Making	Parent to Parent Assistance	Case Manager	Telephone Intermediary	Facilitation	Mediation Models	Ombudsperson	Third-Party Opinion/Consultation	Resolution Meeting	Mediation under IDEA	Written State Complaints	Due Process Hearing	Hearing Appeal (Two-Tier Systems)	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							

*Note:* Cadre, 2018a.

***Stage I Prevention***

The IDEA requires that an IEP team convene to develop an individualized education program for each student who meets eligibility criteria to be identified as a student with a disability under the IDEA (Mueller & Vick, 2019). Federal regulations outline the individual members who constitute an IEP team:

This team must include (a) the parents of the child, (b) not less than one special educator, (c) not less than one general educator, (d) a representative of the public

agency, (e) an individual who can interpret the instructional implications of evaluation results, (f) other individuals who have knowledge or special expertise regarding the child, and (g) the student, whenever appropriate. (Individuals with Disabilities Education Act, 2004, 34 C.F.R. § 300.32A1)

Mueller and Vick (2019) noted that of all IEP team members; the IDEA regulations emphasized the parent's importance as an IEP team member.

Within the special education process, parental rights are explicitly protected through procedural safeguards (Dinnesen & Kroeger, 2018; Mueller & Vick, 2019). Despite the legal protections provided to ensure the parents' right to be active IEP team members, the relationship between parents and professionals can become strained as the team designs an appropriate IEP (Mueller, 2017; Mueller & Vick, 2019). Lake and Billingsley (2000) asserted that differences of opinion between parents and professionals are inevitable in the collaborative development of a student's IEP. Furthermore, discrepant viewpoints can lead to conflict as team members interact and begin to perceive a threat to their resources, needs, or values (Lake & Billingsley, 2000)

Prevention strategies address conflict before its occurrence as stakeholders become aware there is potential for dispute between parties (Bayne, 2018; Feinberg et al., 2002). Prevention strategies reviewed within the *Continuum of Dispute Resolution Processes & Practices* developed by the CADRE (2018a, CADRE Continuum section) include family engagement, "participant and stakeholder training, a stakeholders' council, and collaborative rulemaking" (Feinberg et al., 2002, p. 26). Proactive conflict resolution strategies are designed to prevent or minimize disputes through developing the "capacity

of systems and individuals to meaningfully collaborate and problem-solve” (Feinberg et al., 2002, p. 26).

Moses (2016) asserted that while procedural safeguards are vital to ensure the administration of justice, parents and school professionals are “best served when states invest in the prevention of disputes, the early management of disagreements, and in non-adversarial conflict resolution processes” (p. 36). Mueller and Piantoni (2013) emphasized the importance of the earliest stage of dispute resolution. All special education directors participating in Mueller and Piantoni’s (2013) study identified the utilization of dispute prevention strategies as fundamental to their professional relationship with families.

### ***Stage II Disagreement***

The IDEA emphasizes parental involvement (The IRIS Center, 2021). Due-process decisions, most notably cases considered by the United States Supreme Court, have emphasized the crucial need for genuine parental participation in IEP meetings (Costello & Chamberlain, 2015; Yell et al., 2015). The United States Court of Appeals for the Ninth Circuit in *Doug C. v. Hawaii Department of Education* delivered a decision on the relevance of family involvement in IEP formulation and found school-based teams must prioritize incorporating parents in a collaborative effort to construct and determine educational programs and placement (Yell et al., 2015).

Furthermore, the Ninth Circuit U.S. Court of Appeals held in *M.M. v. Lafayette School District* that the school district’s neglect to provide the student’s parents with data from their child’s participation in a general-education intervention program procedurally violated the IDEA, which amounted to a denial of FAPE to the student

(Costello & Chamberlain, 2015). As full IEP team members, parents should participate actively in all discussions and provide meaningful input into decisions about their child's IEP (Yell et al., 2020). Parents can also provide important information about priorities within the IEP, the child's strengths and needs, as well as information regarding the cultural and developmental appropriateness of goals and intervention strategies (The IRIS Center, 2021).

According to Feinberg et al. (2002), "Disagreement strategies mark the stage when the parties first begin to identify a specific difference of opinion or experience a misunderstanding" (p. 25). In the disagreement stage, disputes are minimal, and family and school parties rely upon informal dispute resolution such as "parent-to-parent assistance, case management, or a telephone intermediary" (CADRE, 2018a, CADRE Continuum section). However, the disagreement stage is significant as it is the first stage in which assistance from agencies or individuals beyond the family or school stakeholders is utilized (Feinberg et al., 2002; Moses, 2011).

Addressing the needs of children with disabilities is complicated work (CADRE, 2019). As students with disabilities progress through their education, their educational needs and IEP team members supporting the student evolve (CADRE, 2019). These transitions can be overwhelming for both educators and families, inevitably leading to disagreements in the essential work of the IEP team (CADRE, 2019; Lake & Billingsley, 2000; Sreenivasan & Weinberger, 2018).

Epstein et al. (2019) discovered that despite decades of belief amongst educational professionals regarding the importance of parent engagement, the majority of

schools, districts, and states need assistance in establishing comprehensive education, family, and community partnership programs. Epstein et al. (2019) further asserted:

Good partnerships encourage questions and debates, and withstand disagreements; provide structures and processes to solve problems; and are maintained-even strengthened-after conflicts and differences have been discussed and resolved. Without a firm base of partnerships, the problems and concerns about schools and students that are sure to arise will be harder to solve. (p. 15)

A constructive approach to conflict management is to increase the ability of systems and individuals to cooperate and solve problems (CADRE, 2018a). The CADRE (2018a, CADRE Continuum section) has identified “parent-to-parent assistance, case managers, and telephone intermediary” as the leading alternate dispute resolution options districts can employ at Stage II Disagreement.

### ***Stage III Conflict***

Mueller and Vick (2019) reported that the majority of negative parent-professional experiences occur prior to and become amplified at an IEP meeting. Conflict develops when disagreements fail to be resolved, and disputes between family and school become more defined (Feinberg et al., 2002). Conflict resolution strategies should be implemented quickly to avoid moving into formal conflict resolution options outlined within the IDEA (Feinberg et al., 2002; Moses, 2016). However, when dispute resolution options are utilized at the conflict stage, parents and professionals may already be at an impasse, unable to work collaboratively (Feinberg et al., 2002; Mueller, 2009; Scanlon et al., 2018). In the conflict stage, a neutral third party may actively facilitate conflict

resolution strategies or provide direct intervention through consultation and evaluation recommendations (Feinberg et al., 2002; Mueller et al., 2008).

Balsley (2018) asserted that through providing legislative solutions in the form of entitlements for students with disabilities, Congress has attempted to provide clarity and to reply to the voice of parents. However, unlike other civil rights measures, Congress chose to delegate enforcement of these laws to the parents of students with disabilities (Pudelski, 2016). This delegation of enforcement has placed parents in a position of control and has created a competitive partnership between families and schools (Balsley, 2018). Special education directors must place priority on building relationships and trust with families while acting within accordance with IDEA regulations to resolve conflicts that arise during the delivery of services to students with disabilities (Balsley, 2018; Feinberg et al., 2002; Scanlon et al., 2018)

### **IEP Facilitation**

Facilitated IEP meeting practices have been nationally identified as a top alternate dispute resolution option utilized by IEP teams (GAO, 2014; Mueller & Vick, 2019). Facilitated IEP meetings are an optional process not required under the IDEA; however, researchers have noted the value of utilizing a facilitator to assist teams experiencing conflict through the IEP process (CADRE, 2004, 2014b). The IEP teams may utilize facilitators from various backgrounds, including but not limited to district personnel, parents, or parent advocates; however, for IEP teams in dispute and anticipating a contentious meeting, a neutral third-party mediator is recommended (CADRE, 2004). Facilitated IEP practices were derived from the business management field; however, the processes have been adapted to meet districts' varying needs, leading to considerable

variability within the practice of facilitated IEPs (Bens, 2005; CADRE, 2004; Mason & Goldman, 2017). According to Mason and Goldman (2017):

Although several models of IEP meeting facilitation currently exist throughout the country, Mueller (2009) opined that seven essential components were necessary for successful IEP meeting facilitation: (a) a neutral facilitator, (b) an agenda, (c) meeting goals created by each member of the team, (d) ground rules, (e) an environment that fosters collaboration, (f) communication strategies that eliminate any power imbalance, and (g) the use of a parking lot, which is a written record where the facilitator can respectfully place any off-topic ideas that come up in the meeting, so that they may be addressed more efficiently at the meeting's end. Although pared down, these components reflect the core components of the earliest facilitated IEP training. (p. 213)

In Missouri, the MODESE (2016, 2020) offers free IEP facilitation to school districts and parents.

The use of facilitation through the MODESE (n.d.) “is voluntary and cannot be used to delay or deny the development and implementation of an IEP or the parent’s right to a due process hearing” (para. 2). Should the facilitated IEP not result in an adequate IEP, parents have not forfeited their right to other forms of dispute resolution (CADRE, 2004). The CADRE (2018d) selected the MODESE to participate in a multi-year IEP facilitation workgroup (CADRE, 2018d). Workgroup data gathered from 2016 to 2018 revealed 97% of facilitated IEP meetings held in Missouri were successful in coming to a consensus on some or all issues, with 85% of participants reporting satisfaction regarding facilitated IEP team meeting outcomes (CADRE, 2018d, “2016-2018 Results” section).

### ***Stage IV Procedural Safeguards***

Conflicts not resolved through informal dispute measures may be formally addressed through the utilization of legal procedural safeguards (CADRE 2018a; Mueller, 2015). Within the IDEA, legislators have authorized three dispute resolution procedures: mediation, state complaint procedures, and due process (Bailey & Zirkel, 2015; Mehfoud et al., 2017; Mueller, 2015). Additionally, through the 2004 reauthorization of the IDEA, Congress mandates the IEP team reconvene for a resolution meeting within 15 days of a due process hearing request to attempt to resolve disputes before the hearing (CADRE, 2015, p.4; Mueller, 2015, p.136).

### **Mediation**

If there is a disagreement between parents or adult students and school districts about a student's special education program, mediation can be a non-adversarial option for resolving the conflict (MODESE, 2019a; Simon, 2018). Mediation is a standardized but informal and cooperative mechanism through which a neutral third-party mediator supports parents or adult students and school districts in achieving a satisfactory agreement (Givens, 2019; Simon, 2018). Mediation should not be confused with IEP facilitation (CADRE, 2004).

The 1997 reauthorization of the IDEA included a provision that state education agencies have mediation if a due process hearing request is filed (Feinberg et al., 2002; Mayes, 2019). A professional, neutral mediator can resolve a wider variety of special education issues than a facilitated IEP conference, including disputes unrelated to the student's IEP (Mayes, 2019). Mediation may occur in conjunction with a due process

complaint, child complaint, or as a standalone procedure (Colman et al., 2019; Mayes, 2019; MODESE, 2019a).

Mediation hearings are private, and no party is charged for mediation (Givens, 2019; MODESE, 2019a). A list of eligible mediators is kept on file by the MODESE (A. Phipps, personal communication, April 29, 2021). If all parties agree to mediate a conflict, they must select a mediator from a list of eligible mediators maintained by the MODESE (2019a) and then notify the mediator, who must agree to mediate the case. Once a mediator is secured, one of the parties contacts the MODESE (2019a, 2019b) to inform them of the mediator's selection. The MODESE approves the mediator's appointment and issues a letter of appointment that secures funding for the mediator's services (A. Phipps, personal communication, April 29, 2021).

