

# **New Jersey Department of Education**

## **Special Education Ombudsman Annual Report to the State Board of Education**

July 1, 2022 to June 30, 2023

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## Background

The Special Education Ombudsman was created in 2016 pursuant to N.J.S.A. 18A:46-2.4. The Special Education Ombudsman serves as a neutral resource to provide information and support to parents/caregivers, advocates, educators, and students with disabilities regarding special education rights and services. In addition to this role, the statute requires the Special Education Ombudsman to make an annual report to the State Board of Education and the Commissioner of Education that includes a summary of the services the Special Education Ombudsman provided during the year, along with recommendations concerning the state's implementation of special education procedures and services. This document serves that function for SFY 2023, covering the period from July 1, 2022 through June 30, 2023.

## Role and Responsibilities

The duties of the Special Education Ombudsman, as set forth in the statute, include the following:

- Serve as a source of information for parents, students, educators, and interested members of the public to help them better understand State and federal laws and regulations governing special education;
- Provide information and support to parents of students with disabilities in navigating and understanding the process for obtaining special education evaluations and services;
- Provide information and communication strategies to parents and school districts for resolving a disagreement regarding the identification, evaluation, classification, placement, provision of a free, appropriate public education, or disciplinary action, of a student with a disability; and to educate parents on the available options for resolving such disputes, including due process hearings, mediation, and other alternative dispute resolution processes;
- Work neutrally and objectively with all parties to help ensure that a fair process is followed and that the special education system functions equitably and as intended;
- Identify any patterns of complaints that emerge regarding special education rights and services, and to recommend strategies for improvement to the Department of Education;
- Assist the Department of Education in creating public information programs designed to acquaint and educate parents and the public about the ombudsman's duties; and
- Serve as a resource for disability-related information and referrals to other available programs and services for individuals with disabilities, including early intervention and transition to adult life.

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## Key Terms and Acronyms

**Approved Private School for Students with Disabilities (APSSD)** – incorporated entity approved by the Department of Education to provide special education and related services to students with disabilities placed by the district board of education responsible for providing their education.

**Child Study Team (CST)** - A multidisciplinary group of professionals, consisting of a school psychologist, a school social worker, a learning disability teacher-consultant, and often a speech-language specialist, dedicated to identifying and helping students with special needs.

**Classification** – A determination of whether a child is eligible for special education and related services.

**Complaint Investigation** - A complaint is an allegation that a local education agency has violated federal or state special education law. A complaint may be initiated on behalf of an individual child or on behalf of a group of children. A complaint may be filed with the New Jersey Department of Education for an independent review of the alleged violation(s).

**Due Process Hearing** - A due process hearing is a legal process in which the resolution of a disagreement between a parent and the school district is decided by an administrative law judge (ALJ) from the Office of Administrative Law (OAL).

**Evaluation** - The tests and other assessment procedures, including a review of information, which are used to decide whether a child is eligible for special education services.

**Extended School Year (ESY)** - A program which may provide a student with a disability special education and related services when the school is not normally in session, for example, during summer or holiday breaks.

**Facilitated IEP meeting (FIEP)** - A program offered by the OSE where a state-sponsored, specially trained IEP facilitator assists the parties in the development of an appropriate IEP that is student-centered. This program is designed to minimize state-level procedural protections and interventions that often result from ineffective IEP meetings.

**Free, Appropriate Public Education (FAPE)** - Special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet state and federal requirements; include preschool, elementary school, or secondary school education; and are provided according to an IEP.

**Identification** - The decision to evaluate a child to determine whether special education services are needed.

**Individuals with Disabilities Education Act (IDEA)** – The statute enacted by the United States Congress which ensures that students with disabilities are provided a free appropriate public education.

**Individualized Education Program (IEP)** - A written plan which sets forth present levels of academic achievement and functional performance, measurable annual goals and short-term objectives or benchmarks and describes an integrated, sequential program of individually designed instructional activities and related services necessary to achieve the stated goals and objectives. This plan shall

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establish the rationale for the student’s educational placement, serve as the basis for program implementation and comply with the mandates set forth in applicable law and regulations.

