

TRENDS IN SPECIAL EDUCATION DUE PROCESS HEARINGS IN TEXAS FROM 2010-2015:

SCHOOL, PARENT, AND SOCIAL JUSTICE ISSUES THAT INFORM

A PRINCIPAL'S DECISION-MAKING

Marcy Rose Potón, B.E, M.Ed.

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APPROVED:

Jane B. Huffman, Major Professor
Douglas Otto, Committee Member
David A. Brackett, Committee Member
Mary Bailey Estes, Committee Member
James D. Laney, Chair of the Department of
Teacher Education and
Administration
Randy Bomer, Dean of the College of
Education
Victor Prybutok, Dean of the Toulouse
Graduate School

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This study explores all due process hearings that occurred in Texas public school districts from 2010-2015. Special attention was paid to the reasons for the hearings within the legal reports addressed and their outcomes. The study was conducted using a quantitative approach involving a legal document content analysis of due process hearings to select the participants to be interviewed with a qualitative semi-structured interview protocol. Following this process, nine participants from one district were interviewed. Responses were then analyzed for themes and patterns using qualitative methods, and conclusions were drawn based on the data. The study found that campus and central office administrators believed socio-economic levels, lack of empathy shown to parents, and distrust contributed to parents' decisions to file due process complaints or litigation. They also believed that placement decisions influenced by student discipline, parent denial about the impact of the disability on children, and parent entitlement played a role. Lastly, the nine participants found that parent advocacy and communication were strong contributors to the amount of due process hearings held at Evergreen ISD.

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By

Marcy Rose Potón

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CHAPTER 1

INTRODUCTION TO THE STUDY

Prior to the 1970s, the United States had no existing laws on the education of students with exceptional needs. The implementation of the Education for All Handicapped Children Act, PL 94-142 in the 1970s created a shift in the education of students with disabilities in public schools (Alexander & Alexander, 2012; Public Law 94-142, 1975). This law created a standard for educating students with disabilities (Peterson, 2016). In 1990, PL 94-142 was renamed as the Individuals with Disabilities Education Act (IDEA) and included a requirement for transition services to be included in a child's individualized education program no later than age 14. It also increased opportunities for minorities and economically and educationally disadvantaged to fully participate and benefit from the act (Aleman, 1991; IDEA, 1990, 2004). The 1997 amendments placed additional obligations on public schools affecting such areas as evaluation, programming, dispute resolution, and student participation in state and district assessments, to name a few (Alexander & Alexander, 2012; IDEA, 1997, 2004; Yell, Shriner, & Katsiyannis, 2006).

By 2004, IDEA incorporated the term *improvement*, becoming IDEIA, and included the coordination of IDEIA and the No Child Left Behind Act (NCLB) of 2002 (Alexander & Alexander, 2012; Yell, Shriner, & Katsiyannis, 2006). The coordination defined the requirement for highly qualified special education public school teachers, a demand for accountability and assessment, flexibility of public funds, initiation of a Child Find process, resolution sessions, and a standard for a manifestation determination meeting (IDEA, 2004; Zirkel, 2015). With an emphasis on accountability for schools receiving public funds,

the existence of NCLB focused the attention on the education of all students, especially the at-risk populations (Peterson, 2016).

With laws requiring that all students receive a quality education, and that those with disabilities receive a Free Appropriate Public Education (FAPE), litigation in the area of special education is expected. According to the American Association of School Administrators (AASA), special education due process hearings have become more common due to the number of attorneys ready to initiate litigation (Hoagland-Hanson, 2015; Pedelski, 2013). While there are many reasons individuals engage in litigious activities against school districts, the responsibilities placed on staff members who ensure the coordination of services, specifically campus principals, is of particular interest. Despite efforts to mediate difficult situations, administrators often find themselves in positions of respondent, or a defendant in a lawsuit, when due process suits occur (Hoagland-Hanson, 2015). Therefore, understanding trends across several years can both increase awareness of common issues and inform school districts of the needs of children and families.

In 1994, a study was conducted that analyzed over 200 due process hearing cases spanning nine years. Webb (1994) found that large urban and small rural districts tended to have higher percentages of due process hearings. Additionally, more incidents resulted from placement, program, and evaluation issues, respectively. The most common disabilities addressed in due process hearings fell within the Other Health Impaired (OHI) category. Other disabilities involved included speech, visually impaired, orthopedically handicapped, auditorily impaired, and traumatic brain injury. In addition, families with students classified under the emotionally disturbed category added to the overall findings

(Webb, 1994). Webb's research contributed to the body of literature by identifying common trends in support of building the relationship between school districts and families.

Rickey (2003) later conducted a study that reviewed all due process hearings in Iowa from 1989-2001 that resulted in a decision by a hearing officer. Cases that were dismissed by either party prior to a decision were not included. His research incorporated only 50 cases due to the restriction of complaints. Of those cases analyzed, 22 were based on a single issue while the others had 2-12 issues per case. As a result, the 50 due process cases resulted in a total of 126 issues. The two most disputed issues were the placement or least restrictive environment (LRE) with 25 issues and evaluation with a total of 20 issues (Rickey, 2003). Request for relief from these two most common concerns included remaining in the neighborhood school while only two sought the reimbursement of costs associated with independent evaluations. Overall, the study concluded that parents were most passionate about securing the LRE and remaining in their neighborhood schools. Recommendations were made to focus on improving the collaborative efforts between families and school personnel (Rickey, 2003).

Rickey's study (2003) serves as a foundation for this research as it focuses on the heart of the due process hearing. The study will review all due process hearings reviewed by a hearing officer in Texas over a six-year period and further explore the perspective of key stakeholders including principals, special education directors, and legal counsel.

Mueller and Carranza (2011) also conducted a study involving 575 due process hearings occurring in 41 states between 2005 and 2006. This study focused primarily on identifying the most common contentious disabilities. The researchers found that the top

four litigious disabilities included: specific learning disability at 26.3%, autism spectrum disorder at 20.2%, other health impaired category at 15.1%, and emotional disturbance with 13% (Mueller & Carranza, 2011). The two most common areas of dispute included placement issues resulting in 25% of cases and program appropriateness at 24%. Trends were identified between the most commonly litigated disabilities and areas of special education resulting in 34% of autism disputes related to placement and 27% to IEP and program appropriateness (Mueller & Carranza, 2011).

Problem of the Study

While Webb's 1994 research on due process hearings in Texas added to the body of knowledge at the time, there is need for current and refined data that will inform district and campus leaders of the most recent due process trends in Texas. Similarly, Rickey's 2003 study focused exclusively on due process hearings that met his criteria, providing a narrow focus. Lastly, Mueller, and Carranza (2011) provided a global perspective by including 41 states, but did not allow for a more specified view into the processes of one state. While these studies have added to the body of literature of trends in special education due process hearings, the present study proposes to focus globally on all due process hearings in Texas. Understanding such trends could help districts determine which processes need enhancing and if training is warranted. Placing focus on such patterns can help schools and families work more collaboratively and find solutions that are in the best interest of children. Although the preceding studies provide an overview of special education literature, additional knowledge is needed on the perspective of school district leaders and their approach to legislation within their own environment. The combination of quantitative analyses of legal documents and qualitative semi-structured

interviews therefore offers a more comprehensive view of the reasons for litigation, while highlighting areas of law that are not fully measurable quantitatively. Additionally, the viewpoint of social justice leadership, as fundamental to the researcher, was included to determine whether the identified school district utilizes that mindset when making decisions. The three studies referenced above help support the need for the current proposed study centered on the due process hearings of one state over a series of years.

Purpose of the Study

The purpose of this study was to determine which aspects of the special education process such as placement, services, or disability category were most commonly represented in due process hearings and factors that contribute to parents' decision to file a lawsuit. The study also tested the extent to which social justice theory applies to our understanding of special education law and critical decisions made within a school district. The most recent years of Texas data available were reviewed to capture current and relevant data. The study also determined whether the professional background of administrators, in high-incident districts, influences their decision-making. Two quantitative and three qualitative questions as noted below guided the research:

Research Questions

Quantitative Research Questions

1. What are the common special education elements reported in due process hearings from the case law analysis?
2. Which school districts in Texas have the highest representation of special education (SPED) litigation per enrolled student?

Qualitative Research Questions

3. What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?

4. From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?
5. How does social justice theory inform our understanding of special education issues?

Conceptual Framework

Miles and Huberman (1994) defined a conceptual framework as being a graphical or narrative representation of the interrelated concepts of a particular study. A conceptual or theoretical framework also serves as a tool that narrows the focus and vision of a study (Roberts, 2010). Basing the foundation of research on a specific lens helps the researcher gather the most relevant ideas to make sense of a phenomenon. Using a social justice lens, this study centered on the collaboration between special education history, the administrator's knowledge of law and his/her ethics, and the context, or the beliefs and ideas of the community.

Wakeman, Browder, Flowers, and Ahlgrim-Delzell (2006) provided evidence in their study that the more knowledge principals have of special education, the more they report being involved in special education related decisions. Hess and Kelly (2007) stressed the need for administrators or principals to be cognizant of ethical considerations regarding educational decisions that are in the best interest of students. Together, their work gives value to the need for informed and ethical decision-making essential to the conceptual framework model. Kuhn (2012) explained his idea of paradigm shifts by making clear that the leader's role involves both making decisions, and considering the beliefs and values of the communities they serve.

With this idea in mind, context is key to the success of the principal. Every element of the decision-making model is interconnected to demonstrate the impact that each has on

the others. The principal's knowledge of laws and his/her ethical foundation can have an influence on the context and vice versa. Similarly, the principal's knowledge of special education history and laws informs his/her ethical context. Ultimately, the campus principal is responsible for balancing all aspects of the model when leading a campus through challenging decisions. Thus, the lens from which a principal operates is essential to understanding the decisions that impact children. Figure 1.1 demonstrates the bond between each factor in the model based on educational research in the area of leadership.

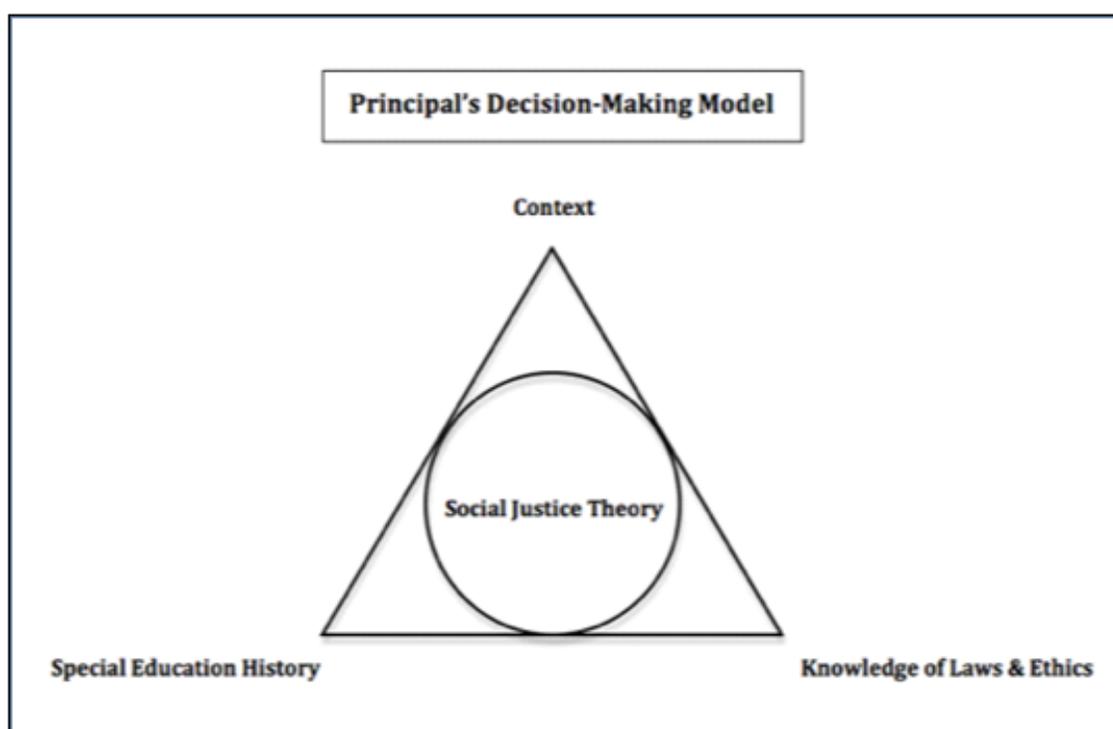


Figure 1.1. Conceptual framework.

Underpinning the conceptual framework model in this study was the theory of social justice often referred to in this study as social justice leadership. Furman and Gruenewald (2004) described social justice theory as the critiquing of the, “present system for producing inequalities in educational opportunity, achievement, and economic outcomes” (p. 52). Theoharis (2007) defined social justice theory of leadership as the

advocacy or vision principals create based on such issues as race, class, disability, and other marginalized conditions in the United States. Although it can be described in numerous ways, social justice leadership relies on the equitable treatment of vulnerable groups (Rivera-McCutchen, 2014; Theoharis, 2007). Furthermore, Bustamente, Nelson, and Onwuegbuzie (2009) pointed out the relevance of understanding one's own biases when working with marginalized groups. For this reason, the study took a critical look into the background of principals to determine how their philosophy impacts decision-making regarding students with special needs.

For many years, research has supported the fact that campus principals have a direct impact on the success of students (Ylimaki, 2007). Viewing the needs of students through a social justice lens and focusing on the history of special education, the principal's knowledge of laws, his/her ethical values, and the context helped to identify patterns which influence the success of students, particularly the special education population.

Significance of the Study

The importance of the study is described in terms of research, theory, and practice below. Additional information is incorporated in the Chapter 5 discussion.

Research

The study focused on a legal context within special education. In response to the quantitative data analysis, I employed purposeful sampling to identify participants in the qualitative portion. The incorporation of both a quantitative and qualitative perspective on the data added depth to the body of literature.

Theory

Social justice theory within the special education framework was the foundation of the study. Past literature on social justice theory has centered on developing principals into social justice leaders (McKenzie et al., 2008). This study viewed administrators working with special education students through a social justice theory framework. It sought to find whether the principals interviewed apply characteristics of social justice theory to their decision-making.

Practice

This study also investigated current issues and solutions for assisting campus leaders in making informed decisions regarding special education. Central to the research is the development of knowledge that will further educate campus and district decision-makers and graduate university preparation programs of training needed to support administrators. It may also help principals across Texas avoid or reduce the number of due process hearing cases.

Delimitations

The study involved all due process cases brought to Hearing Officers who are called upon by the Texas Education Agency (TEA) during the six-year period from 2010-2015. The time period was selected because it is the most recent data available on the TEA website during the time of this study. While it is possible to locate additional years of cases, the study was narrowed in scope to focus on the most current and relevant data.

Assumptions

The researcher assumed that all cases in Texas are included on the TEA database and that educational diagnosticians and licensed specialists in school psychology across

Texas interpret disability categories similarly. Additionally, I assumed that the interviewed campus and district administrators will, in good faith, respond honestly to the questions or scenarios posed.

Definition of Terms

For the purpose of this study, the following definitions are provided:

- *ARD committee (admission, review, and dismissal)/IEP team*: A group of people typically comprised of, at a minimum, parent(s), administrator, teacher, and special education representative who determine whether a child qualifies for special education and related services and decides on the educational placement of the student (Legal Framework, 2016; Texas Education Code, 2015). The term *ARD Committee* is used only in the state of Texas to define the committee of decision-makers.
- *Behavior intervention plan (BIP)*: A written plan often developed as part of the individualized education plan to address behavioral concerns affecting the student's educational progress (Legal Framework, 2016).
- *Child find*: The process by which all children with disabilities who are in need of special education and related services are identified, located, and evaluated (IDEA, 2004).
- *Child with a disability*: A child with intellectual disability (formerly referred to as "mental retardation") hearing impairments, speech or language impairments, visual impairments, serious emotional disturbance (referred to in this title as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who, by reason thereof, needs special education and related services (IDEA, 2004).

- *Complaint (petition)*: The initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demands for relief (Black’s Legal Dictionary, 2014).
- *Disability (see child with a disability)*: An objectively measurable condition of impairment, physical or mental, especially one that prevents a person from engaging in meaningful work (Black’s Legal Dictionary, 2014).
- *Due process*: The conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case (Black’s Legal Dictionary, 2014).
- *Due process complaint*: A formal process for disagreements between local education agencies and parents. It must include both the description of the nature of the problem and a proposed resolution of the problem (IDEA, 2004).
- *Extended school year services (ESY)*: An individualized education program for children with disabilities that is provided beyond the regular school year recommended and provided to students who cannot recover skills within a reasonable period of time (Legal Framework, 2016).
- *Free, appropriate, public education (FAPE)*: Special education and related services that (a) have been provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the state education agency; (c) include an appropriate preschool, elementary, or secondary education in the state involved; and (d) are provided in conformity with the individualized education program

required under Section 1414 (a)(5) of this title (Alexander & Alexander, 2012, Legal Framework, 2016).

- *High-incident districts*: A term used to reference districts with a large percentage of due process hearing cases filed between the years 2010-2015.
- *Individualized education program (IEP)*: A written document for each child with a disability that is developed, reviewed, and revised by the ARD committee (Legal Framework, 2016).
- *Individuals with Disabilities Education Act (IDEA)*: Federal law that provides assistance to states for the education of children with disabilities (Legal Framework, 2016).
- *Least restrictive environment (LRE)*: To the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, are educated with children who are not disabled (Legal Framework, 2016).
- *Mediation*: A method of nonbinding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution (Black's Legal Dictionary, 2014).
- *Petitioner*: A party who presents a petition to a court or other official body, especially when seeking relief on appeal (Black's legal Dictionary, 2014).
- *Related services*: Transportation, developmental, corrective, and other supported services designed to enable the child with a disability to receive FAPE (Legal Framework, 2016).
- *Respondent*: The party against whom an appeal is taken; APPELLEE (Black's legal Dictionary, 2014).

- *Specific learning disability*: A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, write, spell, or do mathematical calculations (IDEA, 2004).
- *Zero reject*: The principle that no student, regardless of the severity of the disability, may be excluded from special education (IDEA, 2004).

Organization of the Study

Previous studies relating to due process hearings were discussed in Chapter 1. The problem and purpose of the study, as well as the conceptual framework for decision-making in special education, were also outlined in Chapter 1. Additionally in Chapter 1, the relevancy of the study as a contribution to the knowledge of campus administrators and the field of educational leadership were explained. Chapter 2 involves a review of special education history and litigation while defining the context of the study. In addition, the principal's knowledge of special education laws and the role of ethical leadership decisions are addressed. Chapter 2 also explains the relevance of social justice theory in the study as it relates to leadership decisions. Chapter 3 outlines the methodology in detail, including the quantitative analysis of legal documents and the qualitative interviews. Chapter 4 addresses the data analysis process. Chapter 5 ultimately reveals the results of the study while providing recommendations for further research.

CHAPTER 2

REVIEW OF RELEVANT LITERATURE

The intent of the literature review is to offer background on the development of a legal structure in special education, and the influence of the principal on decisions which impact students. The chapter begins with an overview of constitutional rights and the history of special education from the early 19th century to present day. To provide a scaffold for the study, pertinent U.S. case law, essential components of IDEA, and dispute resolution are explained. The impact of ethics on leadership decisions and social justice as the groundwork for this study will be discussed in further detail below. Additionally, the responsibilities and changing roles of the principal are reviewed. Finally, the context or the connection between the principal and community and the principal's knowledge of special education are discussed.

Constitutional Rights

The United States Constitution is comprised of 27 amendments, developed from 1791 to 1971. Two important amendments that have affected the direction of litigation in special education are the First and 14th Amendments. The latter part of the First Amendment has proven to protect the rights of students with special needs throughout U.S. history (U.S. Const. amend. I; U.S. Const. amend XIV). This amendment establishes the right for people to peacefully petition the government as has been observed through American history. Along with the First Amendment, the 14th Amendment has proven to challenge the perspectives of Americans as seen in the landmark case of *Brown v. Board of Education* (1954). Section I states:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No

State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (U.S. Const. amend. XIV, § 1, p. 30-31)

As established in *Plyler v. Doe* (1981), the 14th Amendment points out that all persons have a right to life, liberty, or property, which may not be revoked without due process. This statement requires that an objective view be taken and makes clear that all persons, not limited to citizens, should receive equal protection of the law. Overall, both the First and 14th Amendments have played a significant role in American history and in that of special education. In the following section, I review notable cases that have brought to the forefront the urgency of educating all children, including the most vulnerable populations, such as special education students.

History of Special Education

Students with disabilities have not always received the educational rights provided to students without disabilities. The first American school to recognize students with disabilities was the American Asylum for the Education of the Deaf and Dumb, now the American School for the Deaf, established by Thomas Hopkins Gallaudet in Hartford, Connecticut in 1817 (Alexander & Alexander, 2012; Gates & Sayers, 2008). During the early 19th Century, Gallaudet began soliciting private funding by traveling around America with Laurent Clerc. This initiated a movement towards the financial support of students with disabilities. By 1852, New York, Pennsylvania, and Massachusetts had followed suit and were successful in acquiring funds for programs for children with intellectual or cognitive disabilities (Baynton, 2009; Turner, 1871).

By the early 1900s, children with disabilities had access to public schools in several states across the United States including Connecticut, New York, Pennsylvania,

Massachusetts, District of Columbia, Ohio, Kentucky, Illinois, and Atlanta (Myhill, 2010). However, children who were severely disabled were only given limited access to an education. The turning point and notable attention to students with multiple disabilities occurred in 1918 with the return of disabled World War I veterans. The Soldiers' Rehabilitation Act (1918) was formed, and it focused on providing both medical and vocational training to wounded soldiers. The attention to the needs of these soldiers helped shine light on the needs of children with disabilities in schools (Elliott & Leung, 2004). The next several decades would deliver a paradigm shift in the world of education.

The famous *Brown v. Board of Education* (1954) case has been regarded as a fundamental movement in the United States. It challenged *Plessy v. Ferguson* (1896), where in a 7 to 1 vote, separate facilities for black and white people were considered constitutionally protected under the 14th Amendment, the caveat being that the facilities provided were "equal" (*Brown v. Board of Education*, 1954). *Brown v. Board of Education* (1954) served as the catalyst for revealing the inferiority caused by separate environments. As expressed by Kraft and Redfield (2012), this fundamental understanding set in motion the laws safeguarding the needs of students with learning differences.

Major changes were established through the enactment of the Elementary and Secondary Education Act (ESEA) of 1965, nearly a decade after the ruling in *Brown v. Board of Education* (1954). During this time, federal aid was provided to states for the education of handicapped students and for pilot projects for state agencies conducting research. In addition, Title I funding began supporting families living in poverty, as well as children with disabilities (Huefner, 2000). Despite the forward movement of attention on special

education, it was not until after 1970 that the education of children with disabilities was seen as a right, rather than a privilege.

By the early 1970, two landmark cases would launch a new era. In 1972, *Pennsylvania Association of Retarded Children v. Commonwealth of Pennsylvania* (PARC) and *Mills v. Board of Education* (Mills) resulted in the protection of the rights of students with exceptionalities. These cases formed the groundwork for what we know today as the Individuals with Disabilities Education Act (“Disability Justice,” 2016; Frattura & LaNear, 2007; Huefner, 2000; Wright, 2010). In 1971, a civil suit by attorneys for the PARC referred to the 1954 ruling in *Brown v. Board of Education*. The plaintiffs in the lawsuit argued that practices in Pennsylvania schools were unconstitutional under the Equal Protection Clause of the 14th Amendment. They sought access to a free public program of education for children with disabilities who were deemed “uneducable and untrained” (*Pennsylvania Association of Retarded Children v. Commonwealth of Pennsylvania*, 1972, p. 2). The amended consent agreement ruled in favor of the plaintiffs and ordered that no longer could a child with intellectual disabilities be denied a free public program. The decision in this case helped open the door for hundreds of students who were previously receiving limited to zero access to the general education setting (*Pennsylvania Association of Retarded Children v. Commonwealth of Pennsylvania*, 1972).

Mills v. Board of Education of District of Columbia (1972) extended the PARC case. The families of seven children identified as having behavioral, mental, or emotional disabilities, or were hyperactive, initiated a class action suit against the Washington, D.C. Board of Education. Plaintiffs disputed that roughly 18,000 of the 22,000 identified students with disabilities were being denied access to special education programming as

required by law. They argued that no alternative placements were proposed when students were suspended or expelled, nor were periodic reviews of their disabilities common practice (*Mills v. Board of Education of District of Columbia*, 1972). Respondents indicated that funding prevented them from providing the state mandated special education services to identified students. The U.S. District Court ruling determined that families were entitled to due process before placement changes, and all educational services, provided by school districts, were based on needs and not funding (*Mills v. Board of Education of District of Columbia*, 1972). In violating the 14th Amendment, the Washington, D.C. Board of Education was directed to make changes in their practices.

As an extension of the civil rights movement, Section 504 of the Rehabilitation Act of 1973 prevented the discrimination against people with disabilities. Section 504 of the Rehabilitation Act of 1973 stated:

No otherwise qualified handicapped individual in the United States, as defined in Section 7 (6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (34 C.F.R. Part 104.4, 1973; "A Guide to Disability Rights Law," 2009; Overturf, 2007; Rowe, 2004)

These cases led to the passage of Public Law 94-142 in 1975, otherwise known as the Education for All Handicapped Children Act (EHACA). Public Law 94-142 (1975) marked a critical shift towards a focus on students with physical, mental, and emotional difficulties (Education for All Handicapped Children Act, 1975; Prillaman & Richardson, 1985). Under this law, the federal government offered funds to institutions of higher education for the development of special education teacher preparation programs (Huefner, 2000). It also required that schools receiving public funds provide students with disabilities a free appropriate public education program (Education for All Handicapped

Children Act, 1975). Throughout the next 30 years, it was amended to include the identification of students from birth to 2 years, a free appropriate public education for 3-18-year-olds, related services, and the opportunity for families to receive attorney's fees if successful against a local education agency, among other additions (Alexander & Alexander, 2012; IDEA, 2004).

