



OFFICE OF ADMINISTRATIVE HEARINGS

State of California

SPECIAL EDUCATION DIVISION

2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231
(916) 263-0880 phone / (916) 263-0890 fax
www.oah.dgs.ca.gov

Department of General Services

SPECIAL EDUCATION DIVISION QUARTERLY REPORT THIRD QUARTER 2007/2008 FISCAL YEAR January 1, 2008 – March 31, 2008

Regional Offices

Los Angeles
320 West Fourth Street
Suite 630
Los Angeles, CA 90013
(213) 576-7200
Fax (213) 576-7244

Oakland
1515 Clay Street
Suite 206
Oakland, CA 94612
(510) 622-2722
Fax (510) 622-2743

San Diego
1350 Front Street.
Suite 6022
San Diego, CA 92101
(619) 525-4475
Fax (619) 525-4419

Laguna Hills
23046 Avenida De La Carlota
Suite 750
Laguna Hills, CA 92653
(949) 598-5850
Fax (949) 598-5860

Van Nuys
15350 Sherman Way
Suite 300
Van Nuys, CA 91406
(818) 904-2383
Fax (818) 904-2360

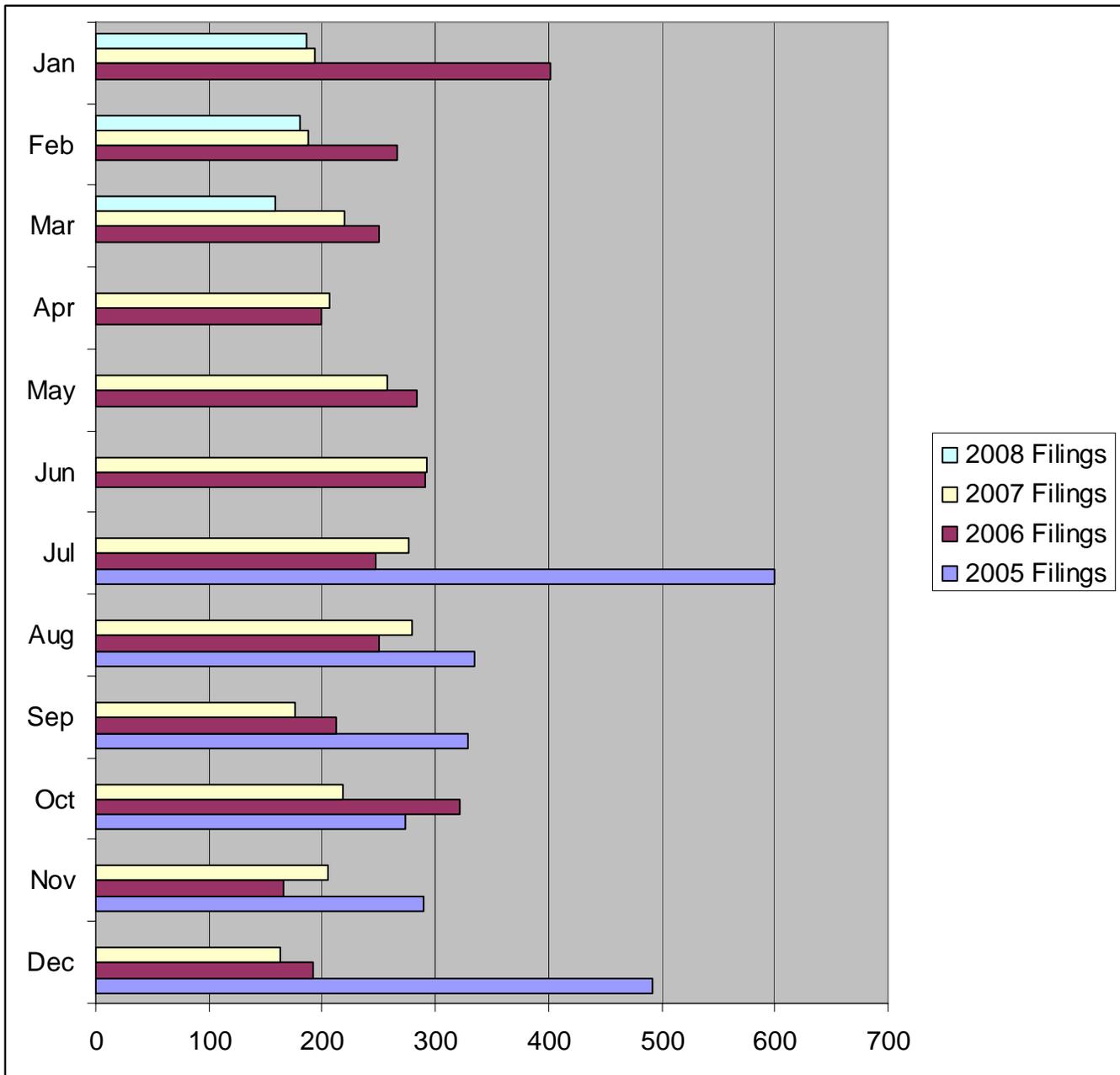
CASE FILINGS

During the third quarter for fiscal year 2007-2008, the Office of Administrative Hearings (OAH) received 525 new case filings.

Fiscal Year 2005-2006¹	Filings	Fiscal Year 2006-2007	Filings	Fiscal Year 2007-2008	Filings
Jul, 2005	600	Jul, 2006	247	Jul, 2007	277
Aug, 2005	335	Aug, 2006	251	Aug, 2007	279
Sep, 2005	329	Sep, 2006	212	Sep, 2007	176
Oct, 2005	274	Oct, 2006	322	Oct, 2007	219
Nov, 2005	289	Nov, 2006	166	Nov, 2007	205
Dec, 2005	492	Dec, 2006	192	Dec, 2007	163
Jan, 2006	401	Jan, 2007	194	Jan, 2008	186
Feb, 2006	266	Feb, 2007	188	Feb, 2008	180
Mar, 2006	251	Mar, 2007	220	Mar, 2008	159
Apr, 2006	200	Apr, 2007	206		
May, 2006	284	May, 2007	258		
Jun, 2006	291	Jun, 2007	292		
Total Filings	4012	Total Filings	2748	Total Filings	1844

¹ This was the initial year OAH held the contract with the California Department of Education to conduct special education due process hearings. The case filings for fiscal year 2005-2006 are artificially inflated due to the number of cases in “off-calendar” status which were transferred to OAH from the Special Education Hearing Office, the previous contract holder, for resolution.