**Least Restrictive Environment (LRE)** - To the maximum extent appropriate, children with disabilities are educated with children who are not disabled and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

**Local Education Agency (LEA)** - A school district; an entity which operates local public primary and secondary schools in the United States.

**Mediation** – A voluntary meeting conducted by a qualified and impartial mediator, who is trained in effective dispute resolution techniques, and assists parties in reaching an agreement.

**New Jersey Department of Education (“NJDOE” or “the Department”)** – The State agency that administers State and federal aid programs affecting more than 1.4 million public and non-public elementary and secondary school children in the state of New Jersey.

**Office of Special Education** – The Office within the NJDOE that administers the special education dispute resolution system, which includes requests for Facilitated IEP meetings, due process hearings, mediation conferences, and complaint investigations. The Office coordinates the scheduling of mediation conferences.

**Parent** – The natural or adoptive parent, the legal guardian, foster parent when willing to so serve, or surrogate parent who has been appointed according to N.J.A.C. 6A:14.2.2(a) through (i), a person acting in the place of a parent (such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student’s welfare). Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights under this chapter. The term “parent” shall include the adult student.

**Parental Rights in Special Education (PRISE)** - a document prepared by the OSE which describes the state and federal laws affecting the provision of special education and parental rights in the special education process.

**Related Services** – Any supportive service a student with a disability needs to benefit from special education. Examples of related services include: counseling; speech-language therapy (SLT); occupational therapy (OT); and physical therapy (PT). Transportation is also a related service. This list is not exhaustive.

**Special Education** – Defined in accordance with the definition of the term set forth in IDEA and its implementing regulations as well as the regulations governing special education in New Jersey, set forth at N.J.A.C. 6A:14.

**Special Education Ombudsman** – a neutral resource to provide information and support to parents/caregivers, advocates, educators, and students with disabilities regarding special education rights and services.

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**Student** – A person age three through 21 who is entitled to receive educational programs and services in accordance with Federal or State law or regulation.

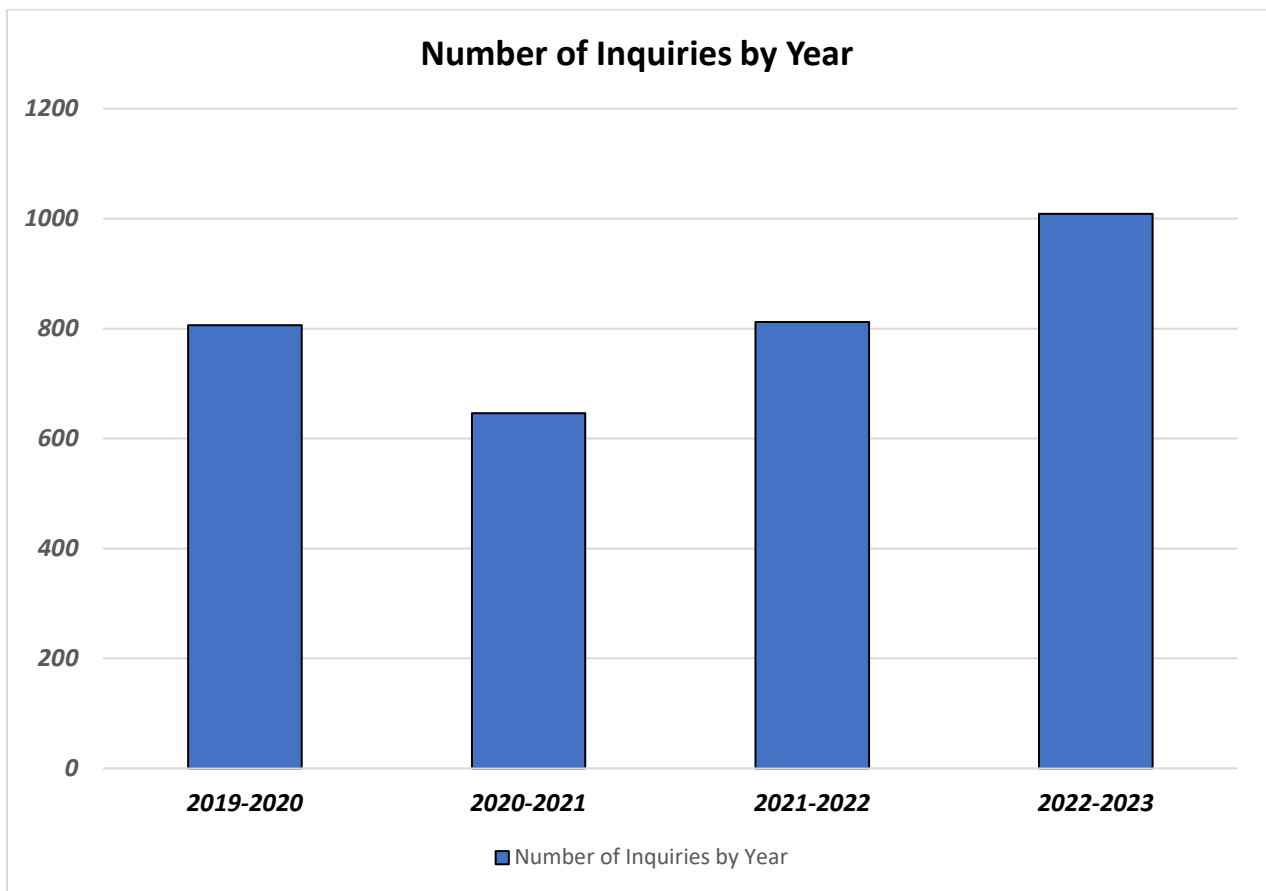
**Student with a Disability** – A student who has been determined to be eligible for special education and related services according to N.J.A.C. 6A:14-3.5 or 3.6.

