

Trends in Impartial Hearings under the IDEA: A Follow-up Analysis*

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In a recent issue of the EDUCATION LAW REPORTER,¹ I provided a trends analysis of due process hearings (DPHs) under the Individuals with Disabilities Education Act (IDEA).² The two measured variables were filings, which represent the initiation of this hearing process, and adjudications, which represent the completion of the process in terms of a final written decision.³ Specific to the governmental data for the six-year period from 2006–07 through 2011–12, the trends analyses were for DPH filings, adjudications, and filings/adjudications ratio for 1) each year, and 2) the jurisdictions, which added—based on the governmental reporting scope—the District of Columbia, Puerto Rico, and the Virgin Islands. The principal findings were that for this recent six-year period 1) the trend was a decline in DPH adjudications while DPH filings remained approximately level, thus resulting in an increased filings-to-adjudications ratio; 2) the top six jurisdictions in DPH adjudications were, in descending order, Puerto Rico, the District of Columbia, New York, California, Pennsylvania, and New Jersey, with a different sequence

* This article appeared in *West's Education Law Reporter* (Ed.Law Rep.), v. 303, pp. 1–21; do not disseminate without written permission of the author.

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¹ Perry A. Zirkel, *Longitudinal Trends in Impartial Hearings under the IDEA*, 302 Ed.Law Rep. 1 (2014).

² 20 U.S.C. §§ 1400-1482 (2012). The corresponding regulations are at 34 C.F.R. Parts 300 and 303 (2012). For the provisions for this system of administrative adjudication, see 20 U.S.C. § 1415(f)–(g) (2012); 34 C.F.R. §§ 300.511–514 (2012).

³ The analysis did not extend to the second tier of administrative adjudication due to the relatively few states that have opted for a review officer level, particularly in more recent years. See, e.g., Perry A. Zirkel & Gina Scala, *Due Process Hearing Systems Under the IDEA: A State-by-State Survey*, 21 J. DISABILITY POL'Y STUD. 3, 5 (2010) (finding that the number of states with two-tier systems dropped from twenty-four in 1991 to ten in 2011).

among them for filings⁴; and 3) the overall decline in adjudications was largely attributable to District of Columbia's reduction.⁵

As the basis for comparison, the leading prior source analyzed the adjudications, but not the filings, for the period 1991–2005 in terms of 1) each year, and 2) the 50 states (but not the additional U.S. jurisdictions) in terms of not only their totals but also their “per capita”⁶ rate for the entire period.⁷ Thus, the scope of the longitudinal comparison is limited by the coverage of this prior analysis.⁸ The inclusion of filings data in the more recent analysis provides the basis for applying the per capita calculations for an additional, contemporaneous comparison.

Based on the recommendation in the prior article⁹ and shaped by the scope of the available data,¹⁰ the purpose of this short article is to extend the recent state-by-state analysis in two ways: 1) ascertaining changes from the prior 16-year period for adjudications on a overall and per capita basis, and 2) examining the differences for the most recent period between the overall and the per capita figures for filings and adjudications.¹¹ More specifically, the questions for this more recent analysis were as follows:

- 1) What are the rankings and rates in DPH adjudications for the various

⁴ For example, New York, California, and the District of Columbia were in the first, second, and third positions, respectively, for filings. Zirkel, *supra* note 1, at ___.

⁵ *Id.* at ___.

⁶ “Per capita” in this context is a shorthand reference to the overall number divided by the special education enrollment for the state, expressed as a rate per 10,000 special education students.

⁷ Perry A. Zirkel & Karen Gischlar, *Due Process Hearings under the IDEA: A Longitudinal Frequency Analysis*, 21 J. SPECIAL EDUC. LEADERSHIP 21 (2008). The basis of these data were successive surveys of the 50 states for the initial years in this period by the National Association of State Directors of Special Education and for the more recent segment of this period by Zirkel and Gischlar. *Id.*

⁸ The notable differences are that 1) the Zirkel-Gischlar analysis of the prior period is limited to adjudications, whereas the recent analysis extends to filings (and the filings-to-adjudications ratio); and 2) the prior analysis was limited to the 50 states, whereas the more recent one extended to three more jurisdictions.

⁹ Zirkel, *supra* note 1, at ___.

¹⁰ See *supra* note 8.

¹¹ Zirkel, *supra* note 1, at ___. Amy Whitehorne, policy analyst at CADRE, The National Center on Dispute Resolution in Special Education, provided these per capita figures. For CADRE's additional data analyses, see <http://www.directionservice.org/cadre/sppresources.cfm>

jurisdictions in the most recent six-year period compared with those for the previous sixteen-year period in terms of a) overall annual average, and b) per capita annual rate?

- 2) For the recent six-year period, what are the rankings and rates for the overall as compared with the per capita annual figures for a) DPH filings, and b) DPH adjudications?

RESULTS

In response to question 1a, Table 1 and Appendix 1 show the comparison in adjudications per year between the prior and recent periods for the top jurisdictions and all jurisdictions, respectively.

Table 1. Comparison Between Prior and Recent Periods in the Annual Average Frequency of Adjudicated DPHs for the Top Jurisdictions

| | Prior Period (1991–2005) | | Recent Period (2006–2011) | |
|----------------------|--------------------------|-----------------|---------------------------|-----------------|
| | Rank (n=50) | Overall Average | Rank (n=53)* | Overall Average |
| Puerto Rico | | | 1 | 1,009 |
| District of Columbia | | | 2 | 817 |
| New York | 1 | 1,071 | 3 [1] | 569 |
| New Jersey | 2 | 312 | 6 [4] | 55 |
| Pennsylvania | 3 | 171 | 5 [3] | 67 |
| California | 4 | 112 | 4 [2] | 93 |

* The second, bracketed rank for the recent period is an adjustment to exclude D.C. and P.R.

