
Who Prevails in Special Education Hearings and Why?

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Research Question

- In hearings concerning services for children with autism, is there a common thread as to why one side or the other prevails more frequently and what does it consist of? What constitutes a winning case?
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Thesis

- Winning a case is dependent on many factors, including representation, desired placement and services, the individual hearing officer, and the evidence presented during a hearing.
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Case Significance

- It is important for both parties who go to hearing to consider the factors that constitute a winning case so that each side is able to present its best possible case for the hearing officers to hear.
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Existing Research

- Steven S. Goldberg and Peter J. Kuriloff, “Evaluating the Fairness of Special Education Hearings”
 - This study focused on the hearing process in Pennsylvania between 1980 and 1984.
 - They found that, despite feelings of unfairness and inaccuracy during the hearing process, both parents and school districts believed that the process should remain the same.
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Existing Research (Continued)

- Susan Etscheidt “An Analysis of Legal Hearings and Cases Related to Individualized Education Programs for Children with Autism”
 - Her goal was to make sure that the individualized education plan’s (IEP) goals match the data from the evaluation of the student.
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Defining Terms:

- The Individuals with Disabilities Education Act (IDEA)
 - Entitles eligible children with disabilities to a free appropriate public education (FAPE) that includes special education and related services.
 - 20 United States Code ss. 1400-1487
 - Originally enacted 1975, most recently amended 1997 and currently being reauthorized by Congress



Defining Terms (Continued)

■ Special Education

- “...specially designed instruction at no cost to parents, to meet the unique needs of a child with a disability...”

- 20 United States Code 1401(2s); 34 Code of Federal Regulations s.300.26

■ Related Services

- Includes transportation and other services that “...may be required to assist a child with a disability to benefit from special education...”

- 20 United States Code s. 1401 (22); 34 Code of Federal Regulations s.300.24
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Defining Terms (Continued)

- **Least Restrictive Environment (LRE)**
 - A child must be educated to the extent possible and appropriate in the least restrictive setting possible when determining where and how services are to be delivered.
 - 34 Code of Federal Regulations s. 300.550



Autism

- Defined in IDEA as:
 - ...a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance.
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Due Process

- According to Title 20 of the United States Code, every state is required to have a due process system to address special education disputes.
 - In Connecticut, parties have access to hearings, mediations, or advisory opinions in order to resolve disputes over special education issues.
 - Hearing Officers decide each individual case based on the evidence presented and the facts of the case within the context of the state and federal laws, regulations, and pertinent case law.
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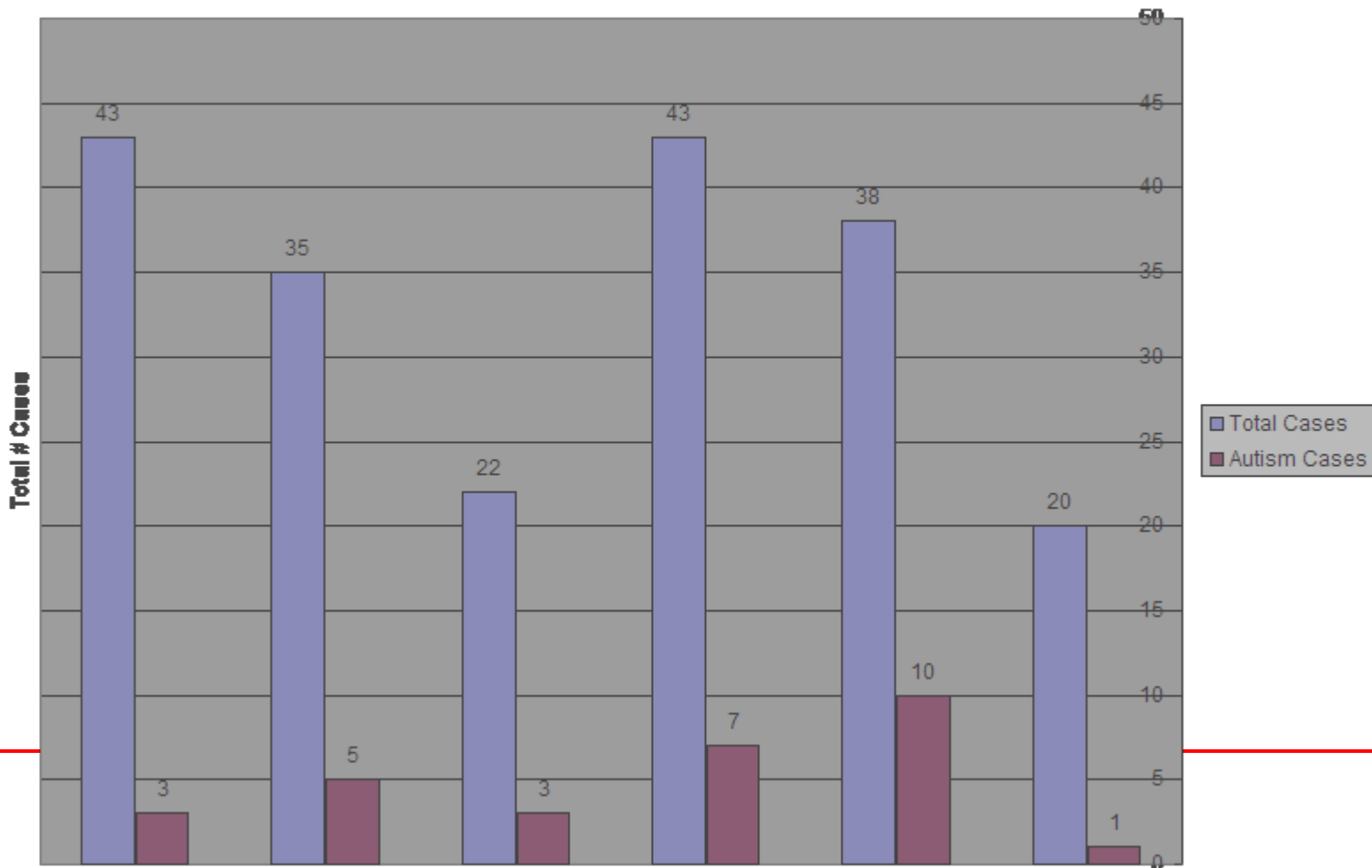
Analysis and Interpretation of Connecticut
hearing officer decisions from 1998-2003
involving issues concerning autism

