

New Jersey Department of Education

Special Education Ombudsman Annual Report to the State Board of Education

July 1, 2021 to June 30, 2022

New Jersey Department of Education

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Background

The Special Education Ombudsman was created in 2016 pursuant to N.J.S.A. 18A:46-2.4. The individual 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 provided by the 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 2022, covering the period from July 1, 2021 through June 30, 2022.

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.

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, 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 with 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

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.

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

Much of the support provided by the Special Education Ombudsman during the start of 2021-2022 school year involved responding to inquiries concerning the delivery of special education services to students with disabilities during the COVID-19 global pandemic. During SFY 2022, the Special Education Ombudsman responded to approximately 800 inquiries, through email or telephone calls, from parents, guardians, caregivers, advocates, educators, and students with disabilities. The below table provides the number of inquiries over the last four years.

Figure 1

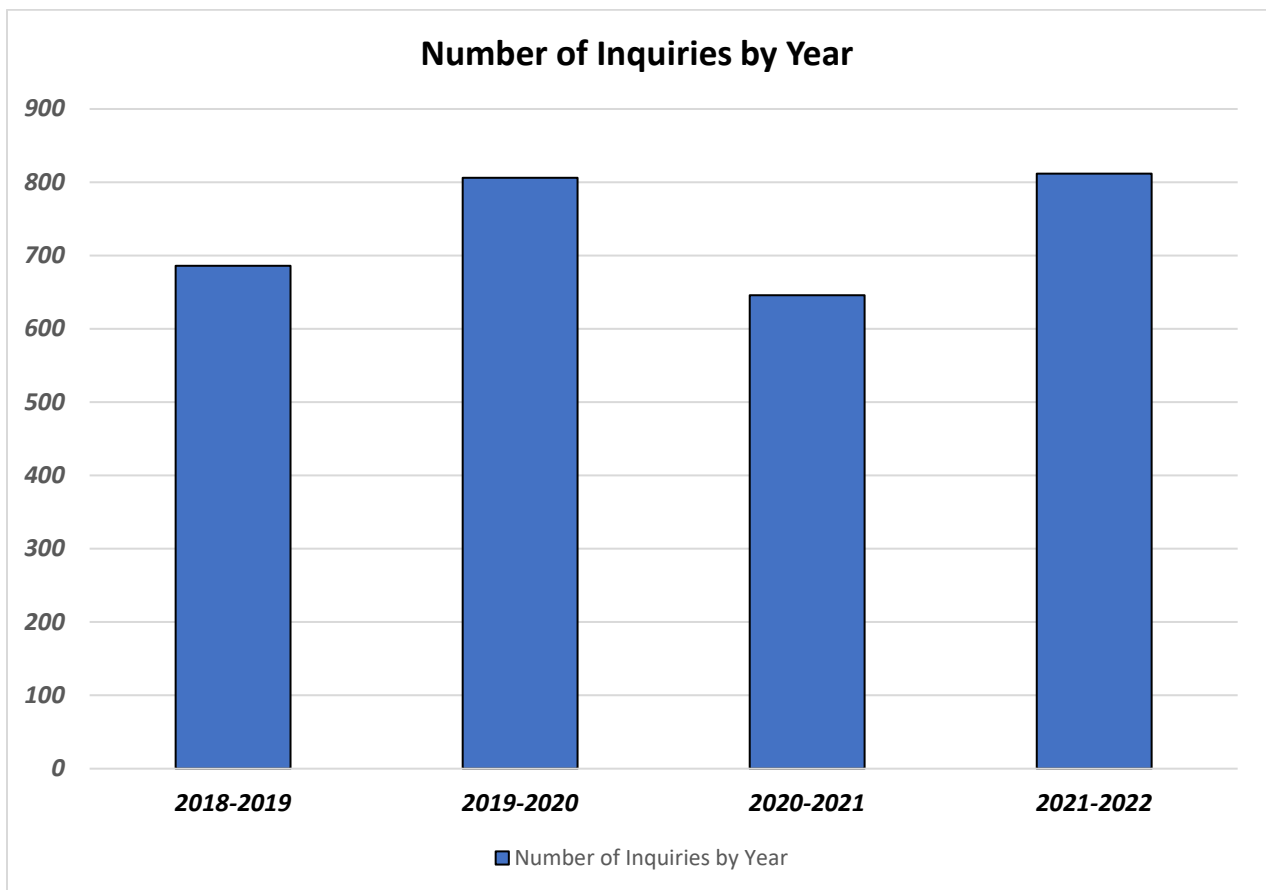


Figure 2, below, depicts the number of inquiries submitted from each representative group between July 1, 2021 and June 30, 2022. Most inquiries came from parents of students with disabilities. The “Other/Not Specified” category includes individuals who wished to remain anonymous, and the remaining include, 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