In 1990, Congress reauthorized EAHCA and changed the title to the Individuals with Disabilities Education Act (IDEA). It marked a shift towards the education of children with disabilities with their nondisabled peers as much as possible (IDEA, 1990). Further revisions were made in 2004 with the reauthorization of IDEA (2004). It continued many of the 1990 revisions with an added focus to the No Child Left Behind Act of 2001 (Alexander & Alexander 2012; IDEA, 2004).

Current Elements of Special Education Law

In the following section, important elements of special education are reviewed including child find, zero reject, individualized education program (IEP), free appropriate public education (FAPE), appropriate education, least restrictive environment (LRE), active parent participation, procedural safeguards, dispute resolution, and due process complaints.

Components of IDEA

IDEA (2004) is comprised of special education and related services, which involve several fundamental rights. These rights and critical aspects of the 2004 reauthorization of IDEA are reviewed below and include Child Find, Zero Reject, and the development of an IEP based upon the requirements of FAPE. Additionally, I discuss appropriate education, LRE, active parent participation, and procedural safeguards. I also review due process in

evaluations and placement and dispute resolution (Alexander & Alexander, 2012; Boyle & Weishaar, 2001; Huefner, 2000; IDEA, 2004; Osborne & Russo, 2006, 2014). Finally, I explain, due process hearings as they relate to IDEA legislation.

Child Find

Child find is a mandated process under the Individuals with Disabilities Education Act (2004). It requires that states develop practices to identify and evaluate all children with disabilities from birth to 21 years of age. The law applies to all children of a state including those attending public or private school, homeless and foster children, as well as migrant and highly mobile children. Children suspected of having a disability despite receiving passing grades and advancing grade levels are included. As specified in IDEA (2004), the purpose of identifying students is to provide them with a free and appropriate public education including special education and related services designed to meet their unique needs. Early intervention regulations for infants and toddlers is also included and is governed in part C of IDEA (2004). This particular section focuses on children from birth to 2 years of age with developmental delays who would require early support. By age 3, IDEA (2004) requires that all students with disabilities be eligible for special education services. Child find is the primary step in helping to identify and provide specialized services to children with disabilities.

Zero Reject

Zero reject was a philosophy originally implicated in the *Pennsylvania Association of Retarded Children v. Commonwealth of Pennsylvania* (1972); however, it was formally established as a result of the landmark case *Timothy v. Rochester New Hampshire School District* (1989). Parents of a multiply disabled 4-year-old boy named Timothy filed suit

against the school board of Rochester, New Hampshire, claiming that the district had violated the Equal Protection and Due Process clauses of the 14th Amendment. In this case, the school district believed that Timothy's disability was so severe that he could not benefit from special education services. The family's pediatrician, on the other hand, indicated that Timothy was able to respond to sounds and other stimuli. While the court first ruled in favor of the defendant, or the school district, the First Circuit Court of Appeals used the Education for All Handicapped Children Act (1975) to rule in favor of the family in May of 1989 (*Timothy v. Rochester New Hampshire School District*, 1989). Subsequent to the ruling, the court adopted the *Zero Reject* policy indicating that the capacity to learn was not a prerequisite for eligibility for specialized services (*Timothy v. Rochester New Hampshire School District*, 1989).

Individualized Education Program

The Individualized Education Program is an essential component of special education designed for students receiving special education services (U.S. Department of Education, 2010). To benefit from an IEP, a child must receive a free appropriate public education. A student must be between the ages of 3-21, have been identified with a recognized disability, and require specially designed instruction and related services (Osborne & Russo, 2006, 2014). The educational plan is intended to meet the individual needs of students who participate in specialized services. Required elements of an IEP include the annual goals and objectives, specific services provided, and the evaluation process for monitoring a student's progress (Alexander & Alexander, 2012; IDEA, 2004). According to IDEA (2004), the individualized education program must consist of seven key elements including:

1. The child's present levels of academic achievement and functional performance;
2. Measurable annual goals designed to meet the child's needs;
3. Explanation of how the child's progress toward meeting the annual goals will be measured;
4. Which special education and related services will be provided;
5. An explanation of the extent, if any, to which the child will not participate with nondisabled peers;
6. Necessary accommodations for state and district assessments;
7. Date of implementation and time and location of services.

A team of people familiar with the child's academic and social needs develops and finalizes the IEP. It is typically first drafted by an evaluator or special education teacher and brought to the ARD or IEP committee for review. The IEP is developed to ensure that the student's educational needs are met, while allowing the student to participate with his/her non-impaired peers (IDEA, 2004). It is typically first drafted by an evaluator or special education teacher and brought to the ARD or IEP committee for review. This team is made up of the child's parent(s), a regular education teacher, a special education representative, campus administrator, and an individual qualified to interpret evaluation results (U.S. Department of Education, 2010). Together the team determines the program that is best suited to provide the child with FAPE.

Free, Appropriate, Public Education

As defined by IDEA (2004), a free appropriate public education, or FAPE, indicates special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge
2. Meet the standards of the state education agency
3. Include an appropriate preschool, elementary school, or secondary school education in the state involved

4. Are provided in conformity with an individualized education program that meets the requirements of §§ 300.320 through §§ 300.324 (Legal Information Institute, 2016, para. 1)

FAPE entitles children to receive specially designed instruction and related services that are covered by public funds. The caveat to this rule is found in the case of *Irving Independent School District v. Tatro* (1984). In this ruling, the Supreme Court clarified that an education agency is not obligated to provide related services to students who did not require such services. Therefore, it is possible that students may qualify for FAPE without needing or requiring related services.

It was this fundamental right that was argued in *Mills* (1972) decades before IDEA (2004) and in *Rowley v. Board of Education* (1982) (Alexander & Alexander, 2012). *Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982) was a lawsuit brought on by parents of a hearing-impaired Kindergarten-aged child. They argued that their child was denied FAPE because a sign language interpreter was not made available in the academic classes. The defendants argued that the student made adequate progress without an interpreter and thus did not require one. While the hearing officer and lower courts ruled in favor of the Rowley family, the Supreme Court later reversed the ruling based on what they believed constituted an appropriate education (*Rowley v. Board of Education*, 1982; Macfarlane, 2012; Osborne & Russo, 2014).

Appropriate Education

As explained in *Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982), an appropriate education is one that is outlined in the Education for All Handicapped Children Act of 1975. An appropriate education includes the annual review of a student's IEP to ensure that services provided are adequate to meet the educational

needs of the child. A violation of an appropriate education can occur if a parent is not notified of changes to the IEP and when schools fail to remain compliant with deadlines and processes (Russo & Osborne, 2014).

In *Abney v. District of Columbia* (1988), the school district was found in violation of providing a mentally impaired teenager an appropriate education when they stopped services for 4 months due to the child's medical condition. The school district had not notified the parents of this, nor had they attempted to determine an alternative plan based on the child's medical issues. In addition, a trial court in North Carolina found in favor of the family of a learning impaired child after the local educational agency made procedural errors in the development of the child's IEP. *Board of Education of the County of Caballa v. Dienelt* (1988), reimbursed the parents the funds used to provide the private placement of the student. As observed in these past cases, providing an appropriate education for each child is not only the right action to take, but also it is a requirement for children requiring and receiving special education services.

Least Restrictive Environment

Least-restrictive environment (LRE) is an element of special education that is often debated by parents and educational providers (Carson, 2015). According to IDEA (2004), special education services should meet the standards of the state education agency and be served in an integrated and thus least restrictive environment:

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. § 1412 (a)(5)(a))

In *Daniel R.R. v. State Board of Education, op. cit.* (1989), the court found that the El Paso Independent School District could not properly educate Daniel, a child with Downs syndrome, with his age appropriate peers. In a general education classroom, Daniel would not make the progress necessary to satisfy the mainstreamed setting. *Daniel R.R. v. State Board of Education, op. cit.* (1989), helped establish the two-prong test known as Daniel R.R., which is used to determine whether the placement of a child is the most appropriate. The test asks whether the use of supplementary aides in the regular education setting is sufficient for the education of a child with a disability. If it is not and the school intends to provide a more restrictive environment, the second question must be asked. The second prong questions whether the student was mainstreamed or included by the school to the maximum extent appropriate (*Daniel R.R. v. State Board of Education, op. cit.*, 1989; *Roncker v. B Walter N*, 1983). This two-prong test established in 1989 continues to be used today when making decisions about the restrictiveness of the educational setting proposed in an IEP (IDEA, 2004).

Similar to this case, *Roncker v. B Walter N* (1982), also concluded in favor of the school district because the more restrictive setting recommended by the school district was deemed the most appropriate for leading to educational growth. Along with *Daniel R.R. v. State Board of Education, op. cit.* (1989), *Roncker v. B Walter N* (1982) paved the way for *Oberti v. Board of Education of the Borough of Clementon* (1993) and the four-factor analysis in *Sacramento City School District v. Rachel H* (1994).

Oberti v. Board of Education of the Borough of Clementon (1992) involved a Pre-Kindergarten aged child named Rafael Oberti who was impaired significantly by a developmental delay associated with Down Syndrome. During his Pre-K year, Rafael

received half-day services in the self-contained special education setting and half-day services in the mainstream setting. After evaluating his progress and the modifications made by his teacher, the IEP committee recommended several self-contained and restrictive settings for Kindergarten. The parents disagreed with the restrictive setting that would place Rafael in a school outside of the district of enrollment and filed suit. In the end, the courts found that the least restrictive environment for Rafael was a right not a privilege. It, thus, established inclusion with the use of supplementary aids and services (*Oberti v. Board of Education of the Borough of Clementon, 1992*).

Sacramento City School District v. Rachel H (1994) was also critical in supporting a least restrictive environment. With support from the Daniel R.R. test and *Roncker* case, it established a four-factor analysis to weigh:

1. The educational benefit of full-time placement in a regular class
2. The non-academic benefits of such placement
3. The effect the student had on the teacher and children in the regular class
4. The cost of mainstreaming the students with a disability (*Sacramento City School District v. Rachel H, 1994*)

Because of these landmark cases, the four-factor analysis and the Daniel R.R. two-prong test are utilized in today's public schools (IDEA, 2004).

Active Parent Participation

Active parent participation is a required process in the IDEA (2004). According to Osborne and Russo (2006), when passing IDEA in 2004, Congress was aware that students with special needs were being denied services without the consent of parents. "To remedy that situation Congress emphasized the importance and necessity of parental participation throughout the statute" (Osborne & Russo, 2006, p. 111). Based on the law, parents must

receive written notice prior to the evaluation of their child, the dismissal of services, and before initiating an IEP for which the parent disagrees (IDEA, 2004; Prior Written Notice Region 13 (2016); Russo & Osborne, 2014). According to IDEA (2004), the child's parent, or educational guardian, must also be afforded the opportunity to actively participate, or provide input, in the development of his/her child's IEP. As stated by Russo and Osborne (2014, p. 97), "The purpose of notifying parents of their rights is to provide them with sufficient information to protect those rights, allow them to make informed judgments, and fully participate in due process hearings, if necessary." With that said, parents are a required member of the ARD committee, as the IEP team is called in Texas, and an integral part of the special education process.

While active parent participation is required, many parents often feel overwhelmed with the legal jargon used in special education (Whitbread, Bruder, Fleming, & Park, 2007). Whitbread, Bruder, Fleming, and Park (2007) recognized this and the value in providing training to parents on various aspects of the special education process. Their study involved 515 parents and included training on laws that govern special education, planning of IEPs, and the importance of collaboration between parents and professionals. Upon completion of the training sessions, 93% of those surveyed reported satisfaction with the training and 21% of those reported feeling more confident in serving as advocates for their children (Whitbread, Bruder, Fleming, & Park, 2007). Staples and Diliberto (2010) contended that active participation extends beyond the annual IEP meeting where the communication between the school and families is ongoing. They recommended establishing a partnership of collaboration to support the development of children with disabilities. Not only does IDEA (2004) require the active participation of parents in

special education programming, but also collaborative efforts can improve parent comfort and ultimately their engagement in the process.

Procedural Safeguards

A fundamental right for parents included in special education law is the idea of procedural due process or safeguards. As stated by Alexander and Alexander (2012):

Procedural due process, or natural justice, encompasses two basic elemental standards of fairness: (1) The rule against bias: No person shall be a judge in his or her own case, or *nemo judex in causa sua*; and (2) the right to a hearing: No person shall be condemned unheard, or *audi alteram partem*. (p. 516)

IDEA (2004) states that students with disabilities and their parents have the right to proper identification, evaluation, and placement. State and local education agencies must ensure that a child receives a full and individual evaluation as part of the identification process. Once identified, a student's progress on the IEP should be reviewed annually and the child should be reevaluated every three years (IDEA, 2004). Schools are also expected to initiate safeguards to protect the over-representation of minorities in special education. Local education agencies must provide early intervention to groups that are over-identified, including the minority population (IDEA, 2004). While due process is a component of the procedural safeguards, it is separated in this study to demonstrate the conceptual use of a due process hearing. The applicability to litigation in Texas is of value to the study.

Dispute Resolution – Due Process Complaints

This study seeks to discover areas of special education that need refining at the district and state levels. In determining the characteristics needing attention, it is necessary to discuss the existence of due process hearings as the vehicle for resolving disputes between local education agencies and parents. Due process is an essential

component to special education that is addressed in the 2004 reauthorization of IDEA. IDEA (2004) regulations require that due process complaints be made within two years of when the parent or public agency knew or should have known of the alleged violation. According to Osborne and Russo (2006), there are various steps involved in resolving disagreements between parents and education agencies. The general steps involved in dispute resolution are explained in Figure 2.1, which is found in *Dispute Resolution Under the IDEA* p. 154.

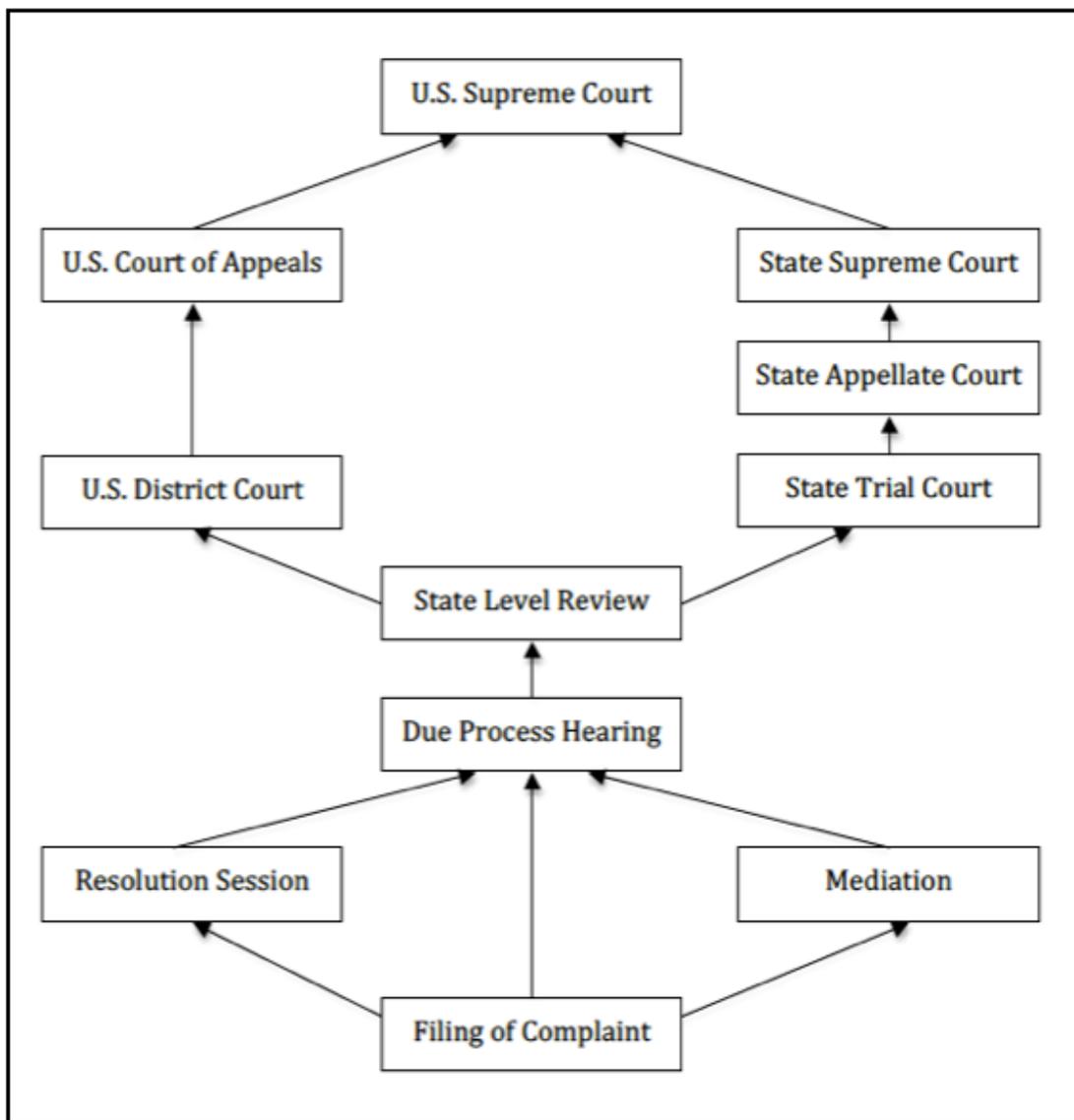


Figure 2.1. Due process complaint (Osborne & Russo, 2006, p. 154).

IDEA (2004) requires that state education agencies outline a procedure for complaints. The party filing a due process complaint meeting the requirements of the statute, must forward a copy to the state education agency. Within five days of the receipt of notification, a hearing officer must determine appropriateness of the complaint and notify both parties of his/her findings (IDEA, 2004). The process would either proceed to a due process hearing or be deemed inappropriate. While the federal government sets the expectations for IDEA 2004, applicable to the present study is the process for the state of Texas.

According to the Texas Education Agency (TEA, 2016), due process complaints are comprised of three steps including: mediation, complaint resolution, and if applicable, a due process hearing. Once a party has filed a complaint, they are given the option to participate in mediation with a neutral party or attend a resolution session with a representative at the TEA (TEA, 2016). If a parent refuses to participate in either mediation or a resolution session prior to a due process hearing and the educational party does not waive that process, the suit may be dismissed (Gilsbach, 2015; Osborne & Russo, 2006). Reasons for waiving the mediation or resolution session depend on whether or not the disagreement is a violation of IDEA. If a mutual agreement is not reached during the resolution session, parents have the right under IDEA (2004) to progress with a due process hearing (Dispute Resolution Handbook, 2016; Gilsbach, 2015; IDEA, 2004; Osborne & Russo, 2006, 2014).

Due Process Hearing

While mediation and resolution sessions are intended to help both parties identify a common ground, they are not always successful at avoiding the due process hearing (IDEA,

2004; TEA, 2016). Due process hearings are initiated when the local education agency has not satisfied the parent within 30 days of receiving a complaint or when both parties agree in writing that an agreement cannot be reached (IDEA, 2004). A hearing officer will then review all relevant documentation regarding the disagreement and return his/her written ruling to both parties (IDEA, 2004). According to IDEA (2004), the party bringing action has the opportunity to file a civil action against the local education agency within 90 days upon receiving the ruling from the hearing officer. The due process hearing is the final action taken to eliminate the need for civil litigation.

The previous section outlined all the important components of IDEA (2004), from legal rights to the Texas complaint processes. In the following section, the impact of ethics will be explained to provide a foundation for the principal's decision-making process.

Social Justice Theory and the Impact of Ethics on Leadership Decisions

While aspects of IDEA are of central importance to special education litigation, it is equally important to provide a context for the decision-making process of educational leaders. The history of social justice theory, along with how it will be utilized in the study, will be explained. The following section will include a review of seminal philosophers and researchers who have long written about the impact of ethics in education and society. Lastly, ethical responsibilities of a principal through the lens of social justice theory will be discussed.

Social Justice Theory

Social justice theory is a perspective that has appeared in literature since the early 20th century (Foreman & Arthur, 2008). While social theorists have dialogued about basic human rights, social justice theory began to take shape as a result of several key historical

landmarks, such as the 1948 Declaration of Human Rights and the Equal Protection Clause and Due Process requirements of the 14th Amendment to the U.S. Constitution (Foreman & Arthur, 2008; Universal Declaration of Human Rights, 1948; U.S. Const. amend. XIV, § 1, p. 30-31). While neither mentions social justice explicitly as a theory, both the Declaration of Human Rights of 1948 and the 14th Amendment propelled justice to the forefront of educational conversations. By focusing on the fundamental right of equity and social progress for all, the Declaration of Human Rights of 1948 and the 14th Amendment provided grounding for social justice leadership (Foreman & Arthur, 2008; Universal Declaration of Human Rights, 1948; U.S. Const. amend. XIV, § 1, p. 30-31).

Lebacqz (1986) offered three philosophical and three theological theories of justice to explain the phenomenon. While she discussed Utilitarianism and Entitlement theories of justice in her book, John Rawls's philosophical theory of "justice as fairness" aligns with the promotion of the least advantaged or marginalized groups in society, thus best fitting in the context of this study. Rawls's theory of justice assumes that the ignorance of one's economic or social position in society results in the belief that justice is defined as liberty for all and fair equality of opportunity. He also contends that unequal treatment of people is only just if the purpose is to advance the least advantaged groups (Rawls, 1971, 1999).

Principle one of Rawls's epistemology is explained as, "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all" (Lebacqz, 1986, p. 35). Framing Rawls's belief in the context of children with special needs helps us understand the urgency of providing students in special education fundamental rights often taken for granted by non-disabled

children. While equality is at the core, the theory of justice also recognizes that equality is not always the answer to the development of all.

In Rawls's second principle, he argued the importance of equal opportunity for all (Rawls, 1971). Lebacqz (1986) explained this as social and economic inequalities being arranged so that they are, "open to all under conditions of fair equality of opportunity" (Lebacqz, 1986, p. 38). This idea of equality in opportunity is fundamental to IDEA (2004), as it was established for the purpose of providing opportunities for children with learning differences.

Rawls's final idea is that of the "difference principle" and "maxmin" or maximizing the minimum, where he explains the value in treating others differently, yet fairly. As expressed by Rawls (1971), "Social and economic inequalities, for example, inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society" (Lebacqz, 1986, p. 37). While Rawls (1971) believed in equity for all, he recognized the need for unbalance in society as long as the end result is to progress those who are marginalized. As explained by Rawls (1971), these principles are fundamental to the idea of equity and relevant to the special education realm.

By the late 20th century, the discussion of social justice as the inclusion of marginalized groups such as Native Americans, African Americans, and women became more pronounced. As explained by Young (1990):

The ideal of the just society as eliminating group differences is both unrealistic and undesirable. Instead, justice in a group-differentiated society demands social equality of groups, and mutual recognition and affirmation of group differences. Attending to group-specific needs and providing for group representations both promotes that social equality and provides the recognition that undermines cultural imperialism. (p. 161)

Her research centered on affirming group differences, rather than oppressing social groups to ensure that social justice is achieved (Young, 1990). Through this mindset, social justice is necessary for ensuring that decisions are made to support the growth of all students while valuing the contributions and capabilities of all, not simply the high-achieving dominant social class.

Social Justice in Law and Health

While social justice theory has had limited use in the field of criminal justice, Robinson (2010) drew connections between the theories of Rawls (1971) and David Miller in his article, when he commented on the draw between social justice and criminal justice, including judicial processes, policies, correctional punishments, due process rights, and Miranda rights (Robinson, 2010). He brought up an important point by suggesting that the Bill of Rights in the United States Constitution was developed to protect the civil liberties of all and to provide equity (Robinson, 2010). Ekmekci and Arda (2015) made an argument for the need for social justice within healthcare. In their article, they too established a relationship between Rawls's theory of social justice and healthcare. They primarily focused on the justice as fairness as it relates to the access to healthcare for those who are, unfortunately, born unhealthy or at a disadvantage (Ekmekci & Arda, 2015).

Social Justice in Education

In more recent years, research related to social justice theory has been in the context of inclusive schooling for oppressed groups such as ethnically, culturally, and economically diverse students and creating social justice leaders (Bustamente et al., 2009; Furman & Gruenewald, 2014; Kemp-Graham, 2015; McKenzie et al., 2008; Vogel, 2011). Social justice is also referenced and critiqued in the context of higher education. In Wilson-

Strydom's philosophical analysis of theories of justice, he outlined Rawl's theory of "Justice as Fairness" among those of Young and Fraser in arguing for increased equity within the higher education setting (Wilson-Strydom, 2014). Although the theory is becoming a more popular concept in education, more research is needed in the area of education with particular attention to special education.

Social Justice in Special Education

While special education researchers have not specifically addressed social justice theory, Theoharis (2007) drew a connection of advocacy between typically marginalized groups and the special education population. In his study, he interviewed social justice leaders to determine how social justice decisions impact the school culture. He found that while social justice leaders make difficult decisions to ensure equity for all, they are often met with resistance from stakeholders. Although Theoharis (2007) addressed inclusive practices for special education students and other groups, much of the research related to social justice theory is limited in connection with special education.

Social justice theory is still in its early phases of being referenced across disciplines. The work of Rawls and other philosophers has contributed to the establishment and evolution of the theory in fields like law, healthcare, and education. Its root in the fundamental rights of the U.S. Constitution are also relevant. While it varies in function based on the situation, its use is undoubtedly valuable to the education of students with special needs. As a critical part of the conceptual framework, social justice will be explained further in the context of special education.