Table 1 shows that for the more recent period, which extended the geographical scope from 50 to 53 jurisdictions, Puerto Rico and the District of Columbia appeared in first and second place and New York remained as the top state, whereas New Jersey and California reversed their rankings within the next and distinctly lower cluster within the top group. The expanded version in Appendix 1 shows moderately stable rankings¹² but generally lower averages for the more recent

¹² The major changes were the increased ranks for Hawaii, New Hampshire, Arizona, Mississippi, and Idaho and the decreased ranks for Tennessee, Kansas, Missouri, Kentucky, and Oklahoma.

period.¹³

In response to question 1b, Table 2 and Appendix 2 show the comparison in annual adjudications adjusted in relation to special education enrollments between the prior and recent periods for the top jurisdictions and all jurisdictions, respectively.

Table 2. Comparison Between Prior and Recent Periods in the Annual Per Capita Frequency of Adjudicated DPHs for the Top Jurisdictions

| | Prior Period (1991–2005) | | Recent Period (2006–2011) | |
|----------------------|--------------------------|--------------|---------------------------|--------------|
| | Rank (n=50) | Per 10K Rate | Rank (n=53)* | Per 10K Rate |
| District of Columbia | | | 1 | 736.87 |
| Puerto Rico | | | 2 | 91.19 |
| Virgin Islands | | | 3 | 15.48 |
| New York | 1 | 32.83 | 5 [2] | 12.56 |
| New Jersey | 2 | 18.33 | 7 [4] | 2.32 |
| Hawaii | 3 | 13.68 | 4 [1] | 14.32 |

* The second, bracketed rank for the recent period is an adjustment to exclude D.C., P.R., and V.I.

¹³ The addition of the three jurisdictions beyond the 50 states in the more recent period caused the overall average to increase slightly. More specifically, Puerto Rico and the District of Columbia each alone accounted for almost as many adjudications as all of the other jurisdictions combined. For the 50 states alone, i.e., without these additions, the overall average dropped considerably. For example, among these top jurisdictions, only California did not drop dramatically, although its level did decline 17%, and for the remaining states—except those at a negligible level—only Hawaii increased its average annual level from the prior to the more recent period.

Table 2 shows that for the more recent period 1) the added jurisdictions—the District of Columbia, Puerto Rico, and the Virgin Islands—assumed the first, second, and third positions, with the District of Columbia way out above all the other jurisdictions; and 2) the original¹⁴ first three states notably, although not dramatically, changed their relative rankings, including Hawaii moving up from third to first position and New Jersey moving down to just below this top group.¹⁵ Moreover, when compared with the results in Table 1, Table 2 shows that the top jurisdictions on a per capita basis are not identical to those on an absolute, i.e., not adjusted for enrollments, basis.¹⁶ Similarly different from the absolute figures in Appendix 1, the expanded version of the per capita figures in Appendix 2 reveal a longitudinal trend of moderately stable rankings,¹⁷ but generally lower per capita rates, for the more recent period.¹⁸

In response to question 2a, which is limited to the recent six-year period, Table 3 and Appendix 3 show the comparison between DPH filings per year overall and on a per capita basis for the top jurisdictions and all jurisdictions, respectively.

¹⁴ “Original” in this context refers to the prior period, i.e., the ranking in Zirkel and Gischlar, *supra* note 7.

¹⁵ The state that was not in the original group that assumed the adjusted third position between New York and New Jersey was New Hampshire. See *infra* Appendix 2.

¹⁶ For example, California and Pennsylvania are no longer in the top group when re-calculated on a per capita basis, whereas the Virgin Islands and Hawaii appear in this top group upon this re-calculation. Moreover, the relative rankings are not identical, as illustrated by the District of Columbia and Puerto Rico exchanging first and second places.

¹⁷ In moving from the overall to the per capita results, the state that replaced Connecticut in the top four states, which were all below the added three jurisdictions, was New Hampshire (from original rank 8 to adjusted rank 3). Other states that moved up in their ranking to come close to that top group of states were Pennsylvania (from original rank 7 to adjusted rank 5) and—more dramatically—Alaska (from original rank to adjusted rank 6).

¹⁸ The major exceptions were the District of Columbia and, to a lesser extent, Puerto Rico; their per capita rates were so much higher than the other jurisdictions.

Table 3. Comparison Between Overall and Per Capita Rates in DPH Filings for the Top Jurisdictions, 2006–2011

| <u>Jurisdiction</u> | <u>Rank</u> | <u>Total</u> | <u>Jurisdiction</u> | <u>Rank</u> | <u>Rate</u> |
|---------------------|-------------|--------------|---------------------|-------------|-------------|
| New York | 1 | 6078 | D.C. | 1 | 1791.8 |
| California | 2 | 2694 | Puerto Rico | 2 | 166.4 |
| D.C. | 3 | 2007 | New York | 3 | 134.2 |
| Puerto Rico | 4 | 1860 | Virgin Islands | 4 | 73.5 |
| New Jersey | 5 | 854 | Hawaii | 5 | 62.9 |
| Pennsylvania | 6 | 776 | California | 6 | 40.0 |
| Massachusetts | 7 | 582 | New Jersey | 7 | 36.4 |
| Illinois | 8 | 340 | Massachusetts | 8 | 34.8 |
| Texas | 9 | 318 | Connecticut | 9 | 30.8 |
| Maryland | 10 | 278 | Maryland | 10 | 26.7 |
| | | | | | |
| Connecticut | 11 | 211 | Pennsylvania | 11 | 26.3 |
| Hawaii | 14 | 127 | Illinois | 18 | 10.9 |
| Virgin Islands | 45 | 11 | Texas | 22 | 7.0 |