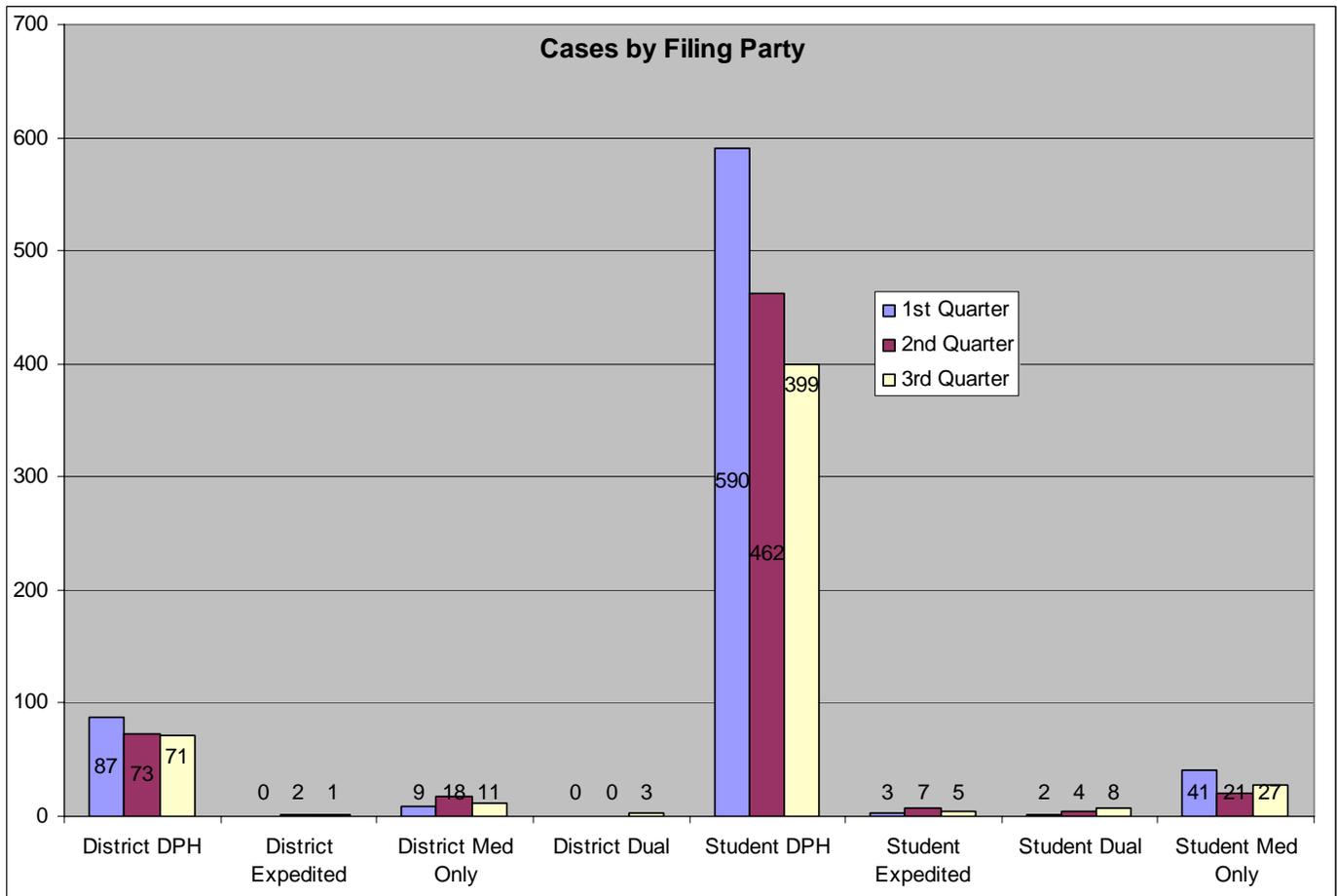
Matters filed – Month to Month Comparison



Cases by Filing Party

Overall, the cases filed are comprised of 399 student filed cases, 71 district filed cases, five student filed expedited hearings, one district filed expedited hearing, eight student filed cases involving expedited and non-expedited issues (dual hearings), and three district filed cases involving expedited and non-expedited issues (dual hearings). Additionally, 27 student filed and 11 district filed mediation only requests were received.

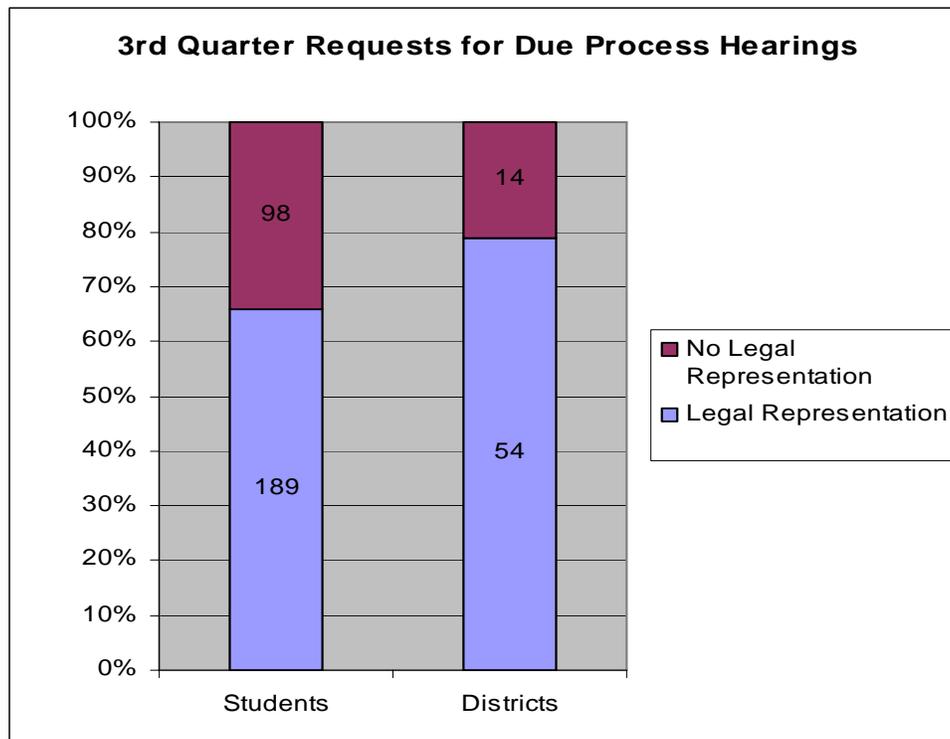
Case Type	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date
District DPH	87	73	71	231
District Expedited	0	2	1	3
District Med Only	9	18	11	38
District Dual	0	0	3	3
Student DPH	590	462	399	1451
Student Expedited	3	7	5	15
Student Dual	2	4	8	14
Student Med Only	41	21	27	89
Total	732	587	525	1844



Legal Representation

The requests for due process hearing filed by students were filed with legal representation in 66 percent of student filed cases (287 cases). The requests for due process hearing filed by districts were filed with legal representation in 79 percent of cases (68 cases).

	1 st Quarter ²	2 nd Quarter ³	3 rd Quarter	Year to Date
Students Requests filed with Representation	581	334	287	1202
District Requests filed with Representation	438	59	68	565