Ethics and Decision-Making

Utilizing a social justice framework in this study will help bring light to the ethical fiber necessary when making decisions that specifically impact special education students. It is on ethics in decision-making that early philosopher Dewey (1909) focused his attention. He believed ethics involved the personal growth of individuals and their contribution to a moral and democratic society (Dewey & Tufts, 1909). As described by Dewey and Tufts (1909), "Ethics is the science that deals with conduct, insofar as this is considered as right or wrong, good or bad" (p. 1). Taking Dewey's mindset, being ethical involves knowing right and wrong, which is essential to the leadership of a campus principal. Aristotle, who is regarded as one of the fathers of ethics, also detailed his beliefs in the influential elements on a person's ideas in his book *Ethics*. He shared his fundamental beliefs related to moral goodness in stating, "the Chief Good we feel instinctively must be something which is our own, and not easily to be taken from us" (Aristotle, Kindle Edition, location 397/4342, 1937). In this statement, Aristotle explained that the moral compass, which drives human behavior, is individualized and cannot be easily swayed or changed. In its most basic form, moral virtue (ethics) is developed from knowledge, habits, and self-discipline (Aristotle, n.d. Kindle Edition, location 397/4342, 1937).

Decades later, Vygotsky (1978) established socio-cultural theory, highlighting the impact of one's experiences on history. His theory centers on the idea that, from an early age, children experience events that have lasting impressions on their ethical values and ideas about the world. Likewise, Shapiro and Stefkovich (2000) argued that leaders are entrusted to navigate the policies within their districts and meet the demands of leading

with professional ethics. Leading theorists of social justice, Furman and Gruenewald (2014) and Theoharis (2007) also connected ethical decisions with a principal's adherence to social justice constructs. A connection can be drawn between early beliefs on ethics and the responsibilities of a school principal in today's society. By weighing the potential impact of decisions on the development of their communities, principals contribute to a moral and democratic society built on ethics.

Ethical Responsibilities

While the seminal leaders praised the value of ethics, Frick and Gutierrez (2008) approached it by conducting research about the significance of ethical leadership. One principal in their study shared his belief that the moral responsibility of meeting the needs of children is much more valuable than the accountability placed on schools for academic growth. This idea of care focuses on the people rather than the principles held in educational communities. Frick and Gutierrez (2008) believed that ethical decision-making is made up of five areas: justice, care, critique, community, and profession, while Shapiro and Stefkovich (2000) believed it to include justice, critique, care, and professional ethics. In considering these paradigms, it is the ethics of justice, care, community, and profession that are intertwined and fundamental to the role of the principal and thus, most relevant in this study.

Gardiner and Tenuto (2015) supported the idea of care in making critical decisions that impact children. In their study, they harmonize ethical leadership and social justice by stating, "An ethical leadership and decision-making approach includes social justice ethics as an essential part of educational justice" (p. 2). To them, social justice includes, "valuing [one's] self, students, faculty, and community members who present cultural, linguistic, and

other diversities” (p. 2). Essentially, one of the most important roles of a principal is balancing the ethical mindset, while also supporting the various responsibilities placed on them as the leader of their campus.

Specifically, within the realm of special education, Fiedler and Van Haren (2009) believed that, “In addition to maintaining ethical codes of conduct and professional standards, special education professionals should be able to clearly articulate the ethical principles employed in their reasoning and decision-making when confronted with an ethical dilemma” (p. 162). Gardiner and Tenuto (2015) also supported this idea by highlighting the inclusion of a social justice mindset in ethical decision-making. Overall, campus leaders must carry an understanding of right and wrong and aim to meet the needs of their community (Hess & Kelly, 2007).

Changing Role of the Principal

The last half-century has witnessed considerable changes in the opportunities of students in special education and in the implementation of programming (Huefner, 2000). Providing rights for students with exceptionalities established a need for the education of district and campus educators. While principals’ knowledge of special education has developed since PL 94-142, there is a continued need for increased understanding of pertinent laws in special education (Fiedler & Van Haren, 2009; Frick & Gutierrez, 2008; Frost & Kersten, 2011; Wakeman, Browder, Flowers, & Ahlgrim-DeLzell, 2006).

Major educational changes occurred after the publication of *A Nation at Risk* in April 1983 (U.S. Department of Education, 1983). In this open letter to the American people, the Commission documented the performance of youth on measures of literacy, mathematics, science, and aptitude. It also highlighted the nearly 23 million Americans who were

illiterate in reading, writing, and in comprehension. The Commission recommended changes to the academic content required for high school graduation, an increase in standards and expectations, and additional time devoted to learning (U.S. Department of Education, 1983). As the opportunities for a higher quality of education became a stronger focus, the 1990s experienced a national call for greater control at the local level and marked a time for the establishment of professional standards for students and teachers (Spillane, 1996). This move set the stage for further legislation regarding the education of children, which led to the No Child Left Behind (NCLB) Act of 2001. The passing of this law established a common goal for educating all children, regardless of background. With the law came increased accountability and urgency in demonstrating that schools were meeting the needs of students (Rice & Roellke, 2009).

The No Child Left Behind Act resulted in mixed reviews regarding its impact on schools and principals. Miller (2008) conducted a study of two principals and their perspectives of how NCLB had impacted their roles. Both principals despondently recounted their inability to focus attention on matters of diversity, equity, and school culture because of the impact of NCLB. By the same token, the two principals and others have felt that the mandated assessments and high stakes accountability have drawn them more closely to the analysis of data for student growth (Hayes, 2008; Miller, 2008; Sirotnik, 2004).

Post NCLB, principals are expected to be knowledgeable of the needs of diverse students and are held accountable for the performance of both general and special education students. DiPaula and Tschannen-Moran (2003) addressed the role of the principal as instructional leader in their study designed to determine the everyday tasks of

an administrator. As clarified by them, the term “instructional leader” is used to explain an extensive set of roles and responsibilities necessary for a principal to address the needs of teachers and promote the academic achievement of students. As an instructional leader, administrators must have a working knowledge of the curriculum, instruction, and assessments, and with this understanding be able to foster the development of all students (DiPaula & Tschannen-Moran, 2003; Hallinger & Murphy, 1987; Ylimaki, 2007).

Responsibilities of a Principal

Colvin (2004), Hess and Kelly (2007), Leithwood, Louis, Anderson, and Wahlstrom (2004), and Portin (2004) identified some of the essential responsibilities of an educational leader. To lead a campus successfully, principals must be able to promote a vision for the school and endorse a positive community image. He/she should also have the ability to manage personnel, students, and finances. The campus principal must be able to serve as the instructional leader in support of strong academic performance. In addition to each of the responsibilities listed above, principals are expected to demonstrate a variety of leadership skills in carrying out their job responsibilities. One of the skills necessary is balancing ethical decision-making with the competing responsibilities placed on them as leaders. As supported by Frick and Gutierrez (2008), ethics must guide decision-making because administrators are expected to make such decisions despite the amount of priorities placed on them. In serving as the instructional leader, the campus principal must also be able to meet the needs of all students, including that of students with special needs or special education students (Klingner, Arguelles, Hughes, & Vaughn, 2001).

The Role of the Assistant Principal

Although most of the existing literature centers on the role of the head principal, the

assistant principal is also of great interest. As stated by Schulz, Mundy, Kupczynski, and Jones (2016), “The assistant principalship is extremely important in light of the continuous improvement efforts of schools, because assistant principals typically become principals” (p. 2). Their study sought to determine differences in the leadership capabilities of assistant principals as compared to principals. The researchers utilized a five-point Likert scale developed by Norton and Kriekard to assess six competencies of principals including community relations, instructional leadership, student management, leadership of personnel, involvement with student activities, and pupil personnel (Schulz, Mundy, Kupczynski, & Jones, 2016). Using Statistical Package for Social Sciences (SPSS), descriptive and inferential statistics in the form of a multivariate analysis of variance or MANOVA was used to compare the two roles. In all six competencies, principals outperformed assistant principals, leading to the conclusion that principals should examine their role as a mentor to assistant principals in developing the proficiencies of the assistant principal position.

While the roles of principal and assistant principal may vary, the ultimate goal of the two positions is to serve as instructional leaders on a campus (Oleszewski, Shoho, & Barnett, 2012). Principals tend to spend more time building community relations and assistant principals interact more closely with children as they serve as the main disciplinarians, in addition to working closely with the teachers they support and evaluate (Hausman, Nebeker, McCreary, & Donaldson, 2002; Oleszewski, Shoho, & Barnett, 2012). Assistant principals, while always under the supervision of head principals, are accountable for school efforts and, therefore, are as valuable as the principal when meeting the needs of special education students. Although most of the literature addresses the

changing role of the principal, the two can be regarded as sharing the same goal, and thus are equally as valuable to this study.

Context: Value of School and Parent Partnerships

The value of parental involvement in schools has been a focus of research for many years (Afolabi, 2014; Anderson, 1998; Berthelsen, 2008; Blair, 2014; Goldring & Sims, 2005; Honig, 2003). This section helps explain the importance of the context, or community, to schools and the impact principals have in ensuring effective partnerships with stakeholders. In a study of parents' involvement and its impact on the development of special education students, Afolabi (2014) provided a meta-analysis of studies exploring the importance of parental participation in their child's education. His research highlighted parents as the first teacher(s) in their child's education. As such, the parent holds a deeper understanding of his or her child's needs. Collaboration between school and home is, thus, valuable to student success (Afolabi, 2014).

In their study on the perceptions of principals and teachers of parent involvement, Gordon and Louis (2009) aimed to determine the value of the school community on student achievement. Their research analyzed principals' receptiveness to community involvement, as well as principals' perceptions of parent influence. They found that in schools where principals involved parents in the decision-making process, and where positive attitudes were held toward them, a stronger connection was established with the communities they served (Gordon & Louis, 2009). Furthermore, Hattie (2009), in his meta-analysis of over 800 studies, found an effect size of .51 between parent involvement and children's success.

Although parent involvement can influence the performance of children, it can vary greatly based on cultural traditions (Guerra & Nelson, 2013). For example, Latino families typically are involved with the schoolhouse in ways that differ from the traditional American family. As explained by Guerra and Nelson (2013), Latino families function as collectivist, where education of their children is viewed as a partnership with the school. Distinct to other cultural groups, however, Latino families are believed to play the role of providing socialization for their children while leaving the academic development up to the school (Guerra & Nelson, 2013).

Latunde and Clark-Louque (2016) conducted a survey study geared towards understanding the role the African American families play in the education of their children. Their survey of 130 parents or guardians of Black children ranging from ages 9-26 and income ranges from \$19,000-\$150,000, found that parents helped by supporting learning at home and exposing children to educational activities outside of school (Latunde & Clark-Louque, 2016). The findings also suggested that offering parents classes focused specifically on resources and tools to support African American children would help further engage parents in the schoolhouse. Likewise, Stanley (2015) found that African American parents of students with disabilities noted mutual respect and trust with teachers, and care for their children, as valuable in promoting collaborative relationships with schools.

When parents are frequently invited to participate in the school and view their participation as a positive contributor to the growth of their children, they are more likely to be involved in the day to day learning of their children (Staples & Diliberto, 2010). Staples and Diliberto (2010) argued that communicating with and involving parents in

various activities throughout the school year may support parents' feelings of comfort with the process and thus improve the partnership.

Toldson and Lemmons (2013) also discovered that supportive schools and parents' participation were linked to better academic performance of Black, White, and Hispanic students based on an analysis of 12,426 parent surveys. Using a MANOVA to test the hypothesis that parent participation resulted in a more positive experience with their child's school, Toldson and Lemmons (2013) tested five variables, including assistance from school, satisfaction with school, personal talks with children, future planning, and academic orientation. Toldson and Lemmons (2013) found the strongest association between academic achievement and parent involvement to be assistance from school ($F = 43.27, p < .001$) and academic orientation ($F = 50.36, p < .001$). Overall, parents felt more connected to the school community when supports were available for them to improve their child's academic performance.

Given the amount of research supporting the need for parent and school partnerships, principals must understand the importance of the school context on their ability to lead and make decisions in the best interest of the children they serve. Moreover, the principal's ability to lead a cohesive school community relies on his/her knowledge of the community. In the following section, the principal's knowledge and experience with special education is of particular importance.

Principal's Knowledge of Special Education

Wakeman, Browder, Flowers, and Ahlgrim-Delzell (2006) conducted a study to determine what knowledge of special education was necessary for principals to lead their campuses effectively. The researchers surveyed 362 secondary campus principals from all

50 states and the District of Columbia. Using inferential and descriptive statistics to summarize the findings and analysis, the researchers found that principals had a basic understanding of the fundamental issues allowing them to meet the needs of students with disabilities. However, principals had limited knowledge of current issues, including functional behavioral assessments, self-determined practices, and universally designed lessons. Most of the principals surveyed (92%) reported not having a special education teaching license or certification, and 51% indicated that they had completed zero special education courses in their higher education program. Additionally, the study found that a principal's age, years of experience, and gender had limited notability with their knowledge of special education. The researchers also found that the more an administrator was familiar with a person with a disability, the more he/she was knowledgeable and involved in the process (Wakeman et al., 2006).

Based on their research, DiPaula, Tschannen-Moran, and Walther-Thomas (2004) defined five main characteristics of an administrator, which make him/her an effective leader of special education programs. The principal must be able to, "(a) promote an inclusive school culture; (b) provide instructional leadership; (c) model collaborative leadership; (d) manage and administer organizational processes; and (e) build and maintain positive relations with teachers, families, and the community" (DiPaula, Tschannen-Moran, & Walther-Thomas, 2004, p. 3). While each should be strengths of a campus principal, serving as the instructional leader and promoting inclusivity are supportive of the success of a special education program (Klingner, Arguelles, Hughes, & Vaughn, 2001).

DiPaula (2013) pointed out that the principal's role has changed in response to the implementation of legal statutes in special education. With increased legal action against the Texas school districts, it is imperative that campus administrators become the experts in special education law and support a strong implementation of services for students.

One study in Illinois employed the use of a web-based questionnaire to determine principals' knowledge of special education elements. Principal responses indicated that they felt comfortable with certain aspects including the Response to Intervention practice and the parent's role in the Individualized Education Program process. However, the surveyed administrators rated themselves lowest in their understanding of the development of a program improvement plan for special education, state learning standards for students with disabilities, and their knowledge of the state rules and regulations (Frost & Kersten, 2011).

Boscardin, Kusek, and Weir (2010) conducted a national study of state credentialing requirements for administrators of special education to determine the requirements by each state. While all 50 states were represented in the study, researchers found that only 27 states had special education administrative credentialing separate from the general education administrator's licensing process. The requirements in the 27 states consisted of a license, certificate, state endorsement, or a combination of general/special education administrator licensing. When deconstructed further, 20 states specified coursework in special education and only 15 states required courses in educational administration (Boscardin, Kusek, & Weir, 2010).

In their study, Cruzeiro and Morgan (2006) reviewed 255 returned questionnaires from individuals serving as campus principals. The surveys indicated that 79% of the

principal's time was dedicated to the general education program and 21% of the time was spent on special education. Additionally, the study found that the number of courses or background held by school administrators varied. Elementary principals reported having taken 93 combined courses as compared to 73 for secondary administrators. Researchers reported concerns with this data in the preparation of campus administrators as leaders of an inclusive program (Cruzeiro & Morgan, 2006).

Grasso (2008) employed a MANOVA to determine the level of knowledge of special education law that 32 assistant principals and head principals believed they held. His results revealed that administrators were more confident in their ability to understand an IEP and LRE. On the other hand, they felt less certain about appropriate evaluations, parent participation, related services, and procedural safeguards. Although, overall, administrators believed they had adequate understanding of IDEA 2004, 79% of respondents requested additional training in special education law (Grasso, 2008).

A study conducted in Wisconsin was based upon interviews of newly licensed principals to determine their perceptions of their knowledge of special education law. The responses were analyzed and compared to the actual performance of administrators on a survey of special education law. The study revealed that only 49% of principals believed they had average or above average proficiency. Survey data, however, did not align with the perception of administrators. Only 2.5% received scores in the advanced or proficient range and 93.4% received scores below the basic level of knowledge. The disconnection between perceptions and reality demonstrates a need for further research into the principals' knowledge of special education and due process hearings.

In summary, the role played by the principal is an important one documented by previous studies on the education profession (DiPaula & Tschannen-Moran, 2003; Hallinger & Murphy, 1987; Ylimaki, 2007). Based on studies into the special education training of principals, it is evident that more education is needed (DiPaula & Tschannen, 2003; Klingner, Arguelles, Hughes, & Vaughn, 2001).

Summary

The review of the literature provided a historical lens to the development of special education in the United States. As explored in the literature review, *Brown v. Board of Education* (1954), *PARC* (1972), and *Mills* (1972) formed the basis for the procedures that are in place today. Understanding the historical elements that have shaped education laws such as IDEA 2004 can help principals perform the many responsibilities involved in carrying out their job duties. In addition to essential components of IDEA 2004, Chapter 2 focused on ethics and social justice theory as explained by Rawls, as a basis for ethical decision-making. Theoharis (2007) focused on special education, yet more is needed in this area. The responsibilities and changing role of a principal and assistant principal were also addressed. The literature also dedicates attention to the importance of community involvement in schools and the principal's knowledge of special education. Overall, Chapter 2 established the urgency of building knowledge and experience with special education laws to support decision-making. Chapter 3 presents the methodology and study design.

CHAPTER 3

METHODOLOGY

School administrators are charged with understanding and managing the operations of a school. Making decisions in the best interest of students can be a challenging role for principals, given the number of responsibilities involved in school leadership, including the overview of special education programming (Fiedler & Van Haren, 2009). Tasked with managing all aspects of a school, administrators must learn to make ethical decisions in light of having in depth knowledge of the laws and special education programming (Fiedler & Van Haren, 2009; Frick & Gutierrez, 2008; Frost & Kersten, 2011; Wakeman et al., 2006). In addition, having a good understanding of trends in due process hearings may help ensure that families and districts are able to work collaboratively to best meet the needs of children. The research methods employed in the study were designed to view and investigate the many elements that a campus administrator is expected to understand and lead.

Research Questions

The purpose of this study was to identify the aspects of the special education process, which contribute most to the parents' decision to pursue a due process claim. A plethora of components were examined including disability, cognitive abilities, placement, programming, LRE, and FAPE. Moreover, the researcher sought to understand the decision-making process of key campus and district administrators in a high-incident district, by conducting semi-structured interviews. Two quantitative and three qualitative questions as noted below guided the research.

Quantitative Research Questions

1. What are the common special education elements reported in due process hearings from the case law analysis?
2. Which school districts in Texas have the highest representation of special education (SPED) litigation per enrolled student?

Qualitative Research Questions

3. What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?
4. From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?
5. How does social justice theory inform our understanding of special education issues?

Research Design

The study was centered around the qualitative perspective as it seeks to understand a phenomenon. In gathering such information, quantitative data were collected and used. While the study does not employ a mixed-methods approach, it contained the elements of both quantitative (positivist) and qualitative (constructivist) methods. The first stage of the research design involved the use of a positivist lens, which helped guide the qualitative portion of the study. Positivism as defined by Gall, Gall, and Borg (2007) is the principle that physical and social reality are independent of one another. It is considered theory laden because the researcher first creates and defines a theory, which is then tested using empirical data. Based on the analysis of data, a theory is either supported or refuted (Gall et al., 2007). Following the positivist point of view, the first step of the study involved the use of quantified data formed from the review of legal due process hearing documents available on the Texas Education Agency website from 2010-2015. Content analysis was

used to code the documents and extract regions with high percentages of due process hearings as compared to the student population.

Content analysis as a methodology can be traced back to theological scholars as early as the 1600s. It became recognized in the early 20th century when used in journalism schools and mass communication (Duke & Mallette, 2011; Krippendorff, 2004).

Researchers have often described content analysis as a useful method in drawing conclusions and making replicable and valid inferences (Kassarjian, 1977; Krippendorff, 2013; Neuendorf, 2001). Duke and Mallette (2011) recommend the use of content analysis as a way to quantify words and messages and make inferences based on the content. Content analysis was selected as the primary method for this study for its “objective, systematic, and quantitative” view of text (Kassarjian, 1977, p. 9).

Although the quantitative stage was foundational to the study, the qualitative or constructivist aspect of the study was of utmost importance. Qualitative methodology is described as the interpretive and naturalistic approach to the world (Creswell & Miller, 2000; Denzin & Lincoln, 2008; Gall et al., 2007). The ontological framework of the qualitative constructive viewpoint is the idea that social-reality is constructed by the individuals who participate in it (Gall et al., 2007). Because of this belief, constructivists “focus their investigations on the study of individual cases and by making ‘thick’ verbal descriptions of what they observe” (Gall et al., 2007, p. 27). The epistemological underpinning of the study was thus grounded in the experiences and perceptions of the participants (Guba & Lincoln, 1994). The qualitative semi-structured interview of principals, special education area coordinators, and special education directors, therefore, yielded rich meaning through the descriptions of personal experiences using ontological

and epistemological frameworks. These realities were then reviewed for themes and patterns intended to inform and improve practices of educational administrators.

The emerging themes offer understanding of the decision-making process of school leaders. Neuendorf's (2017) model for the identification of content, analysis, and review of data, and the representation of themes and patterns or findings was employed. However, it was adapted and displayed cyclically as seen in Figure 3.1 to demonstrate that every stage relies on the previous one and flows naturally from beginning to end.

One school district from a North Texas region was included in this study. This district was selected using purposeful sampling based on its heavy involvement in special education due process hearings throughout a six-year period. Three experienced campus principals were selected for their active role as decision-maker in all parent complaints related to students with special needs. Three mid-level district special education administrators, serving in similar roles to an area coordinator, were also asked to participate. Their direct knowledge of special education laws, programming, and work with special education teachers was relevant to the study. Finally, three special education directors were selected for their involvement with campus principals, families, and legal counsel when parent, advocate, or attorney complaints arise. I obtained approval from the Institutional Review Board of the University of North Texas to conduct this research. A copy of the letter is included in Appendix D. Each participant signed an informed consent form prior to the semi-structured interviews. A copy of the informed consent document can be found in Appendix E.

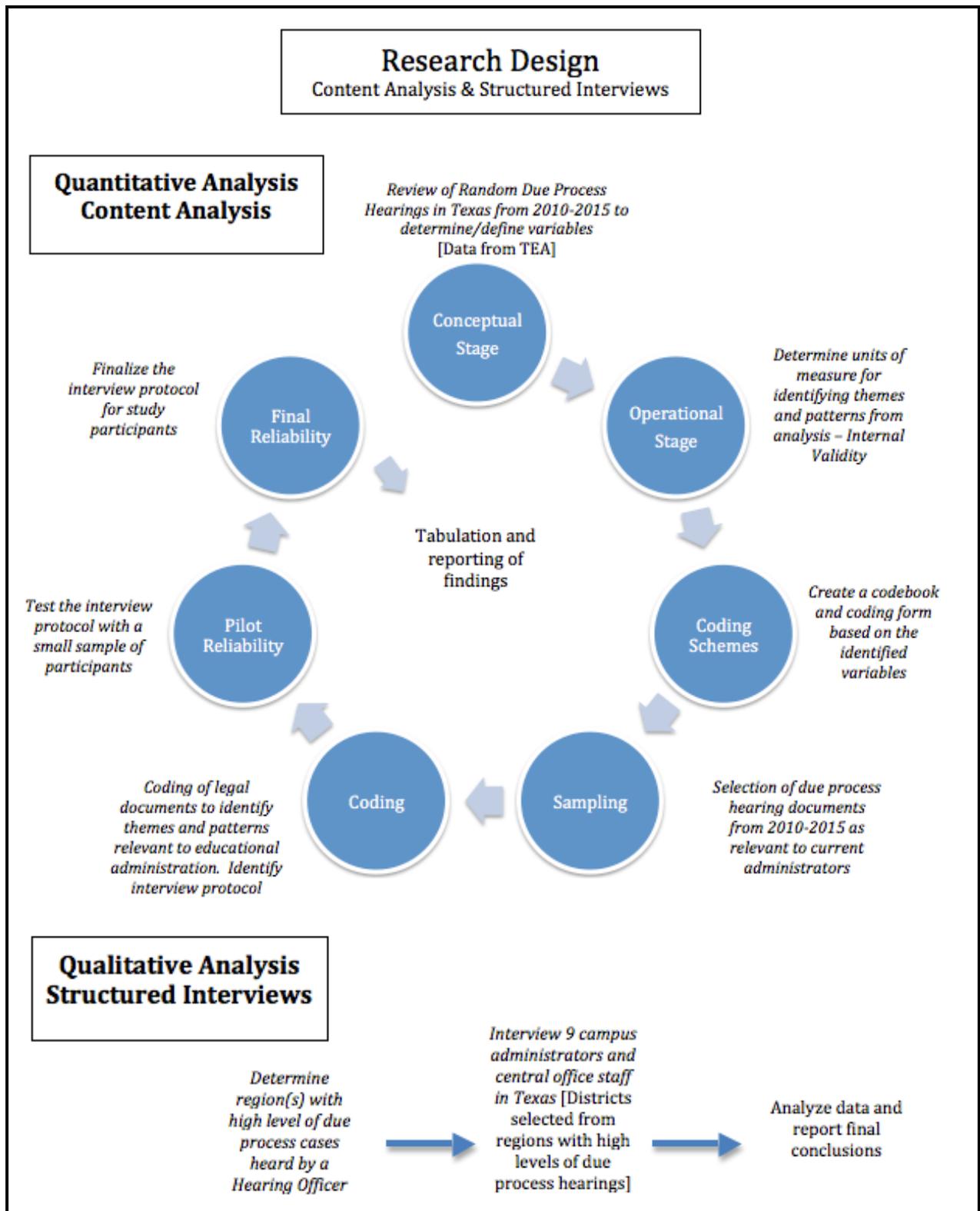


Figure 3.1. Research design (Neuendorf, K., 2017, p. 50-51).