Table 3 reveals that upon re-calculating DPH filings on a per capita basis (i.e., in relation to special education enrollments), the respective rank-order positions of the top ten jurisdictions¹⁹ in the more recent period change consistently and, in some cases, dramatically. For example, New York and the District of Columbia switched their first and third positions when moving from an overall to per capita basis.²⁰ The expanded version in Appendix 3 not only makes even clearer the outlier, high position of the District of Columbia, but also shows that the changes are more moderate for the remaining jurisdictions due to their more restricted range of filing levels.²¹

¹⁹ In answering the second research question, which is within the recent period rather than between the two periods, Table 3 expands the number of top jurisdictions from that of Tables 1 and 2 to illustrate an alternate format that reveals more directly and clearly the notable change pattern.

²⁰ Other examples for a downward change include Illinois (from 8th to 18th) and Texas (from 9th to 22nd), and those for an upward change include the Virgin Islands (from 45th to 4th) and Hawaii (from 14th to 5th).

²¹ Examples for a downward change include Florida (from 12th to 29th) and Michigan (from 18th to 36th), and those for an upward change include New Hampshire (from 22nd to 12th) and Vermont (from 36th to 13th).

In response to question 2b, Table 4 and Appendix 4 show the comparison between DPH adjudications per year overall with those on a per capita basis for the top jurisdictions and all jurisdictions, respectively, during the more recent period.

Table 4. Comparison Between Overall and Per Capita Rates in DPH Adjudications for the Top Jurisdictions, 2006–2011

| <u>Jurisdiction</u> | <u>Rank</u> | <u>Total</u> | <u>Jurisdiction</u> | <u>Rank</u> | <u>Rate</u> |
|---------------------|-------------|--------------|---------------------|-------------|-------------|
| Puerto Rico | 1 | 1009 | D.C. | 1 | 736.87 |
| D.C. | 2 | 817 | Puerto Rico | 2 | 91.19 |
| New York | 3 | 569 | Virgin Islands | 3 | 15.48 |
| California | 4 | 93 | Hawaii | 4 | 14.32 |
| Pennsylvania | 5 | 67 | New York | 5 | 12.56 |
| New Jersey | 6 | 55 | New Hampshire | 6 | 4.25 |
| Hawaii | 7 | 29 | New Jersey | 7 | 2.32 |
| Texas | 8 | 27 | Pennsylvania | 8 | 2.27 |
| Illinois | 9 | 21 | Alaska | 9 | 2.25 |
| Maryland | 10 | 21 | Rhode Island | 10 | 2.08 |
| Massachusetts | 11 | 21 | Connecticut | 11 | 2.06 |
| | | | | | |
| Connecticut | 12 | 14 | Maryland | 12 | 1.98 |
| New Hampshire | 13 | 13 | California | 13 | 1.38 |
| Rhode Island | 19 | 6 | Massachusetts | 14 | 1.23 |
| Alaska | 22 | 4 | Illinois | 21 | 0.66 |
| Virgin Islands | 32 | 2 | Texas | 24 | 0.58 |

Examination of Table 4 reveals consistent and often dramatic changes upon adjusting for special education enrollments. For example, Puerto Rico and the District of Columbia exchanged their first and third positions when moving from an overall to per capita basis.²² The expanded

²² Other examples for a downward change include California (from 4th to 13th) and Texas (from 8th to 24th), and those for an upward change include the Virgin Islands (from 32nd to 3rd) and New Hampshire (from 13th to 6th).

version in Appendix 4 reveals a lower extent of change for the other states²³ based on a more restricted variance among their per capita levels.²⁴

DISCUSSION

This follow-up analysis adds two useful dimensions—a longitudinal comparison for DPH adjudications and a per capita analysis for the more recent period. The longitudinal comparison provides two insights.

First, the more recent jurisdictional pattern of DPH adjudications shows not only a considerably reduced overall level of activity but also notable changes in rankings. The expanded scope of the data for the more recent period reveals the prominence of the District of Columbia, which is not surprising in light of its high frequency of corresponding activity at the court level of adjudication activity under the IDEA, and Puerto Rico, which is surprising in light of its low frequency of IDEA court decisions.²⁵ Thus, Table 1 and Appendix 1 not only reinforce the pattern of “two worlds” of DPH adjudications,²⁶ but also reveal that the predominant minority of jurisdictions has partially changed over time in both their scope and sequence, with the moderate changes in the residual majority of jurisdictions within the context of relative and reduced quiescence.²⁷

Second, the per capita analysis of these longitudinal data adds a depth dimension to the picture, thus revealing partially different members and positions for the two worlds of DPH

²³ Within this tempered context, examples of major changes include Florida and Ohio (from tied at 16th to 41st and 35th, respectively), and Delaware and Vermont (from tied at 32nd to 16th and 15th, respectively) in an upward direction.