MODESE (2019a) outlined the following mediation policies:

1. DESE-funded mediation is not available to resolve disputes between parents or between public agencies and persons other than the parent (or adult student).
2. No video or tape recording of the mediation proceedings will be made.
3. Each party should designate a person who has the authority to make final resolution decisions.
4. Since mediation is a non-adversarial process that offers the parties the opportunity to communicate directly with each other, attorneys cannot attend or participate in a mediation session.
5. The mediator will provide signed copies of the agreement to each party.
6. The mediator will be excluded from subsequent actions – complaint investigations, due process hearings, or legal proceedings.

7. If for any reason the mediation fails, the mediator will provide each party with a statement clarifying that the mediation was unsuccessful.
8. If a decision to withdraw a child complaint is made during mediation, the complainant must contact the Department, in writing, to formally withdraw the complaint. An agreement made during mediation does not negate the complainant's responsibility to withdraw the child complaint. (para. 7)

Conflicts resolved by mediation must be recorded through a written agreement signed by both the parent and an official from the school district (CADRE, 2014a; Givens, 2019). Written mediation agreements that both parties sign are legally binding and enforceable in state and federal courts (CADRE, 2014a).

Despite high rates of success, mediation has limitations (Balsley, 2018; Feinberg et al., 2002; Mueller, 2009). Feinberg et al. (2002) noted that the offer to mediate is often made too late in the conflict resolution process to be fully successful, as it usually happens after a party has lodged a petition. Additionally, because participation in mediation is not required, parties who opt out of the process do not have an opportunity to resolve conflict through the collaborative process (MODESE, 2019a).

### **Child Complaint**

The MODESE has processes to obtain, review, and address complaints from individuals or organizations claiming state statutes or regulations implementing the IDEA have been violated (Vandeven, 2017). "A complaint must allege a violation by a responsible public agency that occurred not more than one (1) year prior to the date that the complaint is received" (MODESE, n.d., pp. 3; Vandeven, 2017, p. 68). When a due

process lawsuit is lodged on the same issue(s) as a child complaint, the child complaint will be postponed until the due process complaint is resolved (MODESE, 2017).

Once the child complaint is received, the MODESE has “60 calendar days to investigate and resolve the complaint” (MODESE, 2017, p. 2; Vandeven, 2017, p. 60). If unusual circumstances occur concerning the specific complaint, or both parties mutually agree in writing to extend the time limit in order to participate in mediation, or the Commissioner of Education or a designee can grant an extension (Vandeven, 2017).

Complainants are notified of the investigation results via a decision letter issued by the Commissioner of Education (Missouri Parents Act, n.d.a). The decision letter will identify one of the following determinations:

A decision that the school district is not out of compliance;

A decision that the school district is out of compliance, but voluntary corrective action has been taken to bring the district back into compliance;

A decision that the school district is out of compliance and an order of corrective action with a timeline for submission to the Department of Elementary and Secondary Education. (Missouri Parents Act, n.d.a, para. 7)

Child complaint decisions are final; there is no appeals process (MODESE, 2017; Missouri Parents Act, n.d.a). However, parents who believe there are unresolved concerns regarding the provision of FAPE or who are dissatisfied regarding their child’s identification, evaluation, or educational placement, may file a due process complaint (MODESE, 2017).

### **Impartial Due Process Hearing**

Due process complaints may be filed by either a parent or a district on matters relating to the provision of FAPE, evaluation, identification, or placement (Fulfroost & Tomsy, 2019). According to the MODESE (2009) Procedural Safeguards, a complaint must include the following information:

1. The name of the child; 2. The address of the child's residence; 3. The name of the child's school; 4. If the child is a homeless child or youth, the child's contact information and the name of the child's school; 5. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; and 6. A proposed resolution of the problem to the extent known and available to the complaining party (you or the school district) at the time. (p. 14)

Connolly et al. (2019) asserted that states are given wide latitude regarding due process hearing systems within the federal framework. States can choose to utilize a one or two-tier administrative adjudication system, and federal regulations set minimum qualifications for those serving as hearing officers (Connolly et al., 2019; Zirkel & Skidmore, 2018). Missouri utilizes a one-tier administrative adjudication system (Connolly et al., 2019; Missouri Parents Act, n.d.a).

In Missouri's system, once a due process complaint is filed, the school district must hold a resolution meeting with the complainant and appropriate IEP team participants who are knowledgeable about the facts listed in the due process complaint within 15 calendar days of obtaining notice of the complaint. (MODESE, 2012, p. 1)

If the parties reach a settlement agreement through the resolution process, the complainant must inform the Administrative Hearing Commission in writing that he or she wants to withdraw the complaint (Mayes, 2019; MODESE, 2009).

The resolution meeting may be waived under three conditions: a written agreement between the complainant and the school district to waive the meeting; an agreement between the complainant and the school district to participate in mediation; or the district is the complainant filing the due process complaint. (MODESE, 2009). If a resolution meeting is held and the complainant fails to attend, the respondent can request the MODESE dismiss the complaint (A. Phipps, personal communication, April 29, 2021; MODESE, 2009). Alternately, if the district does not convene a resolution meeting within the 15-day timeline, the respondent may petition the Administrative Hearing Commission to initiate the 45-day timeline for a due process hearing (MODESE, 2009, p. 76). The CADRE (2018b) reported resolution meetings were held in fewer than half of due process grievances lodged in six of the 12 school years from 2005 to 2017 (p. 3). In 10 of the 12 years when resolution meetings were held, resolution meetings culminated in agreements less than 30% of the time (Nowicki, 2019, p. 11).

Should a resolution meeting be waived or not result in an agreement, the complaint progresses to the Administrative Hearing Commission (MODESE, 2017). The Administrative Hearing Commission is a separate entity from the MODESE (2017). The Administrative Hearing Commission coordinates the due process hearing and all pre-hearing matters (MODESE, 2017).

The Administrative Hearing Commission determines the date, time, and place of the hearing (MODESE, 2017). Once the hearing is initiated, the plaintiff bears the burden

of proof and is the first to present facts (MODESE, 2017; State of Missouri Administrative Hearing Commission, 2010). Testimony is provided live in the presence of an impartial, trained hearing officer, and witnesses may be cross-examined (MODESE, 2017; Missouri Parents Act, n.d.b; State of Missouri Administrative Hearing Commission, 2010). In a one-tier system, the due process hearing is held at the state level; therefore, a due process hearing decision is final. (Mayes, 2019; USDOE, 2010). If any party disagrees with the decision, the party may file a civil action via the court system (Mayes, 2019; USDOE, 2010).

#### ***Stage V: Legal Review***

Should the outcomes of the procedural safeguards processes outlined within the IDEA not lead to sufficient closure, legal avenues can be pursued by either the family or school district (CADRE, 2018a; Mueller, 2015; Yell et al., 2015). Weber (2014) stressed, “Due process of law protects against arbitrary governmental decisions, those that are made without allowing the persons affected to participate or without following a consistent legal principle” (p. 520). The interest at stake in the litigation of the IDEA is the free, appropriate public education of children with disabilities, a cornerstone of civil rights (Weber, 2014; Yell et al., 2015).

The IDEA regulations state an aggrieved party must file a civil action within 90 days after the hearing officer's decision or, if the state provides an express time restriction for filing civil proceedings under the IDEA, the action must be brought within the state statute's time limits. (Fulfron & Tomsy, 2019; IDEA, 2004). Fulfron and Tomsy (2019) noted, “Aggrieved parties are typically parents, students, or school district initially named in the due process hearing; however, if a party did not have a right to file a due

process claim, the party also did not have the right to bring a civil action” (Section 22:2). Section 300.516 c of the Individuals with Disabilities Education Act (2004) states state or federal courts overseeing an appeal of a due process hearing officer’s decision must “receive the records of the administrative proceedings; hear additional evidence at the request of a party; and basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate” (para. 1).

Additionally, the IDEA (2004) includes a stipulation requiring aggrieved parties to exhaust all administrative procedures before filing a lawsuit in state or federal court. This stipulation means a party must have gone through due process with the Administrative Hearing Commission before filing a lawsuit alleging a violation of the IDEA (MODESE, 2017). Should a matter be brought in court without a ruling on a due process hearing, the case will be dismissed (Fulfrust & Tomsy, 2019; Zirkel, 2020).

In empirical case law analysis of litigation of special education disputes, researchers have made recommendations for policymakers and practitioners (Zirkel & Hetrick, 2017). Policymakers have been encouraged to raise the standard for FAPE within future reauthorizations of the IDEA (Pudelski, 2016; Simon, 2018; Zirkel & Hetrick, 2017). Practitioners are encouraged to consider litigation outcomes and give “due weight to the adjudicative consideration as a component of the IEP process” (Zirkel & Hetrick, 2017, p. 232). However, at the district level, educators should prioritize relationship building with stakeholders and designing IEPs that lead to student progress (CADRE, 2018c, 2018e; Moses, 2016; Samuels, 2016; Simon, 2018; Zirkel, 2013).

## Summary

Chapter Two began with a review of the organizational framework, the *Continuum of Dispute Resolution Processes & Practices* (CADRE, 2018a). The main topics in the literature review included dispute resolution best practices at each of the following stages of conflict in special education: “Stage I Prevention, Stage II Disagreement, Stage III Conflict, and Stage IV Procedural Safeguards” (CADRE, 2018a, CADRE, CADRE Continuum section). Informal dispute resolution options, including IEP facilitation, were examined, and formal IDEA conflict resolution options, such as mediation, child complaints, and impartial due process hearings were presented.

In Chapter Three, the methodology used to identify the perceptions of special education directors regarding the use of alternative dispute resolution in ameliorating conflict between parents and school professionals is presented. Also detailed in Chapter Three are the population and sample, instrumentation, validity, reliability, data collection, and data analysis procedures. Additionally, ethical considerations of the study are provided.

### **Chapter Three: Methodology**

The specific methodology used in this qualitative study is detailed in Chapter Three. The problem and purpose overview and the research questions are stated. Research design, population and sample, instrumentation, validity, reliability, data collection, and procedures to analyze the data are explained. Finally, the ethical considerations of the study are detailed. The conclusion of the chapter consists of a summary of the chapter's primary components.

#### **Problem and Purpose Overview**

According to the National Council on Disability (2018), parent-school conflict during the 2014–2015 school year culminated in 17,107 due process complaints, 10,260 requests for mediation, and 4,991 written state complaints filed (p. 36). The National Council on Disability (2018) report on the monitoring and enforcement of IDEA compliance at the federal level recommended further research to examine how parents select methods of dispute resolution and the negative and positive features of each method. Further study was suggested to determine how families select methods of dispute resolution and the positive and negative aspects of each approach to resolution (National Council on Disability, 2018). Within the 2004 reauthorization of the IDEA, three dispute resolution procedures were defined: mediation, resolution meetings, and due process hearings (Blackwell & Blackwell, 2015; Mueller, 2009; Simon, 2018). However, Fulfrost and Tomsy (2019) noted that the USDOE strongly endorsed the utilization of early dispute resolution procedures within the *Analysis of Comments and Changes to 2006 IDEA Part B Regulations*.

The purpose of this qualitative research study was to identify the primary causes of parent-school conflict and to examine the perceptions of special education directors regarding alternative dispute resolution methods used to ameliorate conflict at the school district level. This research resulted in data that can be applied in the provision of specially designed instruction for students with disabilities to support conflict resolution or to prevent conflict from initially occurring.

