

# SY 10-11 DUE PROCESS REPORT

DUE PROCESS COMMITTEE  
SEPTEMBER 2012

## CADRE CONTINUUM: STAGES OF CONFLICT RESOLUTION

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



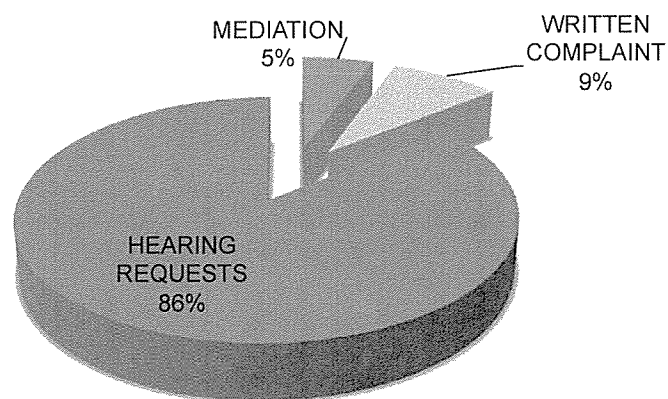
Developed by CADRE  
[www.directionservice.org/cadre/continuum.cfm](http://www.directionservice.org/cadre/continuum.cfm)



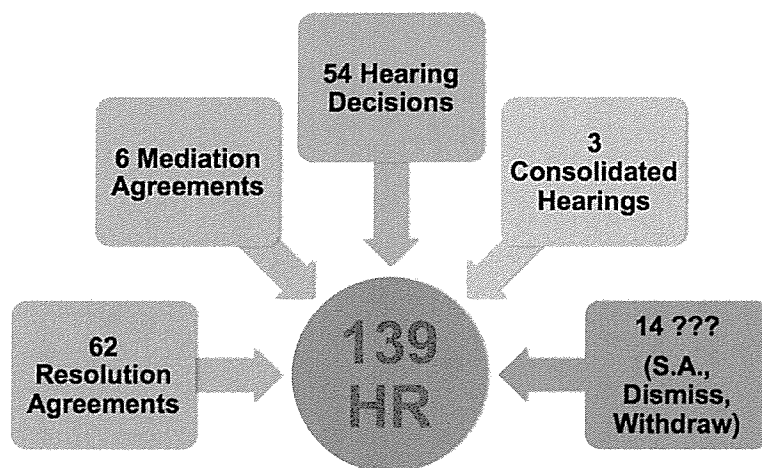
## HAWAII'S CONTINUUM

| Stage 2<br>Disagreement  | Stage 3<br>Conflict  | Stage 4<br>Procedural<br>Safeguard   | Stage 5<br>Legal Review   |
|--|--|--|---|
| <ul style="list-style-type: none"> <li>• Conciliation</li> <li>• Parent-to-Parent Assistance (SPIN, HFAA, LDAH)</li> </ul> | <ul style="list-style-type: none"> <li>• Facilitated IEPs</li> <li>• Mediation prior to Hearing Request</li> </ul> | <ul style="list-style-type: none"> <li>• Mediation as a result of Hearing Request</li> <li>• Resolution Session</li> <li>• Due Process Hearing</li> <li>• Written Complaint</li> </ul> | <ul style="list-style-type: none"> <li>• State Civil Court Review</li> <li>• 9<sup>th</sup> Circuit Review</li> </ul> |