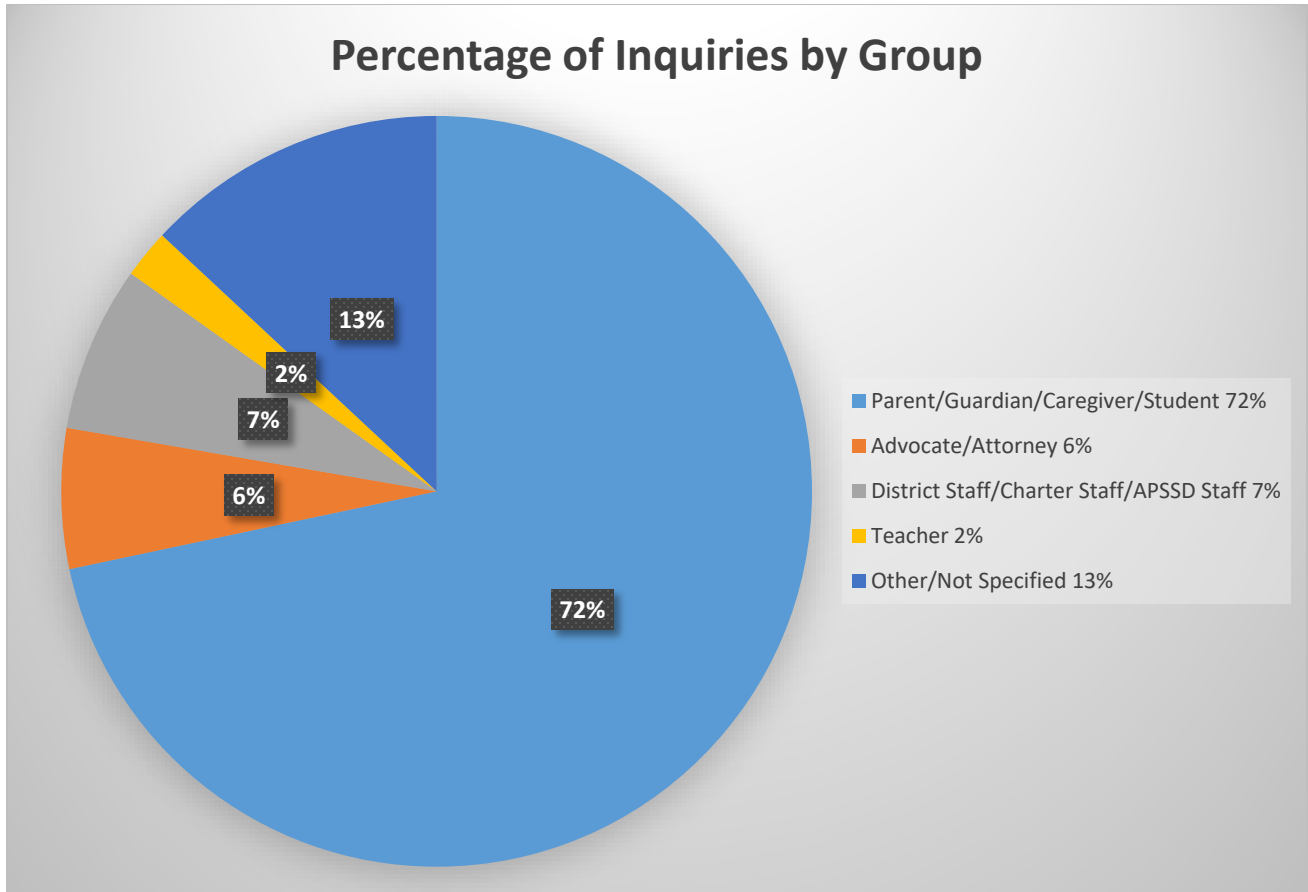
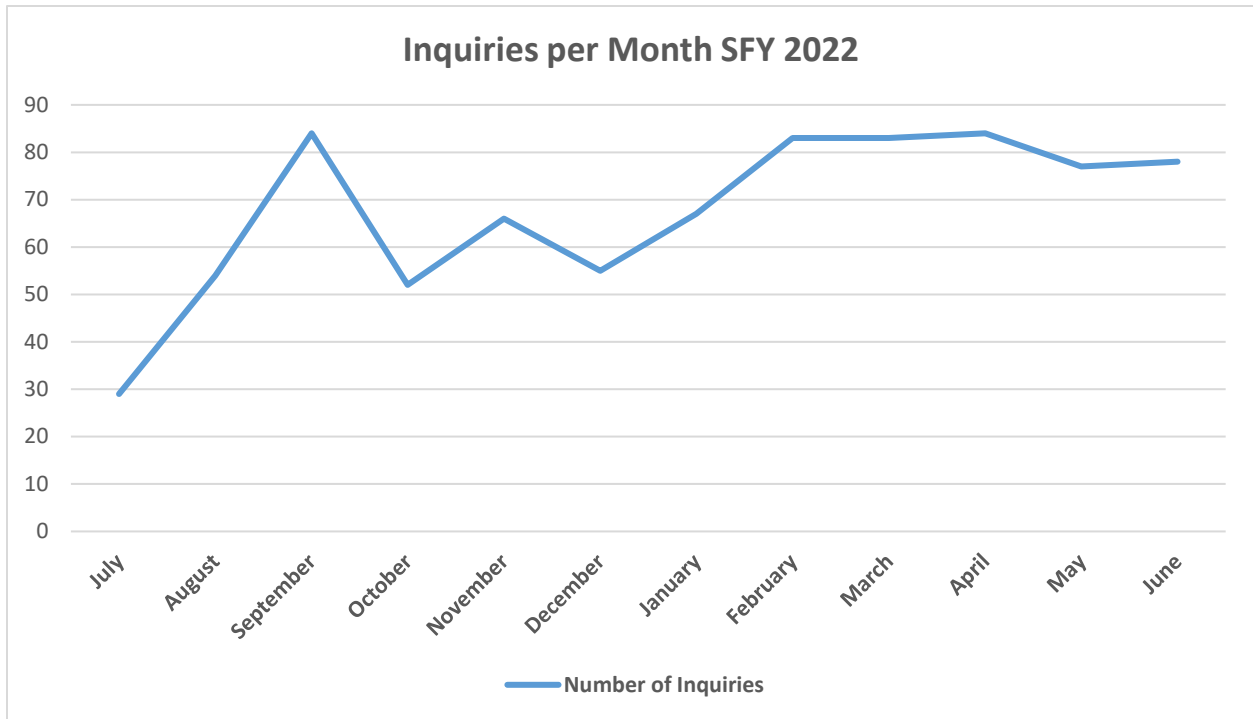