### ***Research Questions***

The following research questions guided the study:

1. What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the initial stages of conflict?
2. What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the advanced stages of conflict?
3. What are common district-level dispute resolution practices special education directors perceive to have a positive impact on preserving the parent-school relationship at each stage of conflict?

### **Research Design**

Johnson and Christensen (2020) stated, “In a traditional phenomenological research study, the researcher collects data from several individuals and depicts their experiences of something” (p. 425). Captured in this phenomenological research study were the lived experiences of special education directors who have responded to due process complaints filed by parents of students with disabilities (Fraenkel et al., 2019, p.

14). A qualitative research design was employed to collect the perceptions of special education directors regarding parent-school conflict (Creswell & Creswell, 2017).

Johnson and Christensen (2020) explained that during a phenomenological study, the researcher analyzes and then reduces the data collected from interviews to the “essence of the experience” described by the participants (p. 425). Participant perceptions were collected via interview questions developed specifically for this study. All interviews were recorded, transcribed, and coded to identify themes (Burkholder et al., 2019; Johnson & Christensen, 2020; Mertens, 2020).

### **Population and Sample**

According to Seltman (2018), the term *population* is defined to “refer to the entire set of actual or potential observational units” (p. 34). Therefore, the population for this study was defined as the 254 Special Education Administrators identified in the 2018–2019 MODESE school directory. Unaccredited public schools, charter schools, and state-operated schools were excluded as participants for this study. Additionally, the school district in which the researcher was employed was excluded from the study to reduce bias. Once the population was identified, a determination was made that the population would be too large to be reasonably studied; therefore, a subset of the population was selected as a sample (Seltman, 2018).

Convenience sampling, the use of the most efficient and convenient available sample, was utilized to identify special education directors to participate in the study (Bergin, 2018; Boudah, 2019). Johnson and Christensen (2020) noted that when convenience samples are utilized, the characteristics of the sample participants must be defined to ensure that participants represent the target population. To obtain names of

potential participants, the president of a Local Area Special Education (LASE) group was contacted and provided a directory of names and contact information of current members on request. An email was sent to all members listed in the LASE directory, and all directors who responded stating they were willing to participate were interviewed. Therefore, the convenience sample for this study consisted of six special education directors from K–12 Missouri public school districts who were members of the area LASE group.

The purpose of the LASE group is to establish connections with special education directors and process coordinators from area districts to improve practice (L. Osbourn, personal communication, October 17, 2021). The LASE groups convene monthly to discuss changes in special education law, compliance, finances, and evidence-based practices, including compliance requirements set forth by the MODESE or federal law (L. Osbourn, personal communication, October 17, 2021). Additionally, within the area LASE group studied, the compliance consultant with the Agency for Teaching, Learning, and Leading meets with new special education directors before each meeting to provide mentorship (L. Osbourn, personal communication, October 17, 2021).

### **Instrumentation**

An instrument was created to gather the perspectives of special education directors for this study. Qualitative data were gathered through a semi-structured interview guide developed to elicit the perceptions of special education directors about the shared experience of parent-school conflict. According to Burkholder et al. (2019), in a semi-structured interview, “the interview questions are posed to each participant, and probes are used as needed to gather deeper information from the participants” (p. 148).

Interview questions and probes were developed for special education directors based on the research questions and the literature review.

Interview questions one and two were created to elicit information about the length of each participant's service as a special education director and the participant's experience dealing with due process proceedings while acting as a special education director. This information provided a more thorough understanding during the data analysis process. Questions three, four, five, and six were posed for participants to expand upon conflict resolution strategies and practices along with preventative measures utilized by their respective districts regarding due process complaints (CADRE, 2018a; Feinberg et al., 2002).

Questions seven, eight, and nine were presented so participants could describe their experiences with conflict as it escalates from the prevention stage into the disagreement and conflict stages (CADRE, 2018a; Gershwin & Vick, 2019). Questions 10, 11, 12, and 17 were developed to gain insight into each participant's experience with the legal review stage of conflict, including litigation (CADRE, 2018a; Zirkel & Skidmore, 2018). Questions 13 and 14 were designed to examine the perceptions of participating special education directors and to assist in identifying which dispute resolution practices are most effective in preserving the relationship between parents and school personnel (CADRE, 2018c, 2018e; Moses, 2016). Questions 15, 16, and 17 were used to examine participants' perceptions of conflict not resolved through informal dispute measures and formally addressed through the utilization of legal procedural safeguards outlined within the IDEA (CADRE 2018a; Mueller, 2009, 2015). The final question was developed to identify any reoccurring perceptions from participating special

education directors about the upcoming reauthorization of the IDEA related to how parents and districts resolve disputes (Mueller, 2015; Pudelski, 2016).

### ***Validity***

Creswell and Creswell (2017) noted that establishing qualitative validity requires the researcher to employ multiple procedures to ensure the accuracy of research findings. Field testing and member checking were utilized in this research study to assure validity (Birt et al., 2016; Creswell & Miller, 2000). Three area special education directors field-tested the interview questions to establish content-related validity. Content-related validity is comprised of two key elements: appropriateness with which items representatively sample the content area and the formatting of the instrument (Fraenkel et al., 2019).

Field testing confirmed that the preliminary interview guide sufficiently covered the interview topic and questions were relevant to the research questions under study (Kallio et al., 2016). Additionally, field testing was used to identify the potential necessity to adjust the interview questions to improve the quality of data collected (Kallio et al., 2016). Feedback gathered during the field test was utilized to revise participant instructions, survey and interview content, format, and clarity of interview questions.

Member checking consists of returning collected data and interpretations to participants in the study to review the information and confirm the accuracy of the narrative and findings (Creswell & Miller, 2000). In turn, the participants' comments were included in the final account, increasing the credibility of the qualitative study (Creswell & Miller, 2000). Birt et al. (2016) asserted that member checks are a means of

controlling bias in qualitative research where the researcher typically fulfills roles of both data collector and data analyst.

### ***Reliability***

Qualitative research is centered on contextual data, which are subjective; therefore, it is vital to take precautions to ensure qualitative research findings are credible and reliable (Fraenkel et al., 2019). The following procedures identified by Gibbs (2018) were utilized to ensure reliability: transcripts were reviewed to confirm no errors occurred during transcription; data were frequently compared to codes and code definitions to ensure drift in code definition did not occur; and a qualitative computer software program, NVivo, was employed to ensure consistency in coding.

### **Data Collection**

Upon receiving permission from the Area Local Administrators of Special Education group (see Appendix A) and approval from the Lindenwood University Institutional Review Board (Appendix B), electronic communication (see Appendix C) was sent to selected participants from the area LASE group. Electronic communication sent to participants included a copy of the research information sheet (see Appendix D) and a list of the interview questions (see Appendix E). Email addresses were obtained from the area LASE group's contact list. Once the participation of the selected interview participants was confirmed, interviews with consenting special education directors were scheduled. After proper consent was received, interviews were conducted, audio-recorded, and transcribed.

## **Data Analysis**

All interviews conducted for this research study were audio-recorded and transcribed for analysis. Transcribed textual data were coded utilizing NVivo, a coding software program. Qualitative data were analyzed to describe textual data in order to capture the lived experience of the individuals who produced the text (Creswell & Creswell, 2017). An inductive analysis approach was utilized to condense raw data into a summary, establish links between the research questions and the summary derived from the raw qualitative data, and develop a framework outlining the categories of data identified through a process of discovery by isolating patterns and relationships in the data (Bergin, 2018; Creswell & Creswell, 2017; Miles et al., 2014; Thomas, 2006). Data were analyzed for significance and categorized according to patterns and themes (Creswell & Creswell, 2017).

Coding allows the researcher to begin to find meaning within the qualitative data collected (Blair, 2015). Open coding was utilized in the initial stage of data analysis to split any data relevant to the study into individually coded segments (Bergin, 2018; Merriam & Tisdell, 2016; Saldaña, 2015). Axial coding was employed during the second cycle of coding to describe categories and themes within the data and explore how they relate to one another (Bergin, 2018; Merriam & Tisdell, 2016; Saldaña, 2015).

## **Ethical Considerations**

According to Fraenkel et al. (2019), researchers must do all within their power to ensure study participants are protected from physical and psychological harm or discomfort resulting from participation in a research study. Furthermore, “all subjects should be assured that any data collected from or about them will be held in confidence”

(Fraenkel et al., 2019, p. 64). To guarantee the protection and confidentiality of participants in this study, each special education director surveyed and interviewed was identified by a numeral. Data collected during the research study were kept in a secure location under the supervision of the researcher. All documents and files obtained through the research project will be destroyed three years after the conclusion of the study.

### **Summary**

Chapter Three included a description of the qualitative study guided by research questions to examine the perceptions of special education directors regarding the use of alternative dispute resolution in ameliorating conflict between parents and school professionals. The problem and purpose of the research study were reviewed. The research questions were restated, and the research design, population and sample, instrumentation, validity, and reliability were presented. A description of the qualitative data collection and analysis methods was provided. Finally, ethical considerations for the protection of study participants were provided.

Chapter Four is a comprehensive analysis of the data collected for this study. The interview protocol included 18 questions. Each interview question is restated in Chapter Four, and the responses are reported.

## **Chapter Four: Analysis of Data**

This study was designed to examine the perceptions of special education directors regarding alternate dispute resolution methods utilized to address and remediate conflict at the district level. The CADRE (2018c) emphasized that the simplest and most straightforward way to deal with conflict is to avoid it in the first place. A constructive approach for conflict management is to increase the ability of systems and people to meaningfully cooperate and solve problems (CADRE, 2018c; Mueller, 2009). Mishandling of initial parent concerns by school personnel can initiate a steady erosion of trust and a deterioration of the parent-school relationship, culminating in litigation (Martin, 2018; Moses, 2016).

Individual interviews were conducted with six special education directors to gain a greater understanding of special education directors' perceptions regarding the advantages and disadvantages of alternate dispute resolution procedures. Special education director interview questions were constructed to answer the three research questions guiding the study.

### **Special Education Director Interviews**

Semi-structured interviews comprised of 18 questions were the primary source of data for this study. Interviews were conducted individually to gain insight into the parent-school conflict in each special education director's district and the director's perception of strategies utilized to resolve disputes. Before conducting interviews, each special education director was emailed a research information sheet and a letter of participation.

All interviews were conducted via phone and were audio-recorded and transcribed. To preserve anonymity, each of the seven special education directors was

assigned a numeral to decrease the likelihood the director would be identified. For example, the first special education director was referred to as Director 1.

***Interview Question One***

How long have you been a special education director?

The participating special education directors' experience ranged from one year to 15 years, with the average years of service as director equaling five years. The majority of participants indicated they had served in process coordinator or assistant director roles before becoming a director. Director 6 noted she had years of experience at various levels of special education:

I began my career as a special education teacher directly after graduating from college. My course of study was in general education; however, I took and passed the Praxis exam for special education certification. I taught special education for four years and then moved into the special education process coordinator role. I was a process coordinator for several years within two different school districts. After six years, I was promoted to an Assistant Director of Special Education position. I acted as an assistant director for four years and have now been a special education director for one year.

Similarly, Director 2 stated she also gained experience through other special education positions before entering the special education director role:

This is just my second year on my own. I trained at [school district] for three years before this with [district's previous special education director]. I was a process coordinator three days a week, and I worked with the previous director for two days a week. We were able to do this because [previous director] was brought

back as a retiree limited to 550 hours. It truly felt like I was actually working two jobs doing process coordinating five days a week because that's really what you have to do. And then somehow fitting in working with [previous director] two days a week so that I could see a full couple years of how we did everything within the position. The budgeting is mostly what I needed to see because I'm familiar with the special education process, just not where we get our money, where we can spend it, and who we can spend it on.