Population and Sampling Procedure

The content analysis of legal documents included all relevant cases in Texas within a six-year period posted on the Texas Education Agency website. The 2010-2015 years served as a purposeful sample of due process cases since the implementation of special education laws in the early 1970s. Upon completion of Phase 1 of the study, the sample of administrators interviewed was determined based on purposeful sampling resulting from the content analysis. Regions with the highest incidents of due process cases in the last 6 years were considered. A total of three school districts were identified; however, two were excluded because of an active attorney in the area, and as a result of acknowledged district issues with special education processes.

One mid-sized North Texas district was selected as it met the criteria for having a high percentage of special education due process complaints over the six-year period. Triangulation of data is defined as supporting a code or theme through use of multiple sources of data (Creswell, 2013; Creswell & Plano Clark 2007; Tashakkori & Teddlie, 2006). With this understanding, three different job roles within the selected district were included in the sampling for the semi-structured interview portion of the study, including campus principals, special education area coordinators, and special education directors. The information gathered from all three administrative perspectives was compared to the quantitative data collected, and the researcher's point of view, to offer a triangulated understanding of the phenomenon occurring in special education litigation. Triangulating the interview data with multiple perspectives and a variety of experiences helped strengthen the value of the research.

Instrumentation

Once a district was identified as meeting the criteria for the study, the TEA due process hearing complaints from the six-year period were used to develop the initial codebook of elements identifying common reasons for disputes between parents and school districts. This included various elements of special education such as programming, LRE, and the decision of the hearing officer. All data recorded on the coding form was then analyzed to determine commonly arising concerns and used to draft the initial protocol for the semi-structured interviews. At which point, the drafted questions for the semi-structured interviews were piloted in my school district to ensure that the protocol best reflected the research question purpose of the study and were credible (Neuendorf, 2001). One principal, the special education director, and the district's legal counsel were interviewed. As a result, questions for the roles of the principal, special education area coordinator, and special education director were finalized. The final protocol was then employed with the study participants. The respondents were asked to share their experiences navigating due process complaints.

For the qualitative phase of the research design, semi-structured interviews were selected because of the necessary interaction between the researcher and participants (Gall et al., 2007; Galletta, 2012). As a qualitative method, semi-structured interviews view the researcher as an instrument to the process in what is described as *reflexivity*. In this process, the researcher's personal experiences and reactions to the field of study were critical. As such, the researcher was expected to describe his/her viewpoint and approach to data collection as it had a direct effect on the findings that result (Gall et al., 2007;

Galletta, 2012). Overall, reciprocity between participants and the researcher and the need for reflexivity are key to the value of semi-structured interviews (Gall et al., 2007).

As described by Miles and Gilbert (2005), researchers who utilize semi-structured interviews “have a set of questions to ask and a good idea of what topics will be covered-- but the conversation is free to vary” (p. 65). Semi-structured interviews were selected over a more structured interview format for its flexible process. Miles and Gilbert (2005) offered recommendations for conducting effective semi-structured interviews including developing trust with the participant. Following an established trust, the researcher must thoroughly review the literature and identify the participants. Next, the researcher should develop a schedule of questions, which are brief and in logical order. Additionally, notes of prompts the researcher anticipates the participant will discuss are made. Finally, the researcher must follow the question schedule seamlessly while conducting the conversation with the participant. Galletta (2012) outlined four essential steps for completing the semi-structured interview process including:

1. Complete a post-interview reflection
2. Organize and store data
3. Establish inventory for recording thematic codes
4. Check on accuracy of interview transcripts (p. 121)

The procedures outlined above were implemented to ensure that the study yielded relevant data from the semi-structured interviews, to add to the body of literature. Although semi-structured interviews allowed for flexibility, a draft example of the questions for the semi-structured interviews for a principal included:

Contextual Questions

1. Tell me what you do 80% of your time at your job as a principal.
2. How many years have you been in your role?
3. What did you do prior to becoming a head principal?
4. Have you had any specific training in special education?
 - a. Was this adequate for what you have encountered in the job?
5. What proportion of your work relates to special education?
6. *For secondary:* How do you structure the special education department?

Research Question 3

7. During your principal certification program, how much weight was placed on preparing you to lead special education?
 - a. How much did you have to learn on the job?
8. As the instructional leader on your campus, what guidance and support do you provide for special education teachers as they navigate challenging situations?
9. Can you think of a time when you and a parent experienced a disagreement regarding special education?
10. Why were they in disagreement?
 - a. What was your approach to dealing with the parent?
 - b. In that particular situation, would you have done anything differently?
 - c. When do you bring an issue to the attention of the district?

Research Question 4

11. From your perspective, why do families initiate special education complaints and litigation?
12. What are the most common issues brought up by parents and/or advocates?
13. Do you find that there are common characteristics of families who initiate litigation?
14. What role does communication play in these contentious situations?

15. Was there an instance where you were able to deescalate a complaint prior to it reaching litigation? Please describe the actions of all parties.

Research Question 5

16. Are you familiar with social justice theory? [Looks at social justice as equity of basic liberties, fairness of opportunity, different treatment only if it results in the benefit of the most marginalized].
17. Using the three principles above, do you believe that social justice plays a part in your role as a principal? Are there any other issues of equity that are particularly relevant today in special education?
18. My study also looks at the relevance of social justice theory as it relates to advocacy of parents on behalf of their children. Are there patterns that would make certain parents more likely to advocate than others?
19. Is there anything else relevant that you would like to add? May I contact you again if I need clarification on anything?

The semi-structured interview process was an appropriate instrument for this study as it allowed for the collection of candid perceptions and beliefs of key practitioners as to why they believe parents initiate special education due process complaints. Using the above questions as a guide, the researcher probed in areas of interest to further solidify important themes. In concluding the interview, respondents were provided the opportunity to share any other information they believed to be relevant to the study. Additionally, participants were provided a summary of the interview to review and approve prior to the analysis of data. Appendices A, B, and C include the complete list of questions for the various job titles including principal, special education area coordinator, and special education director.

Data Collection Procedure

Quantitative Data Collection

The conceptual and operational stages provided in Neuendorf's content analysis

model initiated the study. In these two phases, the researcher determined and defined the variables to be used and tested the internal validity by distinguishing the units of measurement for the identification of patterns and themes. In the coding scheme stage, the researcher developed a conceptualized definition of each item in the 2010-2015 data collected from the Texas Education Agency. In doing so, it maintained a uniform understanding of each special education complaint. Also in this stage, a numerical value was assigned to the different due process cases within the listed school districts to determine which districts had a disproportionate number of complaints as compared to their student body. The percentage of cases related to the number of students serviced through special education was calculated for the top three identified districts. For example, a district that served 15,000 students with special needs and had 12 due process complaints had a smaller percentage of due process complaints compared to a district serving 10,000 students with 12 complaints. All available due process complaints were reviewed using the percentage method. Three districts were identified for further research. Of those three, two were excluded for failure to meet the research study criteria.

Qualitative Data Collection

I then created an interview protocol, which was initially tested and finalized in my school district. With approval from the identified district's superintendent and the research office, participants with 5 or more years of experience were contacted. All potential study participants were contacted by the district's research office and offered the opportunity to voluntarily participate in the interview process. Once I was provided access to various campus and district administrators, an email was submitted to each person explaining the intent of the research. The informed consent form was then explained and a

guarantee of confidentiality was reiterated. All nine participants signed and returned the research consent form to the researcher prior to initiation of the interviews. The semi-structured interviews lasted approximately 30-45 minutes and were conducted face-to-face as well as through telephone conferences. All interviews were audio recorded and transcribed for subsequent analysis. Examples of the questions used can be found in Appendices A, B, and C. Participants were also asked to provide the following information:

1. Number of years in their current position,
2. Career experiences,
3. Level of schooling completed or in progress,
4. Total years in education

This information was used to assist with making connections between the background of the participants and his/her beliefs and actions.

Data Analysis Procedure

To gain a clear picture of the relevant topics in due process hearings and to identify high incident regions, the information from the 2010-2015 cases were quantified and coded on an excel spreadsheet. Based on an initial review of 12 randomly selected due process hearing cases, several key areas were identified for review in the content analysis phase. While the list was not exhaustive, the idea that new variables would arise was understood. These included, but were not limited to:

1. District size
2. Classification of disability
3. Cognitive abilities
4. Placement
5. Hearing officer

6. Classification of disability
7. Child find
8. FAPE
9. LRE
10. Eligibility
11. IEP
12. Discipline
13. Parental participation

Qualitative Data Analysis

As noted before, the criteria established by Campion, Palmer, and Campion (1997) helped guide the analysis of interview questions. Based on the complete transcription of interviews and the researcher's notes, data significant to the study was extracted. The participants' answers to the structured interview questions were reviewed for key information and patterns. Relevant to the determination of themes in this study is the lens by which the principal makes decisions. Gall, Gall and Borg (2007) stated, "to discover causal patterns in social phenomenon, constructivists investigate individuals' interpretations of social reality" (p. 29). Principals carry unique viewpoints; therefore, the review of nine interviews assisted in identifying recurring patterns to build consensus among the various participants.

The interview questions also investigated whether social justice theory applied to special education. They examined whether or not decisions made by principals and district administrators are done so through a social justice lens, and how the perceptions of educators impact special education students. The theory served as the basis for the analysis of interview questions because it was a fundamental perspective of the study

(Creswell & Miller, 2008; Furman, 2004; Gall et al., 2007). Although consensus in responses helped identify the phenomenon, outlier information was also reported to make note of relevant administrator experiences. Through this constructivist viewpoint, relevant themes to the researcher and field of educational leadership were revealed.

The Researcher

The following section describes the lens of the reader and how her perspective impacts the development and interpretation of the research study. As a constructivist researcher, I view learning as a construction of one's experiences and background. While empirical studies serve a critical purpose, I sought to answer more than what quantitative data alone can reveal (Tashakkori & Teddlie, 2006). As a result, I questioned "why" a phenomenon occurs in the field of education to develop more effective practices or understanding. This reflective questioning ultimately had a direct impact on the success of students. I wanted to uncover the lens of the principal because I believe that each brings his/her own perspective to the education of students with disabilities.

Ethical Considerations

As noted previously, the researcher submitted a proposal to the Institutional Review Board (IRB) at the University of North Texas and gained approval. Appendices D and E provide the signed consent from the university. Participants were provided a background of the study and informed of the confidentiality of their identities. Informed consent was obtained from the participants and appropriately documented in the study. A couple of participants asked during the interviews if their responses would be made more general so as not to identify them. I reassured them that all potentially identifiable information would be kept confidential and the final review of the committee would ensure that no

information would identify them or the district. All requirements set by the UNT IRB Approval Process were followed to ensure that the integrity of the study was maintained and the use of humans in research was safeguarded.

Limitations

Since 2004, students who qualify with dyslexia in Texas have been serviced through a 504 plan in the general education setting (Dyslexia Handbook; TEA, 2014). Most states however, consider children with dyslexia as special education students (Yudin, 2015). The exclusion of dyslexia in the due process hearing data of Texas is a noteworthy limitation because the researcher cannot account for potential litigation from families of students with dyslexia.

Obtaining information from the most current samples of due process hearings was also a limitation of the study. While including all existing years of data would provide a more global perspective, only the most recent data was reviewed. Finally, the perspective of a legal counsel in the chosen district was initially requested. However, access to that job role was not granted, and therefore it was not included in this study. Despite not having the perspective of legal counsel, the study was able to capture valuable experiences of special education area coordinators who had depth of knowledge related to special education processes.

Summary

The methodology chosen for this study helped provide the most relevant and accurate information regarding why due process hearings occur and what changes can occur to support districts. As stated in this proposal, the data revealed itself at each step in the quantitative analysis process allowing the study to uncover noteworthy information

(Gall & Borg, 2007). Without understanding where due process hearings occurred at a high percentage, it was challenging to gather relevant knowledge to improve practices and/or relationships between district personnel and families. Quantitative analysis using purposeful sampling assisted in identifying participants to interview in the qualitative portion (Creswell, 2007). The qualitative interviews then revealed themes and patterns relevant to the body of knowledge. Both analyses provided information for districts to assess special education practices as they relate to due process hearings.

CHAPTER 4

PRESENTATION OF FINDINGS

This chapter summarizes research procedures and data collected to shed light on the perspective of elementary principals, special education coordinators, and special education directors. The purpose of the study was to determine the perspective of district leaders concerning why they believe that due process hearings occur in the state of Texas. The research was conducted during the spring of 2017 in North Texas. The study consisted of two parts, with an initial quantitative content analysis and qualitative semi-structured interview protocol.

The first part of the study consisted of a content analysis of due process hearings between 2010-2015, identifying the target districts with high percentages of due process cases and providing a general overview of commonly litigated special education components. Represented in the data were 92 districts, and of those included, three medium sized districts were identified as having high incidents of due process complaints. Two of those three were excluded because of known special education department issues in one case, and an outlier legal counsel in the other school district. These districts would have skewed the qualitative portion of the data because factors outside of the school or parents' control were evident; thus, they were excluded.

The second part of the study consisted of semi-structured interview questions developed by the researcher to explain the thoughts of important school district stakeholders regarding the existence of due process hearings. A total of nine participants in the interviews, including three principals, one elementary, one middle, and one high school took part in the study. Three mid-level special education administrators and three

special education directors were also involved in the qualitative portion of the study. The interview questions were tailored to the specific job role and consisted of 13 questions, including contextual items. Demographic information of participants' job experience was obtained and reported. Both responses to the questions and hesitations or moments of silence were interpreted in the study. With a primary focus on describing the thoughts and feelings of principals, special education leaders, and top-level special education district leaders, I structured the presentation of data around several themes and captured the words of the participants to reveal their unique perspectives.

Research questions guiding this study were:

Quantitative Research Questions

1. What are the common special education elements reported in due process hearings from the case law analysis?
2. Which school districts in Texas have the highest representation of special education (SPED) litigation per enrolled student?

Qualitative Research Questions

3. What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?
4. From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?
5. How does social justice theory inform our understanding of special education issues?

In this chapter, I describe the analysis of the collection of data and present the results of the quantitative and qualitative analyses.

Quantitative Analysis Results

For the quantitative portion of the study, all special education due process hearings in the state of Texas between the years 2010-2015 were counted. Quantities of hearings were tallied by school district to identify districts with large percentages of due process hearings, as compared to the overall student population. Once several districts were identified, a percentage between the number of due process hearings and the number of special education students in each district, reported by the state TAPR report, was extracted (TEA, 2015). The purposeful sampling process narrowed the search to the top three districts with the highest percentage of reported special education due process hearings between 2010-2015 (Creswell, 2007). Following this step, the process of identifying whether any of the districts needed to be excluded based on outside factors impacting the number of special education due process hearings was initiated.

The collection of data and analysis of each special education due process hearing in these three districts helped reveal a skew in the data. Within a two-year period, an active attorney had filed a large amount of due process complaints with limited grounds, tainting the data of one of the identified districts. The issues within the cases were also extremely large in number as compared to data from other districts. After conferring with my major advisor, this district was excluded from the study. Leaving two districts for further review, I set out to determine if any other excluding factors existed in either of the remaining school districts in Texas. As I completed the coding of issues in each district, the attorneys, and the outcomes, etc. onto an Excel spreadsheet, an article was published about one of the remaining two districts. This article outlined the plethora of issues experienced by the district due to inadequate special education training and staffing. The special education

department of this district was being completely overhauled because of these findings. Recognizing that constraints within the district were perhaps largely to blame for the relatively high number of due process hearings, this district, too, was excluded. I conferred with my major advisor on the remaining Texas district, which we will call Evergreen ISD. It was determined that this district met the criteria for my study with no exclusionary factors.

The data for Evergreen ISD were then analyzed to respond to Research Questions 1 and 2 of the study. The coding of each case included petitioner’s attorney, classification, child find, discipline, eligibility disagreement, ESY, evaluation or re-evaluation, FAPE, IEP, LRE, parent participation, related services, and case outcome. Each hearing was read multiple times in depth and relevant data was marked on the excel spreadsheet, indicating when an issue arose. An “x” in Table 4.1 below marks each of the appearing categories within the special education due process cases.

Table 4.1

Evergreen ISD Special Education Due Process Hearings

Classifi- cation	Petitioner’s Attorney	Child Find	Disci- pline	Eligibil- ity	ESY	(Re) Eval	FAPE	IEP	L R E	Par. Part.	Rel- ated Serv.	Case Out- come
VI, SI	A				x	x	x	x		x		Partial
LD	Pro-se, C (advocate)		x	x								Dist.
ID, VI, SI, OHI, MI	B	x				x		x	x			Dist.
OHI, ED, ADHD, (suspected PDD Asperger’s)	B, F		x									Partial
AU, ADHD, PDD, SI	D, E, F	x			x		x	x	x	x		Dist.
AU, SI	A					x			x			Dist.
AU, SI	Pro se		x		x		x	x	x	x		Dist.
ID, SI, AU	Not included	x				x	x	x	x			Partial
AU, SI	G, H						x	x	x			Dist.
AU, SI	I		x		x	x	x	x	x			Dist.

To maintain confidentiality, the attorneys for the petitioner, or parent, were assigned a letter name of (A-I). If a special education advocate represented the petitioner, it was noted in Table 4.1. The term pro-se is used to note when parents represented themselves.

Quantitative Research Question 1: What are the common special education elements reported in due process hearings from the case law analysis?

The following terms are used in the table above: visual impairment (VI), speech impairment (SI), emotional disturbance (ED), learning disability (LD), intellectual disability (ID), other health impairment (OHI), attention deficit hyper-activity disorder (ADHD), multiple disabilities (MI), extended school year (ESY), and autism spectrum disorder (AU).

Using the criteria in Table 4.1 above, several components of special education programming were especially noteworthy. Most of the complaints involved issues with the IEP (70%), FAPE (60%), and LRE (60%). The tertiary complaint involved conflicts with the evaluation or re-evaluation of a child (50%). Discipline related and ESY issues occurred 40% of the time while Child Find and Parental Participation/Prior Written Notice occurred 30% of the time. Only 10% of the cases involved disagreements regarding eligibility. Seventy percent of the special education due process cases involved four or more areas of contention. Interestingly, 70% of all cases were won exclusively by the school district whereas the remaining 30% resulted in partial wins for both the parents and the school district.

Quantitative Research Question 2: Which school districts in Texas have the highest representation of special education (SPED) litigation per enrolled student?

While the names of districts with the highest representation of special education litigation will remain confidential, the top districts fell in the mid-sized range between

20,000-60,000 students. Although larger school districts in Texas were involved in litigation over the six-year period, when accounting for the total student population, the percentage of cases was minimal in comparison. Ultimately, Evergreen ISD, a mid-sized district, was identified as the one district for further review. Details outlining the qualitative analysis portion of the study are below.

Qualitative Analysis Results

Building on the quantitative findings, I developed draft protocol questions for the campus principal, special education coordinator, and special education director to gain a more nuanced understanding of special education litigation in this context. The 12-15 questions, referenced in the appendix, were piloted with a local district for refining the protocol. An elementary school principal, the executive director of special education, and the legal counsel for the district were audio recorded responding to the draft interview questions. During the process, it became clear that the principal and special education director were far more open than the legal counsel in matters related to special education. Personal experiences and words of advice were provided by these two individuals, including working closely with parents for a common goal and knowing when the parent is right. While the legal counsel provided a unique perspective, the questions directed to that position allowed for limited elaboration. This process allowed me to recognize the need to change the role of the legal counsel to that of special education directors and to add the special education coordinator role. It also helped me see the need to revise the protocol to better engage the participants and yield sufficient information from which to draw conclusions. The revised copy of interview questions was reviewed by my major advisor and approved. While the contents of the pilot study were not revealed in this study, the

pilot interview questions helped to strengthen the research study by ensuring that the protocol best represented the research questions and that the process of conducting semi-structured interviews was refined.

Using purposeful sampling helped identify the best district for the study (Creswell, 2007). Evergreen ISD was contacted and provided with the UNT IRB documentation. The research department of the school district provided final approval for the study to begin. Special criteria were given to the director of the department to help in locating potential participants. Due to the nature of the study, I searched for administrators matching the job roles with 5 or more years of experience. This was intentional due to justification that experienced administrators are more likely to have been involved in contentious situations involving special education related topics. The involvement of the district's special education counsel in the interview process was requested; however, agreement was not granted. The study proceeded with the participation of key stakeholders involved with special education issues on campus and at the district level. Email communication was then made with every participant indicating his or her interest in the semi-structured interview process. Written consent was obtained from all personnel agreeing to take part in the study prior to initiating the interview process. All nine participants were given the option of interviewing in person first, but if unable to do so, they were given the opportunity to participate in a phone interview. Five of the nine met for face-to-face interviews, and the remaining four interviews were conducted via a phone conference.

Three principals ranging from elementary to high school agreed to participate in the study. For this study, they are noted as Principal 1 (elementary principal), Principal 2 (middle school principal), and Principal 3 (high school principal). Three mid-level special

education administrators are referred to as coordinators and abbreviated as Coordinator 1, Coordinator 2, and Coordinator 3. The remaining three participants were special education directors in Evergreen ISD and are referenced as Director 1, Director 2, and Director 3. The interview protocols varied based on the job title of each participant to allow for the distinct difference between the levels of involvement in special education complaints of each person. While many of the questions are used throughout all three roles, there is some variability as noted in Appendices A-C. All participant interviews were audio recorded and later transcribed for analysis.

All interview questions were audio recorded using a computer program and initially transcribed by REV.com, a transcription company, for analysis. I then listened to the audio recording and made changes to the initial transcription. All participants were offered a review of the written summary of the interviews for revisions and final approval. This final version of the transcription was used for analysis. The interviews ranged from 19 minutes to 45 minutes, with an average interview of 41 minutes. Participant responses were analyzed using qualitative data analysis techniques. The process was initiated with a thorough review of participant responses leading to the emergence of themes. This process was repeatedly completed until all themes were extracted and written. I then compared similar responses and identified relevant patterns existing in the data. All relevant data gathered from the semi-structured interview responses are reported below.

Participant Demographics

Several questions were asked for providing demographic information detailing the professional background of each participant. These questions helped provide

context to the interview responses. The background of each participant is outlined below.

- Participant 1: Principal 1. Principal 1 was an elementary school principal with more than 20 years of experience in education and more than 5 years as an administrator. Her background involved serving as an elementary school teacher and assistant principal prior to becoming a head principal. Principal 1's experience with special education training involved courses taken during graduate school and district offered in-services. While Principal 1 indicated concerns with special education scheduling, she felt the training received was adequate for what is required as a head principal. When asked how much of her work time was dedicated to special education, Principal 1 shared that roughly 25% of the responsibilities as a principal are dedicated to the special education department ARDs, meetings with teachers, parents, and scheduling. Scheduling was noted as taking up the majority of Principal 1's time. She indicated that the remaining time within the schedule was devoted to observing classrooms, meeting with students and teachers, discipline, handling parent concerns, and conducting other meetings, such as Section 504 of the Rehabilitation Act of 1973 conferences.

- Participant 2: Principal 2. Principal 2 was a middle school principal with over 20 years of experience in education and more than 5 years in an administrative role. Prior to becoming a head principal, Principal 2 served as a general and special education teacher before becoming a head principal. In addition to her experience as a special education teacher, Principal 2 also noted one special education graduate law course as helping to prepare her to lead special education on a campus. Principal 2 expressed that she keeps up with bulletins and new law cases driving special education. When asked how much time

was currently spent on special education matters, she stated that about 15% of her time was spent on ARD meetings, working closely with her campus special education department, reviewing data with teachers in professional learning communities, and probing IEPs. Principal 2 shared that her overall experience with special education had been more than adequate for the principalship. The remaining 85% of her time was spent on working with the assistant principals on matters involving student management, building teacher leadership, academics, grades, and discipline. Principal 2 also spent a large part of her time setting goals, formulating professional development, supporting teachers, observing classrooms, and celebrating teachers with special treats or events.

- Participant 3: Principal 3. Principal 3 was a high school principal with over 25 years of experience in education and more than 20 years as a campus administrator. Prior to becoming a high school principal, she had served in various teaching and leadership roles. Principal 3's experience with special education involved professional development in the areas of law, hiring practices, and specific programs for special education students. Principal 3 felt that these personal experiences with special education had been adequate for her job responsibilities. She indicated only receiving one special education class during the graduate principal preparation program, which was inadequate for what she needed to know. Principal 3 stated, "You don't really get the information, in my opinion, that you need for special education until you're on the job because it's a people aspect." On her campus, Principal 3 structured the special education department as two entities led by multiple assistant principals. The departments were split up into self-contained units and resource/inclusion classes. Additional support staff on the campus included in-house diagnosticians and special education counselors. Principal 3 shared that, in consultation

with the assistant principals, special education took up roughly 20% of her time. The remaining 80% of the time was spent serving as the instructional leader of the school.

- Participant 4: Coordinator 1. Coordinator 1 was a special education coordinator with more than 10 years of experience in education and over 5 years of experience in her current role. Coordinator 1 had obtained her undergraduate and graduate degrees in special education because of her childhood experience with a special needs child. Part of her training included serving in various special education teacher roles. One hundred percent of the responsibilities involved serving as a lead coordinator overseeing programming and supporting teachers on campuses. She also supported campus ARD members when parents disagreed on the IEP of their child. Coordinator 1 shared that none of the undergraduate course work were used in the current role and that she did not find herself applying much of the graduate training either. She stated, “It’s all learning as I go through the actual work itself.”