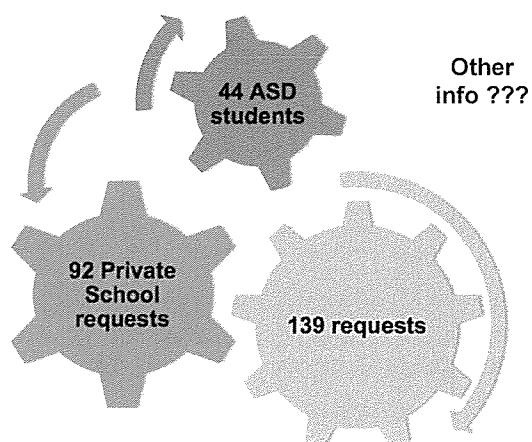
## 2010-11 USAGE OF DISPUTE OPTIONS



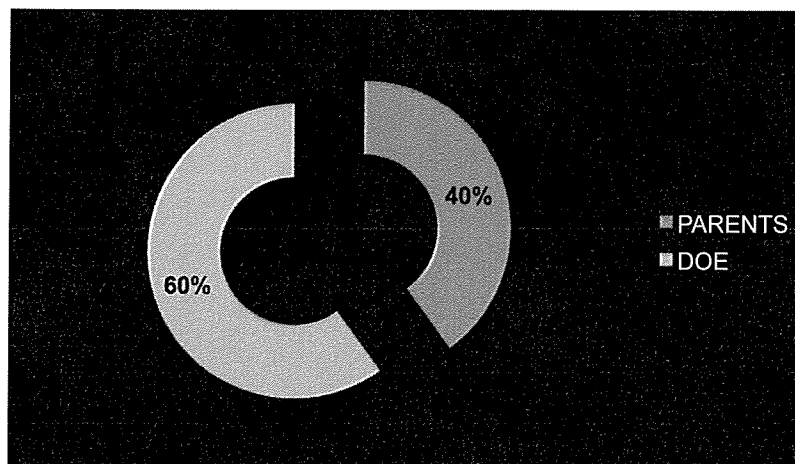
## RESOLUTION OF SY 2010-11 HEARING REQUESTS



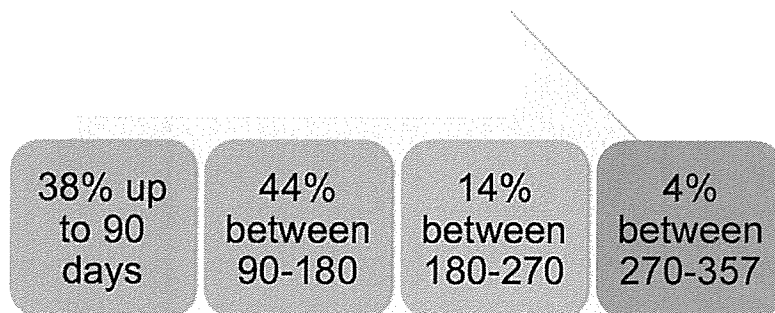
## LIMITED INFORMATION ON HEARINGS REQUESTS