While most directors noted they had built knowledge of special education through various roles in the field, one director reported not having special education experience before accepting the director position. Director 5 stated:

I have spent three years as a director. I have learned a lot over these last few years, as I did not come into the position from a background in special education. I was hired as director of early childhood special education due to my knowledge in the field of early childhood education and developmentally appropriate practice.

### ***Interview Question Two***

Has a parent filed a due process or child complaint while you were acting as a special education director?

The majority of special education directors who had served more than one year as director reported having a parent file a due process or child complaint. Additionally, two directors shared they had experienced parents filing complaints with the Office of Civil Rights and using formal dispute resolution processes outlined within the IDEA. All

participating directors reported they had experienced disputes between the district and parents even if it did not progress to a formal complaint being filed (see Table 1).

**Table 1**

*Directors' Years of Experience and Incidence of Complaints Filed*

Participant	Years of Experience	Due process or child complaint filed while acting as the director?
Director 1	15	Yes
Director 2	2	Yes
Director 3	2	No
Director 4	7	Yes
Director 5	3	Yes
Director 6	1	No

***Interview Question Three***

Please describe practices your district has in place to proactively prevent parent-school conflict (e.g., parent advisory groups, stakeholder training, etc.).

Participating directors noted a wide variety of practices in place to prevent parent-school conflict proactively. Director 1 and Director 3 noted their districts had trained all individuals acting as Local Education Agency Representatives to complete the *Conflict Prevention and Resolution Through IEP Meeting Facilitation* training offered by the MODESE. Director 1 explained:

The training aligns with the practices utilized in Missouri's Facilitated IEP Program, which is intended to reduce the number of formal complaints filed in the state by offering a neutral, external party to facilitate an IEP meeting to bring the team to an agreement.

Three directors noted that their districts utilized formal and informal parent involvement activities such as parent advisory meetings, parent training, resource fairs, and parent-child activities to build relationships with families outside of the IEP team. Director 3 stated:

When we have parent involvement activities, I always invite outside agencies to provide resources. I feel like when we bring in that outside agency that has always, almost always brought level ground where they're like, "They're doing what they're supposed to be doing as a school district, and we agree with them."

Only one director noted the district did not use any proactive practices to prevent parent-school conflict. The director explained:

Sometimes, I think what gets us into hot water is we go too deep into all the things that we know, and parents start asking questions because they don't understand. So, we don't have any sort of a parent advisory group, and we don't hold meetings once a month or any time to discuss special ed services. It's a one on one thing; we don't have advisory groups. We don't pump information out to our parents unless they ask for it. And then we give them what we know. But it's more like I don't want to start something or put ideas in their head or provide more than what they need to know to confuse them.

#### ***Interview Question Four***

In your experience, which conflict resolution strategy do you find to be the most effective at preventing a potential due process request?

Directors 2, 4, and 6 relayed that they believe working to build strong relationships with families and keeping communication open is the most effective strategy utilized to prevent a potential due process request. Director 4 communicated:

If a parent calls me and they're upset, I try to be an active listener and listen to what they have to say. And then, I always set up a meeting. And then before we meet, I reach out to the buildings to get more what's going on and figure out, you know, how we can help and, and then I always ask them, "What would you like for me to do for you?" I've tried to make the parent be solution-focused because a lot of times they want to vent, but I always say, what would you like for me to do? And then see, you know, and if it's reasonable, it's usually something I can accommodate. But, you know, sometimes it just isn't something that's in our realm, you know, to be able to do, but I just [want] that open communication. Being available to parents, I think, is key.

Directors 1 and 3 also noted communication is vital in remediating conflict; however, they indicated that having staff trained in the facilitated IEP process prepared team members to hold effective IEP meetings. Director 1 conveyed:

I would say that requiring teachers to use the facilitated techniques they've been taught through their training would be the main thing that we've worked through. When teachers lack clear communication or fear communicating with a parent, it damages the relationship.

Additionally, Director 3 shared the following regarding the use of facilitated IEP practices:

I think that some of that us versus them often occurs in conflict, but when they have another IEP facilitator and when they're explaining, I also think it takes a lot for my perspective that I get to sit back and I'm not leading the meeting anymore. And I really just get to those nonverbal cues that I get to hone in on and realize, like, oh, they're just not understanding. They just didn't understand that. And guilty as charged. We do this all day, every day. So it becomes second nature, and you're just kind of talking through it because that's what you do. No matter how slowed down. I think my being able to observe some of those nonverbal communication cues has proven helpful for all of us, I think.

#### ***Interview Question Five***

What additional conflict resolution practices do you believe your district could employ to prevent parent-school disputes?

Directors 3, 4, and 5 listed offering parent training as an additional conflict resolution practice they believe their districts could employ to prevent further parent-school conflict. Director 3 felt parent training should focus on three major themes: educational impact, healthcare, and legal issues. Furthermore, Director 3 expounded upon parent training, noting that while the district should facilitate the training, it may be more impactful to have parent advocates, attorneys, and medical experts co-present parent training.

Director 6 recognized a need for additional conflict resolution training in the district for regular education and special education staff. Similarly, Director 1 echoed the need for additional training for all staff; however, Director 1 additionally identified administrative staff as requiring more in-depth conflict resolution training. Director 1

observed during early, minor conflicts with parents, often encountered at the building level, the staff's lack of training and fear of communicating information that may get the district "in trouble" impacts their ability to communicate with the parent. Director 1 stated, "When they begin to second guess every communication, it limits what they are trying to convey, and they're not communicating like a human being anymore at all. It is just over the top with no empathy, no feeling at all."

Director 2 was the only director who reported the district did not need to incorporate any additional conflict resolution procedures into their practice. The director stated, "As long as we are keeping an open door of communication, and if we provide our parents a healthy dose of knowledge, we are safe." Director 2 cited the concern of "information overload" on parents as a reason to limit other preventative strategies such as parent training. According to Director 2, "Overload is a kind of thing we don't do to our parents, we don't provide any extra, and it's really just because I don't want to get them confused or think too much into it."

### ***Interview Question Six***

What are the reasons conflict resolution is ineffective at resolving disputes in the early stages of conflict?

Ineffective communication techniques were cited by Directors 1, 2, 5, and 6 as reasons why early conflict resolution processes do not remediate disputes between parents and school personnel. Director 2 further elaborated that communication and collaboration among team members are often stalled when there are significant disparities between how parents and school personnel view an issue. Director 4 affirmed the role of disparate views on early conflict resolution: "It is ineffective if the parent has very

unrealistic expectations or goals for their child. If it is a reasonable request, I can definitely do it.” Director 4 noted that after an initial instance of conflict not resolved due to disparate views, the relationship between parent and school personnel could become strained. According to Director 4, “In the one case, it just became conflict after conflict. I want to work with parents as much as possible, but sometimes you have to draw that line and say we are giving your child everything that they need.” Director 3 expressed concern about the strain of ineffective communication and differences in views on the parent-school relationship: “Parents just want to go to the max because they think they’re doing what’s best for their child. It becomes us versus them.”

### ***Interview Question Seven***

How do you become aware of parent concerns that could require a dispute resolution within the district?

Directors 1, 4, 5, and 6 cited direct calls from parents to the Director of Special Education as the primary method through which they learn about parent concerns. Director 4 reported, “Parents call me. They usually don’t call me if they’re happy. They call me if they’re upset.” One director disclosed learning of a parent concern through the MODESE. Director 5 shared, “Typically, parents start with concerns by calling our office; however, one parent requested a facilitated IEP meeting through the DESE, and it was the first I had heard there were parent concerns.”

Directors 2 and 3 reported hearing initial reports of parent-school disputes through school personnel. Director 3 noted that even after attending all district IEP meetings as the Local Education Agency representative, she learns about parent concerns primarily through contact from teachers outside of the IEP meeting. Director 3 relayed, “I

feel like even with me attending, usually, the majority of the time, I don't hear it right at the meetings. I usually hear it through their teachers or case managers that parents are starting to complain."

When do you become involved at the IEP team level?

Directors 1, 2, 4, 5, and 6 expressed that as directors, they became involved at the IEP team level after a conflict with parents occurred. Director 5 explained, "If a meeting had to be reconvened due to the inability to decide on a compromise, I would attend the meeting." A history of conflict was also identified as a factor that necessitates the director's presence as an IEP team member. Director 2 revealed, "If there is a chance they will become hostile because they have been in the past, I usually get invited to those meetings." Likewise, Director 6 divulged, "I would be invited to an IEP meeting the PC [process coordinator] knows might become difficult or has been before." Director 3 was the sole director involved at the IEP team level prior to a conflict occurring with the parent:

I always am the LEA representative for every single IEP evaluation meeting from Pre-K through 12th grade. I do that intentionally to make sure one, to streamline a special education process and what we're, you know, advising our parents to do.

### ***Interview Question Eight***

How does your district encourage the participation of parent advocacy groups at meetings with parents (e.g., Missouri Parents Act (MPACT), Abilities First, etc.)?

All but one director responded their districts encourage the participation of parent advocacy groups in meetings and trainings. Director 6 conveyed:

We actually invite outside agencies to visit our district. We plan events together, so parents are aware of the agencies and their role as advocates for families. We have worked hard to build those relationships with outside agencies, to be open to listening to each other and problem solving as needed.

Similarly, Director 5 expressed:

Our district encourages parents to bring advocates along to meetings. Many times, the advocates can help parents recall the conversations during an IEP meeting or explain what schools are allowed to do or required to do to provide FAPE. As a school administrator, it was important for me to reach out to the leaders of each of these groups to open communication in a positive manner.

Conversely, one director noted the district did not promote the use of parent advocacy groups. Director 2 was not sure if parent advocacy groups are readily available in the area surrounding their district. Director 2 reported, “I can’t say that I feel like that we have any active parent advocacy groups or not that I know of.”

### ***Interview Question Nine***

What types of third-party assistance (e.g., facilitated IEP meetings), if any, has your district utilized and found to be helpful in resolving disputes?

All but one director reported the only third-party assistance they had utilized as a district was a facilitated IEP. Director 5 expressed participating in facilitated IEPs “was helpful in keeping the focus on the desired outcome for the student.” In comparison, Director 4 remarked:

I felt like the facilitated IEP was good. It was though a three-hour meeting, so it was longer, and it involved large post-it notes and writing and felt kind of like professional development. It was very involved, but we still didn't really agree. Director 2 was the sole director not to have utilized a facilitated IEP or any other third-party assistance to resolve conflict with families. However, Director 2 shared knowledge of the facilitated IEP process and offered:

We luckily haven't had to use any. I went to a facilitated training so I could see what they were about, and I think they're great. I like what they do, especially when they get to the conflict part of it. We need to do aspects of it, but the whole thing is drawn out and not completely conducive.

#### ***Interview Question 10***

Have you conceded to a parent demand even though you believe the request was inconsistent with IDEA requirements in order to avoid a due process hearing? If so, can you explain why the decision to concede was made?

Five out of the six directors reported they had conceded to a parent demand they believed to be inconsistent with IDEA requirements to avoid due process. Director 1 shared the district was most likely to concede to parent demands when cost did not warrant the potential cost of a formal complaint. Director 1 disclosed, "When the cost wasn't significant enough to debate, I just determined that was not the sort of demand I want to die on." Director 4 agreed, "I try to work with parents as much as possible. If their request was just a few dollars higher than what we were going to propose, I definitely do."