- Participant 5: Coordinator 2. Coordinator 2 was a special education coordinator with more than 5 years of experience in education. With an undergraduate degree in special education, Coordinator 2 served as a special education teacher prior to becoming a coordinator. In the current position, she primarily supported teachers with strategies, data, and programming. At times, the job involved collaboration with principals on best practices for the instructional aspects of special education at the campus level. One hundred percent of the job duties were related to supporting special education children and teachers. Coordinator 2 believed that formal schooling taught her how to plan for instruction and write IEPs; however, student teaching and real-world experiences in the role helped prepare her to support campus staff.

- Participant 6: Coordinator 3. Coordinator 3 began her special education career as a speech and language pathologist and a counselor prior to becoming a coordinator. She had more than 10 years of experience in her current role and over 15 years' experience in education. All degrees obtained were in special education with specialties in counseling and behavior. She felt that her training in special education was more than adequate, considering her attention to special areas within special education. Coordinator 3 indicated that most of her time was spent working on crisis cases in the district and supporting teachers, students, administrators, and parents. She considered herself a strong proponent of doing what is best for each child by working towards helping others understand equity. She found it extremely important to recognize weaknesses in equity and help staff members and administrators better understand what it means to have exceptionalities.

- Participant 7: Director 1. Director 1 was a special education director with over 20 years of experience in education and more than 10 years as an administrator. All degrees obtained were in special education. Prior to becoming a special education director, Director 1 served as a special education teacher and a licensed specialist in school psychology (LSSP). When asked if the formal training had been adequate for the job, he expressed, "nothing can really prepare you for life in a fairly large and busy special education department." Director 1 viewed formal training as "experiential" and not considered adequate for the job on Day One. As a special education director, 100% of the responsibilities involved collaboration with campuses around specific situations including parent concerns, student progress, contentious meetings, and staffing meetings or

committee discussions prior to ARD meetings involving parents, advocates, and/or lawyers.

- Participant 8: Director 2. Director 2 was a relatively new special education director. Previously, she had been a coordinator for 13 years handling critical cases within the district. Prior to starting the profession, Director 2 received all degrees in special education. Formal education had given her the knowledge of programming and taught her evidence of effective practices. Attendance in law conferences had given Director 2 the tools to better understand the legal nature of special education. Other skills, including collaboration with families and researching case laws to interpret what a court considers FAPE were all learned while on the job. Director 2 indicated that the combination of training and on-the-job experiences had prepared her for a role as a special education director.

- Participant 9: Director 3. Director 3 was the executive director of the special education program. As a veteran educator with over 20 years of experience, she had spent all her time in the special education department. Prior to leading the department, she served in the role of one of several special education directors over a specific area within the district, and had obtained all post-graduate degrees in special education. While she had spent nearly a decade working on the campus level, most of her time was spent serving as an administrator for special education. In her current role, she oversaw several hundred employees and was a direct supervisor to the various special education directors. Director 3 felt that her education had been more than adequate in preparing her to lead the department, yet, she agreed that the people aspect of her job was learned on the job.

Qualitative Themes and Patterns

The purpose for conducting semi-structured interviews was to gather the perspective of each participant involved in special education decision-making within one Texas school district. All nine participants responded candidly from their point of view, thus allowing for strong and relevant data used to explain the phenomenon of why parents file lawsuits. The discussions of three principals, three special education coordinators, and three special education directors resulted in the extraction of themes related to why parents choose to file lawsuits against school districts and whether social justice theory plays a role in special education. The following section is organized around each of the three qualitative research questions, with specific themes represented for each individual question. They are outlined below by Research Questions 3, 4, and 5.

Qualitative Research Question 3

What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?

While a unanimous agreement as to the cultural aspects that lead to the pursuit of a lawsuit was not found, participants believed that: a.) family culture and dynamics, b.) high socio-economic status, and c.) lack of empathy contributed to parents' decision to file a lawsuit. As the themes are explained, the district perspective will be drawn out in terms of special education directors and then special education coordinators. This will be followed by the ideas of the campus principals. A table of the relevant themes will be included at the end of the section. By delineating the various lenses, the reader will have a clearer picture of the positions held and the consensus or disagreements found between all three roles.

When asked to provide examples of families who typically file lawsuits, Directors, Coordinators, and Principals were candid in their responses. They seemed confident in

their account of family dynamics that often contribute to due process complaints in Evergreen ISD. Although all three roles shared similar views regarding SES, there was variation among the groups regarding cultural or family dynamics. A table summarizing these ideas is included after the explanation below.

Cultural Factors

Three themes emerged from Research Question 3 including cultural factors, high SES, and empathy toward parents. The first theme of Research Question 3 is the idea of family cultural factors, and it is detailed through the words of the participants.

- Special education directors. Evergreen ISD is a diverse Texas school district with children from various homes of varying cultural, linguistic, and socio-economic backgrounds. As directors of the special education program for Evergreen ISD, these participants had the most global view of the district and thus provided a unique perspective. Special Education Director 1 believed that the cultural background of the parents tended to contribute to the disconnection between the school district and parents' feelings of a proper education. He stated, "It sometimes seems that if there are significant cultural or language differences, that family is typically going to be non-demanding, respects the institution." While he believed that families with cultural and linguistic differences were supportive of school decisions, he also shared that these differences "exacerbate a little bit of the relationship forming, the philosophical beliefs about education, about the role of the family," leading to the conclusion that no cultural group is without challenges.

Director 3 offered the idea that the mindset of the family has a significant impact on the broken relationship between parents and school districts. She noted, "Sometimes

they're showing up with a huge list of demands. By the time you get the information from out of state, you see. . . . Oh, they've sued a school district out of state.” She remarked that for whatever reason, these families may not have the best interest of the child in mind and are, “not wanting to be collaborative partners,” making it a challenging place to be as a district.

The two directors believed that cultural uniqueness and existing family mindsets contributed to the strained relationship. Director 1 detailed an example of statements made by educators that have caused harm to the relationship forming noting, “You hear teachers say things like, ‘Well, little boys are just the princes of those families.’” He explained that beliefs such as these “sometimes end up spiraling up a little bit in terms of parents who will be a little bit aggressive.” Furthermore, Director 3 mentioned that a strength of the district was the “intentional efforts of being collaborative partners” noting that when you “end up with a parent that doesn't share that mindset, then those are the ones I would say have that high probability of going to a due process hearing.” While diversity is something to be celebrated, differences can at times create barriers.

- Special education coordinators. Coordinator 1 indicated a similar view regarding cultural influences. She shared that families who are “English Language Learners or English is not a primary language, it’s very rare, that they advocate.” She iterated that it is not specifically tied to race; however, the “Hispanic culture” is not one that she had ever witnessed bringing forth litigation. Coordinator 1 did specify that it may not be exclusively a cultural aspect, but also possibly relating to socio-economic status. Aside from the views of Director 1, Director 3, and Coordinator 1, campus principals did not make note of cultural influences.

While cultural difference between families and Evergreen ISD staff played a role in parent-filed lawsuits, the socio-economic status (SES) of a family was overwhelmingly identified as a contributor, and thus relevant to the study. Most of the participants identified high SES areas in the district as contributing to a larger number of lawsuits and disagreements with families. The beliefs of each participant are detailed below demonstrating the power that socio-economic levels play within the special education community.

- Principals. Although cultural factors were noted by representatives from the two district positions, principals did not refer to this theme.

High Socio-Economic Status

The second theme of Research Question 3 included the impact of socio-economic levels on the decisions of parents.

- Special education directors. Although participants within all three job roles made mention of the effects of socio-economic levels, Director 1 was more candid in his discomfort with its influence on education. Director 1 felt strongly about SES as a factor and the effects of socio-economics on equity, stating “[lawsuits] might be a little more common here. Some of our zip codes have well educated, fairly sophisticated people.” He believed that “parents who are a little more aggressive in their requests for services for the students” come from “higher SES type zip codes.” Along with identifying SES as a factor in parent lawsuits, Director 1 also expressed disapproval of the disparities that exist between families of varying zip codes. He recognized the differences in student opportunities based on the location in which a child is raised. He exclaimed,

We have great disparities in our SES or our tax base. There's a slight tendency for the students in the higher SES areas maybe to get a little bit more, just to keep the parents happy...If you're coming from a social justice perspective or just basic equality perspective, those kind of things bug you a little bit like they bug me.

It was clear that Director 1 believed in the best interest of children and he acknowledged that the district worked to be equitable; however, he was struggling with the idea that the more vocal a parent was, the more they received. He seemed to find it difficult to accept that the most outspoken families tended to come from the wealthier population. He went on to provide an example where a parent requested that their child have a peer buddy included in their IEP and that the school would make accommodations to provide it whether they felt it was necessary or not. His distaste for inequities was evident and he held firmly that “you see more of that in higher SES.” Although he acknowledged that his district and most districts work hard to ensure that “all students across the district get what they want,” he also noted SES as a chief contributor to the litigation count at Evergreen ISD.

Director 2 agreed with Director 1 regarding the contribution of socio-economics to the litigation count in the district. However, it was not the only aspect that she believed had an effect. She remarked, “Having the funds to be able to afford attorneys and all the things that require a legal situation... I think that that's a huge component of it.” She noted the existence of stratified regions within the district that experienced far more litigation when compared to the district. She believed that families living in middle to upper socio-economic communities complained more than families in the low-income areas. When comparing regions, she noted that the most affluent experienced “12-15 cases a piece” and had “a lot of litigation and advocates,” as compared to lower socio-economic areas that may

only have “1 advocate case this year.” Having experience with both High and Low SES communities, Director 2 went as far as to indicate that homes with both parents were more litigious than households with only one parent figure. She stated, “A lot of the families are single parents that are working a lot, so they don't have that time or finance to do it compared to some of the other locations. I think the parents who complain have the finances and they have the time.” Overall, her experiences regarding families who typically brought litigation involved those with “two parents because of the financial burden.” Not only did high socio-economic levels contribute to the number of cases brought against the district, the existence of both parents added an additional layer.

- Special education coordinators. Special education coordinators also agreed that parents from high SES areas were more likely to litigate. Coordinator 1 shared her viewpoint by stating, “I would say definitely in the more affluent areas of life. So, in our areas that our low socioeconomic, we have very, very little litigation.” Coordinator 1’s response, however, was not only in relation to SES, but also to the family make up. As an aside, she stated that,

It's typically the mom or the female that is like the ring leader... usually the mom is a stay at home mom, or doesn't work because they have lots of time to do research. I don't see a mom and dad that are real career oriented and out and busy and them both coming equally with litigation complaints.

In her experiences, the family dynamics, or the ability for one parent to stay home and have additional time on her hands also contributed to the number of lawsuits in the particular Texas school district. Based on her experiences, the mother tended to serve as the more active advocate in two-parent households. To clarify her point, Coordinator 1 went on to provide an example where the mother of a child with special needs disagreed with the school on the discontinuation of speech goals. Through her account, “Mom felt like we

were giving up on her and so the main complaint was denial of FAPE, I guess . . . then, when we got the complaint filed from TEA, there were 19 other complaints that were very off.” Whether appropriately guided or not, mothers seemed to take a more active role in advocating for the needs of their children. Providing a second example, Coordinator 1 made note of a mother who had previously filed a lawsuit in another district and had won. From Coordinator 1’s perspective, this mother had gained a reputation for filing lawsuits. While research has not substantiated this claim specifically, Coordinator 1 shared her experiences with demanding female parental figures from the higher SES locations in the district.

Overall, Director 1, Director 2, and Coordinator 1 agreed that having a strong financial foundation allowed parents the opportunity to disagree more with the school district on special education related matters. Although both Director 2 and Coordinator 1 had not personally experienced heavy litigation due to the area, which they served, both agreed with Director 1 who felt strongly that SES was a factor involved with parents who were at odds with the school district.

While consensus existed between the district-level administrators, only one principal mentioned SES as a factor in special education litigation. Regarding the topic of SES as a contributor to litigation, it was Principal 2 who felt strongly about its impact. Her thoughts are described below.

- Campus principals. During her time as a middle school leader, Principal 2 had experienced a great deal of involvement in cases with advocates and attorneys because of the population she served. She noted that families from high SES areas had their attorneys “on speed dial.” In making this remark, Principal 2 noted her frequent communication with

legal counsel for a variety of issues throughout the school year involved both advocates and attorneys. While advocates are not always certified in special education, their attendance at ARDs seemed to cause as much stress to the campus as an attorney. Principal 2 divulged, “I go to every ARD that has an attorney or an advocate in my school, which is quite a few because we’re high socioeconomic and many of our parents have attorneys.” In her opinion, parents “go that extra step to make sure they have an advocate to guide them in the special education process.” Whether it was a friend who advocated for the family or a paid attorney, families in her community were quicker to locate outside help throughout the process. Principal 2 described sitting in ARDs where “. . . you’ve got an advocate that’s an attorney and another attorney and an attorney’s assistant in the ARD meeting and they’re all very knowledgeable” as exhausting. Regardless of the title, the presence of an advocate was commonplace on her secondary campus.

In jokingly responding to the questions, Principal 2 seemed to have a sense of familiarity with contentious cases; however, having frequent communication with advocates and attorneys seemed to be unpleasant to Principal 2. Despite this stressor, she characterized her decisions as being in the best interest of children. In describing a due process hearing in which Principal 2 was involved, she stated, “I feel like the ARD committee decision, what we determined as a whole with the exception of the parents and their advocate, was in our opinion in the best interest of the student.” Principal 2’s partiality towards making student-centered decisions was also clear when she shared her involvement with special education noting, “I work very closely with my special education department. I do mid-year special education data checks, which takes up a couple of days. I meet with every teacher and go through all of their data.” While the clientele may have

been challenging to work with, Principal 2 most certainly went the extra step for the benefit of the children on her campus.

Empathy toward Parents

Although SES was an area believed to heavily impact parents' decisions to file complaints, several participants believed that showing empathy toward parents would go a long way in improving the relationship between campus principals and families. Unlike other themes involving the perspective of all three roles, special education directors, special education coordinators, and campus principals, the third theme of Research Question 3 was unique because of its relevance to mostly central office roles and only one principal. One director and one coordinator believed that principals should be empathetic to parents. Only Principal 3 made comment of empathy whereas Principal 1's description of her leadership style demonstrated a lack of empathy for parents to meet the unique needs of children. The third and final theme that emerged from Research Question 3 involved the need for empathy with parents of students with exceptionalities.

Empathy was a topic discussed by the central office participants. Several directors and coordinators made note of how empathy from campus leaders and special education staff can play a part in the decisions made by parents. These school trends became a recurring theme as the discussions played out. When considering school and district trends that may be contributing to parents' decision to file a lawsuit, sensitivity of word choice and actions in ARD meetings was noted in the interviews. When working with families who have children with unique needs, tension can occur if the family is unfamiliar with the process or if they have had negative experiences. Having empathy for the parents' situation can, therefore, help in many ways. The district leaders, both director and

coordinator, agreed on this note. Director 1 and Coordinator 1 agreed regarding the need for empathy in situations with parents.

- Special education directors. Through the lens of a director, it was Director 1 who made mention of word choice made by principals or special education staff members as contributing to tension with families. Being privy to mostly all the contentious cases in the district, Director 1 offered a unique global perspective on a trend that led to parents pursuing a lawsuit. “A lot of times when you do an autopsy of what went wrong in the situation, it was something simple that was said, for example, like someone saying, ‘No, we can’t do that.’” Director 1 admitted that his staff members may not always respond in the most appropriate manner, whether it is due to discomfort with a disagreeing parent or simply the staff members limited experience with the laws governing special education. He commented, “It’s like, ‘you didn’t really probably mean we just couldn’t do that. Maybe you’re not aware of how we could do that.’ There are a lot of cases that really start off like this, and then the parents walk away from that feeling like you said that to me...that sets off a course of action that could have been prevented.” While the interaction with Director 1 demonstrated his frustration with the demands of parents, it was evident that he had reflected on ways to better support the connection between parents and school/district leaders.

Interestingly, only Director 1 and Coordinator 1 made passionate comments regarding the need for empathy from principal. Despite this, understanding the unique perspective provided by these two individuals with many years of experience in both campus and central office roles, clarifies why it emerged as a relevant theme.

- Special education coordinators. Coordinator 1, specifically, noted the need for campus principals to be more empathetic to the special education process and viewpoint of parents who have children with exceptionalities. With her longstanding work with children with special needs and her role as campus staff support, Coordinator 1 held empathy for children and families in high regard. She expressed this by stating, “Whether it’s the special education department, or the special education laws that are out of our control, there are times when administration also voices their frustration with special education.” She explained that sometimes administrators disagree with decisions and “don’t think that it’s fair that a student should be back in class when they flipped the teacher off the day before.” She felt that principals should “try to put themselves in their [parent’s] shoes. They don’t live it every day with their child, so they need to try to be sensitive, or at least pretend to be sensitive during the conversations . . . even if the parent is one of those.” While acknowledging that some parents may be challenging to work with, Coordinator 1 demonstrated strong empathy towards children with special needs. She went on to further express the need for training that could support principals during interactions with parents. Coordinator 1 said, “I don’t know about a formal training that would go over this, but [principals] need to know what is the best choice of words to use and what’s politically appropriate to say. Even as little as using the people first language. . . . I think the choice of words and the response is all about how they say what they say.” Although Director 1 and Coordinator 1 agreed regarding empathy when communicating about sensitive topics, only one of the principals made mention of the topic.

- Campus principals. Only Principal 3 noted the need to be empathetic to parents. Principal 3 expressed a collaborative view on working with parents and had a strong sense

of equity for children. She made note that as a principal it is important to, “show empathy to the parent so that you understand how they're feeling” to help children realize their full potential.

Table 4.2

Research Question 3 Themes by Job Role

Theme	Directors	Coordinators	Principals
Cultural factors	<p>Cultural/language differences create non-threatening parents but they also exacerbate the issues</p> <p>Parent’s method of operation/not seeking collaboration</p> <p>Cultural biases/differences create contention</p>	Cultural/language differences create non-threatening parents	No cultural factors mentioned
High SES	<p>Lack of equity across zip codes</p> <p>Two parent homes in high SES are more likely to advocate</p>	High SES and family makeup (moms as advocates)	<p>High SES equates to advocates and attorneys on speed dial</p> <p>Despite stressors of advocates, Principals go the extra step</p>
Empathy Toward Parents	Word choice	<p>Word choice</p> <p>Urge principals to see it from the parent’s perspective</p>	<p>Principal 1 shows a lack of empathy towards parents but highlights needs of children</p> <p>Principal 3 believed in showing empathy</p>

Principal 1, on the other hand, demonstrate a lack of empathy for parents when dealing with parent complaints. Multiple times during the interview, she made note that her focus was on the needs of the children and not on that of the parent. Although she was focused on providing what each child needed, Principal 1 was adamant that “It depends on the child, not the parent.” She was candid in her viewpoint regarding parent complaints stating, “I do care about the parent, I don't care about the parent. It doesn't make any difference to me who the parent is. I'm working on providing what I need to provide for the student.” While her words may seem harsh, the lack of empathy towards parents related to her feelings of ethical leadership in providing for the unique needs of children, regardless of who the parent was.

Table 4.2 summarizes themes from Research Question 3 by job role. Participant ideas that align are demonstrated in a parallel manner within the table. Those that do not have consensus are included separately using bullet points.

Qualitative Research Question 4

From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?

While the beliefs about empathy towards parents differed between the district and campus perspectives, both highlighted the needs of children. Research Question 4 further explores the idea of ethical leadership decisions of the principals.

Research Question 4 highlighted the aim of this research study by seeking to answer why campus principals and special education representatives believed that parents filed complaints and lawsuits. While some of the responses can be found in the words of the participants in the previous section, the following responses will further explain why parents choose to file lawsuits. Research Question 4 held six themes, which are explained

below. These reasons include: a.) distrust of public education, b.) communication, c.) student placement and programming, d.) autism, e.) parent denial, and f.) parent entitlement. Table 4.3 summarizes the themes and is included later in the chapter.

Distrust of Public Education

All educational leaders are taught of the importance of building trust with stakeholders to influence change. Unsurprisingly, trust was a major topic of discussion among participants in all three roles. Emerging as a relevant theme was the claim by Director 1, Principal 2, and Principal 3 that parents have an inherent distrust of schools. While Director 1 provided a broader perspective on the influence of trust, Principals 2 and 3 shared the viewpoint at the campus level.

The first theme of Research Question 4 is the idea that parents have an inherent distrust of public education. This idea emerged from the perspective of both special education directors and campus principals. Although not all participants mentioned trust, the idea of relationship building was believed by several and speaks to the idea that parents must have trust with the schools.

- Special education directors. Director 1's previous acknowledgement of the communication breakdown between special education representatives and parents also spoke to distrust. In his example of representatives telling parents that the district was not able to fulfill a request, Director 1 shared that parents felt like "you're a representative of the district, therefore you're speaking for the district, and the district must be just really bad," thus further perpetuating the notion that public schools cannot be trusted. Director 1 believed whole-heartedly in the power of relationships with parents and establishing a give-and-take collaboration when he made the statement: "to make the situation, to restore

trust and restore collaboration, come in with some things that please the parent and help the kid.” Not only did he believe it ensured collaboration, but it also benefited the child in the end.

Director 3 also spoke about the value of trust between parents and school or district staff members. As the top special education leader in Evergreen ISD, Director 3 reflected on the experiences she has had with upset parents. She explained that when “all of a sudden there's a lack of trust, that the parents are expressing significant concern over programming or recommendations, what we try to do is make sure that we reach out to that parent in advance.” Director 3 further drew out her support for trust when she shared her experiences regarding differing views between parents and the school district. She noted that in situations where “the parents want something, and the district may be in a situation where we don't think that that's reasonable” it is necessary to “spend the time on the front-end” versus having to defend the district decision on the back end. Director 3 expressed the need to build a trusting relationship by “spending time with the parents.” Overall, Director 3 felt that at the campus level, it is important to establish those relationships of trust with the parents because disagreements are part of the process. Having a relationship with the parent will help to, “navigate those waters.”

- Campus principals. The principal perspective offered a closer look into the feelings of parents regarding trust. Principals agreed with the perspective of Director 1 and felt that not having a trusting relationship with parents created disagreements about the education of the children. Principal 2 felt that parents had an initial distrust of public education, and that this thin bond was a major contributor to lawsuits filed on behalf of parents. She expressed a belief that “parents are sometimes really suspect of our

intentions, which is sad.” In the same breath, she clarified that her job as a campus principal is “to build that trust.” Furthermore, Principal 2 expressed strong feelings regarding the change in the school systems from her own experiences as a young student. She believed that mistrust was more common today attributing it to “school choice, this lack of faith in the public school system” and expressed not really understanding why it is. Principal 2 went on to share an example of a parent who had filed a due process complaint against her, and one with whom she had spent time forming a relationship. She noted:

We worked very hard to repair that relationship with those parents and to earnestly come in to that partnership with those parents, even though it was ugly during the hearing process. We’ve rebuilt that relationship now and by the time that child was in the 8th grade transitioning to high school, the parents were bringing donuts to the ARD’s.

Through this experience, Principal 2 candidly spoke about the relevance of relationship building even in the most stressful of situations. Her example was a true reflection of the power of trust between families and the schoolhouse.

Principal 3 shared a similar viewpoint on the impact that distrust can have on the relationship between parents and schools by stating:

I feel like parents for multiple reasons feel the it’s us versus them mentality, and they don’t trust what the school is saying, so you have to build that trust with them to make sure that they understand we’re here to do what’s right by their child. If you have a bad experience, then it comes down to a lot of times to, ‘I knew you were going to do this. You’re not going to listen just like they did back in . . .

Principal 3 also shared the belief that relationship building is a positive way to ensure parents understand that the school district and families are on the same team. As a high school principal, she believes that many parents feel a sense of urgency to provide the best education for their child, considering that they would be 4 to 6-years shy of graduating into the real world. In describing the mindset of parents, she noted, “I think that the reality

sets in by high school, and it becomes very urgent for parents to do as much as they can, so sometimes you get that 'I have to do it all now!' so my demands get very, very high." In discussing how she had ensured collaborative efforts with families who felt the sense of urgency, or who disagreed about the services provided or consequence assigned, she stated, "What happened was I had to build that relationship with the parent. There are certain things I had to give on so that they would give, too. Sometimes you have to take a step back to take two steps forward." Overall, Director 1, Principal 2, and Principal 3 believed in establishing trust by building a relationship with families early on leading directly to the need for effective communication.

Communication

The second theme of Research Question 4 is the need for communication between families and district and campus administrators. Effective communication skills are required of leaders in all realms of life and are especially important to campus and district leaders. When dealing with such sensitive situations as due process complaints, the manner of communication or perceived communication can be the difference between a resolved issue and further pursuit of litigation. The topic of communication is one that all participants find noteworthy with some considering it the most important aspect of working with parents. The stories and viewpoint of participants offer a look into the real impact of communication on litigious situations. First shared are the viewpoints of the district staff and then the campus leaders. Consensus or disagreements are highlighted to demonstrate the various perspectives.

- Special education directors. All three directors believed in the power that communication plays in their daily work with families. Director 1 described

communication as being “really huge, obviously, communication's everything.” Director 3 seconded this belief by stating, “I think communication is the key.” Both regarded communication as a critical aspect of working with parents and community members; however, they offered slightly varied examples of communication. Director 1 explained it in terms of how communication can yield a negative response by stating, “A lot of times when you do an autopsy of what went wrong in the situation, ‘let's look back, where'd this go wrong?’ it was something simple that was said.” Director 3 recognized that parents often seek answers to their concerns through advocates or inaccurate sources that can taint the relationship. She believed that “when we have strong communication with our parents, then they're not going to seek information elsewhere.” Director 3 went on to further explain the efforts made by the district to help parents feel like equal partners. She noted that the district “really builds in networks of support and communication so that it is open and transparent to parents.” By offering parents guidance through the ARD process, she believed that parents become more trusting. Director 3 summarized her beliefs by stating, “All they want to know is, ‘Do you have my child's best interest in mind?’ You demonstrate that through the daily communication with the teachers, and the daily interaction.” Although Director 1 and Director 3 had unique perspectives regarding the impact of communication, both agreed on the influence of communication between the district and parents of children with special needs.