**Transition** - Transition refers to the process of a student moving from school into the adult world. New Jersey regulations require that transition planning begins to be addressed in the IEP that will be in a place for the school year in which your child reaches 14 years of age, or younger if determined appropriate by the IEP team.

## Summary of Services

During SFY 2023, the Special Education Ombudsman responded to over 1000 inquiries. Throughout the school year, emails and telephone calls were submitted by parents, guardians, caregivers, advocates, educators, and students with disabilities along with other people who work in the field of special education. The below table depicts a comparison of the number of inquiries over the last four years.

Figure 1



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Figure 2, below, depicts the number of inquiries submitted from each representative group between July 1, 2022 and June 30, 2023. The graph below continues to show that most inquiries came from parents of students with disabilities and the remaining categories remain at similar percentages to the previous year. The “Other/Not Specified” category includes many individuals who wished to remain anonymous and also include but are not limited to: friends or relatives; private and non-profit companies or organizations; out of state agencies; social service agencies; and researchers.

Figure 2

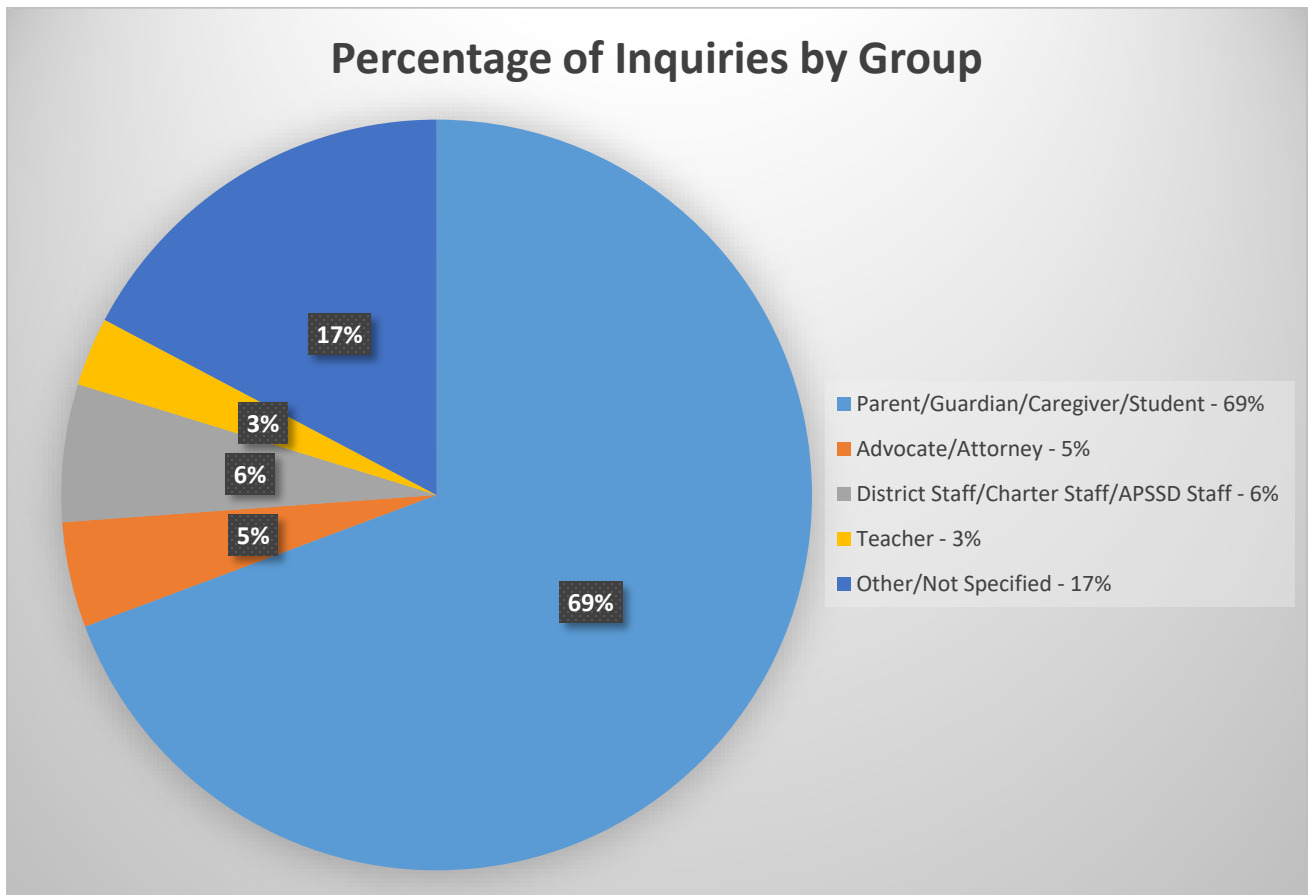
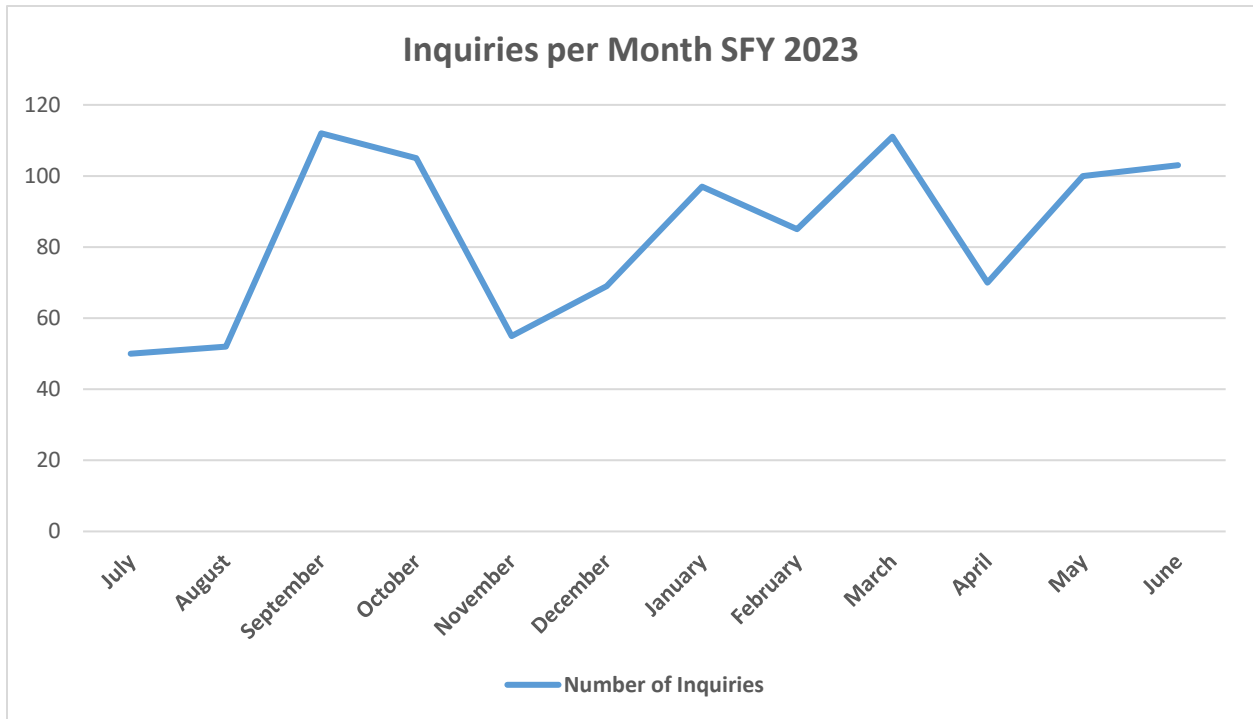