Figure 3 provides an analysis of the number of inquiries to the Special Education Ombudsman each month. The number of inquiries is highest prior to the beginning of the school year and also at the end of the school year when conversations regarding extended school year services and programming for the upcoming school year occur.

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;
- Understanding the special education dispute resolution process and options available to a parent/guardian; and
- Understanding the complaint investigation process and procedures;

There was an increase in inquiries related to student transportation, paraprofessionals/classroom aides, nursing services and compensatory services.

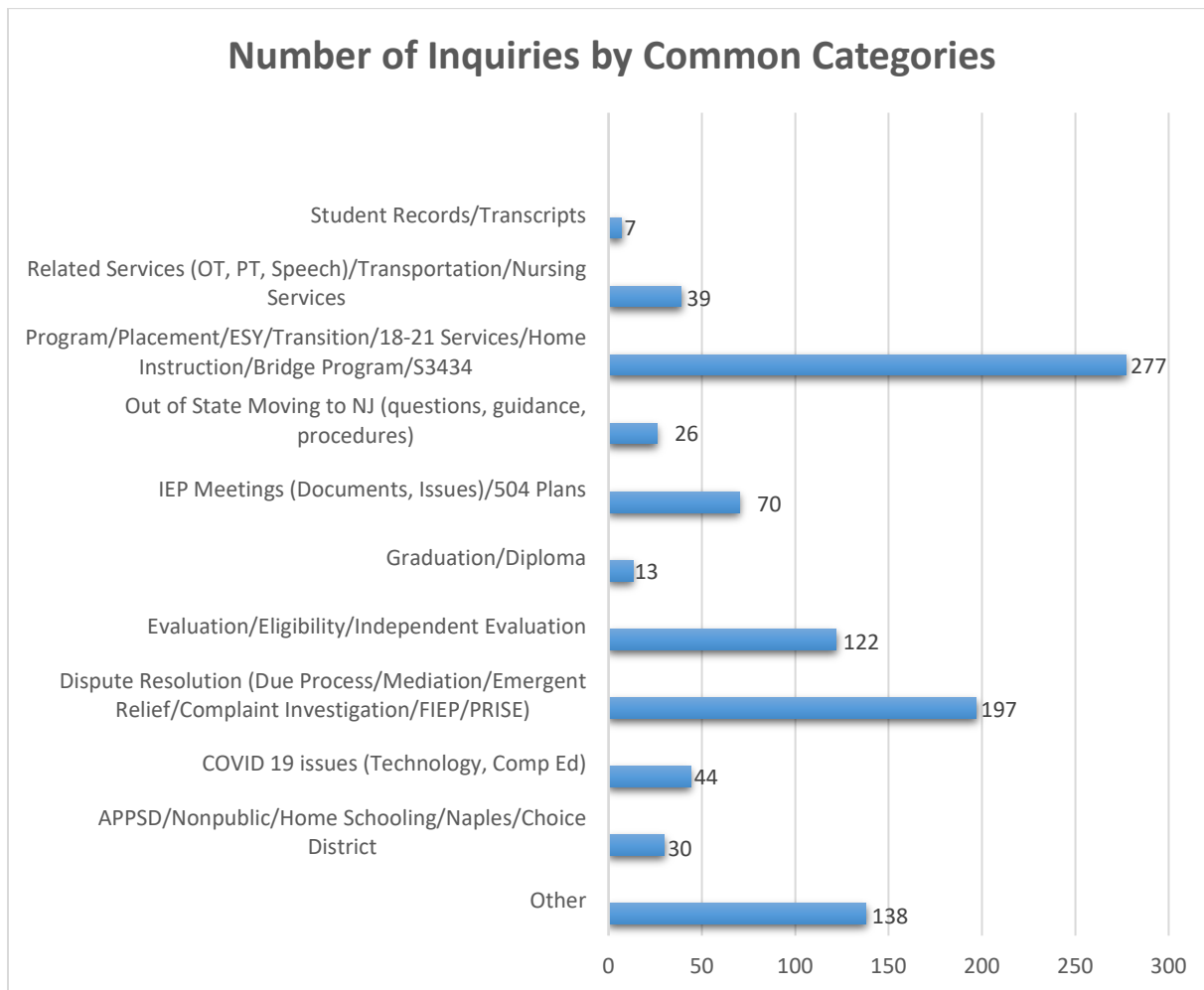
The national and statewide shortage of bus drivers at the start of the school year and the impact on students with disabilities and their families was the subject of many inquiries. Whenever possible, schools and parents worked together to develop solutions and resourceful ways to ensure students were safely transported to and from school. The same holds true for inquiries regarding paraprofessionals and nursing services. While districts and schools worked to fill positions, staffing remained a challenge in many places.