Director 2 agreed with Director 3 regarding the importance of communication that prioritizes the child stating, “Keeping that communication focused in the best interest of the student is a crucial factor.” In the same breath, she shared a time when effective communication about a student on a Behavior Intervention Plan could deescalate a

situation, noting “talking with the parent, meeting with the parent and providing one of our specialists to talk with the parent, ensure that certain things would happen . . . that diverted it from the decision to file against us.” The significant role that communication plays in the interaction between parents and the school district was evident through the lenses of the special education directors of Evergreen ISD. The openness of the directors to listen to parents aided in the process of diverting litigation.

- Special education coordinators. While both the directors and coordinators believed in the importance of communication, the coordinators also expressed collaboration as essential. For example, Coordinator 2 remarked, “I think that it's just so important to have a collaborative outlook to just start out even going, ‘this is not all this way or all that way. It's not just a black or white yes or no.’” She believed that district and campus staff needed “to collaborate with the parent and explain why we're thinking what we're thinking but also have that listening aspect of why are you suggesting what you're suggesting too so that we can come up with a compromise together.” Collaboration was a thread through the words of Coordinator 2 who reiterated that, “trying to collaborate and communicate with each other to find ways to come to a compromise is going to be, is huge.” On another note, Coordinator 1 warned of the need to communicate effectively even after a parent has filed for litigation. She remarked, “Usually when it gets litigious, it's very easy for everyone to stop communication because they're scared of saying anything wrong . . . because it is such a stressful situation, we have to communicate effectively quickly.” She further expressed how she encourages teachers to continue sharing progress with parents.

Coordinator 3 agreed with the other two coordinators stating her intention to ensure that, “the parent be heard in that sense . . . in terms of that need for that

communication, so that they don't feel like we're at odds with them." While sharing her need to work alongside parents, she also demonstrated frustration with the ongoing contention experienced during her time at Evergreen ISD. She noted,

In all honesty, I don't think we have many cases that go to litigation that we haven't made an earnest effort to provide whatever we could possibly provide, and so it's frustrating at that level that if you could see what all we do for a student, and how far we'll go. If we'd been in the wrong, we will offer to try and make that up as best as we can because mistakes happen. We're not perfect; we know that. We know mistakes will happen, but it's difficult when we've done a really good job in those cases where we've gone above and beyond and those still go to litigation. That's kind of frustrating.

Coordinator 3 understood that effective and frequent interaction with parents made a difference; however, she was candid in her statements regarding the level of frustration felt when it is not enough to prevent litigation. Overall, there was consensus among the district level personnel regarding the need for effective communication in resolving most disagreements. The same was true regarding the beliefs of the principals.

- Campus principals. As a matter-of-fact administrator, Principal 1, described communication with parents as, "Huge," noting that as a principal, "You have to be patient and calm, and try and deliver that information as professionally and calmly as if you were on their side." As she spoke, it appeared that Principal 1 had learned to remain calm because of previous experiences. She stated, "It can't be the school against the parent," rather she believed that it had to be, "I'm on your side. I'm going to try and help. I'm going to try and get to the bottom of this. I'm going to try and help you." Despite feeling that student needs were of higher priority than parents, Principal 1 still recognized the value of communicating with parents.

Principal 2 noted the need to build a trusting relationship by stating, "If you don't obtain their trust in some way, you're not going to get anywhere with their kid." She went

on to contrast two situations where the relationship was torn stating, “They’re still paying an attorney” and one where the relationship was rebuilt noting, “by the time that child was in the 8th grade transitioning to high school, the parents were bringing donuts to the ARD’s.” Like Coordinator 2, Principal 2 felt strongly about collaborating with parents to build the trust remarking, “It takes a lot of meeting in the middle. It takes a lot of listening to them, then trying to work in their concerns, whether you agree with them or not.” In her opinion, “Making sure you build those relationships with parents goes a long way.” It was clear that Principal 2 felt strongly about the need to establish meaningful relationships by communicating with parents and that it was her primary role as a campus leader.

Principal 3 agreed with Principals 1 and Coordinator 2 regarding approaching parents in a collaborative manner. To her, it was important that “the parent be heard.” Even as a high school principal, Principal 3 described her role noting, “Probably 99% of it is communication or lack of communication.” All in all, consensus existed among every participant regarding the role that communication plays within the district. All participants feel that communicating and working collaboratively with parents could resolve most disagreements. This was a critical piece of information especially considering the instinct for district staff to stop communicating when situations become contentious.

Student Placement, Programming

The third theme for Research Question 4 included common factors, such as placements based on behavior and programming. These viewpoints below include participants from all three district and campus roles.

- Special education directors. When Research Question 4 was posed, it yielded a plethora of opinions based on experiences. Surprisingly, issues related to student

discipline rose to the top of the list of issues dealt with by special education directors. It was noted that discipline was not the top reason for litigation in the quantitative portion of the study. However, Director 2 explained discipline as the issue most needing attention at the campus level. She held a unique perspective on issues related to discipline and behavior by acknowledging that campuses need support. She stated,

The most common issues, I would say, are issues regarding discipline or severe behaviors like students not being successful in their environment because of behavior. The discipline I would say is not as much a big parent thing, as far as what comes across my desk as a director. It's campuses needing help with the issues, maintaining campus safety, and dealing with severe behaviors.

She believed that much of her time was spent on helping campuses manage student behaviors. However, she made it clear that the issues that more commonly caused a parent to file a lawsuit were not the discipline of the child itself. She remarked that discipline was “not necessarily what we have litigation around, and rather, I would say that's not our most common litigation issue.” Instead, she commented that “our most common litigation issues are going to be disagreements on communication or what is appropriate programming of an IEP . . . placement and implementation of the programs.”

Director 3 concurred with Director 2, stating “discipline is huge . . . discipline” yet identified the most common issues as being, “identification, placement, our evaluations, and services.” Both Directors agreed that parents often disagreed on the actual services and placement of their child when a discipline related issue arose, especially if the recommendation from an ARD committee was for a more restricted setting. While many of these examples involved children struggling with emotional behaviors, Directors 3 and 2 indicated that more commonly parents wanted the behavioral supports suggested by the ARD committee, but within the same general education environment.

- Special education coordinators. Coordinator 1 agreed with the special education directors regarding discipline as a major factor in a parent's decision to file due process. The coordinator stressed that "discipline handled inappropriately . . . has been pretty popular this year" and had resulted in significant tension in "two cases right now." She went on to explain that discipline was not only an issue on secondary campuses but also at the elementary level. Her perspective also highlighted the importance of administrators understanding disabilities and how they can impact behaviors.

Coordinator 3 also provided an example of when discipline and placement together were an issue for a parent. She noted, "Sometimes, even with that, the level of support that a student's needing is greater so we need to work towards consideration of a different placement where you, basically, are looking at a lower staff to student ratio." In each example, the participant reiterated that rationale for restricting a child's setting was related to his/her needs including a student who "had a high rate of self-injurious behaviors." Ultimately, the goal of the school district according to Coordinator 3 was to "work with everybody to get them on board with how they would implement a plan that would address the function of the behavior" including, "replacement behaviors, how we would teach to it, and how we would support the student."

- Campus principals. Principal 2 agreed with Coordinator 1 and shared that issues relating to discipline were a large cause of tension between parents and schools. Principal 2 went on to explain how decisions based on consequences resulting in a change of placement was one of the biggest cases in which she has been involved: "The one that stands out in my mind now was on discipline." She shared that the ARD committee was called to a manifestation determination review (MDR) resulting in the determination that

the student's actions were not a direct result of his/her disability. Principal 2 remarked, "Parents disagreed. It went to TEA and we were upheld and so they appealed to federal court and we were upheld again. Now, they're waiting for it to be heard in the Fifth Circuit." In describing the situation, Principal 2 exclaimed how time-consuming litigation can be and how one disagreement can result in tension spanning across multiple school years. Despite her efforts to mitigate the situation, the parents had continued to argue their side.

Similarly, Principal 3 noted discipline as a frequent concern brought up by parents in stating, "A frequent disagreement is on discipline." She felt that if "you're perhaps giving a discipline infraction and the parent does not agree with the discipline or if the parent thinks that it's a result of their disability," then it could cause an issue. She went on to explain the importance of meeting with parents when disagreements occur to ensure that parents and the school maintain a positive relationship. She clarified:

Then you let them talk about what they see or hear, and why they believe it's fair or unfair. Then you follow the process. If it's something you need to go to ARD for a manifest, or a 504 situation, same thing, you make sure that they have the opportunity to have their level of appeals or due process granted.

Principal 3 considered this process a collaborative one where the goal is to provide the child support with his/her challenges, sharing "It goes both ways. It's not just a one-way street."

Autism

The fourth theme was unique as it seemed to spark conversation between the district directors and coordinators and only one principal. Rather than separate it between roles, the district perspective is interwoven below.

Many times, the scenarios posed by the participants included children identified as having autism spectrum disorder (AU). When it came to the idea of autism, there seemed to be a consensus among various district-level participants. As stated by Director 2, “Litigation is higher in our autism population.” Directors 2 and 3, Coordinators 1 and 3, and Principal 3 mentioned autism. Director 3 identified autism as being “one of those areas that you could see that maybe there's more than others . . . It's not only that they have a separate supplement, it's also a growing area.” She believed that the additional 13 strategies on the supplement opened up the opportunity for more areas to be litigated because “parents have their procedural safeguards and their rights” and can “disagree in any of those broad areas through the ARD process.”

Unlike other disability classifications, autism includes 13 supplemental areas that include but are not limited to, parent support, teacher training, in-home education, teacher to student ratio, and future planning, to name a few. Autism not only has many safeguards, but with its growing popularity the support system for it has also gained momentum. Director 3 felt that these factors contributed to the increase in litigation. Because the autism supplement has so many more supports than other classifications, Director 3 and Coordinator 3 provided example of situations in which parents disagreed with the school district because they wanted the eligibility of autism as opposed to an emotional disturbance or an intellectual disability. Coordinator 3 noted, “there was more available for them if they had an autism eligibility than if they had an intellectual disability” when describing a parent who wanted the school to change the disability classification of their child. She went on to further explain, “so if they were straight up cognitively impaired,

there were so many programs that were open to them” as opposed to the added supports of an autism classification.

Coordinator 1 also noted autism as an area of frequent discourse between families and Evergreen ISD stating, “It has become more prevalent in the autism population. But autism has increased as well.” Although she was not sure if autism was an area of disagreement on its own, she had had more experiences of discourse with families who had a child with autism. Principal 3 also detailed a situation in which “the parent thought we didn't have enough education for the teachers regarding high-functioning autism.” Overall, it is uncertain exactly the reason why autism is more prevalent in due process cases at Evergreen ISD. However, it was clear that autism was a point of contention. While there was variability in what the participants felt parents disagreed on, it was evident that placement based on discipline, programming, and autism made the top of the list.

Parent Denial

The idea that parents are often in denial regarding the impact of disabilities on children and their learning emerged as a fifth theme of Research Question 4. It was formed through the viewpoint of special education coordinators and campus principals.

- Special education coordinator and campus principals. The phenomenon of parental denial was clearly noted during the semi-structured interview process. The participants made note that parents often deny how severely a disability can impact a child, or in contrast they make excuses for behavior based on a child’s disability. Coordinator 1 for example believed that “denial of severity of disability” contributed to the lack of trust between parents and the school. Along with her, Principals 1 and 2 felt strongly that parents often become upset because they do not accept the severity of their child’s

exceptionality, or they fall on the other extreme believing that all student actions are related to the disability. Principal 1 remarked, "I think one common complaint is my child couldn't help it. It was everybody else's fault . . . The behavior intervention plan isn't working." In her experiences, parents often blamed the child's behavior on others, rather than taking responsibility and looking specifically at the child's challenges compared to his/her actions. In a rather candid manner, Principal 1 shared that oftentimes parents "want their child to be fixed." She provided an example of a due processing hearing where "Bottom line, mom expected us to be able to fix him, and we couldn't fix him." Through her perspective, parents were in denial so they would "get angry because you are not fixing their child." Principal 2 offered a similar viewpoint on why she believed parents filed due process complaints:

Parents want so much for their child to be what in their mind is their idea of this normal kid. Everybody wants a normal kid. What they don't understand, and I understand because I've worked with kids for so many years, is that there is no normal kid.

In a rather frustrated manner, Principal 2 also noted,

I think they also expect us to do it all. That's a big thing in education right now. We need to fix them psychologically. We need to educate them. We need to teach them about the birds and the bees. We need to teach them about social and emotional stuff. We need to do it all. Here, fix them and then give them back to me perfect. I think that's an issue that a lot of schools struggle with. Where's the parent piece?

The two principals believed there was a discrepancy between what parents believed would allow their child the opportunities afforded to general education students. Despite believing that parents exhibited denial, Principal 1 and 2 felt that fear of the unknown was the underlying reason that parents took legal action against school districts. Parents typically want the best for their children, and thus the added layer of having a child with special needs can contribute to tension in special education due process hearings.

Principal 2 finalized it by saying “We're all unique and special in our own way and trying to encourage parents to love their child for who they are, I think, is really a huge challenge in education.”

Parent Entitlement

The sixth and final theme of Research Question 4 was the notion that parent entitlement leads to discourse between district personnel and families. It is noted by all three participant roles below.

- Special education directors. With varying reasons for why parents file lawsuits, perhaps the most intriguing is the idea that parents desire the best for their children. While no one can fault a parent for wanting the best for their child, the perspectives of various participants led to what Director 2 coined as the, “Cadillac vs. Chevrolet” phenomenon. During our conversation, she expressed that parents at times experienced a perceived wrongdoing and believed that their child “deserved more services.” When asked to provide common examples of demands parents make, Director 1 stated, “Let's say a situation where a parent is asking for something that maybe the student doesn't really need even though it might benefit them, but it's not required under the IDEA, under the appropriateness clause of IDEA.” He continued by sharing that, “Navigating those situations, which we do a lot” was an example of a parent demanding more than what is necessary. When detailing his experiences, Director 1 seemed exhausted by this recurring disagreement later stating,

The reason special education exists is because of parent complaints. The PS-94, all that, came from parents, so I totally, totally get that and respect it. . . . It's become something that is not why I got into this, fighting with parents all the time about what their kids need.

His passion for helping children was evident in his expression of the purpose of special education. Despite his own advocacy for the needs of children with special needs, Director 1 felt that litigation was becoming far more commonplace than perhaps during his first few years as an educator.

Director 2 concurred with Director 1, adding to the idea that parents want everything for their children. She remarked,

I think that parents initiate litigation because they are looking for the best for their child and they are wanting to advocate for their child. I think that they have every right to do so. I think that generally that happens when they feel like their child isn't getting what they deserve or what would be best for their child whether the district agrees or not. In their mind that perception is reality of, my child isn't getting what he or she deserves. I think that that's the main reason.

While it appeared that district leaders worked hard to provide for the needs of children, a parent's perception of what their child needs is something that cannot be controlled by district personnel.

- Special education coordinators. Another noteworthy perspective included the idea that private therapies superseded public therapy. The belief that somehow private schools are superior to public schools is often debated in the field of education. Private schools often have more autonomy given the fact that they do not follow the same federal laws as public schools receiving federal funds do. Coordinator 2 felt strongly that parents' perception was a certain way as it related to public and private schools:

I also do think that some parents have a perception that public schools should be the same as private therapy and should be providing one on one without the realization that there are other students as well within. There are things that I feel like public school can provide that private therapies cannot. That being said there are some things that private therapies can provide that public school cannot. I do think that that does affect parent's insight sometimes.

Coordinator 1 agreed with the notion that parents often believe that private therapy is the answer to helping their child. Those who have the means often prefer to pay for the autonomy:

So, they want it more of like a clinical [therapy] or they're not really a fan of public school...they want their child in a better school, but they can't pay for it. We are not clinical and so when the rate of progress is slower, or anything, their first go to...it's like they find something even if it's you didn't cross a T correctly. They find something and they know that they can try to go for us to pay for full private school.

Coordinator 3 did not note private schools as the driving force. Rather she provided a different perspective regarding parents' decisions for filing due process. She stated, "Oftentimes what they want doesn't really have to do in terms of a litigation. In other words, sometimes it's because they don't want the school that the child's been assigned to."

All three special education coordinators mentioned a parent's decisions to file a due process complaint often related to the school in which the child was enrolled. Whether the parent was seeking more intense therapy as provided in a clinical setting, or were simply seeking to find a new school, this motivated their actions against the school district.

- Campus principals. The belief of the campus principals matched that of the district leaders. Principal 1 frustratingly provided examples of parents who felt that their child deserved more than what the public school was providing. She demonstrated the mindset of some parents who would make demands such as, "I want. I deserve. My child is entitled to. Give it to my child." Similar to Principal 1's views, Principal 2 remarked, "They're just angry people. It's very difficult for them to be reasonable." From her perspective, it sometimes had more to do with getting everything that is available whether the child did or did not demonstrate an educational need for the service.

Tables 4.3 to 4.8 show thematic comparison for Research Question 4 by job role, including directors, coordinators, and principals. They are included in tables to provide a summary of the findings to help draw connections.

Table 4.3

Thematic Comparison for Research Question 4: Distrust in Public Education

Directors	Coordinators	Principals
Trusting relationship allows for collaboration	Trust was not specifically mentioned	No trust=disagreements
Directors and principals need to build trust. It is a give-and-take		Principals need to build trust. It is a give-and-take Parents do not trust public education

Table 4.4

Thematic Comparison for Research Question 4: Communication

Directors	Coordinators	Principals
Communication is everything	Continuous communication despite disagreements	Allowing parents to be heard is a must
Offering a space for parents to collaborate with the district improves communication		Maintaining composure is essential
Open communication develops a relationship of trust with parents	Effective and frequent communication supports collaboration; however, it is not always enough to eliminate litigation	Meeting in the middle is essential

Table 4.5

Thematic Comparison for Research Question 4: Student Placement and Programming

Directors	Coordinators	Principals
Placement changes due to discipline lead to disagreement	Recommending a change of placement can lead to parent disagreement	Placement changes due to discipline cause conflict on all academic levels
Parents generally want the behavioral supports but in the general education environment	Discipline handled inappropriately at the campus level may lead to litigation	
Parents may disagree about the programming provided especially in situations where discipline is involved		

Table 4.6

Thematic Comparison for Research Question 4: Autism

Directors	Coordinators	Principals
Autism is a growing area Autism has more safeguards than many other disability classifications Parents often seek the autism coding to gain more support		

Table 4.7

Thematic Comparison for Research Question 4: Parental Denial

Directors	Coordinators	Principals
No mention of parent denial	Denial about the severity of the disability	Parents want the child to be fixed – fear of the unknown Parents expect schools to solely provide an education to the child

Table 4.8

Thematic Comparison for Research Question 4: Parent Entitlement

Directors	Coordinators	Principals
Cadillac vs. Chevrolet – “I want it all” phenomenon	Private therapies supersede public therapy Parents often want a different school than where their child attends	Parents’ desire for their child to have it all despite demonstrating no educational need

Research Question 5

How does social justice theory inform our understanding of special education issues?

As noted in Chapter 2, social justice theory posits that differentiated treatment of individuals is good if it supports the group that is most in need. Essentially, unequal treatment of others is justified if it benefits the most marginalized, in this case the special education student. Understanding if the campus and district level participants viewed

education through a social justice theory lens was essential to the study. Identifying if social justice theory drove the decision-making of campus principals, special education coordinators, and special education directors was thus, key. Participants were asked explicit and implicit questions to determine if the philosophies of social justice theory guided the campus and district administrators. While all participants celebrated the growth and participation of special education students in the general education setting, certain people stood out as holding social justice theories as their way of leading.

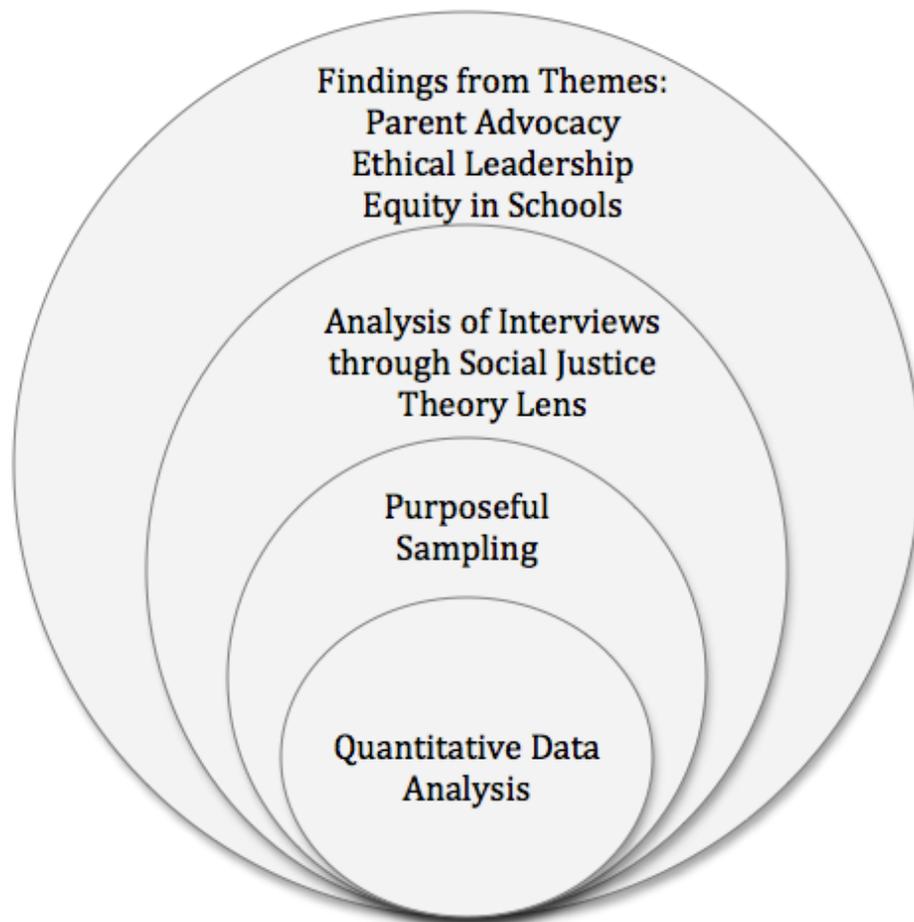


Figure 4.1. Conceptual framework of research design.

Research Question 5 is organized in terms of the three findings that emerged from the conversations. Unlike Research Questions 3 and 4, Research Question 5 intertwined the perspectives of participants, rather than separate them by job roles. This was done

because all participants viewed education through a social justice lens leading to the emergence of three important findings. Through the eyes of social justice theory, the participants detailed the relevance of parent advocacy, ethical leadership of principals, and the desire for equity in schools. The conceptual framework below serves as a demonstration of how these findings emerged from all the data. Figure 4.1 represents a review of the conceptual framework/research design.

Parent Advocacy

Parent advocacy was a highly discussed topic among the research study participants. Director 2 specifically noted that two parent homes allowed for the opportunity and time to litigate. As noted before, Coordinator 1 shared a similar viewpoint by noting that mothers in general were more commonly the advocates for student needs. She noted, "I don't see a mom and dad that are real career oriented and out and busy and them both coming equally with litigation complaints." Although Coordinator 1 was a true advocate for families, she felt strongly about mothers being the typical advocates for children. Without naming mothers as more common advocates, Director 3 gave examples of parents, specifically mothers, who disagreed in ARD meetings where she, as the executive director, was involved. In an example where a student struggled with behavior, Director 3 detailed various steps taken to support the student in the least restrictive environment. Despite the additional support, "The student was still struggling, so then we ended up having to move toward a more restrictive placement. The parent was in disagreement because, for whatever reason, she didn't want the child to leave that campus because our most restrictive placement is off-campus;" as a result, "the parent filed for due process hearing."

Coordinator 3 also provided an example of a grandmother who had advocated for behavior supports to be provided in the general education setting rather than a more centralized program. Coordinator 3 stated, “The grandparent wanted us to try implementing the new plan, in the current placement, so we did. We allowed additional time for that and reconvened.” Needing to reduce the percentage of the child’s self-injurious behavior, Coordinator 3 remarked, “We still recommended the placement because we couldn't get the percentage down in the current environment.” When the committee had reconvened again, “. . . she wanted to file due process. She didn't quite know what she was trying to file, so we worked with her in terms of the paperwork that she needed to fill out.” Even in situations where the biological parents of a child were not involved, the female figure advocated for the needs of the child.

In addition to Director 2, Director 3, Coordinator 1, and Coordinator 3, Principal 1 agreed that the mother role was influential. She detailed a situation where a mother strongly advocated for her child and was not satisfied with the result. Principal 1 shared that the parent “would yell at me. She would yell at the teachers. She was not happy, and finally decided that she needed to pull her child out of our building and put the child in a private school.” Although Principal 1 put forth effort to support the student, the mother still wanted to “put her child in private school, and then tried to sue us for tuition for the private school.” In the end, “the hearing officer said, mom expected us to be able to fix him, and we couldn't fix him. She was just very disappointed.” When explaining the situation, Principal 1 demonstrated disagreement with this demonstration of advocacy:

Principal 3 went on to shed light on her beliefs regarding parent advocacy while supporting the work of federal, state, and local requirements in bringing to the forefront the idea of equity: “Special education teachers and administrators, they

bend over backwards to help kids. They'll do whatever it takes to have a child be successful.”