In addition to cost, directors reported placement debates around the least restrictive environment was a request to which they had made concessions. Director 5 noted differing opinions from the school team members influenced the determination to concede to the parent demand. Director 5 explained:

The parents felt their child was ready to start attending school in the building after speaking with the itinerant teacher. Some of the therapists weren't sure she was ready. There was a compromise to have the student come to the school and receive itinerant minutes at the site versus home.

Director 3 also capitulated to a parent request on placement. In that instance, uncharacteristically high rates of student behavior led the parent to request a homebound placement; however, the district did not have data to support a sudden move to a restrictive placement. Director 3 divulged:

A notice of action was provided that stated the parent as educational decision-maker has made the change of request for a change of placement to homebound instruction. Although the LEA does not have data to support the parent request, the LEA will grant the request made by the educational decision-maker. That was between Thanksgiving and Christmas break. The day before Christmas break, Mom said, I want him to come back because I don't want to deal.

***Interview Question 11***

Have formal alternative dispute resolution practices always been employed prior to receiving a due process request? If not, please explain why alternative dispute resolution practices were not used.

The four directors who indicated their districts had a formal child complaint or due process filed all reported formal dispute resolution practice had been utilized. However, all four directors noted none of the families who filed a formal complaint with the MODESE communicated their intent before filing. Director 1 explained, “Each of my experiences has been times where a parent has filed with DESE, and DESE took the report and moved with it prior to me having an opportunity to work with the family.” Additionally, Director 1 felt once the MODESE took the complaint and formal mediation was required, the results were not favorable.

According to Director 1, “We didn’t get through mediation. We did not meet prior to the complaint, and once we did meet, it wasn’t successful.” Likewise, Director 4 noted being taken by surprise by a formal complaint filed with the MODESE. Director 4 described her experience with one family: “We had several IEP meetings with advocates, and they’d always go well so you’d think, ‘We’re good,’ but then Mom would change her mind and file a child complaint.”

### ***Interview Question 12***

Has your school district ever had a situation when conflict resolution was unable to prevent a child complaint or due process filing? If so, what do you believe were the underlying reasons the parents and school district were unable to resolve the conflict, which led to the parent filing a due process request?

Overall, four of the six directors interviewed had a situation when conflict resolution was unable to prevent a child complaint or due process filing. Director 6 disclosed:

Once the parent informed us they were upset with the student's transition, we tried to reconvene the IEP team, but the meeting was unsuccessful. The parent was personally attacking team members, and there was no productive discussion about the student's plan.

Director 4 explained unreasonable parent requests render conflict resolution ineffective. According to Director 4, "I think with this parent it was going to go there regardless. The parent just wouldn't consider any reasonable options other than what she specifically wanted." Director 2 noted the impact of a due process involving an unreasonable parent had on the team. Director 2 lamented:

When anyone mentions a parent making a request for something they believe is necessary, the team will bring up that mother's name (previous due process filer). Seven years later, everyone is scared to death she's moving back into our district. There was no looking past it. It went down so badly.

### ***Interview Question 13***

Are you aware of any situations when the use of an alternative dispute resolution process preserved the parent-school relationship? If so, please provide further insight.

All six of the directors were aware of situations in which an alternative dispute resolution process preserved the parent-school relationship. Directors 3, 5, and 6 specifically mentioned the positive impact of facilitated IEPs with families. Director 3 shared, "I think the facilitated IEP really did preserve all of it." Director 6 agreed:

I was in a facilitated IEP meeting with a family, and it was a very smooth meeting, the parent was happy when we left, and we didn't concede to their wishes. I believe the meeting was successful because the parent got to hear how

the school staff described his daughter and all the positive they saw in her, and their belief that she could be successful. They were very genuine in their responses to questions, and I believe the parents felt that.

Additionally, Director 3 agreed:

I think anytime we bring in an outside agency because they understand more of the formal process and special ed, it always strengthens the relationship, and I've never felt that it has hindered a relationship with a parent.

#### ***Interview Question 14***

Are you aware of any situations when you believe the dispute resolution process had a detrimental impact on the relationship? If so, please share what the detrimental impact was and how it might have been avoided.

None of the directors noted a situation where they believed the dispute resolution process had a detrimental impact on the parent-school relationship. Based upon her experience, Director 4 stated, "With our situation, we still ended up going to a child complaint, but I think we handled it appropriately. I don't think it was detrimental. I think with this parent; it was going to go there regardless."

#### ***Interview Question 15***

Did either the district or parent request mediation prior to or following the filing of the child or due process complaint? If so, please discuss the mediation process and your opinion about the success or failure of the mediation process.

None of the four directors interviewed participated in mediation prior to or following the complaints filed in their districts. Director 5 hypothesized the use of facilitated IEP meetings through the MODESE may be reducing the use of mediation,

even though mediation and IEP facilitation have differing focuses. Director 5 shared the focus of the neutral facilitator for a facilitated IEP meeting is to “help the IEP team build consensus toward an IEP encouraging communication and participation among all team members.” Director 5 contrasted the roles by explaining the understanding that mediation focuses only on resolving current disputes: “My understanding is that mediation focuses on specifically addressing disagreement over special education placements or services. The mediators work with those in conflict to come to a mutually acceptable written mediation agreement.”

### ***Interview Question 16***

Following the filing of the child or due process complaint, did the district hold a resolution meeting? Who attended the resolution meeting? Were attorneys present at the resolution meeting? As a result of the resolution meeting, were you able to come to a resolution that resulted in parents rescinding their request for a hearing?

Of the four directors who have received a formal complaint, all of their districts held a resolution meeting. Director 2 noted, “With a child complaint, we have to have an IEP meeting within 30 days.” According to the directors interviewed, the most common resolution meeting attendees included the superintendent, director, building principal, teacher, therapists, family advocates, and parents. None of the directors invited the district’s attorney to attend the resolution meeting. However, Director 1 noted, “The family brought an attorney to the resolution meeting, so we opted to consult with the school attorney via telephone.”

Directors reported resolution meetings did result in the majority of complaints being rescinded. However, Director 5 noted, “Resolution worked in one of our situations

but not in another.” Additionally, Director 1 lamented, “Even a successful resolution meeting does not eliminate the possibility of the parent making another DESE complaint immediately in the future.”

***Interview Question 17***

In what ways has your district altered processes/practices in response to a child complaint and/or due process filing?

All but one director indicated their districts had altered processes/practices to prevent or respond to a formal complaint. Directors 1 and 5 noted their districts had adjusted processes/practices directly related to complaints filed within their districts. Director 5 reported, “Our district has made changes to rectify the errors discovered during the due process.” Director 1 explained, “Because of filed complaints, we have examined our process for tracking assistive devices, their use, and maintenance.”

In addition to discussing rectifying specific erroneous processes/practices discovered through formal complaints, directors discussed how their districts have worked toward overall improvement to avoid future complaints. Director 2 relayed the district reviewed professionalism within their district: “We are a small town, and we get a little friendly, but the IEP meeting is not a time for that. They want to know you’re the professional.” Likewise, Director 6 noted the district is also working on “establishing professional, trusting relationships with parents.” Director 4 further expounded on how the district has worked to improve parent relationships: “We have a dyslexia group forming, so we have pushed out information about our programs for dyslexia. We push out that information so parents can know what is being done as far as screening and intervention.”

***Interview Question 18***

What types of changes should the upcoming reauthorization of IDEA include regarding how parents and districts resolve disputes over a student's IEP?

Directors 1, 2, 3, and 6 identified upcoming reauthorization of the IDEA should require the use of facilitated IEP meetings as a primary method of dispute resolution. Director 6 responded, "I believe a facilitated IEP should be required when there is conflict, then mediation, then the parent should be allowed to file a due process complaint." Director 1 likewise agreed, "I believe in the use of facilitated techniques prior to mediation." Similarly, Director 3 added, "I believe there should be a middle person such as a DESE facilitator that the team can use before we get to a complaint." Additionally, Director 6 noted, "I think the process is too easy right now and doesn't allow the district to step in and try to solve without involving DESE."

**Summary**

This qualitative study was designed to examine the perceptions of special education directors regarding the use of alternate dispute resolution methods in the context of preventing or resolving parent concerns before filing a formal dispute resolution option outlined within the IDEA. Data were gathered through the use of a semi-structured interview guide developed to elicit special education directors' perceptions about the shared experience of parent-school conflict.

Chapter Five includes a review of findings from Chapter Four related to each research question of this study. Conclusions regarding the analysis of interview results are provided. As they can be applied in designing and providing specially designed instruction for students with disabilities, implications for practice are discussed. Finally,

future research recommendations on alternative dispute resolution methods to alleviate conflict at the school district level are presented.

## Chapter Five: Summary and Conclusions

Since 1975, the IDEA has made a free, appropriate public education available to eligible students with disabilities by ensuring the provision of special education and related services (McDowell, 2017; Pudelski, 2016; USDOE, 2010; Weast, 2005). One of the IDEA's foundational principles explicitly focuses on providing families and students with due process protections (Weast, 2005). Each subsequent reauthorization of the IDEA has been devised to guarantee parent participation in the education of children with disabilities through the enforcement of procedural safeguards (Mueller, 2015).

A review of 40 years of special education case law showcases the history of conflict and incivility between parents and professionals (CADRE, 2018e; Sepiol, 2018). During the 2015–2016 school year, over 19,000 due process requests were filed, resulting in approximately 2,000 adjudicated hearings (Mehfoud & Sullivan, 2017, p. 2). Connolly et al. (2019) asserted states are given wide latitude regarding due process hearing systems within the federal framework. States can choose to utilize a one or two-tier administrative adjudication system, and federal regulations set minimum qualifications for those serving as hearing officers (Connolly et al., 2019; Zirkel & Skidmore, 2018).

Missouri utilizes a one-tier administrative adjudication system (Missouri Parents Act, n.d.b). In a one-tier system, the due process hearing is held at the state level; therefore, a decision made in a due process hearing is final (USDOE, 2010). If any party disagrees with the decision, the party may appeal the decision by filing civil action via the court system (USDOE, 2010.)

The purpose of this qualitative study was to examine the perceptions of special education directors regarding the effectiveness of alternative dispute resolution practices.

By examining special education directors' perceptions, alternate dispute resolution methods that support effective conflict resolution or prevent conflict from initially occurring were identified. Finally, standard district-level dispute resolution practices special education directors perceive to positively impact preserving the parent-school relationship at each conflict stage were identified. Qualitative data were gathered through a semi-structured interview guide developed to elicit special education directors' perceptions about the shared experience of parent-school conflict. Interview questions were designed for special education directors based upon the research questions and the literature review.

Chapter Five includes an analysis of the perceptions of special education directors gathered through the interview process. Information gathered was used to detail the findings, conclusions, implications for study, and recommendations for future research on dispute resolution in special education. Chapter Five concludes with a summary of the study.

## **Findings**

This qualitative study was designed to answer three research questions based on interview responses to determine special education directors' perceptions of parent-school dispute resolution. Data were gathered through semi-structured interviews with six special education directors who were members of an area Local Administrators of Special Education (LASE) group. Interviews were transcribed and analyzed to provide insight into directors' perceptions of the district practices that ameliorate conflict and preserve positive parent-school relationships.

### ***Research Question One***

What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the initial stages of conflict?