Compensatory education was also a common 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 has to 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.

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



Questions related to the program and placement of students with disabilities and dispute resolution comprise more than half of total inquiries. When possible, the Ombudsman works to resolve concerns and questions between parents and school districts to avoid the need to pursue formal dispute resolution options.

Additionally, the Special Education Ombudsman receives many inquiries unrelated to special education. For example, 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 are common.

Resolution

The assistance provided by the Special Education Ombudsman varies depending on the inquiry. Most frequently, the assistance needed is listening to the caller and answering questions related to an individual student or situation. Equally important is ensuring that families 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 special education regulations 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, and Positive Behavior Supports. 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;
- 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;
- 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

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- 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;
 - Refer the individual to other New Jersey Department of Education offices or staff members, when appropriate, including:
 - The County Offices of Education
 - The Office of Controversies and Disputes
 - The Office of Standards
 - Refer the individual to other federal and state agencies and resources, including:
 - Office for Civil Rights
 - 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
 - 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 Special Education Ombudsman webpage on the NJDOE's website be updated to include a "Resource Page" to include the frequently requested documents and resources requested by interested parties (e.g., PRISE, dispute resolution options, FIEP, early intervention, county office information, free and low-cost legal representation). The Department should consider producing or linking to short videos or webinars covering topics such as: what to expect in the evaluation process and IEP process; and information about the various dispute resolution options. The Department should consider developing training opportunities for district staff on effective communication with parents/guardians. In addition, efforts should be made to continue to grow the Facilitated IEP program. One way to increase the impact of the program is to develop "turnkey" trainings, which would allow districts/schools to build capacity in the use of the positive techniques utilized in IEP facilitation. It should be noted that a recent Request for Qualifications (RFQ) was released by the NJDOE to obtain additional facilitators.

The Office of Special Education should continue to grow the E-Learning Opportunities that are now housed on the newly designed website. These training modules provide professional development, technical assistance, coaching, and resources to educators, parents, and other stakeholders across the state to improve outcomes for students with disabilities, ages three through 21.

The NJDOE should 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.

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 resource to parents, students, and educators throughout New Jersey.

It is, however, important to recognize that New Jersey has over 650 individual school districts and charter schools each with their own child study teams. Calls and emails that come to the Ombudsman are often unique and specific to a student and family. It is, therefore, hard to identify "patterns" of noncompliance on a larger scale. As you can see in the above data, there are several topics or questions that do emerge on a more regular basis such as: implementation of an IEP; staffing, specifically staffing 1:1 services that may be required for a student during the school day; the evaluation; requests for student records, appropriate program and placement of a student with a disability, and transportation concerns.

Communication is key in maintaining strong parent and district/school relationships with the focus on the student. Disagreements and formal disputes often arise because of miscommunication and/or a lack of communication between the parties. Fostering and developing positive and effective communication strategies ensures parents and district/school staff work together to support positive student outcomes.