²⁴ This trend is an accentuation of the pattern for filings. See *supra* text accompanying note 21 and accompanying text. The reason is the higher figures for filings than adjudications, as reflected in the previous finding of an overall filings-to-adjudications ratio of 6.20. See Zirkel, *supra* note 1, at __ n.17.

²⁵ See, e.g., Tessie Rose Bailey & Perry A. Zirkel, Case Law Trends under the Individuals with Disabilities Education Act (2014) (manuscript in progress).

²⁶ See *supra* note 1, at __ (observing that a relatively small number of states account for the bulk of the activity).

²⁷ See *supra* notes 12–13 and accompanying text.

adjudications. Within the top group, Hawaii and, even more surprisingly, the Virgin Islands emerge in high positions,²⁸ establishing an insular or at least special jurisdictional character to the top three,²⁹ and the particularly prominent position of the District of Columbia becomes clear as a distinct outlier, with an annual rate that for the recent period is more than eight times that of second-place Puerto Rico and almost fifty times that of third-place Virgin Islands.³⁰ Thus, Table 2 and Appendix 2 show a parallel pattern of moderate longitudinal change among the jurisdictions³¹ but—in comparison with the prior analyses, which did not factor in enrollments—partially different members and rankings within the two worlds of DPH adjudications. Moreover, Appendix 2 reinforces the consistent reduction for each state, except Hawaii, that Appendix 1 had revealed.³² However, without the corresponding analyses for filings and for the three non-state jurisdictions,³³ the extent of and the reasons for this downward trend are subject to speculation.³⁴

The per capita dimension of the longitudinal analysis extended to the expanded analysis for the more recent period. More specifically, the second research question added the depth of this dimension to not only DPH adjudications, which mark the end of this pre-judicial process,

²⁸ The extent of unexpectedness is partially attributable to the small size and stereotypical peaceful character of both of these jurisdictions, but also for the Virgin Islands in light of its infrequent appearance in IDEA court decisions and its non-consideration in most previous analyses of DPH adjudications.

²⁹ The emergence of Hawaii in fourth place

³⁰ The non-inclusion of the District of Columbia, Puerto Rico, and the Virgin Islands in the comparison, or baseline, study leaves open the question of whether these jurisdictions had similar positions for DPH adjudications on an overall and per capita basis during the previous period.

³¹ See *supra* notes 14–18 and accompanying text.

³² See *supra* note 13.

³³ See *supra* note 8 and accompanying text.

³⁴ Development of correlated and supplementary dispute resolution mechanisms are more likely contributing factors than in the springboard study, which was limited to the recent period and which identified the District of Columbia as the primary reason for that decline. See Zirkel, *supra* note 1, at ___. However, other factors may additionally or alternatively account for this more long-term decline. Consider, for example, those potential litigiousness factors identified *infra* notes 40–47 and accompanying text that are subject to longitudinal change.

but also DPH filings, which mark the initiation of this process. For DPH filings, the per capita analysis reveals 1) for the top group the preeminence of the District of Columbia and Puerto Rico, eclipsing New York, and the emergence of the Virgin Islands and Hawaii, eclipsing California and New Jersey; and 2) more generally across the jurisdictions the outlier position of the District of Columbia and the more moderate changes for the second, larger world of jurisdiction in light of their more restricted range of filings.³⁵ For DPH adjudications, due to varying filing-to-adjudication ratios across the jurisdictions, the scope and sequence changes considerably. Nevertheless, the addition of the per capita analysis not only reinforces the aforementioned³⁶ emerged prominence of the special jurisdictions but also reveals the similar emergence of other certain other small or low-population jurisdictions, such as Alaska, Connecticut, New Hampshire, and Rhode Island.³⁷ Yet, the expanded per capita analysis reveals that the size or population of the jurisdiction was not the predictor of its position for either the overall or per capita analysis.³⁸

Overall, the per capita analysis suggested that litigiousness—often associated with metropolitan areas, such as New York City, the District of Columbia, and Los Angeles-San Francisco—is not merely or primarily a matter of population density. Rather, at least for the administrative adjudicatory process under the IDEA, which has a structure of “cooperative federalism,”³⁹ the variance in the rates of DPH filings and adjudications appears to be attributable to a complex constellation of factors. Subject to further research, the potential

³⁵ See *supra* Table 3 and Figure 3.

³⁶ See *supra* note 27–29 and accompanying text.

³⁷ See *supra* Table 4.

³⁸ See *supra* Appendix 4.

³⁹ See, e.g., *Bay Shore Union Free Sch. Dist. v. Kain*, 485 F.3d 730, 733-734 (2d Cir. 2007) (referring to the federal foundation with express allowance for each state to add variations above these minimum requirements).

factors include 1) the particular culture within each jurisdiction,⁴⁰ 2) the availability of specialized attorneys representing parents,⁴¹ 3) the nature of both the education governance structure⁴² and the IDEA administrative adjudicatory system,⁴³ 4) the level of quality and compliance of the jurisdiction's special education system,⁴⁴ 5) the effect of the outcome trend of not only the hearing/review process but also the court decisions under the IDEA in each jurisdiction,⁴⁵ and 5) the socioeconomic level of the jurisdiction.⁴⁶ Other variables may also be at play.⁴⁷

In any event, the added dimension of this follow-up analysis serves as a reminder that both overall and per capita calculations are necessary for examining the level of DPH activity

⁴⁰ It is not uncommon to find wide variance, or two worlds, of IDEA DPH activity within, not just among, states. Moreover, the addition of the special jurisdictions, such as D.C., Puerto Rico, and the Virgin Islands, extends the variance beyond the states.