Along with local support of children she also remarked:

I think the nation and the state have done a fairly good job on equity for special education students in inclusion and particular rights for students. I think that the fact that you have inclusion and you have these clubs where students are allowed to interact with each other on the same level as peers, peer groups, that that makes a huge difference for acceptance.

Regardless of the attention placed on students or the social justice leadership demonstrated, Principal 3 believed that parents file lawsuits out of fear noting, “I think many parents in special education feel like, if they don't advocate for their child, who will?”

The significance of the mother figure in due process complaints and lawsuits was substantiated by most of the study participants. The idea that mothers are more active advocates was a thread found throughout the various responses related to reasons why parents pursue litigation.

Ethical Leadership

The existence of ethics was most evident through the perspective of the campus principals. Although each principal served different levels of age groups, they all believed that children were at the heart of their decisions. Principal 2 and Principal 3 in particular made mention of social justice theory as relevant for more than only the children with special needs. Throughout the interview, Principal 1 maintained a serious, straightforward demeanor. However, she seemed to light up when discussing the needs of children. When clarifying how she makes decisions she remarked, “It depends on the child, not the parent; I don't care about the parent, I don't care about the parent.” While it appeared harsh, Principal 1 made decisions in the best interest of each child commenting,

“We did everything we could do, and that we needed to do for that child.” As she shared her support of children, the philosophies of a social justice leader were evident.

It was further demonstrated when she detailed how much effort was placed on providing the best experience for her special needs students. She shared holding monthly trainings to better prepare her general and special education staff. Principal 1 shared one example where she went above and beyond to support a child. She remarked, “We had to have a monthly meeting with the parent. The entire team, everybody who worked with that child, met with the parent once a month.” She expressed having done this for 4 years and only recently bringing it “down to just a phone conversation once a month.” The level of dedication to her students was clear and a trait shared by the other campus principals.

Principal 1 also shared her ideas regarding the need to differentiate for each child stating, “Student A is not the same as Student B is not the same as Student C.” Furthermore, “Student A may only need push-in, maybe 150 minutes a week. Student B may need pull-out and push-out. Student C might need almost one on one.” She made it clear that the campus does not provide the same services for every child and they don't offer one on one. In her mind, “That would be like every person who went into the doctor who said, ‘I have a headache,’ they give them a lobotomy. No. It's based on what they need . . . We provide support based on the student's need.”

Principal 2 and Principal 3 also highlighted the idea that the needs of every child should be met with individualized attention. Principal 2 stated, “I don't think it's just for special education students. I think you have to do the same thing for gifted students and I think you have to do the same thing for athletes. Every person is an individual. You have to look at individual needs and that's the whole purpose.” Similarly, Principal 3 commented,

“I would think that old saying, fair is not equal and equal is not fair. You have to really look at the individual child and sometimes decide what is best . . . or not, but always try to decide what is best for that particular student.” Together, Principals 2 and 3 truly believed that helping all children succeed was their calling as leaders.

Without a doubt, the intentions of Principals 1, 2, and 3 were pure and centered on the individual needs of children. They made decisions in the best interest of children, thus demonstrating their ethical leadership.

Equity

All three directors were on the same page when discussing children as the priority of Evergreen ISD. Director 2 and 3 made mention of support for children however, it was Director 1 who stood out as truly believing and implementing social justice theories in his leadership. When discussing whether Director 1 believed that treating children differently if it benefitted the most marginalized group, he responded adamantly mentioning,

I do; I always have. I think that most people who get into special education get into it for a reason, and that's to help those less fortunate who might or might not get what they need without a special education. That's always been attractive to me. I mean. I got into special education for the same reason, but it's also nice that there are other people, like-minded people in the business. You just naturally... we feel the same way about students. We really fight for underdogs; that's why we do this. I tell parents this all the time. I say, 'Look, don't feel bad about complaining, don't feel bad about it.' The reason special education exists is because of parent complaints. The PL-94-142 all that came from parents, so I totally, totally get that and respect it.

He even described his frustration with parents demanding services that were unnecessary.

By Director 1's account, a parent request for his son needing, “someone to watch him during recess,” was frustratingly unnecessary but something he felt he often had to accommodate. Rather than ask parents to clarify their request by saying, “tell me more about that, why is it you think your son needs . . . ? Could we pair him up with a peer

buddy?” he often found himself stating, “Sure, we can do that, no problem.” Identifying this to be a privilege seen more “in higher SES kinds of things.” Director 1 confessed that, “If you're coming from a social justice perspective or just basic equality perspective, those kind of things bug you a little bit like they bug me.” In his mind, treating children of privilege better than those who do not belong to the upper social class was a conflict for Director 1. His entire purpose for becoming an educator many years ago was for the purpose of serving those with less opportunity.

With an assumption that social justice thinkers lead with the student in mind, it would stand to reason that less litigation would surround such an individual. Through his own description of his leadership vision, Director 1 held a strong social justice position. This perspective juxtaposed with the large number of due process hearings in Evergreen ISD, leads to further confusion regarding the aspects of leadership that have contributed to issues of litigation.

Unlike campus principals who are charged with making the tough decisions that impact a community of families and district special education administrators who make difficult decisions that affect large communities, special education coordinators’ primary job is to help parents and school personnel work collaboratively when challenging situations arise. They are, in a sense, the facilitators of collaboration. Given the function of their position, it was not uncommon to find that all three coordinators held a social justice perspective. Determining whether their beliefs positively influence parents’ decision to file due process complaints is another aspect entirely. In addition to being proponents of providing what is necessary for special needs children, Coordinators 1 and 3 also highlighted the influence of equity in the educational system.

All three coordinators spoke in support of adapting to the needs of students.

Coordinator 1 expressed having trained general education teachers on the strengths of a student classified as intellectually disabled (ID) by saying, “did you guys know that he has a 112 standard score in the area of visual? What that means is he is super strong in visual.”

Coordinator 2 also detailed a case with a family where she offered to meet with teachers and parents at, “6:45am before school started to provide them a time before work” and also met with the parents, “after every report card to discuss progress.” While this was not required of her, Coordinator 2’s belief in supporting her students demonstrated her philosophy of education as supporting social justice leadership.

Similarly to Coordinators 1 and 2, Coordinator 3 understood that her role was to find a solution to ultimately support student growth. She noted that, “on any individual case, there's the exception to the rule in terms of what direction we're going to head in, or what services we're going to provide.” In one extreme example, Coordinator 3 helped a family file a due process complaint because Coordinator 3 felt so strongly in providing what was necessary for the special education children. Coordinator 3 recalled, “She didn’t quite know what she was trying to file, so we worked with her in terms of the paperwork that she needed to fill out. We worked with her in terms of the laws, the policies, and the procedures.” All of this in support of what is just and necessary for the most marginalized group of students.

The conversation with both Coordinator 1 and Coordinator 3 emerged with the support of the idea of equity. When describing the strength of students to teachers, coordinator 1 shared, “I feel like the students’ weaknesses are looked at more and so that’s why they may not be treated with the equality. But educating [educators] on their

[children's'] strengths would help them see them as just any other student. Coordinator 3 concurred by sharing with teachers that, "a student may look different, or act differently, or have some different issues and all of that, they still can be in the classroom" clarifying it includes, "everything from our highest functioning kids to our lowest functioning special education kids." Coordinator 3 spoke openly about the issues of equity that still exist sharing, "I don't want to be pessimistic, but I don't think there would ever be a time that there weren't issues at all. . . . There is always somebody who has their own bias that they bring to this system, that we're trying to work through." Coordinator 3 continued to explain how she recognized having biases of her own and how she aimed to become more aware of issues involving equity. "Oh gosh, now I see a different level of fairness that I didn't see before, so to be able to see those opportunities, I think that's ongoing. I just really feel like that's ongoing."

Despite the continuous efforts to improve equity for special needs children, Coordinator 3 also passionately expressed how far the district, specifically high school students, had come in terms of acceptance of children with exceptionalities. She remarked, "It's so nice to see how much all the kids are welcomed and included in the school and the school's activities, and a part of the whole school experience." In this exchange, she left the impression that while there are wonderful changes occurring in Evergreen ISD, there is always room for growth. Although the mindset of all three special education coordinators revealed social justice ideals, their leadership did not eliminate the decision of parents to file due process complaints and lawsuits.

Social justice theory emerged through the interviews of the study participants in the form of parent advocacy, ethical leadership by principals, and a call for equity in schools.

Participants detailed examples of passionate parents who advocated for their children in the form of demands. Several campus and district leaders also noted two parent homes, specifically ones with outspoken mothers, as disagreeing with school districts more often based on both expectations and fear.

When exploring the existence of social justice theory in decision-making, principals held strong feelings towards meeting the needs of all children. Principals 1, 2, and 3 all shared their beliefs regarding making decisions in the best interest of children. Principal 2, in particular, believed that social justice theory should be applied beyond the special education population to include groups such as gifted and talented. All campus leaders discussed their support of special needs children in the form of scheduling and parent meetings.

The final theme, regarding a call for stronger equity in schools, developed from the recognition of Director 1 that children from high socio-economic homes received additional or better support. All three coordinators shared how they try to inform teachers and campus leaders about the strength of special needs students. In doing so, they aim to revise the mindsets of educators who work with special education students. In conclusion, Coordinator 3 shared her excitement for the inclusion of all children from the early 1970s to today, yet she candidly called for continuous work in the area of equity for all.

Summary

Chapter 4 discussed the process of using existing quantitative data to guide the qualitative data collection through purposeful sampling. Once Evergreen ISD was identified, campus and district level participants were contacted and interviewed.

Demographic information about all nine study participants was included to provide a

background for their stories. Various themes were found in response to Research Question 3: school culture, family culture, and/or district trends leading to parents' pursuit of a lawsuit. These included the existence of specific family culture and dynamics, families of high SES, and a perceived lack of empathy by campus leaders towards families of students with special needs. Several themes regarding why families initiate special education litigation resulted from the perspectives of all nine participants in response to Research Question 4. Campus and district administrators believed that distrust in public education, communication, student placement decisions, autism communities, parent denial, and parent entitlement contributed to parents' decisions.

The themes that emerged from Research Question 5 draw from all the previous content, leading to the overall conclusion that parents are strong advocates for their children. When other factors are involved, their advocacy often leads to discourse with school districts. The data also revealed that despite the challenges that principals face daily, they remain steadfast ethically, and along with district special education leaders seek equity in education.

Chapter 5 presents the key findings of the study and provides recommendations for future research.

CHAPTER 5

DISCUSSION, IMPLICATIONS AND RECOMMENDATIONS

In this chapter, I provide an overview of the single-site case study, including a review of the problem statement, purpose of the study, research questions, and methodology. The chapter includes a discussion of the findings organized to include a summary, the rationale for selecting the theme, and a link to previous literature. The chapter concludes with implications for practitioner practice and recommendations for future research concerning special education due process hearings.

Overview of the Study

Problem Statement

Several key research studies involving special education due process hearings were reviewed prior to initiating this study. The work of Webb (1994), Rickey (2003), and Mueller and Carranza (2011) offered a quantitative overview of commonly litigated issues in special education in Texas, Iowa, and across America. While these studies added to the body of literature, research into the viewpoint of campus principals and district special education administrators regarding special education litigation was uncharted. Webb's 1994 quantitative research on due process hearings in Texas provided a starting point for the present study. Rickey (2003) and Mueller and Carranza (2011) also sought to understand due process complaints and litigation. However, a qualitative viewpoint into why parents initiate complaints and litigation was necessary.

Purpose of the Study

The purpose of this study was to determine which aspects of special education were most commonly represented in due process hearings and what factors contributed to

parents' decisions to file a lawsuit. The study also focused on the experiences of the participants and how that influenced their decision-making leading to special education litigation. The existence of social justice theory was explored to determine how those values apply to our understanding of special education issues.

Single-Site Case Study Process

The quantitative analysis of data on due process complaints helped to identify common areas of special education that are often litigated. Using purposeful sampling during the quantitative phase helped to identify Texas school districts that experienced a large percentage of special education due process hearings between 2010 and 2015. The potential sites for research were further refined based on preset criteria and committee feedback narrowing it down to one location for review. *Evergreen Independent School District* was selected and a total of nine participants with 5 or more years of experience were interviewed in face-to-face or phone conference methods. The study participants included three special education directors, including the executive director, three special education mid-level administrators or coordinators, and three head campus principals at the elementary, middle, and high school levels. The use of quantitative data to drive the qualitative study added depth to our understanding of elements that drive the decision of parents to file special education due process complaints and litigation.

The semi-structured interviews explained the viewpoint of campus and district administrators who work closely with the population of special needs children. It offered a voice for administrators to explain why they believed families initiated due process complaints and litigation. The participants' responses were viewed through a social justice lens to determine whether the existence of social justice leadership helped explain the

discourse and litigation. Without the candid opinions and experiences of the nine participants, this study would not be as valuable to the field of education and to the campus and district practitioners that work every day to provide the best education for all students.

Research Questions

Two quantitative and three qualitative questions, as noted below, guided the research. Although the findings for all research questions were relevant, a stronger focus was placed on the qualitative research questions.

Quantitative Research Questions

1. What are the common special education elements reported in due process hearings from the case law analysis?
2. Which school districts in Texas have the highest representation of special education (SPED) litigation per enrolled student?

Qualitative Research Questions

3. What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?
4. From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?
5. How does social justice theory inform our understanding of special education issues?

Key Findings and Discussion

In the section below, a summary of the quantitative data analysis is provided followed by the summary of the qualitative components. Key findings are organized by research question, starting with Research Question 3. Each finding is discussed and connected to prior research where appropriate. Finally, a summary of the key findings is provided.

Quantitative Research Summary

As a recap of the findings for Research Questions 1 and 2, the commonly litigated special education areas included: IEP (70%), FAPE (60%), and LRE (60%). The tertiary complaint involved conflicts with the evaluation or re-evaluation of a child (50%). Discipline related and ESY issues occurred 40% of the time while child find and parental participation/prior written notice occurred 30% of the time. Only 10% of the cases involved disagreements regarding eligibility. Seventy percent of the special education due process cases involved four or more areas of contention. Interestingly, 70% of all cases were won exclusively by the school district, whereas the remaining 30% resulted in partial wins for both the parents and the school district.

Qualitative Research Summary

Within this summary, I reference three levels of data, including themes, findings, and key findings. For clarity, a *theme* is something common to participants from a single professional role that emerged from the interviews. A *finding* is a major category of data that was presented in Chapter 4. Finally, *key findings* represent the handful of major take-aways from the study. These key findings are connected through the discussion to relevant literature from Chapter 2. Therefore, key findings were either supported or unsupported by existing literature in the field of special education research. The key findings emerged based on the relevance of a theme to the three job roles. Themes that were noted by most participants or those that participants felt most passionate about were selected as key findings. While some of the findings are substantiated with research, several findings in the qualitative portion of the study were surprising. Many of the research participants felt strongly that families from high SES homes were more likely to bring litigation against the

school district. They also believed that a lack of empathy regarding how district and campus personnel communicate with parents caused issues. The third major finding was the idea that many parents have a preconceived notion about public education and therefore do not trust districts. Additionally, parent denial and entitlement and student placement and programming were identified as contributing to complaints and litigation. Participants also felt that communication and parent advocacy played a role. The discussion is structured according to research question and includes a summary of the key finding, the rationale for selection, and a connection to previous literature.

Qualitative Research Question 3

What school culture, family culture, and/or district trends lead to the pursuit of the lawsuit?

Several themes emerged from the responses of the research participants to the protocol addressing Research Question 3. However, two major themes, including high SES and empathy toward parents drove the discussion and are identified as key findings.

High SES

One key finding for Research Question 3 involved families from high socioeconomic status homes. Based on Interview Questions 5 and 7, the participants identified socioeconomic status as a contributing factor to the number of parent complaints and litigation against Evergreen ISD. Recall how one director stated, “parents who are a little more aggressive in their requests for services for the students” come from “higher SES type zip codes.” A principal stated, “I go to every ARD that has an attorney or an advocate in my school, which is quite a few because we're high socioeconomic and many of our parents have attorneys.” Although families of high SES may not know all the laws safeguarding special education, they are more likely to have the means to get extra support. District

leaders also noted a lack of equity across zip codes in terms of the level of support given to students based on their income, and thus access to resources. This director vehemently disagreed with the social inequities resulting from the district's fear of litigation remarking, "There's a slight tendency for the students in the higher SES areas, maybe, to get a little bit more, just to keep the parents happy." He later commented, "If you're coming from a social justice perspective or just basic equality perspective, those kind of things bug you a little bit like they bug me."

More specifically, district special education directors and coordinators believed that two parent homes and mother figures played a significant part. Recall how one coordinator expressed never having experienced a due process hearing with a family, where both parents had to work or where both parents had demanding jobs: "I don't see a mom and dad that are real career oriented and out and busy and them both coming equally with litigation complaints." Several participants believed that stay-at-home mothers had both the means and the time to dedicate towards the due process complaint and litigation process. Overall, participants from all three job roles addressed the existence of disparities across the district due to family income levels. This helped substantiate socioeconomic status of parents as a key finding.

Whitbread, Bruder, Fleming, and Park (2007) showed that parents who are more informed exhibit a feeling of confidence in serving as advocates for their children. Webb (1992) also found that locations where parent advocacy groups were more active experienced higher rates of due process hearings. While parents who are of higher socioeconomic level do not automatically have more knowledge about special education, the participants believed that parents often have access to attorneys or advocates. The

literature in Chapter 2 does not name socioeconomic levels as a factor for parents who file due process and/or litigation, yet access to advocates helps explain this phenomenon. The findings indicating that the existence of advocates has an impact on due process litigation supports Webb's research (1992). The findings also build on the work of Whitbread, Bruder, Fleming, and Park (2007) demonstrating that when parents are advocates or they have advocates, they are more involved in special education decisions.

Empathy Toward Parents

The second key finding for Research Question 3 involved the influence of school culture on parents of children with special needs. Empathy toward parents emerged as a key finding. Recall that central office special education administrators noted the surfacing of the theme, empathy toward parents, and only one principal agreed to this idea. Although this would appear to make the theme an insignificant one; on the contrary, it demonstrated the disjointed views regarding this element across the district. As previously noted, one director explained how campus staff may create issues because parents perceive a lack of empathy. In his experiences, staff word choice such as, "No, we can't do that" set "off a course of action that could have been prevented." One coordinator also urged principals to show empathy and "try to put themselves in their [parent's] shoes. They don't live it every day with their child, so they need to try to be sensitive, or at least pretend to be sensitive during the conversations...even if the parent is one of those." Only one principal acknowledged needing to "show empathy to the parent so that you understand how they're feeling." In sharp contrast, recollect that another principal demonstrated no empathy toward parents in her remarks about their feelings, noting "I don't care about the parent. It doesn't make any difference to me who the parent is . . . I'm working on providing what I

need to provide for the student.” While this principal’s focus remained only on the needs of the child, it validated the beliefs of special education directors and coordinators. The existence of contrasting viewpoints between central office and the campus explains its relevance as a key finding of the study.

Prior case law and federal statutes supported the need for empathy towards the special education community including PARC (1972), Mills (1972), IDEA (2004). The plaintiffs in PARC (1972) argued that practices in Pennsylvania schools were unconstitutional under the Equal Protection Clause of the 14th Amendment. They sought access to a free public program of education for children with disabilities who were deemed “uneducable and untrained” (PARC, 1972). Although empathy towards parents was not the basis for this landmark case, PARC (1972) did open the doors for the rights of all students to be educated. The current study, therefore, provides a greater depth of understanding of the existence of PARC (1972), which forced public schools to work with families whose children were not provided with an adequate education. In a similar manner, Mills (1972) furthered the rights of special needs children by requiring that families receive due process prior to any changes to a child’s education. Prior to this ruling, school districts did not demonstrate empathy towards students with exceptionalities, as evidenced by their unfair practices directed at children who had needs beyond a typical performing student. Although the study does not support Mills (1972) directly, the findings do help explain why Mills (1972) occurred. These two landmark cases paved the way for Public Law 94-142, the Education of All Handicapped Children Act, which evolved into the current, which required that all public schools include and treat all students with disabilities as part of the educational community, and evolved into IDEA (2004). As

mentioned earlier, these laws did not specifically name empathy as a necessity. However, they did create a platform for public schools to recognize the disparities in existence and to make decisions in the best interest of all children.

The research of Rice and Rohlke (2009) did not agree with the finding of this study. As explained by Rice and Roellke (2009), IDEA (2004) increased accountability and urgency in demonstrating that schools were meeting the needs of students. Empathy toward parents was not a factor to the accountability placed on public schools. Colvin (2004), Hess and Kelly (2007), Leithwood, Louis, Anderson, and Wahlstrom (2004), and Portin (2004) on the other hand, partially supported this finding. They believed that a principal's responsibility is to promote a positive community within a school. To create this inclusive culture, administrators must be able to view all students as equal and as valuable. The current study provided a greater depth of understanding of positive community building by recognizing the need for principals to demonstrate empathy toward parents.

Qualitative Research Question 4

From the perspectives of school administrators, special education coordinators, and special education directors, why do families initiate special education litigation?

Additional themes emerged from the responses of the research participants to the protocol addressing Research Question 4. Key findings were identified from the themes, including distrust of public education, student placement and programming, parent denial and entitlement, and communication.

Distrust of Public Education

A key finding for Research Question 4 involved the distrust of public education by parents. One director shared that parents felt like "you're a representative of the district,

therefore you're speaking for the district, and the district must be just really bad;" thus, further perpetuating the notion that public schools cannot be trusted. Another director also remarked on the existence of distrust stating, "all of a sudden there's a lack of trust, that the parents are expressing significant concern over programming or recommendations." Recall where one outspoken principal made a comment regarding an inherent sense of distrust between parents and school districts, noting "Parents are sometimes really suspect of our intentions, which is sad." Another principal shared, "I feel like parents, for multiple reasons, feel it's the 'us versus them' mentality." With multiple perspectives pointing to the existence of distrust, it emerged as a key finding.

As evidence that campus and district personnel have the best interest of children in mind, they both recognized the existence of distrust and offered solutions to improve. One director made the remark that it is good to "spend the time on the front-end" versus having to defend the district decision on the back end. The principal clarified that her job as a campus principal was to "to build that trust" noting a time when she had worked to rebuild a relationship: "We've rebuilt that relationship now and by the time that child was in the 8th grade transitioning to high school, the parents were bringing donuts to the ARDs."

Although previous research is not centered on the idea that parents generally distrust public education, certain researchers have pointed to the value of establishing a relationship with parents. Staples and Diliberto (2010) noted that involving parents in the decision making of IEP meetings goes beyond those established meeting dates. Instead, schools should establish a partnership of collaboration to ensure active parent participation. Whitbread, Bruder, Fleming, and Park (2007) also recognized the need to include parents and, more specifically, train them on the special education processes. In

doing so, the researchers believed that parents would become more invested in the process and thus open to working alongside schools. While attempting to collaborate with parents cannot eliminate existing perceptions, it can help support the partnership between parents and school. The present study builds upon the works of Staples and Diliberto (2010) and Whitbread, Bruder, Fleming, and Park (2007) by providing support through a qualitative approach. The personal accounts of the participants supported the prior studies by reinforcing the power of collaborating and partnering with parents. The experiences of the participants demonstrated the need for strong parents and community relationships.

Student Placement and Programming

Another key finding of Research Question 4 also included student placement and programming decisions that primarily stemmed from disciplinary action. Research participants highlighted the existence of parent complaints due to student placement decisions and special education programming resulting from student disciplinary action. Several administrators mentioned discipline-related issues as having the largest impact on disagreements regarding placement. One director stated, “discipline is huge” while another noted, “Our most common litigation issues are going to be disagreements on communication or what is appropriate programming of an IEP . . . placement and implementation of the programs.” Special education coordinators also stressed, “discipline handled inappropriately . . . has been pretty popular this year.”

One principal shared about “frequent disagreement is on discipline,” while another detailed examples where “you're perhaps giving a discipline infraction and the parent does not agree with the discipline or if the parent thinks that it's a result of their disability.” Based on their experiences, discipline seemed to be the root cause of parent and school

discourse. However, changing a child's placement due to behavior related issues such as discipline or unregulated behavior was recognized as influencing parents' decisions to file due process complaints and litigation. A similar thread of experiences among district and campus level administrators brought student placement and programming decisions due primarily to discipline infractions to the forefront. Its relevance to our understanding of due process complaints and litigation is of value.

As noted by Carson (2015), least-restrictive environment is an element of special education that is often debated by parents and educational providers. *Roncker v. Walter N* (1983), *Daniel R.R. v. State Board of Education, op. cit.* (1989), *Oberti v. Board of Education of the Borough of Clementon* (1992), and *Sacramento City School District v. Rachel H* (1994) all paved the way for the requirements of LRE in special education law today (IDEA, 2004). When school districts make decisions that alter the placement of a child, in this case due to discipline, parents disagree on the bases of LRE. This has been the case in Evergreen ISD. While LRE has brought forth a standard for educating special education students appropriately, it has been the bases for parent driven litigation. Even in situations where coordinators made the recommendation to provide a "lower staff to student ratio" due to a student who "had a high rate of self-injurious behaviors" due process complaints proceeded. Despite the value of LRE to special education, clarity on its use is perhaps needed to help parents understand decisions made by both campus and district level leaders.