Participating special education directors expressed a belief that conflict in the education of students with disabilities is inevitable; however, school systems can reduce or address conflict through proactive district-level practices. Directors interviewed stressed the importance of implementing a wide variety of practices to prevent and remediate potential parent-school conflict at the earliest stages. Directors identified three common practices to either prevent or ameliorate conflict: relationship building, clear communication, and valuing the parent as an IEP team member.

Directors noted the importance of building and maintaining the parent-school relationship before a conflict begins. Directors shared they work to initiate relationships with families through formal and informal opportunities, such as parent advisory committees, parent training, resource fairs, and parent-child involvement activities. Directors felt parents who establish relationships with school personnel are more likely to persist in collaborating with district staff when concerns arise.

Clear, open communication was overwhelmingly identified by interviewed directors as vital for effectively resolving disputes in the initial stages. Directors expressed a firm conviction that communication skills, including attending, listening, and responding skills, are necessary when building rapport with families and effectively responding to parent concerns. Additionally, communication is a fundamental component

of the third factor directors identified as a resource they utilized to resolve conflict – facilitated IEP meetings.

Two of the six participating directors felt strongly that the facilitated IEP format provides IEP teams a student-focused venue for dispute resolution, allows for open communication, and strives to elicit agreements throughout the IEP process to result in a collaboratively developed IEP document. Within their districts, two directors have chosen to fully train their staff in facilitating IEP meetings and employ the techniques across all IEP meetings. Three out of the four remaining directors cited positive experiences when participating in facilitated IEP meetings with external third-party facilitators to resolve disputes before formal conflict resolution measures are utilized.

### ***Research Question Two***

What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the advanced stages of conflict?

All of the directors who had experience with advanced stages of parent-school conflict reported that once conflict resolution enters into the formal dispute resolution options outlined within the IDEA, the results are not favorable. Additionally, each of the directors reported being unaware of the parent's specific concerns before the filing of a complaint, which limited the district from having an opportunity to work with the family prior to the MODESE's involvement and the need to follow formal dispute resolution processes. Directors also noted that as conflict advanced in these situations, the team was eventually unable to work collaboratively due to communication, trust, and mutual valuation concerns.

### ***Research Question Three***

What are common district-level dispute resolution practices special education directors perceive to have a positive impact on preserving the parent-school relationship at each stage of conflict?

Three common district-level dispute resolution practices effective for preserving the parent-school relationship were identified through director interviews:

1. Relationship building through parent involvement,
2. Clear communication, and
3. IEP facilitation.

The appropriate facilitation of IEP meetings was consistently identified by directors to positively impact preserving the parent-school relationship during conflict. Directors reported positive results from the facilitated IEP process utilizing both in-district personnel and neutral third-party facilitators assigned through the MODESE. However, directors did identify third-party facilitators to be more effective than in-district facilitators at gaining consensus during IEP team meetings and preserving the parent-school relationship during advanced levels of conflict.

### **Conclusions**

The conclusions from the study were based on an analysis of interview responses gained from special education directors regarding their perceptions of conflict between parents and school personnel and the utilization of dispute resolution options. In addition, the conclusions reflect the information presented in the review of literature from Chapter Two. Conclusions are organized around the research questions of this study.

### ***Research Question One***

What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the initial stages of conflict?

According to the participating special education directors, parent-professional conflict in the education of students with disabilities is unavoidable; nevertheless, districts can reduce or eliminate conflict by implementing proactive district-level procedures. Additionally, the directors interviewed underscored the need to have a wide range of procedures to avoid and remediate potential parent-school conflict at the earliest stages. The directors' beliefs align with Lake and Billingsley's (2000) and Sreenivasan and Weinberger's (2018) assertion that conflict itself is not a problem; instead, the response to conflict and the outcomes of those responses can potentially be problematic.

Relationship development, clear communication, and valuing the parent as an IEP team member are three common methods recognized by the participating directors to prevent or lessen conflict at its earliest stages. The special education directors' responses aligned with the eight frequent characteristics identified by Lake and Billingsley (2000) as common factors in the instigation or escalation of conflict between parents and school officials in special education: "discrepant views about the child, knowledge, service delivery, reciprocal power, constraints, valuation, communication, and trust" (p. 244). Additionally, the CADRE continuum of dispute resolution strategies within "Stage I Prevention, Stage II Early Disagreement Resolution, and Stage III Conflict Management" concentrates on resolving conflict through efficient communication, connection building,

and team member development (CADRE, 2018a, CADRE Continuum section; Mueller et al., 2008

All directors stressed the significance of establishing and maintaining positive parent-school connections. Five of the six participating directors said they used official and informal methods to build relationships with families, such as parent advisory committees, parent training, resource fairs, and parent-child interaction programs. Parents who form ties with school staff, according to the directors, are more willing to continue engaging with district staff when issues arise. When parents and schools have a solid working relationship, they believe the school operates in their child's best interests (Azad et al., 2018; Lake & Billingsley, 2000).

Furthermore, parents who have faith in school employees are more robust to modest, sporadic negative contacts and remain optimistic about the school's goals (Angell et al., 2009; Lake & Billingsley, 2000). However, when trust is destroyed, parents report expecting continued unfavorable interactions with school officials, believing school personnel are harmful to their child's well-being (Lake & Billingsley, 2000; Wellner, 2012). Parents who have lost faith in the school system depreciate school personnel, obstructing communication to address conflicts (Akl, 2015).

Interviewed directors unanimously agreed clear and transparent communication is critical for efficiently settling issues in the early phases. When it comes to creating rapport with families and effectively reacting to parent concerns, directors are adamant that communication skills, such as attending, listening, and responding, are essential. This belief reported by interviewed directors aligns with Mueller and Piantoni's (2013) research in which special education directors most frequently highlighted communication

as a factor in establishing positive parent-school connections at the school district level. Interestingly, a participating director also noted a communication breakdown could escalate conflict and damage the relationship between parents and school personnel through stilted interactions.

Azad et al. (2016) identified communication as a significant facilitator of collaboration and a central cause of conflict in parent-professional relationships. Additionally, communication has been recognized by Lake and Billingsley (2000) as a factor that might either originate or intensify parent-school conflict. In parent-school conflict, avoidance of uncomfortable conversations, infrequent communication, failure to follow-up, miscommunication, and the timing of attempts to clarify communication all play a part in escalating conflict (Lake & Billingsley, 2000; Mueller, 2017).

Two of the six participating directors expressed a strong belief that the facilitated IEP format provides IEP teams with a student-centered arena for dispute resolution that encourages open dialogue and elicits agreements throughout the IEP process, resulting in a collaboratively generated IEP document. Two directors have decided to thoroughly train their staff in conducting IEP discussions and using facilitated techniques in all IEP meetings across their districts. Three of the remaining four directors said they had a positive experience engaging in facilitated IEP sessions with external third-party facilitators to resolve conflicts before using official conflict resolution techniques. The directors' positive experiences with facilitated IEPs align with data from the CADRE's (2018d) multi-year IEP facilitation workgroup. According to workgroup data collected between 2016 and 2018, 97% of assisted IEP meetings performed in Missouri effectively

reached a consensus on some or all topics, with 85% of participants expressing satisfaction with the outcomes of facilitated IEP team sessions (CADRE, 2018d, p. 2).

### ***Research Question Two***

What are the perceptions of special education directors regarding dispute resolution practices in the education of students with disabilities in the advanced stages of conflict?

To avoid a due process hearing, Directors 1, 3, 4, 5, and 6 said they had agreed to a parent demand they suspected was beyond the requirements of the IDEA. When the expense of a formal complaint does not justify the prospective cost of a formal complaint, Directors 1, 3, 5, and 6 stated they are most likely to give in to parent demands when the cost is not significant enough to discuss. Directors' responses aligned with the polling results of superintendents conducted by the American Association of School Administrators. The American Association of School Administrators polled superintendents to determine how frequently they consider acquiescing to parental requests the district thinks unreasonable or inconsistent with IDEA requirements (Pudelski, 2016). Over 52% percent of respondents said they have consented to requests that are unreasonable or conflicting with the IDEA from 25% to 100% of the time (Pudelski, 2016, p. 12).

In addition to cost, Director 3 had made concessions on placement debates centered on the least restrictive environment. Divergent perspectives among the school team members regarding student functioning affected three interviewed directors' decisions to acquiesce to parent demands. Director 3 noted that when school team

members cannot agree on student needs, it impacts the special education director's ability to determine the district's offer of FAPE.

The Supreme Court recognized and acted on the need to define what level of special education services and supports satisfies the school district's FAPE obligation through *Endrew F. v. Douglas County School District RE-1* (Conn, 2017; Marsico, 2018). Rowley and Endrew F. created a two-part test that impartial hearing officers and judges must apply to the facts of the case when deciding whether a school system has provided a student with FAPE (Rozalski et al., 2021). The Rowley decision is the foundation for the first portion of the test, which looks at whether the school system followed IDEA procedures while creating the IEP document (Rozalski et al., 2021).

The educational benefit component of the FAPE test is based on the Endrew F. decision (Cowin, 2018). The second question examines whether a student's IEP is deliberately designed to allow them to make progress given their circumstances (Conroy & Yell, 2019; Rozalski et al., 2021). Endrew F. upped the educational benefit standard from Rowley, requiring an IEP to provide the student with more than a negligible educational benefit (Cowin, 2018; Rozalski et al., 2021). In the Endrew F. decision (2017), Justice Roberts described the IEP as a "fact-intensive exercise" in which school professionals and parents of kids with disabilities collaborate to establish a special education program to advance the academic and functional performance of each student (p. ?).

Director 3 noted the impact of Endrew F. and the importance of progress monitoring. Goals in IEPs must be measurable, and the IEP must explicitly define the kind of data and changes that should be seen in a student's behavior or academic

performance (Chovanes et al., 2021; Sugita et al., 2021; Webster, 2020). Data collection is critical for determining whether or not a student is making progress toward goals (Chovanes et al., 2021; Sugita et al., 2021; Webster, 2020). Should a teacher fail to keep accurate data, both the instructor and the district become vulnerable to legal action (Chovanes et al., 2021; Webster, 2020). Director 3 reported capitulating to a parent request for a restrictive placement the district believed to be unnecessary due to the fact the student's special education and related service providers were unable to produce data highlighting the student's progress to support the district's position.

The four directors who said their districts had experienced a formal child complaint or due process complaint said they had used formal dispute resolution. However, all directors disclosed that none of the families who filed a formal complaint with the MODESE expressed their plan to the district prior to filing, which prevented the district from addressing concerns at the local level. Likewise, Director 4 noted being taken by surprise by a formal complaint filed with the MODESE. Director 4 described an experience where the team was joined by family advocates and ended with consensus, but after the meeting, the parents changed their mind and filed a child complaint. Directors who had experienced advanced levels of conflict noted that when parents filed a formal complaint, conflict was immediately escalated once the MODESE took the complaint and official mediation was required. Additionally, directors reported that when the MODESE became involved, the impact on the parent-school relationship was negative.

Director 6 explained a breakdown in the parent-school relationship impacted the ability of the IEP team to hold a successful meeting when the team reconvened. Director 6 reported inappropriate communication techniques, such as personally attacking others

and entrenched team members caused the meeting to end in disagreement, as there was no productive conversation focused on the student's plan. Unreasonable parent requests, according to Director 4, rendered conflict resolution unsuccessful.

The influence of a due process involving an unreasonable parent on the school staff was recognized. Director 2 lamented that even seven years after a due process filing, district staff continues to voice concern over the parent and fears they may have to serve the child again. Multiple studies have established that when issues go unresolved, communication and trust between the parent and the school might deteriorate, leading to a dysfunctional relationship (CADRE, 2018c; Lake & Billingsley, 2000; Mason & Goldman, 2017; Scanlon et al., 2018).