⁴¹ For one source of not only attorneys but also advocates with such specialization, see <http://www.copaa.org/search/custom.asp?id=643>.

⁴² For example, the state education agency (SEA) and the local education agency (LEA) are identical in Hawaii and the Virgin Islands and, prior to the relatively recent emergence of charter schools, were similarly identical in the District of Columbia.

⁴³ Per the IDEA structural design, the nature of the one- and two-tier administrative adjudicatory varies widely across jurisdictions and, within them, across time. Moreover, the gradual trend toward one tier systems with full-time administrative law judges may be a related factor. See, e.g., Zirkel & Scala, *supra* note 3. See, e.g., Perry A. Zirkel, Zorka Karanxha, & Anastasia D'Angelo, *Creeping Judicialization in Special Education Hearings?: An Exploratory Study*, 27 J. NAT'L ASS'N ADMIN. L. JUDICIARY 27, 37 (2007). Moreover, the varying extent of alternate dispute resolution mechanisms among the jurisdictions (e.g., IEP facilitation) and the additions in the IDEA's 2004 amendments (e.g., resolution session and pre-filing mediation) serve as contributing factors not only to the filing-to-adjudication ratio but also filings and adjudications over time.

⁴⁴ Of course, quality and compliance are not synonymous; perceptions and expectations are intervening factors; and—except for the few jurisdictions in which the SEA is coterminous with the LEA—the variance among local school districts.

⁴⁵ See, e.g., Perry A. Zirkel & Cathy A. Skidmore, *National Trends in the Frequency and Outcomes of Hearing and Review Officer Decisions under the IDEA: An Empirical Analysis*, __ OHIO ST. J. ON DISP. RESOL. __ (forthcoming); Perry A. Zirkel & Anastasia D'Angelo, *Special Education Case Law: An Empirical Trends Analysis*, 161 EDUC. L. REP. 731 (2002).

⁴⁶ This broad rubric is intended here as including various potential sub-factors, such as changes in the economic climate, the financing system for schools, and the distribution and disparity in socioeconomic status of the jurisdiction's constituents.

⁴⁷ For example, to the extent of variance among jurisdictions within and between the previous and more recent periods of analysis, the proportion of students within particular classifications may be a factor. See, e.g., Perry A. Zirkel, *Autism Litigation under the IDEA: A New Meaning of "Disproportionality"?* 24 J. SPECIAL EDUC. LEADERSHIP 92 (2011).

under the IDEA. On the one hand, high numbers of DPH filings and adjudications requires attention in terms of both the system, including selection, training, compensation, and accountability of hearing officers, and resources for its transaction costs, regardless of the per capita rate. On the other hand, the per capita rate requires attention to the jurisdictions otherwise hidden, or masked, by their relatively low overall numbers but that have relatively high numbers in relation to their special education enrollments. Moreover, the use of special education enrollments, rather than education enrollments, as the denominator for this per capita calculation serves as not only a more direct and precise measure of the IDEA's foundational scope but also a reminder of the widely varying proportions of students with disabilities under the IDEA among the jurisdictions.⁴⁸ Progress toward more precise and nuanced research on dispute resolution under this leading statutory source of education litigation, including the nature and interactions of the contributing factors, is both necessary and appropriate for policymakers and practitioners.

⁴⁸ See, e.g., Annual Disability Statistics Compendium, Table 11.1: Special Education—Students Ages Six to 21 Served under IDEA, Part B, as a Percentage of Population, Fall 2011, <http://disabilitycompendium.org/compendium-statistics/special-education/11-1-special-education-students-ages-6-21-served-under-idea-part-b-as-a-percentage-of-population> (ranging from 6.3% in Hawaii and Idaho to 11.2% in New Jersey).

Appendix 1: Annual Overall Rate of DPH Adjudications: Comparison of Previous and More Recent Periods