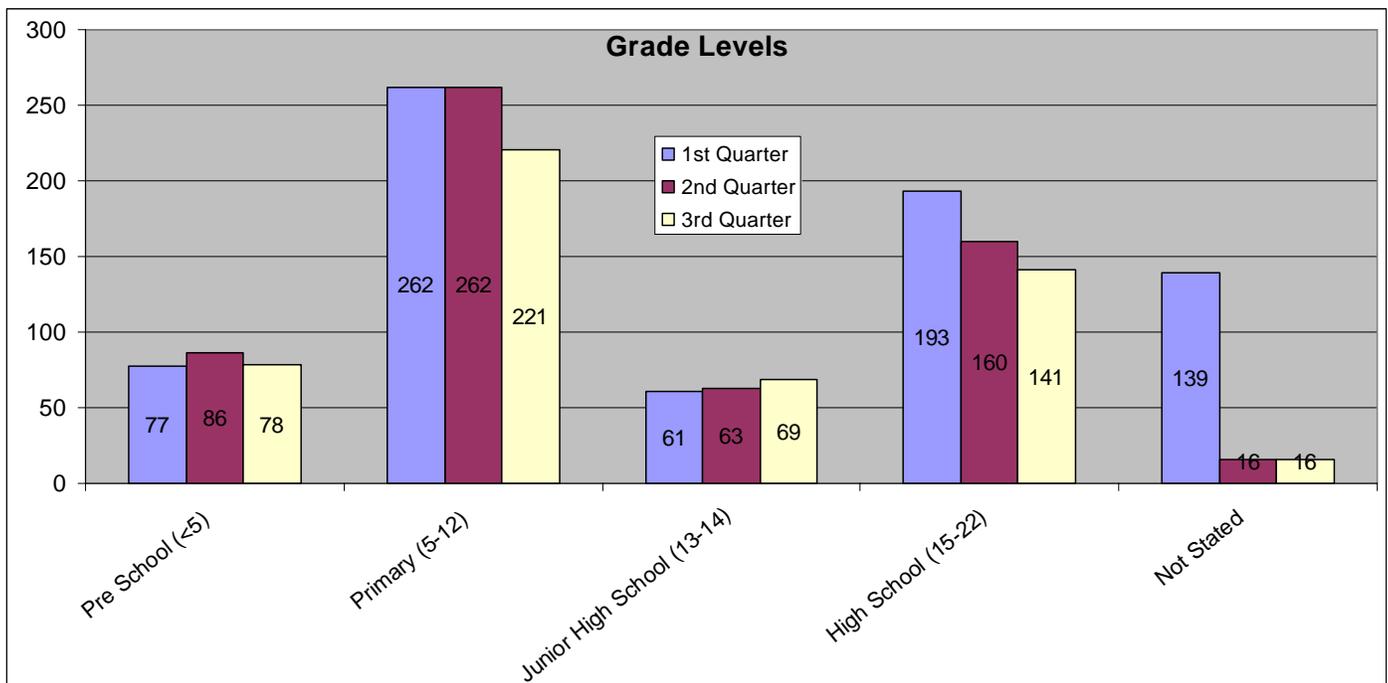
Grade Level

The majority of cases originated from students in the primary grades (221 cases) followed by those in high school (141 cases), preschool (78 cases), and junior high school (69 cases). Data on the grade level of the student was not specified in 16 of the case filings.

² For the 1st Quarter of this fiscal year, due to limitations in the previous case management system used by OAH, data related to the number of cases with legal representation was collected when the case was closed. Implementation of OAH's new case management system (Practice Manager) now permits collection of data related to case filings with legal representation at the time the case is filed. Thus, the 1st quarter data related to legal representation is not comparable to that of the remainder of the fiscal year.

³ This is the first quarter where this data was collected based on identified representation when the case was filed.

Grade Level	1 st Quarter	2 nd Quarter	3 rd Quarter	Total
Pre School (<5)	77	86	78	241
Primary (5-12)	262	262	221	745
Junior High School (13-14)	61	63	69	193
High School (15-22)	193	160	141	494
Not Stated	139	16	16	171
Total	732	587	525	1844

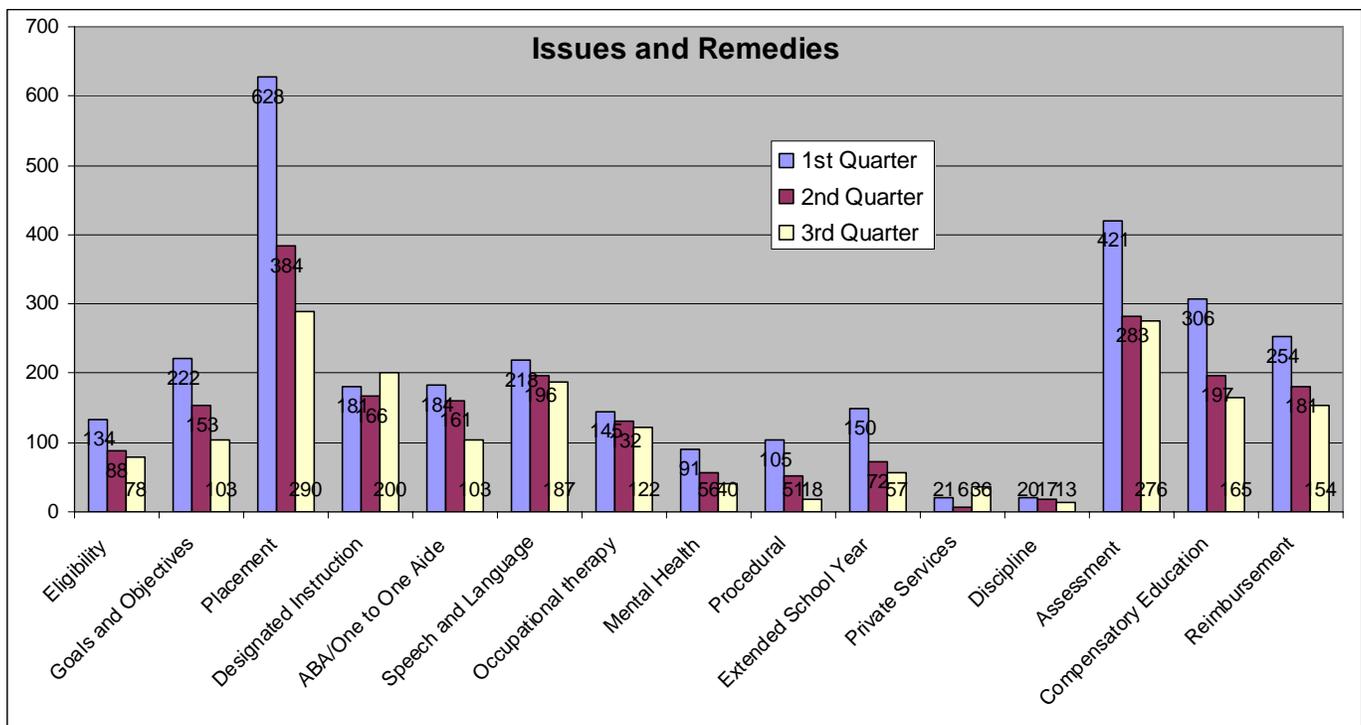


Issues and Remedies

Cases filed this quarter raised a variety of issues and requested remedies. The number of issues raised varied per case, with some cases only raising one issue and others raising several issues. The most common issues raised were placement (290 cases) and assessment (276 cases). Other issues included: speech and language services (187 cases), designated instruction and services (200 cases), ABA or one-to-one aide services (103 cases), goals and objectives (103 cases), occupational therapy services (122 cases), eligibility (78 cases), extended school year services (57 cases), mental health services (40 cases), procedural violations (18 cases), discipline (13 cases), and private services (36 cases). Compensatory education was requested as a remedy in 165 cases and reimbursement was requested as a remedy in 154 cases.

Issue	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date
-------	-------------------------	-------------------------	-------------------------	--------------

Eligibility	134	88	78	300
Goals and Objectives	222	153	103	478
Placement	628	384	290	1302
Designated Instruction	181	166	200	547
ABA/One to One Aide	184	161	103	448
Speech and Language	218	196	187	601
Occupational therapy	145	132	122	399
Mental Health	91	56	40	187
Procedural	105	51	18	174
Extended School Year	150	72	57	279
Private Services	21	6	36	63
Discipline	20	17	13	50
Assessment	421	283	276	980
Compensatory Education	306	197	165	668
Reimbursement	254	181	154	589