Figure 3 depicts a breakdown of the number of inquiries to the Special Education Ombudsman each month. The volume of calls and emails increases during the month of September which corresponds with the start of the new school year. During SFY 23, the number of inquiries varied each month, with a spike in March and again in May and June. As these are often the months when many IEP meetings are held to discuss programming for the upcoming school year and extended school year services for students, the increase in inquiries is not unexpected.

Figure 3



Most inquiries related to the education of students with disabilities, such as:

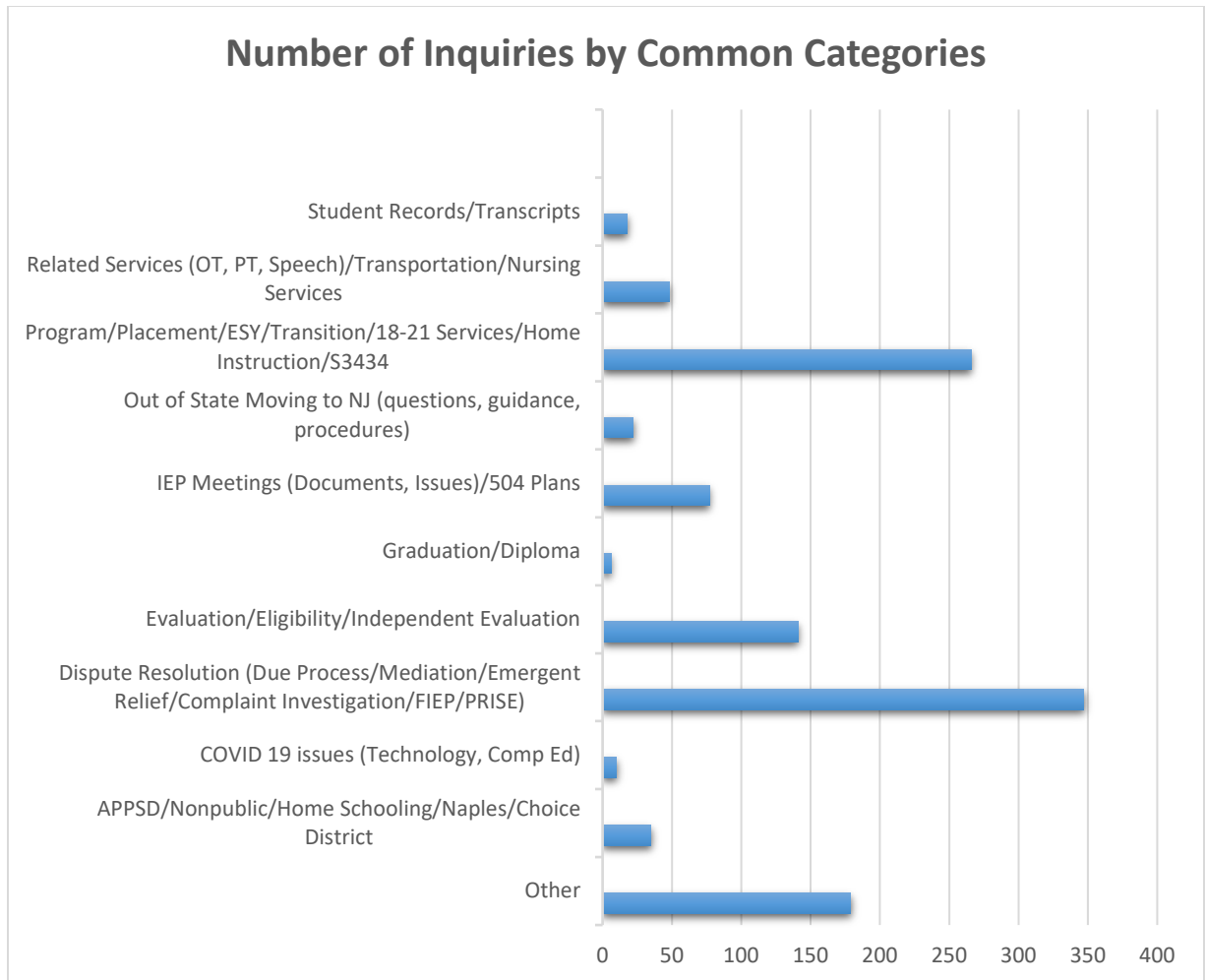
- The process for initiating an evaluation of a student to determine eligibility for special education services;
- The development and implementation of student Individualized Education Programs (IEPs);
- Program and placement options for students;
- The delivery of related services such as speech-language services, occupational; and physical therapies as well as transportation services;
- The process to follow for families moving to New Jersey with a student with a disability;
- Understanding the special education dispute resolution process and options available to a parent/guardian; and
- Understanding the complaint investigation process and procedures.

Following the release of an NJDOE Broadcast memo in February 2023 addressing the use of psychiatric clearances for students with disabilities a number of questions were received. Student transportation remained a topic of discussion as well as districts still worked through the national and statewide shortages of bus drivers. Questions regarding the staffing of teachers and paraprofessionals/classroom aides continued to be raised. It should be noted that in February 2023 the Initial Recommendations from the Task Force on Public School Staff Shortages in New Jersey was released and provided initial recommendations to increase the quantity of teacher applications in New Jersey. Whenever possible, schools and parents worked together to develop solutions as districts and schools worked to recruit and fill positions, however staffing remained a challenge in many places across the state.

Compensatory education remained a topic of discussion with parents because of COVID closures and P.L. 2022, c.2 which was signed into law by Governor Murphy in March 2022. This law extended the period of time a parent, guardian, or LEA must request a due process hearing regarding the education of a child with disabilities during a COVID-19 school closure or during periods of virtual, remote, hybrid, or in-person instruction. Additionally, the law requires each LEA to hold an Individualized Education Program (IEP) team meeting by December 31, 2022, for every student with a disability who had an IEP between March 18, 2020, and September 1, 2021, to discuss the need for compensatory services. Inquiries related to the requirements of the law were received and were addressed in a timely manner to ensure parties understood what was required by the law, their rights and the timelines associated with the law.

The below table depicts the most common issues raised and the approximate number of inquiries related to each issue. It should be noted that some inquiries involve multiple issues related to special education; therefore, one inquiry may be categorized into multiple categories.