| State | <u>1991-2005 Adjudications</u> (50 States) | | <u>2006-2011 Adjudications</u> (50 States + DC, PR, VI) | |
|----------------------|---|--------------|--|--------------|
| | <u>Rank</u> | <u>Total</u> | <u>Rank*</u> | <u>Total</u> |
| Puerto Rico | | | 1 [-1] | 1009 |
| District of Columbia | | | 2 [0] | 817 |
| New York | 1 | 1071 | 3 [1] | 569 |
| New Jersey | 2 | 312 | 6 [4] | 55 |
| Pennsylvania | 3 | 171 | 5 [3] | 67 |
| California | 4 | 112 | 4 [2] | 93 |
| Maryland | 5 | 87 | 9 (tie) [7] | 21 |
| Illinois | 6 | 83 | 9 (tie) [7] | 21 |
| Connecticut | 7 | 79 | 12 [10] | 14 |
| Texas | 8 | 60 | 8 [6] | 27 |
| Massachusetts | 9 | 49 | 9 (tie) [7] | 21 |
| Washington | 10 | 31 | 14 (tie) [12] | 10 |
| Virginia | 11 | 28 | 14 (tie) [12] | 10 |
| Tennessee | 12 (tie) | 25 | 31 (tie) [29] | 2 |
| Florida | 12 (tie) | 25 | 16 (tie) [14] | 7 |
| Hawaii | 14 | 23 | 7 [5] | 29 |
| Rhode Island | 15 | 22 | 19 [17] | 6 |
| Indiana | 16 | 20 | 16 (tie) [14] | 7 |
| Michigan | 17 | 18 | 20 [18] | 5 |
| Ohio | 18 | 17 | 16 (tie) [14] | 7 |
| Maine | 19 | 16 | 21 (tie) [19] | 4 |
| New Hampshire | 20 (tie) | 15 | 13 [11] | 13 |
| Kansas | 20 (tie) | 15 | 41 (tie) [38] | 1 |
| Missouri | 20 (tie) | 15 | 31 (tie) [29] | 2 |
| Alabama | 23 (tie) | 14 | 21 (tie) [19] | 4 |
| Georgia | 23 (tie) | 14 | 21 (tie) [19] | 4 |
| Kentucky | 25 (tie) | 11 | 41 (tie) [38] | 1 |
| Minnesota | 25 (tie) | 11 | 31 (tie) [29] | 2 |
| New Mexico | 27 (tie) | 10 | 21 (tie) [19] | 4 |
| Oklahoma | 27 (tie) | 10 | 41 (tie) [38] | 1 |
| Wisconsin | 27 (tie) | 10 | 26 (tie) [24] | 3 |
| Arkansas | 30 (tie) | 9 | 31 (tie) [29] | 2 |
| Louisiana | 30 (tie) | 9 | 26 (tie) [24] | 3 |
| South Carolina | 30 (tie) | 9 | 26 (tie) [24] | 3 |
| Virgin Islands | | | 31 (tie) [29] | 2 |
| West Virginia | 33 (tie) | 8 | 31 (tie) [29] | 2 |
| North Carolina | 33 (tie) | 8 | 26 (tie) [24] | 3 |
| Nevada | 35 | 7 | 41 (tie) [38] | 1 |
| Arizona | 36 (tie) | 5 | 21 (tie) [19] | 4 |
| Vermont | 36 (tie) | 5 | 31 (tie) [29] | 2 |
| Oregon | 36 (tie) | 5 | 41 (tie) [38] | 1 |
| Mississippi | 36 (tie) | 5 | 26 (tie) [24] | 3 |
| Delaware | 40 (tie) | 4 | 31 (tie) [29] | 2 |
| Colorado | 40 (tie) | 4 | 31 (tie) [29] | 2 |
| Iowa | 40 (tie) | 4 | 41 (tie) [39] | 1 |
| Nebraska | 43 | 3 | 50 (tie) [47] | 0 |
| South Dakota | 44 (tie) | 2 | 41 (tie) [38] | 1 |
| Alaska | 44 (tie) | 2 | 21 (tie) [19] | 4 |

| | | | | |
|------------------|----------|----|---------------|----|
| Wyoming | 44 (tie) | 2 | 41 (tie) [38] | 1 |
| Montana | 44 (tie) | 2 | 50 (tie) [47] | 0 |
| Idaho | 44 (tie) | 2 | 31 (tie) [29] | 2 |
| North Dakota | 49 (tie) | 1 | 50 (tie) [47] | 0 |
| Utah | 49 (tie) | 1 | 41 (tie) [38] | 1 |
| Combined Average | | 49 | | 54 |

* The second, bracketed number for the more recent period is the adjusted rank that excludes the inserted positions of the three additional jurisdictions.

Appendix 2: Annual Rate of DPH Adjudications per 10K Students: Comparison of Successive Periods

| State | <u>1991-2005 Adjudications</u> (50 States) | | <u>2006-2011 Adjudications</u> (50 States + DC, PR, VI) | |
|----------------------|---|-------|--|--------|
| | Rank | Total | Rank* | Total |
| District of Columbia | | | 1 [-2] | 736.87 |
| Puerto Rico | | | 2 [-1] | 91.19 |
| Virgin Islands | | | 3 [0] | 15.48 |
| New York | 1 | 32.83 | 5 [2] | 12.56 |
| New Jersey | 2 | 18.33 | 7 [4] | 2.32 |
| Hawaii | 3 | 13.68 | 4 [1] | 14.32 |
| Connecticut | 4 | 13.63 | 11 [8] | 2.06 |
| Rhode Island | 5 | 10.56 | 10 [7] | 2.08 |
| Maryland | 6 | 10.15 | 12 [9] | 1.98 |
| Pennsylvania | 7 | 9.17 | 8 [5] | 2.27 |
| New Hampshire | 8 | 7.32 | 6 [3] | 4.25 |
| Maine | 9 | 6.06 | 17 [14] | 1.08 |
| Vermont | 10 | 5.12 | 15 [12] | 1.19 |
| Illinois | 11 | 3.89 | 21 [18] | 0.66 |
| Massachusetts | 12 | 3.88 | 14 [11] | 1.23 |
| Washington | 13 | 3.68 | 18 [15] | 0.77 |
| Kansas | 14 | 3.35 | 39 (tie) [36] | 0.20 |
| Delaware | 15 | 2.97 | 16 [13] | 1.12 |
| Nevada | 16 | 2.67 | 32 (tie) [29] | 0.28 |
| Tennessee | 17 | 2.59 | 46 [43] | 0.14 |
| Virginia | 18 | 2.44 | 22 [19] | 0.62 |
| New Mexico | 19 | 2.40 | 19 [16] | 0.75 |
| California | 20 | 2.32 | 13 [10] | 1.38 |
| West Virginia | 21 | 2.10 | 25 [22] | 0.50 |
| South Dakota | 22 | 1.99 | 32 (tie) [29] | 0.28 |
| Arkansas | 23 | 1.90 | 31 [28] | 0.33 |
| Indiana | 24 | 1.83 | 28 [25] | 0.42 |
| Alabama | 25 | 1.82 | 27 [24] | 0.44 |
| Oklahoma | 26 | 1.68 | 47 (tie) [44] | 0.10 |
| Alaska | 27 (tie) | 1.64 | 9 [6] | 2.25 |
| Wisconsin | 37 | 1.15 | 37 [34] | 0.23 |
| Texas | 27 (tie) | 1.64 | 24 [21] | 0.58 |
| Wyoming | 29 | 1.61 | 20 [17] | 0.69 |
| Kentucky | 30 | 1.48 | 50 [47] | 0.08 |
| Missouri | 31 | 1.40 | 42 (tie) [39] | 0.18 |
| North Dakota | 32 | 1.31 | 53 [50] | 0.00 |
| Minnesota | 33 | 1.28 | 42 (tie) [39] | 0.18 |
| Louisiana | 34 | 1.24 | 29 [26] | 0.35 |
| Georgia | 35 | 1.23 | 39 (tie) [36] | 0.20 |
| South Carolina | 36 | 1.15 | 35 (tie) [32] | 0.26 |
| Montana | 38 | 1.13 | 49 [46] | 0.09 |
| Michigan | 39 | 1.09 | 38 [35] | 0.22 |
| Idaho | 40 | 1.08 | 23 [20] | 0.61 |
| Oregon | 41 | 1.00 | 45 [42] | 0.15 |
| Mississippi | 42 | 0.96 | 26 [23] | 0.49 |
| Ohio | 43 | 0.94 | 35 (tie) [32] | 0.26 |
| Florida | 44 | 0.93 | 41 [38] | 0.19 |