### ***Research Question Three***

What are common district-level dispute resolution practices special education directors perceive to have a positive impact on preserving the parent-school relationship at each stage of conflict?

All participating directors were aware of instances where an alternative dispute resolution mechanism helped keep the parent-school connection intact. In the initial stages of prevention and early disagreement resolution, directors identified three common practices to prevent or ameliorate conflict: relationship building, clear communication, and valuing the parent as an IEP team member. Each of the common practices identified by directors directly addresses factors Lake and Billingsley (2000) identified to escalate conflict.

Mueller and Piantoni (2013) also found special education directors most frequently highlight communication as a factor in establishing positive parent-school

connections at the school district level. Additionally, communication was identified as the principal facilitator of collaboration and a central cause of conflict in parent-professional relationships (Azad et al., 2016). Avoidance of uncomfortable conversations, infrequent communication, failure to follow-up, miscommunication, and the timing of attempts to clarify communication all play a part in parent-school conflict (Lake & Billingsley, 2000; Mueller, 2017). The responses of interviewed directors aligned with research completed by several scholars who have stressed the importance of communication between home and school in promoting parental involvement, parent-professional partnerships, and family-centered approaches to service delivery (Akl, 2015).

As communication begins to break down, parents may believe school employees are undervaluing them or that their child is not appreciated by school personnel, which escalates conflict (Lake & Billingsley, 2000; Lasater, 2016). Akl (2015) defined valuation between parents and school personnel: “In the field of special education, valuation is measured subjectively, based on the emotions and feelings of the parents and professionals and how each party perceives that the other values them as a partner” (p. 53). Parents reported devaluation indicates the school lacks trust and respect for them in the parent-school relationship (Beattie et al., 2014; Yales, 2016).

Within the district-level practice, educators should prioritize relationship building with stakeholders and designing IEPs that lead to student progress (CADRE, 2018c, 2018e; Moses, 2016; Samuels, 2016; Simon, 2018; Zirkel, 2013). Participating directors stressed the significance of establishing and maintaining positive parent-school connections. Directors 1, 3, 4, 5, and 6 said they use official and informal methods to

build relationships with families, such as parent advisory committees, parent training, resource fairs, and parent-child interaction programs. Parents who have formed ties and established trust with school staff are more willing to continue engaging with district staff when issues arise (Angell et al., 2009; Lake & Billingsley, 2000).

As parent-school disagreements advance into disagreement and conflict, Directors 1, 3, 4, and 5 identified facilitated IEPs as the most commonly utilized dispute resolution, which resulted in IEP teams coming to a consensus. The MODESE facilitates IEPs at no cost to the district or the parents (MODESE, 2016). Directors' positive experiences with facilitated IEPs mirrors data from the CADRE regarding participant satisfaction with facilitated IEPs across Missouri.

The MODESE was chosen by the CADRE (2018d) to be a part of a multi-year IEP facilitation workgroup. According to workgroup data collected between 2016 and 2018, 97% of assisted IEP meetings performed in Missouri effectively reached a consensus on some or all topics, with 85% of participants expressing satisfaction with the outcomes of guided IEP team sessions (CADRE, 2018d, p. 2). Directors 1 and 3 found the MODESE-facilitated IEP approach so impactful that they opted to have the district's special education staff trained in the method. Director 1 noted positive experiences utilizing in-district facilitators but hypothesized third-party facilitators might be more successful in guiding the IEP team in more advanced phases of conflict to consensus. Director 3 explained the neutrality of a third party, and their understanding of the facilitated process and special education law strengthens the facilitation, ultimately strengthening the relationship between the district and parent.

None of the directors encountered a circumstance where they thought an alternate conflict resolution procedure had harmed the parent-school connection. Director 2, who was the sole director not to have utilized formal alternate conflict resolution procedures, noted being familiar with many options and felt the options could have a positive impact; however, their use was unnecessary within the particular district. The remaining directors expressed that while a complaint was still filed, they believed the situation was handled properly and did not negatively impact the relationship.

Congress has worked to lessen conflict in special education by expanding options for early dispute settlement in subsequent revisions of the IDEA (Feinberg et al., 2002). Congress incorporated a clause in the 1997 update of the IDEA that required all states to offer mediation as a means of resolving disputes prior to a due process hearing but after a request for a due process complaint notice (Feinberg et al., 2002). Mediation is a confidential method of resolving problems between parties without the need for a formal due process hearing (Givens, 2019; Simon, 2018).

Instead, the mediator assists the parties in expressing and comprehending their differing viewpoints (Givens, 2019; Simon, 2018). In 2004, Congress expanded mediation options in the 2004 revision of the IDEA, requiring mediation to be made available to all parties in conflict regardless of whether or not a due process complaint has been filed (Mayes, 2019). Despite the IDEA requiring all states to offer mediation, all directors interviewed stated they had never initiated the use of mediation as a resolution option, nor had parents requested the option.

## **Implications for Practice**

The findings of this qualitative study have implications for districts seeking to establish and maintain positive working relationships with parents in the education of students with disabilities. The perceptions of interviewed special education directors regarding alternate dispute resolution provided more specificity regarding the cycle of conflict and identified options to prevent and resolve parent-professional disputes at the district level. The following describes implications for practice based on the findings of this study.

### ***Professional Development***

School districts should provide professional development on IEP team roles and responsibilities for all building staff and parents/guardians. The purpose of an IEP is to define a student's current level of academic achievement and functional performance and use this baseline to build skills through goals and objectives, services, accommodations, and modifications (Küpper, 2016). The IEP team must document the student's strengths and address all identified needs as part of the IEP process (Beck & DeSutter, 2020). To fully identify and address the student's needs, the IEP team consists of a wide variety of individuals: parents, general education teachers, special education teachers, local education agency representatives, individuals to interpret instructional implications of evaluation results, specialists, and when appropriate, the student (Mueller & Vick, 2019).

The IEP teams are obligated to meet and evaluate each student's IEP at least once a year, although meetings to amend IEPs can take place at any time if changes to services, goals, or teaching are needed (Beck & DeSutter, 2020). The IEP process enables collaboration among parents and various school personnel; however, early career special

education teachers frequently report feeling they lack the required skills, attitudes, knowledge, and confidence to develop collaborative relationships with parents in the IEP process (Jones & Peterson-Ahmad, 2017). Furthermore, researchers have found that general education teachers have the least amount of knowledge of the IEP process after students and parents participate the least in IEP meetings (Mueller et al., 2019).

Directors interviewed noted that conflict has its roots in interactions at the building level prior to their involvement with the IEP team. All participating directors noted the vital role of effective communication within the IEP process and informal conversations. Conflicts tend to escalate when communication is insufficient, misinterpreted, inaccurate, or withheld. When team members feel they are not being heard or valued, conflict escalates again. As the conflict escalates, a director noted that school personnel fears communicating with parents and places the district in a liability position.

Districts should consider requiring professional development on IEP participation for all staff who participate in IEP meetings. Data from facilitated IEPs show promise in positive parent-professional meeting collaboration and consensus on IEP content (CADRE, 2018d). Districts could choose to train staff in the practice of facilitated IEPs. Although there are several models of IEP meeting facilitation in use across the country, Mueller (2009) suggested seven essential components are required for a successful IEP meeting: neutral facilitation, use of a meeting agenda, meeting goals created by each team member, rules for appropriate meeting participation, a collaborative environment, communication strategies that eliminate an imbalance of power, and the use of a parking lot to address non-IEP team concerns after the close of the meeting.

### ***IEP Implementation***

Districts should monitor the delivery of special education and related services districtwide to ensure the services and supports the district has committed to are being implemented, and students are progressing toward their IEP goals.

Lake and Billingsley (2000) defined service delivery as “gray areas of disagreements over quality of services, definition of inclusive services, instructional programs, and case management of integrated services” (p. 245). Akl (2015) validated Lake and Billingsley’s theory on conflict and found that conflicts arise because parents feel that school professionals plan and construct programs and services in advance, based on restricted service options accessible within school districts, with no true parental participation. Even when parents and all members of the IEP team agree on the services to be delivered, scheduling, service location, transportation as a related service, and service providers' ability to provide adequate and appropriate services can all contribute to disagreement (Akl, 2015; Lake & Billingsley, 2000). Once services and supports are established through the IEP, school districts should continually assess the school system’s service options to ensure services are still needed or to determine if more appropriate services should replace them. Parents’ perceptions of the need to re-evaluate the services provided and when to consider adding extra time for therapies and specialized programming is a frequent source of parent-school disagreement (Akl, 2015).

In *Andrew F. v. Douglas County School District RE-1*, the Court acknowledged and addressed the necessity to determine what degree of special education services and supports constitutes FAPE (Conn, 2017; Marsico, 2018). When determining whether a school system has provided a student with FAPE, Rowley and Andrew F. created a two-

part test that hearing officers and judges must apply to the facts of the case (Rozalski et al., 2021). The Rowley decision is the foundation for the first portion of the test, which examines whether the school system followed IDEA procedures while creating the IEP document (Rozalski et al., 2021).

The educational benefit component of the FAPE test is based on the Endrew F. decision (Cowin, 2018). The second question examines whether a student's IEP is adequately designed to allow them to make progress given his or her circumstances (Conroy & Yell, 2019; Rozalski et al., 2021). Endrew F. increased the educational benefit standard from Rowley, requiring an IEP to provide the student with more than a negligible amount of educational benefit (Cowin, 2018; Rozalski et al., 2021).

The Endrew F. decision (2017) reiterated the IEP is a collaborative document in which school professionals and parents of students with disabilities work to establish a special education program to improve the academic and functional performance of each student in light of their individual needs. McKenna and Brigham (2021) noted,

Schools must develop IEPs that meet procedural and substantive requirements, utilize evidence-based interventions, measure student response to services to ensure sufficient progress toward the achievement of IEP goals, and communicate this information to parents/guardians so they can actively participate in the IEP process (p. 3).

By monitoring and documenting student progress in response to services, both school personnel and parental IEP team members can objectively measure the effectiveness of services and determine the need to adjust services and supports based upon data (McKenna & Brigham, 2021).

## **Recommendations for Future Research**

This qualitative study was initiated to gain special education directors' perceptions regarding practices that support early conflict resolution or prevent conflict from initially occurring. Additional research in the vital area of conflict resolution in the education of students with disabilities is needed. This research study included a limited sample of six special education directors from K–12 Missouri public school districts who are members of one area LASE group.

Future studies could include a more comprehensive sampling of participants across Missouri and other states to understand conflict resolution in special education better. Additionally, future research could expand the sampling by including the perspectives of other stakeholders involved in the conflict resolution process. Parents, building leaders, and teachers have critical viewpoints on the IEP team process, including special education dispute resolution, but were not included in this study. The IDEA establishes that IEP development is collaborative among all team members as equal participants (Endrew, 2017; McKenna & Brigham, 2021). Examining the perceptions of additional IEP team members could result in further input on conflict resolution strategies.

A second recommendation for future study could focus upon facilitated IEPs, one of the most utilized conflict resolution processes by special education directors within this study. Currently, there are several methods of IEP meeting facilitation available across the United States (Mason & Goldman, 2017). Future research could investigate the facilitation methods, participant experiences, and district-wide implementation strategies that lead to successful outcomes.