Figure 4





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The topic with the highest number of inquiries during SFY 2023 relates to dispute resolution options. This area along with topics related to program and placement for students comprise more than half of total inquiries. Questions and conversations in the dispute resolution category often involve an explanation of the rights of a parent/guardian of a student with a disability, and how someone may file for a formal special education complaint investigation if they believe a school is not following an IEP or the special education laws and regulations. Whenever possible, the Special Education Ombudsman will help to address concerns and questions between parties to avoid the need to pursue formal dispute resolution options, while, at the same time, ensuring that a parent/guardian is fully informed of their rights.

Additionally, the Special Education Ombudsman continues to receive many inquiries unrelated to special education. For example, the Special Education Ombudsman often receives inquiries related to teacher certification, personnel and building operations navigating the NJDOE website or contacting a specific office within the Department of Education or another State agency.

## Resolution

The assistance provided by the Special Education Ombudsman varies depending on the inquiry. Often, it is listening to parents and others who call the office and working through the questions and concerns related to an individual student or situation. Conversations frequently involve discussions on how to approach a certain situation or question/concern a parent/guardian may have regarding their child or who to contact within the school regarding the immediate concern. Equally important is making sure parents and those who are concerned about students with disabilities know and understand their rights and options. Assistance provided by the Special Education Ombudsman included:

- Provide the individual with resources to assist with their inquiry, including:
  - The [Parental Rights in Special Education \(PRISE\)](#), which is a document prepared by the OSE that describes the state and federal laws affecting the provision of special education and parental rights in the special education process;
  - State and/or federal special education law and regulations  
<http://www.state.nj.us/education/code/current/title6a/chap14.pdf>  
<https://sites.ed.gov/idea/statuteregulations/>;
  - [Department of Education](#) website. Specifically, the updated [Special Education](#) website, which includes information specific to: Transition Services, Autism, Dyslexia, Positive Behavior Supports and Special Education Opportunities for Action, Learning and Collaboration. The website also includes updated forms to be used when requesting a Facilitated IEP meeting, filing for special education mediation, due process, or complaint investigation;
  - [New Jersey Department of Education Broadcast memos](#);
  - Other relevant guidance and information posted on the Department of Education's website along with links to other specific offices within the Department; and
- Contact the local education agency to discuss the concerns raised and help the parties facilitate a resolution, including providing communication strategies to parents and districts to help resolve disagreements;

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- Assist with finding current district staff or district/school website links to help address specific questions/issues they may have with the district or school;
  - Assist parents/guardians who are new to New Jersey to access and navigate the school registration process to ensure a smooth transition of services for a student with a disability who moves to a New Jersey school;
  - Assist parents/guardians who have a child transitioning from Early Intervention to school district level programs for students with disabilities to ensure a smooth transition for when the child turns three;
  - Provide information about the Facilitated IEP [program](#) (FIEP), a program offered by the NJDOE where a state-sponsored, specially trained IEP facilitator assists the parties in the development of an appropriate IEP that is student centered. This program is designed to minimize state-level procedural protections and interventions that often result from ineffective IEP meetings;
  - Where there is a dispute between the student’s parents and the local education agency concerning the education of a student with a disability, the parent will be referred to the formal dispute resolution procedures offered by the NJDOE, which include:
    - Requests for [Complaint Investigation](#)
    - Requests for [Mediation](#)
    - Requests for [Due Process Hearings](#)
  - Parents may also be referred to an agency that can help provide advocacy or be provided with resources for [Free and Low Cost Legal Representation](#);
  - Connecting callers with staff from the Office of Special Education or other New Jersey Department of Education offices such as:
    - The [County Offices of Education](#)
    - The [Office of Controversies and Disputes](#)
    - The [Office of Student Transportation](#)
    - The [Office of Standards](#)
    - The [Office of Assessments](#)
  - Refer the individual to other federal and state agencies and resources, including:
    - [Office for Civil Rights](#)

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- [Division of Development Disabilities \(DDD\)](#)
  - [Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families](#)
  - [Early Intervention](#)
  - [Division of Vocational Rehabilitation Services \(DVRS\)](#)
  - [Commission for the Blind and Visually Impaired](#)
  - [Division of Deaf and Hard of Hearing](#)
  - [New Jersey Office of Institutional Abuse Investigation Unit](#)
  - [Catastrophic Illness in Children Relief Fund](#)
  - [NJ Children's System of Care](#)
  - [Statewide Parent Advocacy Network](#)
  - [Disability Rights of New Jersey](#)
  - [Approved Clinics and Agencies](#)
- Provide information on NJDOE programs such as [New Jersey Tiered Systems of Support \(NJTSS\)](#), and the [Learning Resource Centers](#).