| | | | | |
|------------------|----|------|---------------|-------|
| Arizona | 45 | 0.85 | 30 [27] | 0.34 |
| Nebraska | 46 | 0.82 | 51 (tie) [48] | 0.07 |
| Colorado | 47 | 0.73 | 32 (tie) [29] | 0.28 |
| Iowa | 48 | 0.72 | 47 (tie) [44] | 0.10 |
| North Carolina | 49 | 0.68 | 42 (tie) [39] | 0.18 |
| Utah | 50 | 0.22 | 51 (tie) [48] | 0.07 |
| Combined Average | | 3.89 | | 17.07 |

* The second, bracketed number for the more recent period is the adjusted rank that excludes the inserted positions of the three additional jurisdictions.

Appendix 3. Annual DPH Filings for 53 Jurisdictions 2006–11: Annual Average and Per Capita Rate

| <u>State</u> | <i>Filings Overall</i> | | <i>Filings per 10,000 Students</i> | |
|----------------------|------------------------|--------------|------------------------------------|-------------------|
| | <u>Rank</u> | <u>Total</u> | <u>Rank</u> | <u>Adj. Total</u> |
| New York | 1 | 6078 | 3 | 134.18 |
| California | 2 | 2694 | 6 | 40.00 |
| District of Columbia | 3 | 2007 | 1 | 1791.78 |
| Puerto Rico | 4 | 1860 | 2 | 166.43 |
| New Jersey | 5 | 854 | 7 | 36.39 |
| Pennsylvania | 6 | 776 | 11 | 26.34 |
| Massachusetts | 7 | 582 | 8 | 34.82 |
| Illinois | 8 | 340 | 18 | 10.87 |
| Texas | 9 | 318 | 22 | 6.97 |
| Maryland | 10 | 278 | 10 | 26.65 |
| Connecticut | 11 | 211 | 9 | 30.77 |
| Florida | 12 | 167 | 29 | 4.39 |
| Ohio | 13 | 157 | 24 | 5.94 |
| Hawaii | 14 | 127 | 5 | 62.93 |
| Washington | 15 | 112 | 19 | 8.93 |
| Alabama | 16 | 107 | 14 | 12.84 |
| Georgia | 17 | 101 | 26 | 5.48 |
| Michigan | 18 (tie) | 74 | 36 | 3.26 |
| Missouri | 18 (tie) | 74 | 25 | 5.55 |
| Indiana | 20 | 73 | 31 | 4.22 |
| Virginia | 21 | 71 | 30 | 4.28 |
| New Hampshire | 22 (tie) | 59 | 12 | 19.31 |
| Nevada | 22 (tie) | 59 | 15 | 12.22 |
| Arizona | 24 (tie) | 58 | 28 | 4.55 |
| North Carolina | 24 (tie) | 58 | 39 | 3.07 |
| Tennessee | 26 | 57 | 27 | 4.69 |
| Maine | 27 | 36 | 17 | 10.91 |
| Rhode Island | 28 (tie) | 32 | 16 | 11.77 |
| New Mexico | 28 (tie) | 32 | 23 | 6.82 |
| Minnesota | 30 (tie) | 30 | 44 | 2.46 |
| Wisconsin | 30 (tie) | 30 | 45 | 2.34 |
| Oregon | 32 | 27 | 34 | 3.43 |
| Oklahoma | 33 | 26 | 42 | 2.66 |
| Louisiana | 34 | 24 | 41 | 2.74 |
| Mississippi | 35 | 23 | 32 (tie) | 3.55 |
| Vermont | 36 (tie) | 22 | 13 | 15.57 |
| Kentucky | 36 (tie) | 22 | 46 | 2.07 |
| Colorado | 36 (tie) | 22 | 43 | 2.57 |
| Kansas | 39 | 21 | 37 | 3.16 |
| Arkansas | 40 | 19 | 40 | 2.89 |