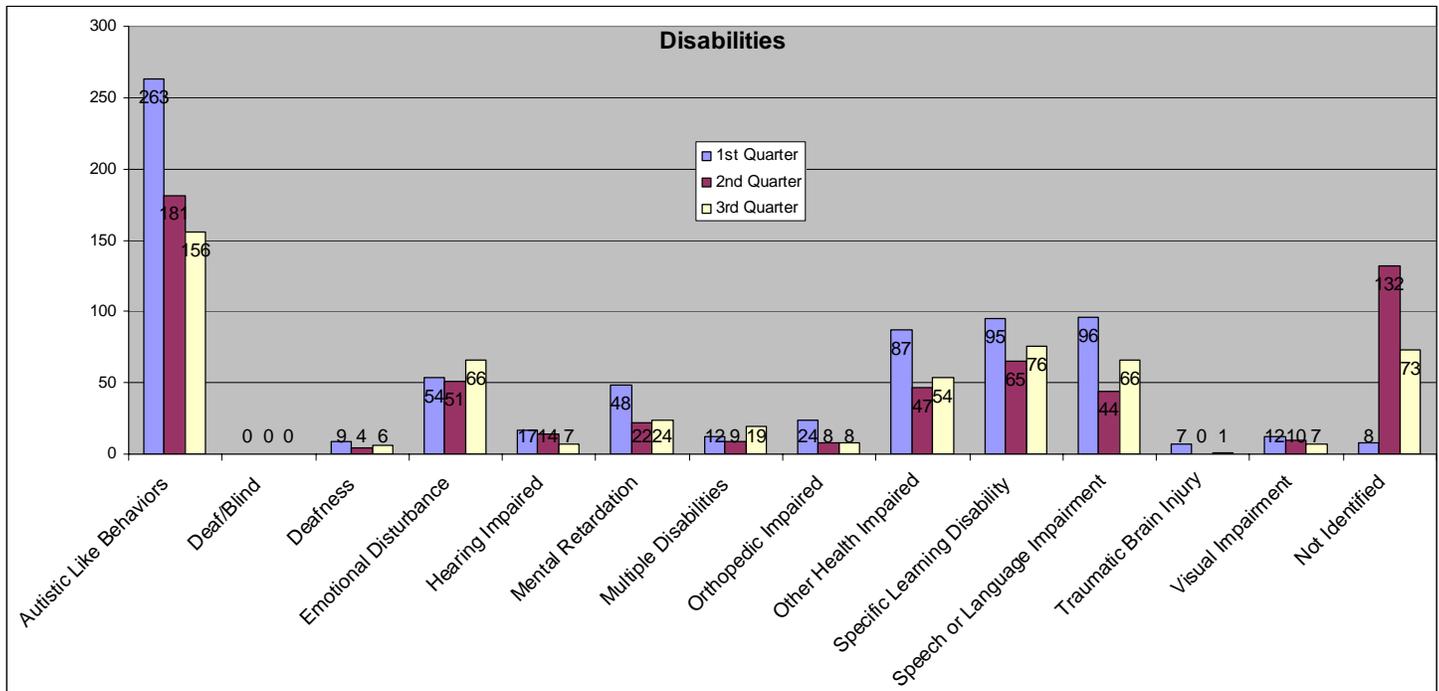


Eligibility Category

The majority of cases filed involved students identified under the eligibility category of autistic-like behaviors (156 cases). Several cases identified more than one area of disability. Other identified areas of eligibility included: Specific Learning disability (76 cases), Emotional Disturbance (66 cases), Other Health Impaired (54 cases), Speech and Language disorder (66 cases), Mental Retardation (24 cases), Hearing Impairment (7 cases), Visually Impaired (7

cases), Multiple Disabilities (19 cases), orthopedic impairment (8 cases), traumatic brain injury (1 case), and Deaf (6 cases). The student’s area of eligibility was not identified in 73 cases.

Eligibility Area	1 st Quarter	2 nd Quarter	3 rd Quarter	Total
Autistic Like Behaviors	263	181	156	600
Deaf/Blind	0	0	0	0
Deafness	9	4	6	19
Emotional Disturbance	54	51	66	171
Hearing Impaired	17	14	7	38
Mental Retardation	48	22	24	94
Multiple Disabilities	12	9	19	40
Orthopedic Impaired	24	8	8	40
Other Health Impaired	87	47	54	188
Specific Learning Disability	95	65	76	236
Speech or Language Impairment	96	44	66	206
Traumatic Brain Injury	7	0	1	8
Visual Impairment	12	10	7	29
Not Identified	8	132	73	213
Total	732	587	563⁴	1882

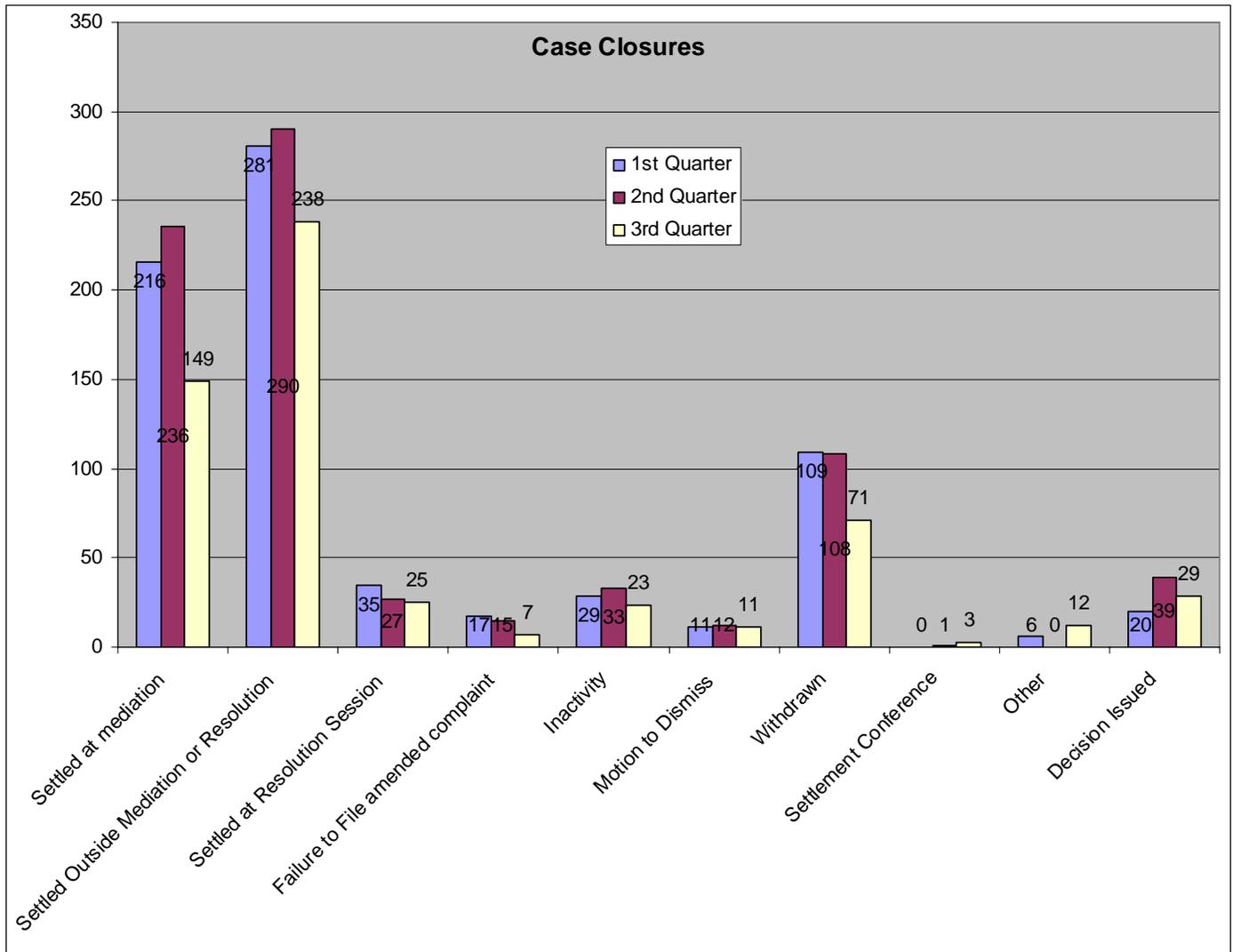


CLOSED CASES

⁴ In some cases, the parties identified more than one area of disability. Consequently this number may not necessarily match the number of new cases filed.