Finally, future research could examine conflict prevention and resolution techniques embedded in the education of pre-service teachers. Teacher preparation research could reveal areas of strength and need in terms of training future educators. Appropriate training of pre-service teachers can equip future educators with the knowledge and skills they need to minimize conflict by fostering partnerships, encouraging active parent participation, and problem-solving at the earliest stages of disagreement.

### **Summary**

Each reauthorization of the IDEA has been designed to further improve outcomes for students with disabilities through increased parental participation and improved dispute resolution procedures (Mueller, 2015; Zirkel, 2018). However, the IDEA is also a source of frequent conflict and litigation between schools and parents of students with disabilities (Mueller, 2015; Pudelski, 2016). This qualitative study was initiated to gain special education directors' perceptions about alternative conflict resolution methods used at the district level to support effective conflict resolution or to prevent conflict from occurring. Six special education directors were interviewed from K–12 Missouri public school districts who were members of an area LASE group for this study. Interviews were structured to address three research questions based upon the perceptions of acting special education directors.

Chapter One contained an introduction and a background of the research study. The continuum of dispute resolution processes and practices developed by the CADRE was reviewed to establish a theoretical framework for the study. Additionally, a statement of the problem, the purpose of the study, and the research questions were reviewed. An

examination of the significance of the study, definitions of key terms, delimitations, limitations, and assumptions concluded Chapter One.

Chapter Two began with an examination of the conceptual framework, the *Continuum of Dispute Resolution Processes & Practices* (CADRE, 2018a, CADRE Continuum section). The review of literature examined dispute resolution best practices in special education at each of the four stages of conflict: “Stage I Prevention, Stage II Disagreement, Stage III Conflict, and Stage IV Procedural Safeguards” (CADRE, 2018a, CADRE Continuum section). Informal dispute resolution options, such as IEP facilitation, were discussed, as well as formal IDEA conflict resolution procedures like mediation, child complaints, and impartial due process hearings.

Chapter Three included the methodology used in this qualitative study, which was led by research questions to examine special education directors’ impressions of alternative dispute resolution in resolving disagreements between parents and school personnel. The research study’s problem and purpose were examined. The research questions of the study were restated, as well as the research methodology, population and sample size, instrumentation, validity, and reliability. An explanation of the techniques for gathering and analyzing qualitative data was provided. Finally, ethical considerations for research participant protections were noted.

In Chapter Four, data were analyzed for each research question. The information gained from special education director interviews highlighted special education directors’ perspectives of the utilization of alternative conflict resolution approaches in the context of preventing or resolving parent concerns before filing a formal IDEA dispute resolution option. The information was acquired using a semi-structured interview guide designed to

elicit special education directors' perspectives on the shared experience of parent-school conflict.

The research findings were presented in Chapter Five, which focused on answering the three main research questions. The conclusions were then detailed, based on the data supplied in Chapter Four and juxtaposed with the literature review presented in Chapter Two. Implications for practice were also included in Chapter Five.

The first implication for practice was that school districts should provide professional development on IEP team roles and responsibilities for all building staff and parents/guardians. The IEP process allows parents and school personnel to collaborate; however, early career special education instructors typically report lacking the skills, attitudes, knowledge, and confidence needed to create collaborative relationships with parents in the IEP process (Jones & Peterson-Ahmad, 2017). Secondly, districts should monitor the delivery of special education and related services to ensure the services and supports the district has committed to are being implemented, and students are progressing toward their IEP goals.

The Endrew F. judgment reaffirmed that the IEP is a collaborative effort between school personnel and parents of students with disabilities to develop a special education program to improve students' academic and functional performance in light of their unique circumstances (Endrew, 2017). Schools must create IEPs that comply with procedural and substantive requirements of the IDEA, use effective interventions, measure student response and progress monitor achievement toward IEP goals, and communicate this information to parents/guardians so they can actively participate in the IEP process (McKenna & Brigham, 2021). All IEP team members can objectively

analyze the effectiveness of services and determine the need to alter services and supports based on data by monitoring and documenting student progress in response to services.

The chapter concluded with recommendations for future research. Future studies might encompass a larger sample of individuals from Missouri and other states to further understand conflict resolution in special education. Future studies could also broaden the sampling by incorporating the viewpoints of additional stakeholders who participate in the dispute resolution process. A second area for future research could focus on IEP meeting facilitation techniques that produce positive results. Finally, future researchers might examine the conflict avoidance and resolution techniques taught to pre-service teachers as part of their curriculum. Research into teacher preparation could show areas of strength and need in educating future educators. Appropriate pre-service teacher preparation can provide future educators with the knowledge and skills they need to reduce conflict through creating partnerships, encouraging active parent participation, and problem-solving at the earliest stages of conflict.

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**Appendix A****Letter of Permission from Local Area Special Education Group**

Date:

To: XXXX Local Area Special Education Group

RE: Permission to Conduct Research in the XXXX Local Area Special Education Group

To Whom It May Concern:

I am writing to request permission to conduct research in the XXXX Local Area Special Education Group. I am currently pursuing my doctorate through Lindenwood University and am in the process of writing my dissertation. The study is entitled *Parent-School Conflict in the Education of Students with Disabilities: Causation, Prevention, and Resolution*.

I am asking permission to obtain a list of email addresses for special education directors in your organization to gather data.

If you agree, please sign below, scan this page, and email it back to me, Julie Voyles, at JV698@lindenwood.edu.

Your approval to conduct this study will be greatly appreciated. I would be happy to answer any questions or concerns you may have regarding this study.

Sincerely,

Julie Voyles, Doctoral Student at Lindenwood University

Approved by:

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Print name and title here

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Signature

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Date

## Appendix B

### Institutional Review Board Approval to Study

Feb 4, 2020 2:13 PM CST

RE:

IRB-20-120: Initial - Parent-School Conflict in the Education of Students with Disabilities: Causation, Prevention, and Resolution

Dear Julie Voyles,

The study, Parent-School Conflict in the Education of Students with Disabilities: Causation, Prevention, and Resolution, has been Approved as Exempt - Limited IRB.

Category: Category 2.(iii). Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by §46.111(a)(7).

The submission was approved on February 4, 2020.

Here are the findings:

#### Regulatory Determinations

- This study has been determined to be minimal risk because the research is not obtaining data considered sensitive information or performing interventions posing harm greater than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.
- The IRB has conducted a limited IRB review to ensure that while these data are potentially identifiable, given that recorded audio can be considered a direct identifier in connection with other demographic elements, it is necessary to capture data in this manner to ensure the integrity of this interview-based research design. The PI has created an adequate plan to protect privacy and confidentiality of participants in this research, including technical safeguards for the security of recorded audio, coding of research data, and associated protections outlined in the IRB application.

Sincerely,

Lindenwood University (lindenwood) Institutional Review Board

## Appendix C

### Letter of Participation

Date:

Dear <Title First Name and Last Name>

My name is Julie Voyles. I am a doctoral student at Lindenwood University, and I am conducting a research study entitled *Parent-School Conflict in the Education of Students with Disabilities: Causation, Prevention, and Resolution*.

I would like to invite you to participate in this study. I have attached the Research Information Sheet and a copy of the interview questions. If you choose to participate, please respond affirmatively to this email message, and I will be in contact with you to schedule a day and time that are convenient.

Please contact me at [jv698@lindenwood.edu](mailto:jv698@lindenwood.edu) with any questions you might have.

Thank you,

Julie Voyles

Lindenwood University

Doctoral Student

**Appendix D****Research Information Sheet: Interview****LINDENWOOD****Research Information Sheet**

You are being asked to participate in a research study. We are conducting this study to identify the primary causes of parent-school conflict and to identify dispute resolution methods which preserve the relationship between parents and school personnel. Through examination of the perceptions of Special Education Directors, practices which support an early conflict resolution or even prevent conflict from initially occurring will be identified. During this study, you will be interviewed to gain your perceptions regarding conflict resolution utilized to address parent complaints. All interviews conducted for this research study will be audio recorded and transcribed for analysis. It will take about 30 minutes to complete this study.

Your participation is voluntary. You may choose not to participate or to withdraw at any time.

There are no risks from participating in this project. There are no direct benefits for you participating in this study.

We are collecting data that could identify you, such as audio recording. Every effort will be made to keep your information secure and confidential. Only members of the research team will be able to see your data.

**Who can I contact with questions?**

If you have concerns or complaints about this project, please use the following contact information: Julie Voyles, [jv698@lindenwood.edu](mailto:jv698@lindenwood.edu) or Dr. Shelly Fransen, [sfransen@lindenwood.edu](mailto:sfransen@lindenwood.edu).

If you have questions about your rights as a participant or concerns about the project and wish to talk to someone outside the research team, you can contact Michael Leary (Director - Institutional Review Board) at 636-949-4730 or [mleary@lindenwood.edu](mailto:mleary@lindenwood.edu).

## **Appendix E**

### **Interview Questions**

1. How long have you been a special education director?
2. Has a parent filed a due process complaint while you were acting as special education director?
3. Please describe practices your district has in place to proactively prevent parent-school conflict (e.g., parent advisory groups, stakeholder trainings, etc.).
4. In your experience, which conflict resolution strategy do you find to be the most effective at preventing a potential due process request?
5. What additional conflict resolution practices do you believe your district could employ to prevent parent-school disputes?
6. What are reasons conflict resolution is ineffective at resolving disputes in the early stages of conflict?
7. How do you become aware of parent concerns that could require a dispute resolution within the district? When do you become involved at the IEP team level?
8. How does your district encourage the participation of parent advocacy groups at meetings with parents (e.g., Missouri Parents Act (MPACT), Abilities First, etc.)?
9. What types of third-party assistance (e.g., facilitated IEP meetings), if any, has your district utilized and found to be helpful in resolving disputes?
10. Have you conceded to a parent demand even though you believe the request was inconsistent with IDEA requirements in order to avoid a due process hearing? If so, can you explain why the decision to concede was made?

11. Have formal alternative dispute resolution practices always been employed prior to receiving a due process request? If not, please explain why alternative dispute resolution practices were not used.
12. Has your school district ever had a situation when conflict resolution was unable to prevent a due process filing? If so, what do you believe were the underlying reasons the parents and school district were unable to resolve the conflict which led to the parent filing a due process request?
13. Are you aware of any situations when the use of an alternative dispute resolution process preserved the parent-school relationship? If so, please provide further insight.
14. Are you aware of any situations when you believe the dispute resolution process had a detrimental impact on the relationship? If so, please share what the detrimental impact was and how it might have been avoided.
15. Did either the district or parent request mediation prior to or following the filing of the due process complaint? If so, please discuss the mediation process and your opinion about the success or failure of the mediation process.
16. Following the filing of the due process complaint, did the district hold a resolution meeting? Who attended the resolution meeting? Were attorneys present at the resolution meeting? As a result of the resolution meeting, were you able to come to a resolution which resulted in parents rescinding their request for a hearing?
17. In what ways has your district altered processes/practices in response to a due process filing?
18. What types of changes should the upcoming reauthorization of IDEA include regarding how parents and districts resolve disputes over a student's IEP?

### **Vita**

Julie Voyles has served in several special education positions within Springfield Public Schools in Springfield, Missouri. Julie began her career teaching special education at Delaware Elementary School. After eight years of teaching, Julie transitioned into the role of Special Education Process Coordinator. Julie later accepted the position of Associate Director of Special Education Services.

Julie earned a Bachelor of Science degree in Special Education from Missouri State University and a Master's degree in Educational Administration from William Woods University. Additionally, Julie received a graduate certificate in Applied Behavior Analysis through the Florida Institute of Technology and is a Board Certified Behavior Analyst.