| | | | | |
|------------------|----------|-----|----------|-------|
| Delaware | 41 (tie) | 16 | 20 | 8.31 |
| West Virginia | 41 (tie) | 16 | 35 | 3.36 |
| Alaska | 43 | 15 | 21 | 8.18 |
| South Carolina | 44 | 14 | 50 | 1.38 |
| Virgin Islands | 45 | 11 | 4 | 73.45 |
| Idaho | 46 (tie) | 10 | 32 (tie) | 3.55 |
| Iowa | 46 (tie) | 10 | 48 | 1.40 |
| Utah | 48 | 6 | 51 | 0.87 |
| Montana | 49 | 5 | 38 | 3.12 |
| Nebraska | 50 (tie) | 3 | 52 | 0.75 |
| Wyoming | 50 (tie) | 3 | 47 | 1.97 |
| South Dakota | 50 (tie) | 3 | 49 | 1.39 |
| North Dakota | 53 | 0 | 53 | 0.13 |
| Combined Average | | 336 | | 49.96 |

Appendix 4. Annual DPH Adjudications for 53 Jurisdictions 2006–11: Annual Average and Per Capita Rate

| <u>State</u> | <i>Adjudications Overall</i> | | <i>Adjudications per 10,000 Students</i> | |
|----------------------|------------------------------|--------------|--|-------------------|
| | <u>Rank</u> | <u>Total</u> | <u>Rank</u> | <u>Adj. Total</u> |
| Puerto Rico | 1 | 1009 | 2 | 91.19 |
| District of Columbia | 2 | 817 | 1 | 736.87 |
| New York | 3 | 569 | 5 | 12.56 |
| California | 4 | 93 | 13 | 1.38 |
| Pennsylvania | 5 | 67 | 8 | 2.27 |
| New Jersey | 6 | 55 | 7 | 2.32 |
| Hawaii | 7 | 29 | 4 | 14.32 |
| Texas | 8 | 27 | 24 | 0.58 |
| Illinois | 9 (tie) | 21 | 21 | 0.66 |
| Maryland | 9 (tie) | 21 | 12 | 1.98 |
| Massachusetts | 9 (tie) | 21 | 14 | 1.23 |
| Connecticut | 12 | 14 | 11 | 2.06 |
| New Hampshire | 13 | 13 | 6 | 4.25 |
| Virginia | 14 (tie) | 10 | 22 | 0.62 |
| Washington | 14 (tie) | 10 | 18 | 0.77 |
| Indiana | 16 (tie) | 7 | 28 | 0.42 |
| Florida | 16 (tie) | 7 | 41 | 0.19 |
| Ohio | 16 (tie) | 7 | 35 (tie) | 0.26 |
| Rhode Island | 19 | 6 | 10 | 2.08 |
| Michigan | 20 | 5 | 38 | 0.22 |
| Arizona | 21 (tie) | 4 | 30 | 0.34 |
| Alaska | 21 (tie) | 4 | 9 | 2.25 |
| Maine | 21 (tie) | 4 | 17 | 1.08 |
| Alabama | 21 (tie) | 4 | 27 | 0.44 |
| Georgia | 21 (tie) | 4 | 39 (tie) | 0.20 |
| New Mexico | 21 (tie) | 4 | 19 | 0.75 |
| North Carolina | 27 (tie) | 3 | 42 (tie) | 0.18 |
| Mississippi | 27 (tie) | 3 | 26 | 0.49 |
| Louisiana | 27 (tie) | 3 | 29 | 0.35 |
| Wisconsin | 27 (tie) | 3 | 37 | 0.23 |
| South Carolina | 27 (tie) | 3 | 35 (tie) | 0.26 |
| Virgin Islands | 32 (tie) | 2 | 3 | 15.48 |
| West Virginia | 32 (tie) | 2 | 25 | 0.50 |
| Colorado | 32 (tie) | 2 | 32 (tie) | 0.28 |
| Missouri | 32 (tie) | 2 | 42 (tie) | 0.18 |
| Delaware | 32 (tie) | 2 | 16 | 1.12 |
| Arkansas | 32 (tie) | 2 | 31 | 0.33 |
| Minnesota | 32 (tie) | 2 | 42 (tie) | 0.18 |
| Vermont | 32 (tie) | 2 | 15 | 1.19 |
| Idaho | 32 (tie) | 2 | 23 | 0.61 |
| Tennessee | 32 (tie) | 2 | 46 | 0.14 |
| Nevada | 42 (tie) | 1 | 32 (tie) | 0.28 |
| Kansas | 42 (tie) | 1 | 39 (tie) | 0.20 |
| Oregon | 42 (tie) | 1 | 45 | 0.15 |
| Wyoming | 42 (tie) | 1 | 20 | 0.69 |
| Oklahoma | 42 (tie) | 1 | 47 (tie) | 0.10 |
| Kentucky | 42 (tie) | 1 | 50 | 0.08 |
| Iowa | 42 (tie) | 1 | 47 (tie) | 0.10 |
| Utah | 42 (tie) | 1 | 51 (tie) | 0.07 |
| South Dakota | 42 (tie) | 1 | 32 (tie) | 0.28 |

| | | | | |
|------------------|----------|----|----------|-------|
| Nebraska | 51 (tie) | 0 | 51 (tie) | 0.07 |
| Montana | 51 (tie) | 0 | 49 | 0.09 |
| North Dakota | 51 (tie) | 0 | 53 | 0.00 |
| Combined Average | | 54 | | 17.07 |