Total # Autism Cases

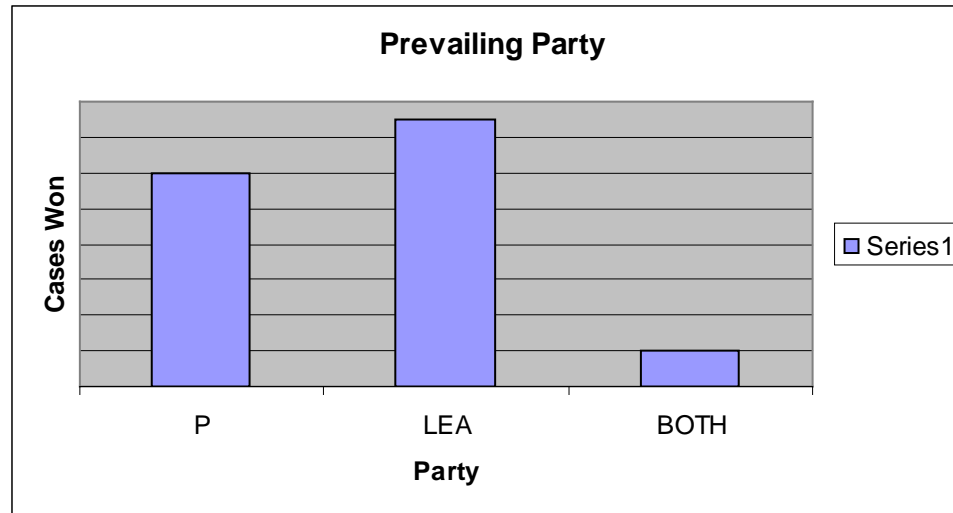
-This discussion involves the 29 cases in purple on this chart