Parent Denial and Entitlement

Parents are the strongest advocates for their children and this is no exception for parents of students with special needs. As a result, parent denial and entitlement emerged

as a key finding. As their primary support, parents often develop a sense of denial about the severity of their child's disability or hold feelings of entitlement for the best education possible. Coordinators and principals agreed that parents were in "denial of [the] severity [of the] disability." One principal even remarked, "I think one common complaint is my child couldn't help it. It was everybody else's fault . . . The behavior intervention plan isn't working." The same principal commented that parents "want their child to be fixed." A second principal concurred sharing, "Parents want so much for their child to be what in their mind is their idea of this normal kid. Everybody wants a normal kid. That's a big thing in education right now."

In the same breath, this principal shared her experiences with parent entitlement stating, "I think they also expect us to do it all . . . Here, fix them and then give them back to me perfect." One director named this sense of entitlement the "Cadillac vs. Chevrolet" to explain how some parents believe that special education students should receive a Cadillac experience, regardless of FAPE stating that a Chevrolet experience would suffice. In her experiences parents "feel like their child isn't getting what they deserve or what would be best for their child, whether the district agrees or not. In their mind that perception is reality of, my child isn't getting what he or she deserves." A different special education director described it as, "Let's say a situation where a parent is asking for something that maybe the student doesn't really need even though it might benefit them, but it's not required under the IDEA, under the appropriateness clause of IDEA."

All three coordinators agreed with the notion that parents feel entitled to the best education. One of the coordinators shared that parents believe that "schools should be the same as private therapy and should be providing one on one, without the realization that

there are other students as well within.” In the words of the coordinators, “They find something and they know that they can try to go for us to pay for full private school.” In a similar way . . . sometimes it's because they don't want the school that the child's been assigned to.” Principals agreed bluntly stating that parents say, “I want. I deserve. My child is entitled to. Give it to my child.” In the minds of parents, “They're just angry people. It's very difficult for them to be reasonable.”

The immense discussion around parent denial and entitlement support the relevance of this theme and key finding. Neither parent denial nor entitlement is substantiated by prior research regarding special education due process complaints and litigation. The law that we know today as IDEA (2004) resulted from parent advocacy, not entitlement or denial. Parents who recognized that their children were not receiving the education they deserved paved the way for the laws that govern special education. Parent denial and entitlement are thus not supported by research. Recognizing that IDEA (2004) was established because of vocal parents can help schools better understand when parents appear to exhibit entitlement and denial about the needs of their children. It is possible that parents exhibit social justice theory and believe that their children deserve more than other children because of their special needs. Given this possibility, further exploration into parent denial and entitlement would be of great interest beyond this research study.

Communication

As mentioned in Chapter 4, communication is a theme that all nine participants agreed was key to establishing effective working relationships with families. The directors described it as “really huge, obviously, communication's everything” and “I think communication is the key.” Coordinators acquiesced adding the damage that can be

created when campus staff members stop all communication. To explain this, the coordinator stated, “Usually when it gets litigious, it's very easy for everyone to stop communication because they're scared of saying anything wrong.” In combating this, recall that one director made the comment, “when we have strong communication with our parents, then they're not going to seek information elsewhere.” One principal even remarked, “It can't be the school against the parent . . . If you don't obtain their trust in some way, you're not going to get anywhere with their kid.” A second principal made the statement: “Making sure you build those relationships with parents goes a long way.” A third principal summed up the power of communication by exclaiming that, “Probably 99% of it is communication or lack of communication.”

The idea of collaboration and frequent communication with parents is well documented in the participant interviews. Afolabi (2014) highlighted parents as the first teachers in their child's education, thus holding a deeper understanding of their child's needs. He believed that collaboration between school and home is therefore valuable to student success (Afolabi, 2014). Staples and Diliberto (2010) also argued that communicating with and involving parents in various activities throughout the school year may support parents' feelings of comfort with the process and thus improve the partnership. The studies of Gordon and Louis (2009) and Hattie (2009) supported parent involvement and school and parent partnerships finding a strong connection between parent involvement and student achievement. Their work supports the findings of this present study. Toldson and Lemmons (2013) also discovered that supportive schools and parents' participation were linked to better academic performance of Black, White, and Hispanic students based on an analysis of 12,426 parent surveys. Recall that Toldson and

Lemmons' study (2013) found the strongest association between academic achievement and parent involvement to be assistance from school ($F = 43.27, p < .001$). Overall, communication is validated as a key finding of this study as it builds on previous research on the value of effective communication and collaboration with parents.

Qualitative Research Question 5

How does social justice theory inform our understanding of special education issues?

The role of the parent was a significant one in this research study. Therefore, the emergence of Parent Advocacy as a key finding is relevant to note. Addressing Research Question 5 is the notion that parents are strong advocates for their children.

Parent Advocacy

A parents' role in the educational decisions for their children is one that cannot be replaced by any other member of the ARD committee. Their significance in the decision-making process is supported by active parent participation requirements in IDEA (2004). Although this study focused on the social justice of campus principals and special education administrators, our understanding of it through the perspective of parents is critical. Despite not interviewing parents in the qualitative portion of the study, advocacy for their children emerged as a relevant theme. Recall one principal who shared that a parent "would yell at me. She would yell at the teachers. She was not happy, and finally decided that she needed to pull her child out of our building and put the child in a private school." Another principal believed that parents filed lawsuits out of fear sharing, "I think many parents in special education feel like, if they don't advocate for their child, who will?" One coordinator also detailed an example where a grandparent advocated for their grandchild

stating, “The grandparent wanted us to try implementing the new plan, in the current placement, so we did.”

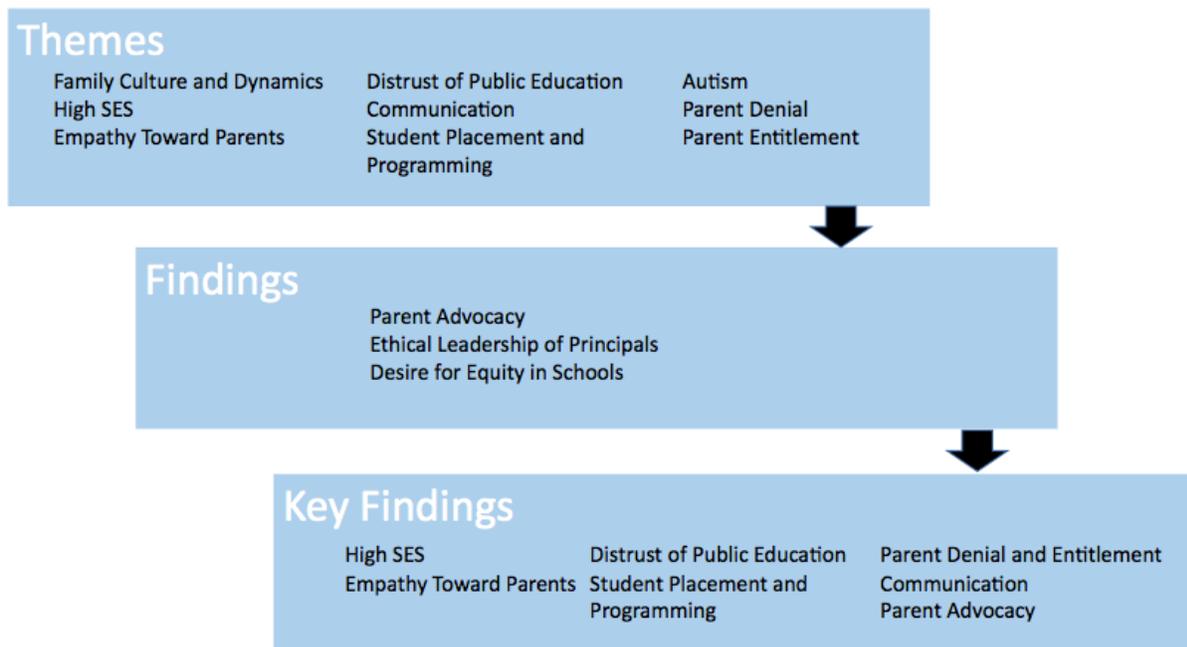


Figure 5.1. Themes, findings, key findings.

Webb (1992) and Whitbread, Bruder, Fleming, and Park (2007) recognized that parent advocacy, or access to an advocate, helped to support students with special needs. Through the experiences of the participants, parents appeared to exhibit social justice beliefs in their pursuit of the best education for their children. Recall Gruenewald (2004) who described social justice theory as the critiquing of the, “present system for producing inequalities in educational opportunity, achievement, and economic outcomes” (p. 52). Theoharis (2007) more specifically defined social justice theory of leadership as the advocacy or vision principals create based on such issues as race, class, disability, and other marginalized conditions in the United States. Given that social justice theory had been focused on school principals, this study built upon the research of Gruenewald (2004) and Theoharis (2007). The added layer of parents making decisions as social justice leaders

demonstrates the connection and extension from prior research. As explained by Rivera-McCutchen (2014), equitable treatment of vulnerable groups describes social justice theory. While parents were not interviewed in this study, the experiences shared by the research participants led to the belief that social justice theory played a role in the issues between parents and schools. Figure 5.1 provides a visual representation of the key paper's themes, findings, and key findings.

Summary of Key Findings

Many themes emerged from the qualitative data involving the semi-structured interview questions. Statements made repeatedly surfaced as the most relevant to school personnel, thus serving as key findings of the study. Some of the key findings were supported by research, whereas other findings were new contributions to the field of special education. Empathy toward parents, distrust of public education, student placement and programming, and communication were themes that became key findings supported by previous research. High SES, parent denial and entitlement, and parent advocacy were either partially supported by previous research or were new learning. Allowing the voices of key influential stakeholders to guide this study allowed for the authentic emergence of noteworthy themes. Whether the key findings were based in prior research or not, without a doubt they hold value to the research participants in Evergreen ISD.

Limitations

Including quantitative and qualitative elements helped to provide a more global view of why special education issues arise and how educational leaders can work to reduce or perhaps avoid such stressors. However, as with any research, limitations to the study

were present. Although the study covered the perspectives of three principals, three special education coordinators, and three special education directors, it did not include a primary voice from the parents of Evergreen ISD. To completely understand the thought processes of all stakeholders, the inclusion of parents would have brought additional depth to the research. The research was also limited to the state of Texas. Capturing the voice of administrators across various states would add value to this study.

Implications and Significance

The strengths of the research and theory are discussed below to support the conclusion of implications for practice. They are outlined in the form of research, theory, and practice as shown in Chapter 1. Chapter 5 concludes with suggestions for future practice and lessons learned.

Research

This study was unique to the exploration of special education litigation because it built onto previous quantitative data using purposeful sampling to identify a research site. Rather than complete research in a local and familiar district where access to participants was easier, I allowed the quantitative data analysis to guide the study. Using multi-sources of data involving three distinctive roles helped the study take a critical view at district processes. These elements strengthened the findings and overall conclusions of the study.

Theory

Previous literature on social justice theory has centered on developing principals into social justice leaders (McKenzie et al., 2008). This research study sought to determine how or if social justice theory applies to our understanding of special education issues and critical decision-making of campus principals and district special education leaders.

Understanding the role of advocacy for the most marginalized students was also a focus of the study. Beyond the simple use of social justice as a framework, the study led to the question of how advocacy from various people, including parents, impacts special education decision-making. A review into the parents' perspective as social justice thinkers and advocates is key to further understanding special education litigation in Texas public schools.

Practice

The review of special education due process hearing in Texas from 2010-2015 helped identify key issues commonly experienced by campus principals and special education leaders. More than simply categorizing issues, the research study also took a look into the mindset of important leaders who interact with special needs children daily. Resulting from this process was the idea that parents will litigate for a plethora of reasons, many of which cannot be avoided and/or mediated by public school leaders. Additionally, the study participants agreed that building a relationship of trust and communicating with parents regularly can greatly reduce the chances of a parent filing a special education due process complaint or litigation. This finding is key in helping principals and district leaders form a connection with parents and to work towards building a collaborative environment. It also informs graduate university preparation programs of the urgent need to assist future educational leaders to learn to communicate effectively and professionally in high stress situations. Devoting more time to help leaders communicate and collaborate can greatly influence the practices of leaders and the team building between parents and leaders. Additionally, actively working to educate parents about the supports and limitations of IDEA (2004) could help school districts alleviate parent disagreement based

on their emotions or limited understanding of the law. Overall, constructing a mindset of continuous improvement to special education and collaboration among all stakeholders can help public school leaders better navigate stressful and demanding conflicts.

Suggestions/Recommendations for Future Research

Triangulating the expressions of three unique and valuable roles in a school district provided great insight into special education conflict and decisions. As noted earlier, seeking the viewpoint of parents who have children with special needs in the same district through qualitative means is a recommendation for further research. Having this perspective can contribute to our knowledge base for better preparing leaders to make decisions that impact children. In addition, adding a quantitative review into the beliefs of parents will also strengthen the findings of this study. Thus, both qualitative and quantitative studies reviewing the parents' perspective are recommended.

Final Thoughts

Throughout the research study at Evergreen ISD, several findings surprised me. As I spoke with special education directors, coordinators, and principals, it was clear that the best interest of each child drove the decisions of all three leadership roles. In a district where special education due process hearings were common, it was surprising to find how dedicated the leaders were to be improving their practice and providing all that was available to provide. Because of this study, I am more open to the idea that parents' decisions to file due process complaints or litigation is not always due to a school's refusal to provide services. In addition, a director and coordinator's opinion regarding a call for equity for all students really resonated with me. They recognized the need to focus on equity for students with special needs living in the low socio-economic level given their

interactions with families of high socio-economic levels. It was very apparent that the leaders of Evergreen ISD offered more than is necessary to provide a Free Appropriate Public Education. Seeking equity for all serves as a call to action for all public school educational leaders.

APPENDIX A
PRINCIPAL PROTOCOL

Demographic Information

Gender: Male _____ Female _____

Position: _____

Years as Administrator: _____

Procedures for Principal Interviews:

Principal interviews will take place during or after the instructional day and last approximately 45 minutes. They will be audiotaped, transcribed, coded, and analyzed to determine if themes exist between other interviewees. Lettered questions will be used as additional probing questions as needed.

Open-Ended Interview Questions

Contextual Questions

1. Tell me what you do the majority of the time in your job as a principal.
2. How many years have you been in your role?
3. What did you do prior to becoming a head principal?
4. Have you had any specific training in special education?
 - a. Was this adequate for what you have encountered in the job?
 - b. What proportion of your work relates to special education?
5. *For secondary:* How do you structure the special education department?

Research Question 3

6. During your principal certification program, how much weight was placed on preparing you to lead special education?
 - a. How much did you have to learn on the job?
7. As the instructional leader on your campus, what guidance, and support do you provide for special education teachers as they navigate challenging situations?
8. Can you think of a time when you and a parent experienced a disagreement

regarding special education?

- a. Why were they in disagreement?
- b. What was your approach with the parent?
- c. In that particular situation, would you have done anything differently?
- d. When do you bring an issue to the attention of the district?

Research Question 4

9. From your perspective, why do families initiate special education complaints and litigation?
 - a. What are the most common issues brought up by parents and/or advocates?
 - b. Do you find that there are common characteristics of families who initiate litigation?
 - c. What role does communication play in these contentious situations?
 - d. Was there an instance where you were able to deescalate a complaint prior to it reaching litigation? Please describe the actions of all parties.

Research Question 5

10. Are you familiar with social justice theory? [Looks at social justice as equity of basic liberties, fairness of opportunity, different treatment only if it results in the benefit of the most marginalized].
11. Using the three principles above, do you believe that social justice plays a part in your role as a principal? Are there any other issues of equity that are particularly relevant today in special education?

12. My study also looks at the relevance of social justice theory as it relates to advocacy of parents on behalf of their children. Are there patterns that would make certain parents more likely to advocate than others?

13. Is there anything else relevant that you would like to add? May I contact you again if I need clarification on anything?

APPENDIX B
SPECIAL EDUCATION COORDINATOR PROTOCOL

Demographic Information

Gender: Male _____ Female _____

Position: _____

Years as Special Education Coordinator: _____

Procedures for Special Education Coordinator Interviews:

Coordinator interviews will take place during or after the instructional day and last approximately 45 minutes. They will be audiotaped, transcribed, coded, and analyzed to determine if themes exist between other interviewees. Lettered questions will be used as additional probing questions as needed.

Open-Ended Interview Questions

Contextual Questions

1. Tell me what you do the majority of the time in your job as a coordinator in special education.
2. How many years have you been in your role?
3. What did you do prior to becoming a coordinator?
4. Describe your training in special education prior to taking on this position?
 - a. Was this adequate for what you have encountered in the job?
 - b. What aspects of your job are supported by your education in special education?
 - c. What aspects or skills have you had to learn on the job?

Research Question 3

5. What training is critical for campus principals and assistant principals to have when handling special education complaints made by parents?
 - a. What supports do you provide for campus administrators and special education teachers?

- b. Is the training you provide used with fidelity by principals or assistant principals during contentious interactions with parents or advocates?
- 6. From your experience, what families do you see who initiate litigation?
 - a. What are the most common issues brought up by parents and/or advocates?
 - b. How do you ensure successful communication with parents?
 - c. When do you bring an issue to the attention of legal counsel?
- 7. Can you provide an example of a case in which a parent was upset/made the decision to file a due process complaint?
 - a. Why were they in disagreement?
 - b. What was your approach with the parent?
 - c. In that particular situation would you have done differently?
 - d. Can you provide an example of when you were able to deescalate a situation once parents had filed a due process complaint?

Research Question 4

- 8. From your perspective, why do families initiate special education complaints and litigation?
 - a. What are the most common issues brought up by parents and/or advocates?
 - b. Do you find that there are common characteristics of families who initiate litigation?
 - c. What role does communication play in these contentious situations?

Research Question 5

9. Are you familiar with social justice theory? [It looks at social justice as equity of basic liberties, fairness of opportunity, and different treatment only if it results in the benefit of the most marginalized].
10. Using the three principles above, do you believe that social justice plays a part in your role as special education coordinator? Are there any other issues of equity that are particularly relevant today in special education?
11. My study looks at the relevance of social justice theory as it relates to advocacy of parents on behalf of their children. Are there patterns that would make certain parents more likely to advocate than others?
12. Is there anything else relevant that you would like to add? May I contact you again if I need clarification on anything?

APPENDIX C
DISTRICT SPECIAL EDUCATION DIRECTOR PROTOCOL

Demographic Information

Gender: Male _____ Female _____

Position: _____

Years as District Special Education Director: _____

Procedures for Special Education Director Interviews:

Director interviews will take place during or after the instructional day and last approximately 45 minutes. They will be audiotaped, transcribed, coded, and analyzed to determine if themes exist between other interviewees. Lettered questions will be used as additional probing questions as needed.

Open-Ended Interview Questions

Contextual Questions

1. Tell me what you do the majority of the time in your job as special education director.
2. How many years have you been in your role?
3. What did you do prior to becoming a director?
4. Describe your training in special education prior to taking on this position?
 - a. Was this adequate for what you have encountered in the job?
 - b. What aspects of your job are supported by your education in special education?
 - c. What aspects or skills have you had to learn on the job?

Research Question 3

5. When special education issues arise, what is the process before it gets to you?

Research Question 4

7. From your experience, what are the most common special education issues that reach your desk?

- a. To what extent is this unique to the community you serve?
8. In the quantitative portion of my study, I have found that parent across Texas more often litigate over issues of FAPE, LRE, and Programming. Does this align with your experiences?
- a. Can you expand on that?
9. Can you give an example of a contentious case you were involved in?
- a. What was the parent's perspective of what had gone wrong?
 - b. What was your approach with the parent?
 - c. Do you find that these are typically settled or litigated?

Research Question 4

10. From your perspective, why do families initiate special education complaints and litigation?
- a. What are the most common issues brought up by parents and/or advocates?
 - b. Do you find that there are common characteristics of families who initiate litigation?
 - c. What role does communication play in these contentious situations?
11. Was there an instance where you were able to deescalate a complaint prior to it reaching litigation?
- a. Please describe the actions of all parties.

Research Question 5

12. Are you familiar with social justice theory? [It looks at social justice as equity of basic liberties, fairness of opportunity, and different treatment only if it results

in the benefit of the most marginalized].

13. Using the three principles above, do you believe that social justice plays a part in your role as special education director? Are there any other issues of equity that are particularly relevant today in special education?
14. My study looks at the relevance of social justice theory as it relates to advocacy of parents on behalf of their children. Are there patterns that would make certain parents more likely to advocate than others?
15. Is there anything else relevant that you would like to add? May I contact you again if I need clarification on anything?

APPENDIX D
UNT IRB APPROVAL LETTER



Research and Economic Development
THE OFFICE OF RESEARCH INTEGRITY AND COMPLIANCE

December 19, 2016

Dr. David Brackett
Student Investigator: Marcy Poton
Department of Educational Leadership
University of North Texas

Re: Human Subjects Application No. 16-562

Dear Dr. Brackett:

As permitted by federal law and regulations governing the use of human subjects in research projects (45 CFR 46), the UNT Institutional Review Board has reviewed your proposed project titled "Trends in Special Education Due Process Hearings in Texas from 2010-2015." The risks inherent in this research are minimal, and the potential benefits to the subject outweigh those risks. The submitted protocol is hereby approved for the use of human subjects in this study. **Federal Policy 45 CFR 46.109(e) stipulates that IRB approval is for one year only, December 19, 2016 to December 18, 2017.**

Enclosed are the consent documents with stamped IRB approval. Please copy and **use this form only** for your study subjects.

It is your responsibility according to U.S. Department of Health and Human Services regulations to submit annual and terminal progress reports to the IRB for this project. The IRB must also review this project prior to any modifications. **If continuing review is not granted before December 18, 2017, IRB approval of this research expires on that date.**

Please contact The Office of Research Integrity and Compliance at 940-565-4643, if you wish to make changes or need additional information.

Sincerely,

Chad Trulson, Ph.D.
Professor
Chair, Institutional Review Board

CT:jm

1155 Union Circle #310979
Denton, Texas 76203-5017

940.369.4643
940.369.7486 fax

www.research.unt.edu

APPENDIX E
PARTICIPANT CONSENT FORM

University of North Texas Institutional Review Board

Informed Consent Form

Before agreeing to participate in this research study, it is important that you read and understand the following explanation of the purpose, benefits and risks of the study and how it will be conducted.

Title of Study: Trends in Special Education Due Process Hearings in Texas from 2010-2015

Student Investigator: Marcy Rose Potón, University of North Texas (UNT) Department of Educational Leadership. **Supervising Investigator:** Dr. David Brackett

Purpose of the Study: You are being asked to participate in a research study, which involves an analysis of Special Education Due Process Hearings in the state of Texas. It seeks to uncover how the perspective of school principals impacts their decision-making. In addition, it proposes to gather input from campus principals and other district administrators to understand why they believe Due Process Hearings occur. This in turn has a lasting impact on students in special education.

Study Procedures: You will be asked to respond to questions specific to your job role and your experience with special education cases. The intended time for each interview is 30 minutes. It is possible that follow up questions may arise during the data analysis portion of the study. If this occurs, an additional 15 minutes may be necessary for a total of 45 minutes per interview.

Interviews will be audio recorded in order to allow the researcher to capture your responses to the interview questions. Responses will be transcribed for the purpose of identifying important themes that emerge from the interviews. Recordings will be kept securely stored in the supervising investigator's office at UNT and in a locked safe with the researcher while the study is being conducted. Three years after the dissertation is published, the audio recordings will be safely destroyed.

Foreseeable Risks: No foreseeable risks are involved in this study.

Benefits to the Subjects or Others: The study may benefit you by informing campus administrators and district leaders throughout Texas of common issues in Special Education Due Process Hearings. The interviews may help explain "why" due process hearings occur and in turn support the learning of educators.

Compensation for Participants: None

Procedures for Maintaining Confidentiality of Research Records: I will change the names of all participants to numbers to ensure confidentiality is maintained. For example, participants will be named, "participant 1, 2, 3" (campus administrator), "participant 4, 5, 6" (special education

Office of Research Integrity & Compliance
University of North Texas
Last Updated: July 11, 2011

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APPROVED BY THE UNT IRB
FROM 12/19/16 TO 12/18/17
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representative) and “participant 7, 8, 9 (legal counsel/district leader).” In order to secure anonymity, identifiable information, and coded interview questions will be kept in separate locations. The confidentiality of your individual information will be maintained in any publications or presentations regarding this study. Research data will only be kept for 3 years after the publication of the dissertation. At which time, the records will be safely destroyed.

Questions about the Study: If you have any questions about the study, you may contact Marcy Rose Potón at marcypoton@gmail.com (503) 442-9266 or Dr. David Brackett at david.brackett@unt.edu

Review for the Protection of Participants: This research study has been reviewed and approved by the UNT Institutional Review Board (IRB). The UNT IRB can be contacted at (940) 565-4643 with any questions regarding the rights of research subjects.

Research Participants’ Rights:

Your signature below indicates that you have read or have had read to you all of the above and that you confirm all of the following:

- Marcy Rose Potón has explained the study to you and answered all of your questions. You have been told the possible benefits and the potential risks and/or discomforts of the study.
- You understand that you do not have to take part in this study, and your refusal to participate or your decision to withdraw will involve no penalty or loss of rights or benefits. The study personnel may choose to stop your participation at any time.
- You understand why the study is being conducted and how it will be performed.
- You understand your rights as a research participant and you voluntarily consent to participate in this study.
- You have been told you will receive a copy of this form.

Printed Name of Participant

Signature of Participant

Date

For the Student Investigator or Designee:

Office of Research Integrity & Compliance
University of North Texas
Last Updated: July 11, 2011

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I certify that I have reviewed the contents of this form with the subject signing above. I have explained the possible benefits and the potential risks and/or discomforts of the study. It is my opinion that the participant understood the explanation.

Signature of Student Investigator

Date

Office of Research Integrity & Compliance
University of North Texas
Last Updated: July 11, 2011

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APPROVED BY THE UNT IRB
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