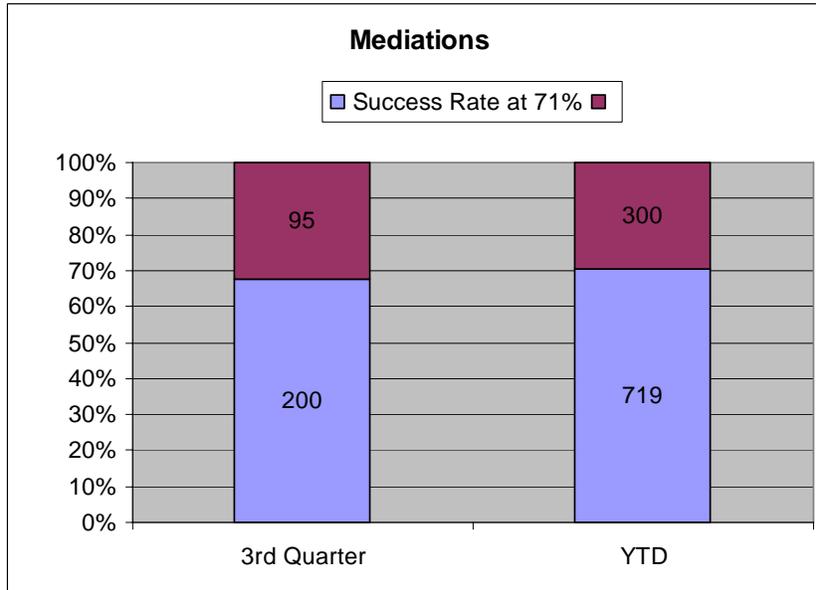
During this Quarter, 568 cases were closed. Currently, 580 matters remain pending. Overall this quarter, 95 percent of cases resolved in some manner without need for a due process hearing. For the fiscal year to date, 95 percent of cases have resolved without need for a due process hearing. The majority of cases resolved outside the mediation or resolution session process (238 cases), followed by those resolved during mediation (149 cases), and those resolved during the resolution session (25 cases). A number of cases (71 cases) were withdrawn by the filing party without explanation. Additionally, 11 cases were dismissed via a motion to dismiss, seven cases were dismissed after failing to amend following a notice of insufficiency, 23 cases were dismissed due to inactivity, three cases was settled during a settlement conference, and 12 cases were closed for other reasons. Lastly, 29 cases were closed following a full hearing and decision on the merits.

Reason for Closure	1 st Quarter	2 nd Quarter	3 rd Quarter	Total
Settled at mediation	216	236	149	601
Settled Outside Mediation or Resolution	281	290	238	809
Settled at Resolution Session	35	27	25	87
Failure to File amended complaint	17	15	7	39
Inactivity	29	33	23	85
Motion to Dismiss	11	12	11	34
Withdrawn	109	108	71	288
Settlement Conference	0	1	3	4
Other	6	0	12	18
Decision Issued	20	39	29	88
Total	724	761	568	2053



Mediations

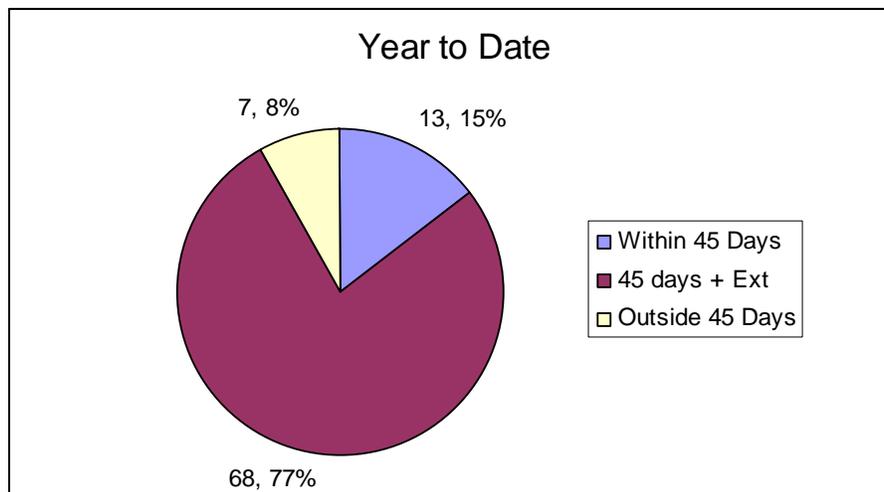
This quarter 295 mediations were held. Of the 295 mediations held, 95 resulted in impasse. Consequently, mediation was successful in 68 percent of cases. For the current fiscal year, OAH has conducted 1019 mediations with 300 resulting in impasse. Overall for this fiscal year, the mediation success rate is 71 percent.



Due Process Hearings

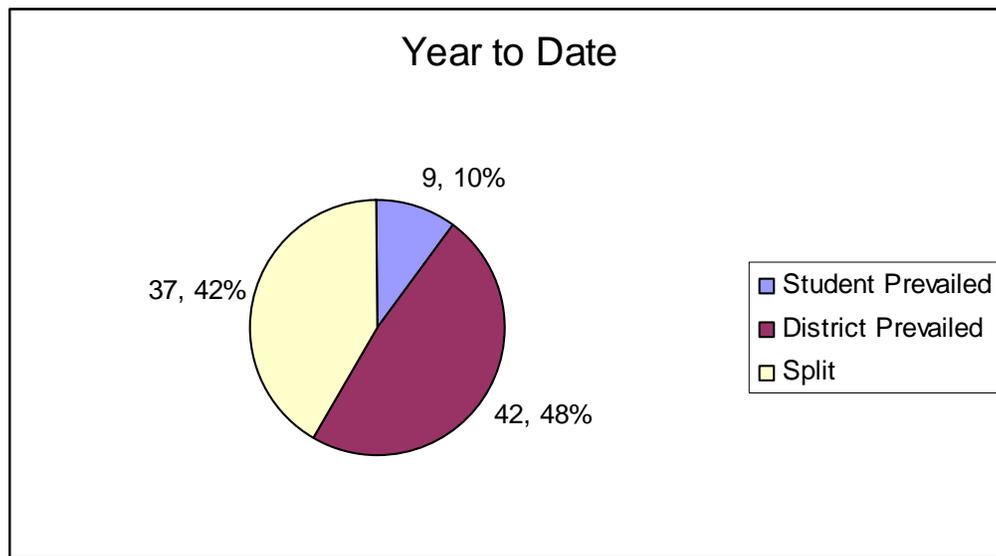
During this Quarter, final decisions were issued in 29 cases. Of the 29 decisions issued, 4 decisions were issued within the 45 day timeline, 20 were issued within the 45 day timeline plus extension, and 5 were issued late. Overall, this quarter, 83 percent of decisions were issued within the requisite timeline. For the current fiscal year, OAH has issued 88 decisions and 92 percent of decisions have been issued within the requisite timelines.

	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date
Within 45 Days	2	7	4	13
45 days + Ext	17	31	20	68
Outside 45 Days	1	1	5	7



For the decisions issued this quarter, students prevailed in 4 hearings (14 percent) and districts prevailed in 13 hearings (45 percent). In 12 cases (41 percent), the decision was split between student and district with students prevailing on 28 issues and districts prevailing on 44 issues. For the current fiscal year, students have prevailed in 9 hearings (10 percent), districts have prevailed in 42 hearings (48 percent), and 37 cases (42 percent) resulted in a split decision. Copies of all decisions have been provided to CDE and were posted on the OAH website.