## Recommendations

It is recommended that the NJDOE continue to share information regarding the Special Education Ombudsman’s Office and contact information with the public and organizations that support families of students with disabilities through public media and direct correspondence. The NJDOE should ensure materials regarding the Ombudsman are available in multiple formats and various mechanisms are used to disseminate information. In addition, the Ombudsman should work to increase attendance at state level or county level events aimed at reaching parents and families of students with disabilities. During SFY 2023, the Special Education Ombudsman attended and participated in the following events:

- The Ocean County Library Sixth Annual Autism Resource Fair (April 2023);
- A meeting of the New Jersey Council on Developmental Disabilities (May 2023); and
- The New Jersey Statewide Parent Advocacy Network’s Statewide Special Education Parent Leadership Roundtable (May 2023).

In addition, continued efforts should be made to promote the Facilitated IEP program. This program provides a proactive option for families and districts to participate in an IEP meeting facilitated by a

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neutral party whose only goal is to assist all parties in developing an IEP that meets the needs of the student. IEP facilitation may be one avenue to reduce disputes arising over IEP development.

The Office of Special Education website houses many E-Learning Opportunities for families, educators, and other stakeholders. Expanding the offerings to include topics such as strategies for effective communication with parents/guardians and dispute resolution would be beneficial. The Office of Special Education should also continue to expand upon its Community of Practice opportunities (CoP) for educators across New Jersey. A community of practice is a group of people who share a common interest in something they do, meet on a regular basis, and seek to improve their practice (Wenger & Traynor, 2015). Currently the office has created several CoP to discuss topics such as preschool students with disabilities, students with Autism, Transition programs for 18–21-year-olds and students who are deaf or hard of hearing.

## Conclusion

The role of the Special Education Ombudsman is to serve as a resource to provide information and support to parents, students and educators regarding special education rights and services. The Special Education Ombudsman continues to be a valuable point person and resource to parents, students, and educators throughout New Jersey.

It is again, however, important to recognize that New Jersey has over 650 individual school districts and charter schools each with their own special education staff including child study teams, individualized education program teams and related service providers. In total, there are over 225,000 students in public schools throughout New Jersey with IEPs and over 12,000 students in private schools with Individual Service Plans. Calls and emails that come to the Ombudsman are often unique and specific to a student and family. Oftentimes, calls that come to the Ombudsman are from people who request to remain anonymous and just need someone to talk to or discuss their concerns and questions. Inquiries come from all over the state and come from parents, relatives, schools, and the public. As stated in previous reports, it is, therefore, hard to identify “patterns” of noncompliance on a larger scale. As you can see in the recent above data, there are several topics or questions that consistently emerge on a more regular basis such as: implementation of an IEP; staffing and specifically staffing 1:1 services that may be required for a student during the school day; evaluations and timelines to complete such evaluations and information on how to request an evaluation of a student when needed; requests for student records, appropriate program and placement of a student once identified as a student with a disability; transportation concerns and dispute resolution and complaint options available.

Community organizations and other statewide organizations have been providing parents/guardians and families with contact information for the Special Education Ombudsman. As a result, questions and concerns can be answered and addressed in a timely and effective manner. Finally, it is important to remember that communication remains a fundamental component in maintaining positive relationships between families and the school district that are student-centered. Disagreements and formal disputes often arise because of miscommunication or a lack of communication. Fostering and developing positive and effective communication strategies will help support both parents and district staff to achieve the goal of focusing on positive student outcomes.