## 2010-11 PREVAILING PARTY

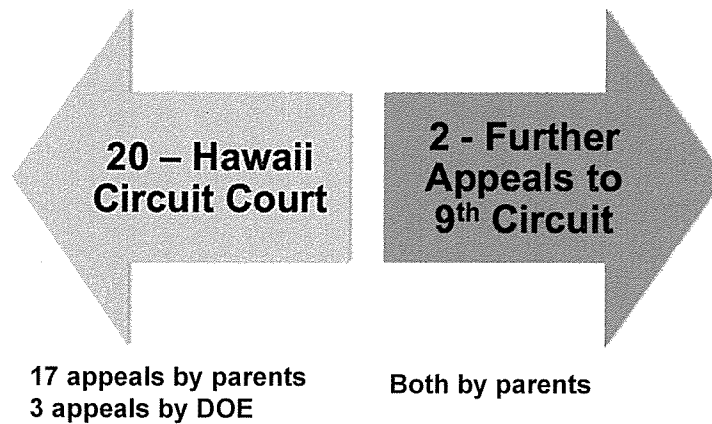


## 2010-11 EXTENSIONS

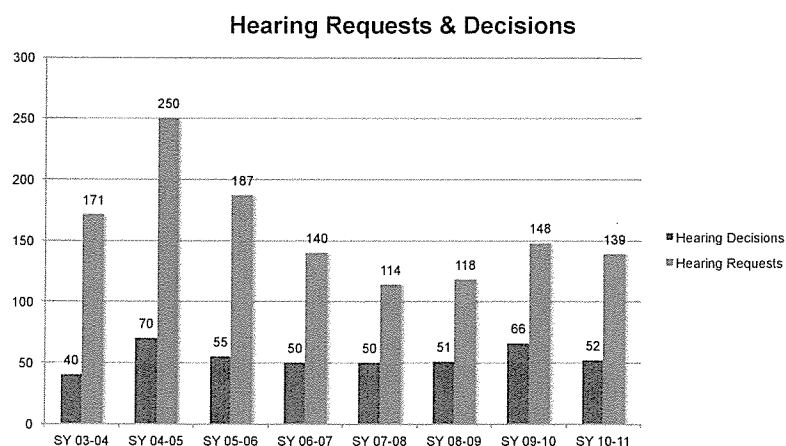


52 of 54 hearings involved extensions

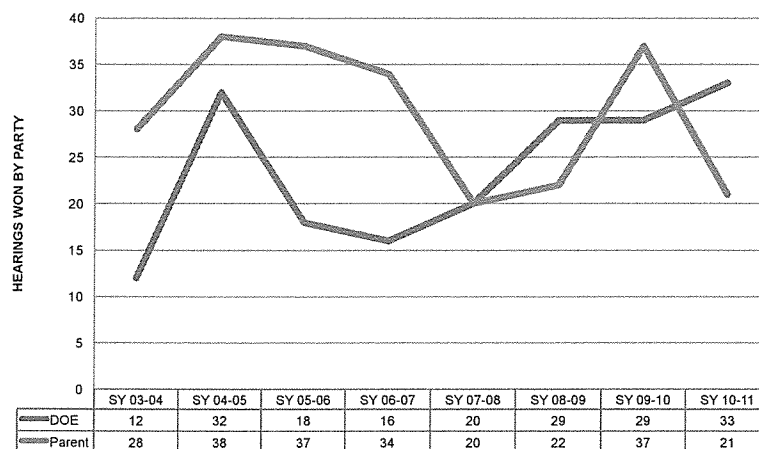
## 2010-11 APPEALS OF HEARING DECISIONS



## TRENDS IN HAWAII DATA: REQUESTS/DECISIONS



## TRENDS IN HAWAII DATA: PREVAILING PARTY



## TRENDS IN HAWAII DATA: RESO SESSION AGREEMENTS

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

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

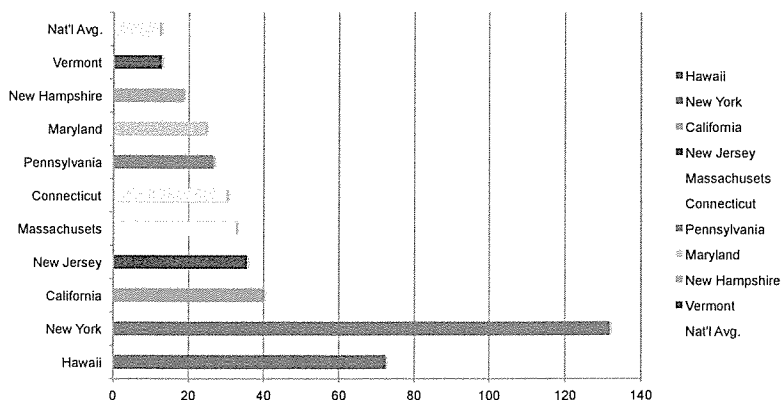
| Method               | Nat'l Avg. | Hawaii 06-07 | Hawaii 07-08 | Hawaii 08-09 | Hawaii 09-10 | Hawaii 10-11 |
|----------------------|------------|--------------|--------------|--------------|--------------|--------------|
| Written Complaints   | 7.6        | 10.9         | 11.3         | 6.5          | 7.0          | 7.1          |
| Hearing Requests     | 12.3       | 61.0         | 54.3         | 58.6         | 74.2         | 71           |
| Due Process Hearings | 1.3        | 21.7         | 22.9         | 19.4*        | 21.1*        | 14.4*        |
|                      |            |              |              | 23.2**       | 33.2**       | 28.9**       |