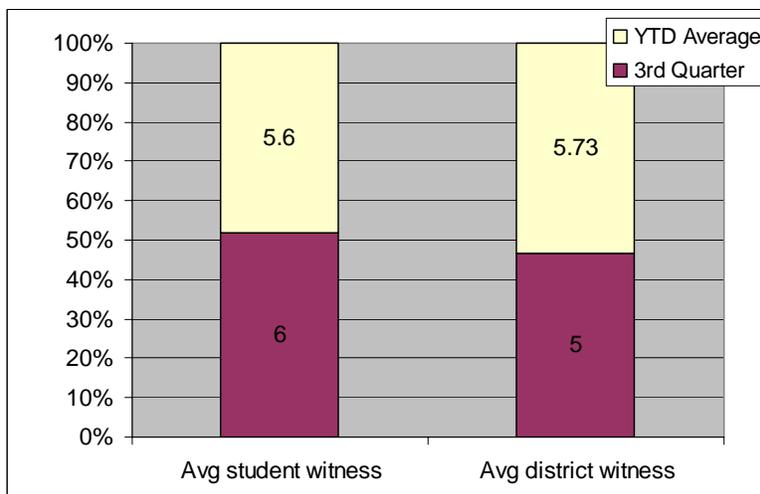
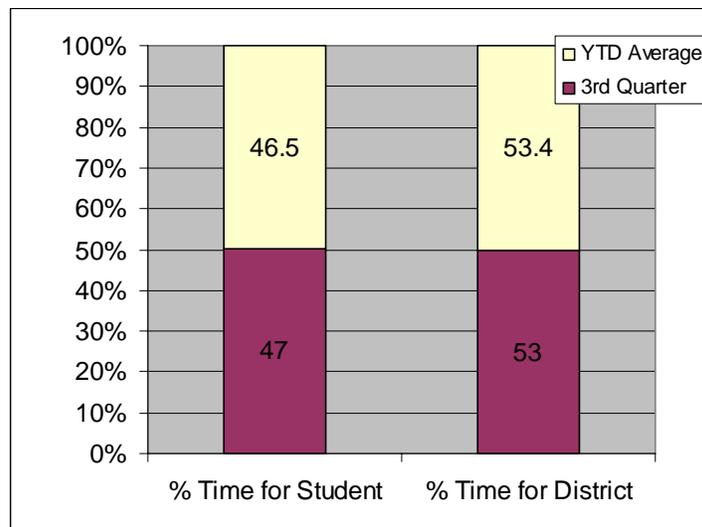
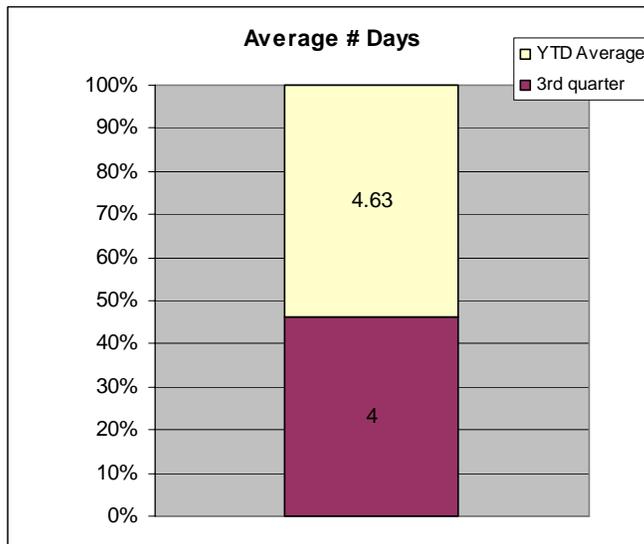
	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date
Student Prevailed	1	4	4	9
District Prevailed	12	17	13	42
Split	7	18	12	37



Of the decisions issued, 4 cases case involved a preschool student, 12 cases involved elementary school students, 2 cases involved middle school students, and 11 cases involved high school students.

On average the due process hearings lasted 4 days with students using 47 percent of the hearing for presentation of their case and districts using 53 percent of hearing time for case presentation. During case presentation, students called an average of 6 witnesses per case and districts called an average of 5 witnesses per case.

Category	1 st Quarter	2 nd Quarter	3 rd quarter	YTD Average
Average # days	3.9	6	4	4.63
% Time for Student	51.6	41	47	46.5
% Time for District	48.4	59	53	53.4
Avg student witness	5.8	5	6	5.60
Avg district witness	6.2	6	5	5.73



Multiple areas of disability were represented at hearing. The greatest number of cases involved students identified with autistic-like behaviors (10 cases) followed by students identified with a emotional disturbance (7 cases).

Disability Area	1 st Quarter	2 nd Quarter	3 rd Quarter	YTD
Autistic Like Behaviors	8	14	10	32
Deaf/Blind	0	0	0	0
Deafness	0	1	1	2
Emotional Disturbance	0	5	7	12
Hearing Impaired	0	0	0	0
Mental Retardation	0	1	1	2
Multiple Disabilities	0	1	1	2
Orthopedic Impaired	0	0	1	1
Other Health Impaired	2	4	1	3
Specific Learning Disability	7	10	4	21
Speech or Language Impairment	2	2	1	5
Traumatic Brain Injury	0	0	2	2
Visual Impairment	0	1	0	1
Not Identified	1	0	0	5
Total	20	39	29	88

Expedited Hearing Requests

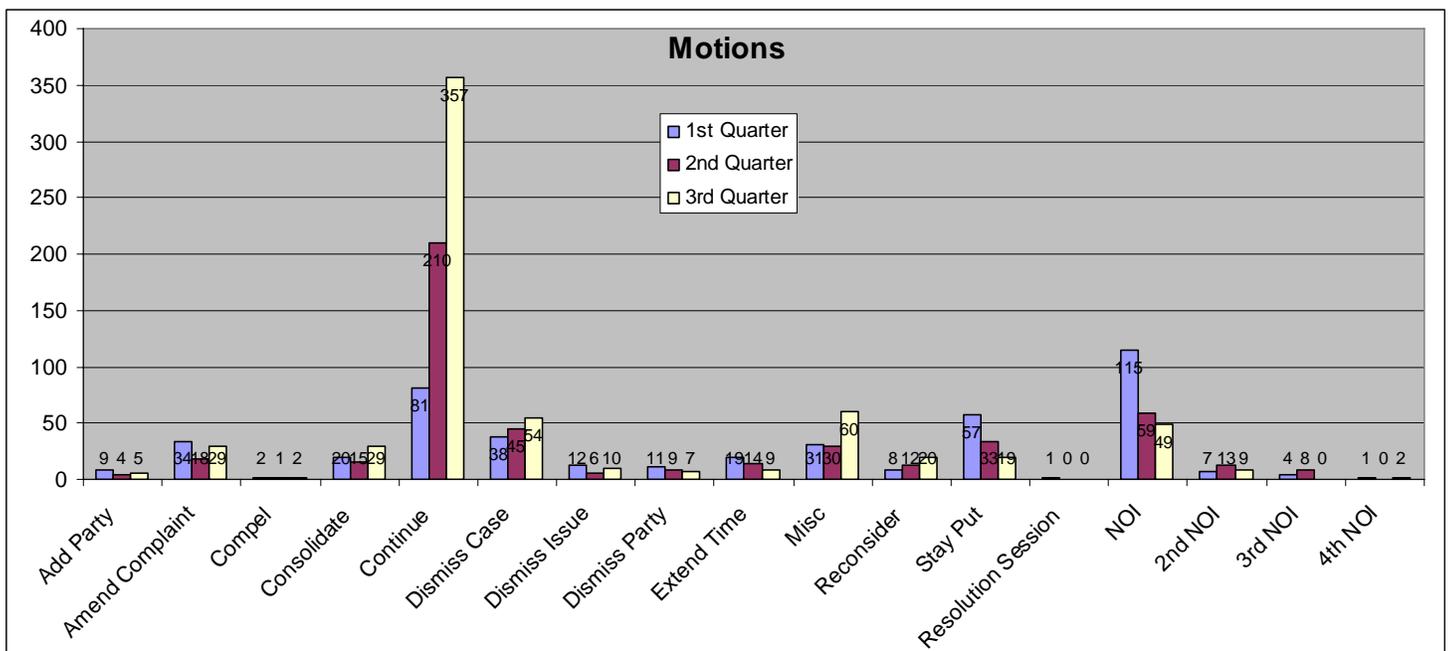
This quarter, OAH received 17 requests for expedited hearing. All cases were resolved without a hearing. For the current fiscal year, all expedited matters have resolved without a due process hearing.