-14% of the total # of cases in this six year period

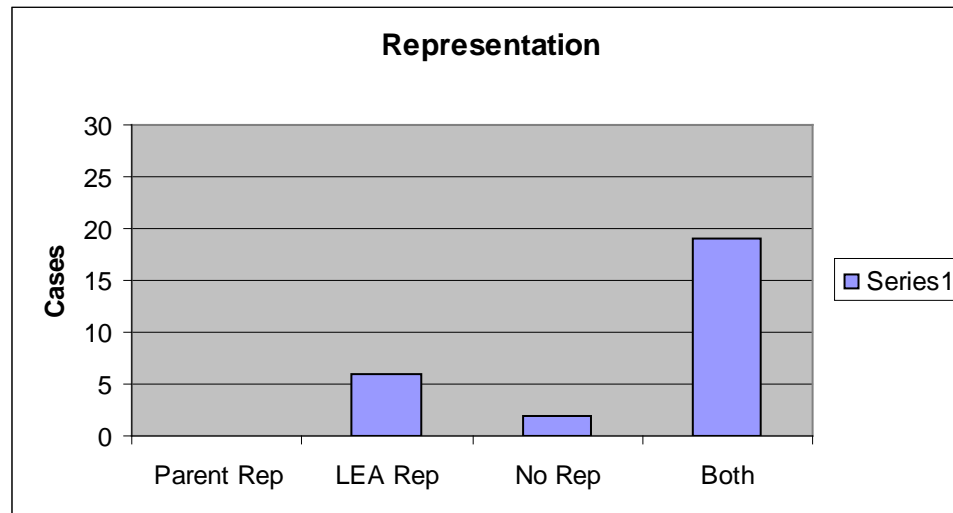
Total # Autism Cases



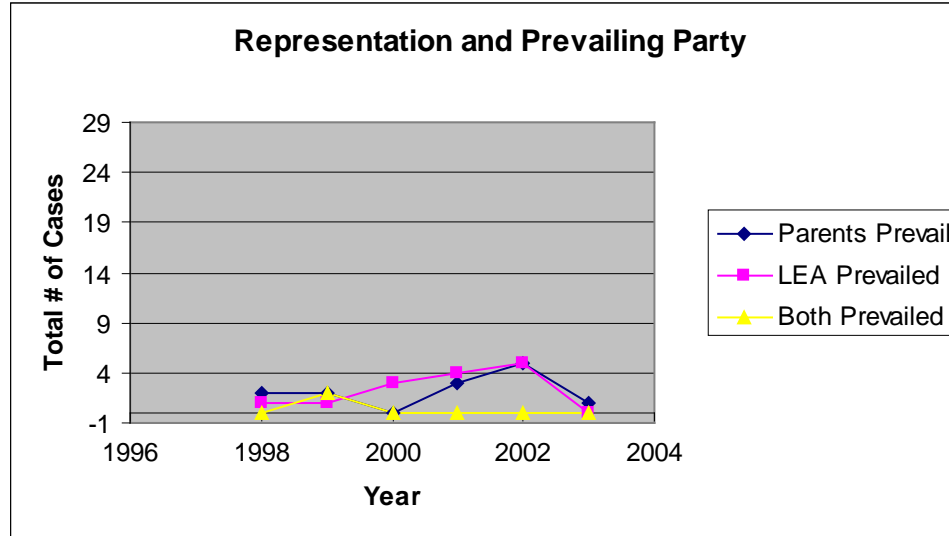
Prevailing Parties



Representation



Representation and Prevailing Party



Representation/Median Household Income < \$43,000

- 5 LEAs

- 8 autism cases

- 3 out of 8 (38%) parents prevailed

- Parents represented in 2 cases

- Schools represented in 6 cases

Representation/Median Household Income > \$60,000

- 12 LEAs

- 19 autism cases

- 10 out of 19 (53%) parents prevailed

- Parents represented in 17 cases

- LEAs represented in 19 cases

Private Placement

- 20 out of the 29 autism cases are concerning private placements
 - 9 out of 20 (45%) LEA prevailed
 - 9 out of 20 (45%) parents prevailed
 - 2 out of 20 (10%) both parties prevailed
 - 9 hearings not dealing with private placements deal with issues that are case specific, i.e., disputes over hours of services, placement of services within school programs, etc.
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Private Placement/ Both Sides Represented

- Both sides represented, parents prevailed in 8 out of 12 cases (66%)
 - Both sides represented, LEA prevailed in 4 out of 12 cases (33%)
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Private Placement/One Side Represented

- LEA only represented, LEA prevailed in 5 out of 6 cases (83%)
 - LEA only represented, parent prevailed in 1 out of 6 cases (17%)
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Private Placement/No Representation

- Both prevailed in 2 out of 2 cases (100%)



Conclusions

- When both parties are represented or when both parties are unrepresented, the playing field is leveled and both sides have an almost equal chance of prevailing;
 - Parents have a slightly higher rate of prevailing (60%)
 - When private placement was an issue in autism cases and each side was represented, parents and LEA each prevailed in 45% of the cases.
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Conclusions (Continued)

- In school districts with median household incomes of <\$43,000, parents were represented in only 2 out of 8 autism cases and prevailed in 3 (38%).
 - In school districts with median household incomes of >\$60,000, parents were represented in 17 out of 19 autism cases and prevailed in 10 (53%).
 - Therefore, access to representation based on income levels the playing field but does not guarantee a winning case.
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What constitutes a winning case?

- Hearing officers give weight to certain testimony
 - Look to whether a hearing officer relies on testimony of a certain witness or not
 - How well a witness knows the student
 - Procedural violations by LEA may result in parents prevailing
 - Appropriateness of program offered is considered within the framework of the law.
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