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

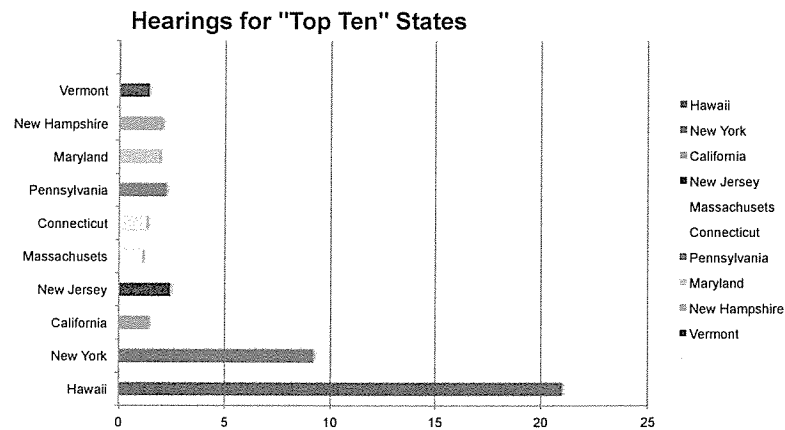
\*\* True rate calculated by SEAC (with no cases pending)

## COMPARISON TO NATIONAL DATA: HEARING REQUESTS (SY 09-10)

Requests Per Capital for "Top Ten" States



## COMPARISON TO NATIONAL DATA: HEARING DECISIONS (SY09-10)



## RED FLAGS - 2012 REPORT



**There have been few improvements in Hawaii's capacity to settle school conflicts.**



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



**The cost of formal dispute resolution is high and appears to be rising.**

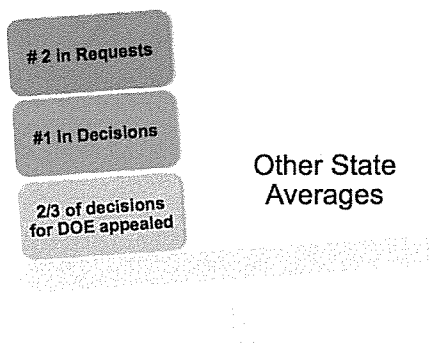


**Few due process hearings are concluded within the 75-day timeline.**

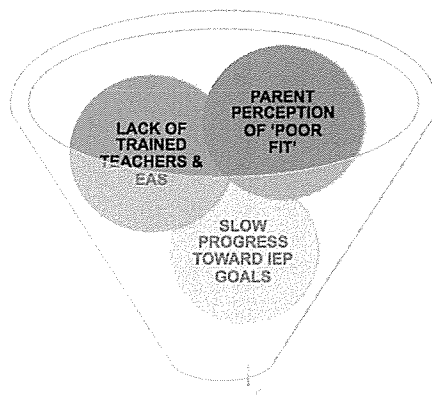


## **HIGH NUMBERS OF HEARING REQUESTS, HEARINGS & APPEALS**

Hawaii



## **AN OVER-REPRESENTATION OF STUDENTS WITH AUTISM**



PARENTS SEEKING PRIVATE PLACEMENT



## COSTS RISING

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

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



## HIGH NUMBERS OF HEARING EXTENSIONS

National average of hearings involving extensions is 30%

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

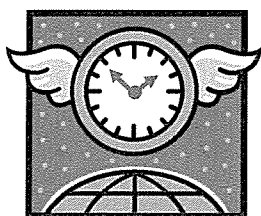
96% of 10-11 Hawaii hearings involved extensions

## RECOMMENDATIONS



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

## RECOMMENDATIONS



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

## **RECOMMENDATIONS**



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

November 14, 2011 WestEd Report to the Hawaii DOE

## **RECOMMENDATIONS**



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

November 14, 2011 WestEd Report to the Hawaii DOE

## **RESOURCES**

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

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

**DOE Listing of Due Process Decisions**

<http://www.doe.k12.hi.us/reports/specialeducation/dueprocess/pdf1011/index.htm>

**Due Process Decisions Summary and Appendices**

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