Motions

Prehearing motions and Notices of Insufficiency (NOI) comprise a substantial amount of the work completed by administrative law judges. For this quarter, 601 prehearing motions and 60 NOIs were considered and ruled upon by OAH.

The prehearing motions encompassed a variety of issues with the largest number involving motions to continue (357 motions).

Motion Type	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date Total
Add Party	9	4	5	18
Amend Complaint	34	18	29	81
Compel	2	1	2	5
Consolidate	20	15	29	64
Continue	81	210	357	648
Dismiss Case	38	45	54	137
Dismiss Issue	12	6	10	28
Dismiss Party	11	9	7	27
Extend Time	19	14	9	42
Misc	31	30	60	121
Reconsider	8	12	20	40
Stay Put	57	33	19	109
Resolution Session	1	0	0	1
NOI	115	59	49	223
2 nd NOI	7	13	9	29
3 rd NOI	4	8	0	12
4 th NOI	1	0	2	3
Total	450	477	661	1588



There were 601 prehearing motions filed this quarter. Of those motions filed by districts, 103 were granted, 5 were granted in part and 42 were denied. Of those motions filed by students, 215 were granted, 1 was granted in part and 44 were denied. The remaining motions

were stipulated, moot, or withdrawn. Of the 60 NOIs filed, 21 were found insufficient, 10 were partially sufficient, and 29 were sufficient.

NON-ENGLISH SPEAKING STUDENTS AND INTERPRETERS

During this quarter, 33 non-English speaking students were identified through the due process hearing request forms. Additionally, the assistance of an interpreter was requested in 22 matters. The largest number of requests was for Spanish interpretation with 20 requests, followed by one each for American Sign Language and Arabic.

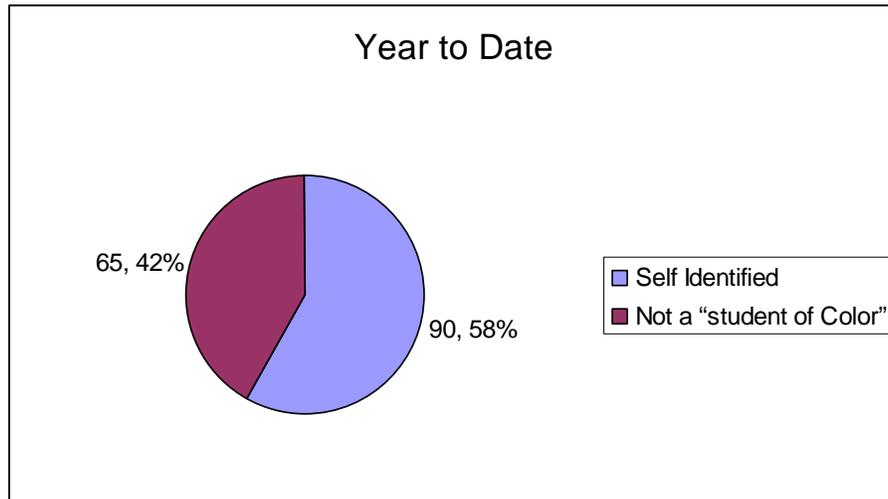
	1 st Quarter	2 nd Quarter ⁵	3 rd Quarter	Year to Date
Spanish	96	47	20	163
Vietnamese	2	0	0	2
Farsi	3	1	0	4
Mandarin	0	3	0	3
Hebrew	2	1	0	3
Korean	3	2	0	5
Russian	1	0	0	1
Cantonese	0	1	0	1
Chinese	1	0	0	1
American Sign Language	0	0	1	1
Japanese	0	1	0	1
Fookien	0	1	0	1
Arabic	0	0	1	1
Total	108	57	22	176

STUDENTS OF COLOR

CDE has requested OAH to collect data on the number of “students of color accessing the system.” To facilitate this request, effective January 1, 2007, OAH amended its due process hearing request form to include this request. However, not all hearing requests are made using the OAH form. This quarter, 21 students self reported as being a “student of color” and 20 students self reported as not being a “student of color.” The remaining students did not state if they were a “student of color.”

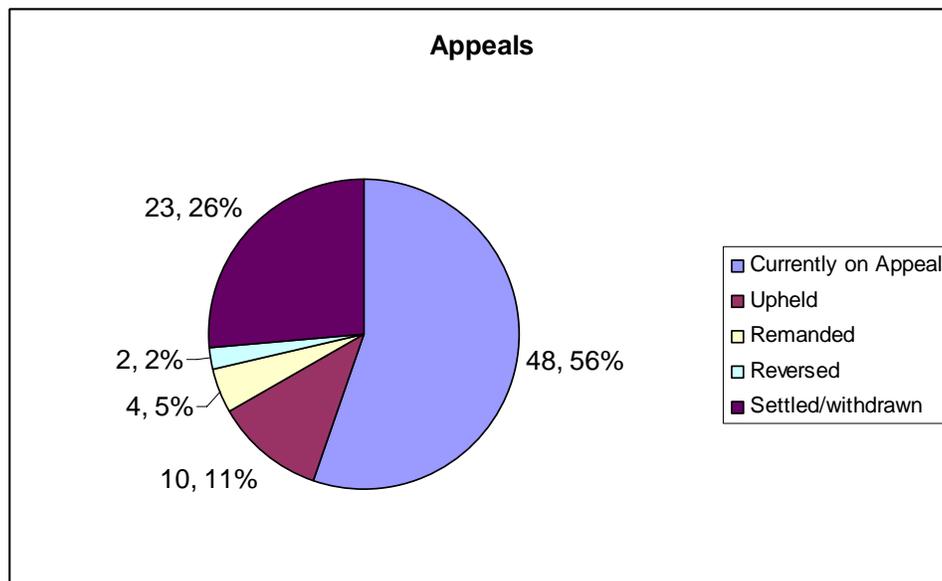
	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date
Self Identified	29	40	21	90
Not a “student of Color”	15	30	20	65

⁵ This information was not reported in the second quarter report.



TRANSCRIPT REQUESTS AND APPEALS

This quarter, OAH received 25 requests for transcripts. Data on the number of appeals and appellate outcomes is collected on an ongoing basis. It includes all cases that OAH was notified were appealed since July 2005. Based on correspondence with the parties and filings that have been provided to OAH, 87 cases have been appealed since July 2005. Currently, 48 OAH decisions are on appeal. Since July 2005, 4 decisions have been remanded, 2 decisions were reversed, 10 decisions have been upheld, and 23 cases were settled or withdrawn by the parties. Due to the difficulty in identifying which cases are appealed and the appellate outcomes, parties are invited to notify OAH of any cases not included below or outcomes that are not identified below.



District Name	Case Number	Appeal Outcome
Alhambra USD	2006020312	Dismissed
Alvord USD	2005070955	Dismissed
Bonita USD	2006020528	Pending
Byron Union SD	2006030866	Pending
CA School for the Deaf	2005090646	Pending
Capistrano USD	2005090873	Withdrawn/Settled
Capistrano USD	2005070135	Decision Remanded ⁶
Capistrano USD	2005070363	Pending
Capistrano USD	2006100267	Pending
Chula Vista USD	2005060656, 2006010691	Pending
Compton USD	2005110837	Pending
Compton USD	2005070151	Dismissed
Compton USD	2005071091	Pending
Corona Norco USD	2005070226	Dismissed
Covina-Valley USD	2005060599	Dismissed
Downey USD	2005070522	Withdrawn/Settled
Downey USD	2005070481	Withdrawn/Settled
Dublin USD	2006060896	Pending
East Whittier City USD	2005120375/2005120635	Dismissed
East Whittier City USD	2005090275	Upheld OAH Decision
Escondido UHSD	2006070791, 2006051042	Pending
Fremont USD	2006050433	Pending
Fremont USD	2006050433	Remanded
Garden Grove USD	2006110278	Pending
Garden Grove USD	2005070363	Pending
Garden Grove USD	2005090691	Withdrawn
Gateway USD	2005080397	Withdrawn/Settled
High Tech Middle Media	2006090461	Pending
Huntington Beach USD	2005080264	Pending
Kern HSD	2005070832	Dismissed
Long Beach USD	2005070425	Pending
Long Beach USD	2005070442	Pending
Long Beach USD	2005070128	Pending

⁶ Reversed in part OAH's decision and remanded to OAH to determine the remedy in the form of appropriate reimbursement for educational services.

Long Beach USD	2005080935	Pending
Los Altos SD	2005070166	Dismissed
Los Angeles USD	2006050447	Pending
Los Angeles USD	2006010083	Decision Remanded
Los Angeles USD	2006010962	Upheld OAH Decision
Los Angeles USD	2005090882	Decision Reversed in Part ⁷
Los Angeles USD	2005110113	Withdrawn/Settled
Los Angeles USD	2005070253	Dismissed
Menlo Park USD	2005090654	Upheld OAH Decision
Monrovia USD	2006030450	Pending
Newport-Mesa USD	2005100636	Withdrawn/Settled
Oakley Union ESD	2006100061	Pending
Orange USD	2005070130	Upheld OAH Decision
Pajaro Valley USD	2005120162	Pending
Palm Springs USD	2006010564	Dismissed
Placentia-Yorba Linda USD	2005071105	Upheld OAH's Decision ⁸
Placentia-Yorba Linda USD	2006010306	Pending
Pomona USD	2006010049	Pending
Pomona USD	2005070523	Reversed OAH's Decision
Poway Unified	2005080077	Pending
Poway USD	2005120568, 2005120386 2005090003, 2005090004	Pending
Reed Union SD	2006020660	Withdrawn/Settled
Riverside USD	2005110775	Pending
Rocklin USD	2006110278	Upheld OAH Decision
Saddleback Valley USD	2005070193	Pending
San Diego USD	2006020294	Pending
San Diego USD	2005100882	Pending
San Luis Coastal USD	2005070205	Pending
San Luis Coastal USD	2005080655	Pending
San Luis Coastal USD	2007010836	Pending
San Mateo UHSD	2006070550	Pending
San Ramon Valley USD	2005110307	Dismissed
San Ramon Valley USD	2005071028	Pending

⁷ Reversed OAH's decision only as to prospective relief and awarded Student approximately three weeks' reimbursement for behavior support services from a specific provider.

⁸ This matter is currently on appeal to the Ninth Circuit Court of Appeals.

San Ramon Valley USD	2006050839	Withdrawn
San Ramon Valley USD	2005071032	Upheld OAH Decision
San Ramon Valley USD	2005071031	Upheld OAH's Decision
San Ramon Valley USD	2005070815	Withdrawn/Settled
Santa Ana USD	2005090037	Upheld OAH's Decision
Santa Maria USD	2006070104	Pending
Sequoia Union HSD	2006120087	Pending
Simi Valley USD	2006090233	Pending
Snowline Joint USD	2005100716	Pending
Sylvan Union SD	2006030058	Pending
Temecula Valley	2005070197	Dismissed
Torrance USD	2005110591	Pending
Torrance USD	2006030068	Pending
Torrance USD	2007010830	Pending
Tustin USD	2005090544	Pending
Upland USD	2005110360	Pending
Yucaipa-Calimesa USD	2005070042	Decision Remanded ⁹
Yucaipa-Calimesa USD	2005070683	Dismissed

MEDIATION AND HEARING EVALUATIONS

Under its contract with CDE, OAH is required to send evaluations to all parties attending mediations and hearings. The evaluations contain a 1 through 5 rating scale with 1 being Poor/Very dissatisfied and 5 being Excellent/extremely satisfied. The evaluations ask the parties to evaluate the mediation, the administrative law judge and OAH in general.

This quarter, 217 mediation evaluations were returned to OAH. Evaluations were completed by parents (35 cases), legal counsel for parents (19 cases), parent advocates (5 cases), school district representatives (66 cases), and legal counsel for district (19 cases). In 73 cases, the evaluator did not indicate their role in the mediation.

⁹ Stayed proceeding and remanded to OAH for ALJ to explain whether it considered District's evidence in determining that District denied Student a FAPE and did not conduct an assessment.

OVERALL AVERAGE MEDIATION RATING - 4.21

	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date Average
Started mediation on time	4.25	4.10	4.31	4.20
Explained Satisfactorily the mediation process	4.33	4.26	4.16	4.25
Was well prepared for mediation	5.54	4.08	4.16	4.26
Directed the mediation process effectively	4.09	4.05	3.90	4.01
Facilitated discussions between the parties	4.04	4.00	3.97	4.00
Remained neutral through the mediation	4.20	4.08	4.17	4.15
Maintained the confidentiality of the parties	4.43	4.33	4.46	4.40
Acted in a courteous and respectful manner	4.42	4.42	4.46	4.43
Exhibited knowledge of special education law	4.23	4.08	4.04	4.12
Average	4.28	4.16	4.18	4.21

This quarter, 39 hearing evaluations were returned to OAH. Evaluations were completed by parents (3 cases), legal counsel for parents (2 cases), student advocates (0 cases), school district representatives (14 cases), and legal counsel for district (7 cases). In 13 cases, the evaluator did not indicate their role in the hearing.

OVERALL AVERAGE HEARING RATING – 4.10

	1 st Quarter	2 nd Quarter	3 rd Quarter	Year to Date Average
Punctual in starting the hearing	4.20	4.39	4.31	4.30
Well-prepared for the hearing	4.07	4.18	4.45	4.23
Courteous to the participants	4.04	4.58	4.34	4.32
Attentive to testimony and arguments	4.24	4.29	4.34	4.29
Careful in making the record	4.11	4.42	4.28	4.27
Allowed the parties to explain their case	4.20	4.32	4.23	4.25
Efficient in the use of hearing time	3.87	4.40	4.11	4.13
Avoided apparent bias based upon gender, race, or ethnicity	4.47	4.54	4.29	4.43
Treated all participants professionally and fairly	4.15	4.24	4.28	4.22
Avoided over-familiarity with the school district	4.22	4.23	4.44	4.30
Avoided over-familiarity with the parents	4.43	4.47	4.29	4.40
Did not pre-judge the case	3.93	4.05	4.09	4.02
Did not allow personal beliefs to influence the outcome	3.51	3.66	3.91	3.69
Did not permit ex parte contacts	4.32	4.02	4.25	4.20
Exerted control during the hearing	4.15	4.37	4.06	4.19
Exhibited knowledge of special education law	3.74	3.66	3.83	3.74
Applied rules of procedure appropriately	3.85	4.03	3.89	3.95

Applied rules of evidence appropriately	3.78	3.92	3.80	3.83
Decided the case based upon the evidence	3.86	3.62	3.69	3.72
Prepared a Decisions that resolved each issue presented	3.98	4.05	3.67	3.90
Prepared a decision that was clear and concise	3.87	3.81	3.74	3.81
Average	4.05	4.15	4.11	4.10