The effects of mediation on relationships between families of students with disabilities and school personnel

Mary Suzanne Creasey
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[https://dx.doi.org/doi:10.25774/w4-en84-ae41](https://dx.doi.org/doi:10.25774/w4-en84-ae41)

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THE EFFECTS OF MEDIATION ON RELATIONSHIPS BETWEEN
FAMILIES OF STUDENTS WITH DISABILITIES AND SCHOOL PERSONNEL

A Dissertation
Presented to
The Faculty of the School of Education
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree
Doctor of Philosophy

by

Mary Suzanne Creasey

April 2003
THE EFFECTS OF MEDIATION ON RELATIONSHIPS BETWEEN
FAMILIES OF STUDENTS WITH DISABILITIES AND SCHOOL PERSONNEL

by

Mary Suzanne Creasey

Approved April 2003 by

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Steven R. Staples, Ed.D.
DEDICATION

This work is dedicated first to my parents, Cecil Harvey and Mary Taylor Creasey. My mother has always provided the love, encouragement, and support of not only a parent, but of a best friend. As a parent, she is the model of unconditional love and support, and as a best friend, she knows when to listen and when to provide advice. She always knows the right thing to say at the right time, and her strength and courage during difficult times are a source of inspiration. This also is dedicated to the memory of my father, whose love and influence endure in the hearts of those who knew and loved him. He always believed in me, and I continue to hear his voice of encouragement when I question my own abilities. He would have been extremely proud of this accomplishment.

Secondly, I dedicate this to my sister, Diane Creasey Kent, my brother, Cecil Harvey Creasey, Jr., and their spouses and children. I feel exceedingly fortunate to have siblings who love and respect each other and who support me in my professional and personal ventures. During this undertaking, my absence from their lives, both physical and emotional, was accepted with patience and understanding.

Lastly, this is dedicated to the many children with disabilities and their parents who have taught me so much over the years. In particular, it is dedicated to the parents who serve as members of the York County Special Education Advisory Committee. Their stories of inspiration and challenge along with their willingness to work collaboratively serve as an example to others who want to work together with their schools in positive ways to improve services to children with disabilities.
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ACKNOWLEDGMENTS

I would like to recognize those who have made this study possible. Dr. Brenda Williams, my committee chair, not only supported the need for research on this topic, but also asked the difficult questions necessary to plan and implement a study designed to explore the thoughts and feelings of people engaged in dispute. Her patience, guidance, and support during this lengthy process are greatly appreciated. I also wish to thank Dr. Chriss Walther-Thomas, whose positive, encouraging, and constructive thoughts and feedback at the right times contributed considerably to my persistence. My gratefulness to Dr. Steven Staples cannot be overstated. I wish to thank him for his leadership and patience as my superintendent as well as for his inspiration and words of wisdom, both as a member of my committee and as my superior. I also must acknowledge Dr. Jill Burruss, who served as a consultant on qualitative research. She not only provided the guidance needed as I worked to draw meaning from many pages of transcripts, but also affirmed my competence in understanding and drawing useful understandings from the thoughts captured through my interviews with the study participants.

I need to acknowledge also those with whom I currently work and with whom I worked in the past while designing and implementing this study. Both Dr. James Tucker, my current supervisor, and Dr. Valerie Taylor, my previous supervisor, provided the encouragement to persevere when work and personal pressures could have taken precedence over completion of this study. I also thank current and past colleagues who would not let me lose sight of this goal. I especially thank Mrs. Bonnie Williams, who was quick to volunteer to take on additional responsibilities when I needed to conduct interviews; I also thank her for her unwavering support and encouragement. I also would
like to thank others from my office who provided encouragement and were willing to assume additional responsibilities during my absences. They include Mrs. Cynthia Fields, Mrs. Kristin Holst, Mrs. Dawn Padden, Mrs. Patricia McMahon, and Mrs. Georgeann McQuigg.

I would like to acknowledge also the support and work of Mrs. Debbie Gill and Mrs. Sherry Martin, who transcribed the interview tapes. They understood my urgent need for transcripts soon after the interviews and responded by putting these transcriptions ahead of other responsibilities. Their dedication to me is appreciated more than they will ever know.

Finally. I wish to thank those from the Virginia Department of Education (VDOF) who assisted in making this study possible. In particular. I wish to thank Mr. Doug Cox, Assistant Superintendent for Special Education and Student Services, who approved my request for assistance from VDOF resulting in the identification of study participants. I also wish to thank Dr. Don Fleming, Specialist for Student Services, who began the state's mediation system and who managed the process leading to the identification of study participants, for providing information and support. I also wish to thank Mr. Art Stewart, who manages Virginia's Statewide Special Education Mediation System and introduced me to leaders in the field of special education mediation and who provided a sounding board for my thoughts.
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THE EFFECTS OF MEDIATION ON RELATIONSHIPS BETWEEN
FAMILIES OF STUDENTS WITH DISABILITIES AND SCHOOL PERSONNEL.

ABSTRACT

This study focused on the effects of mediation on the relationships between families of students with disabilities and schools in dispute. Despite claims that mediation may result in improved relationships between families of students with disabilities and school districts, empirical evidence does not support these claims. Using a qualitative, exploratory design, interviews were conducted with school personnel and family members who participated in mediation. Participation was voluntary, solicited via an anonymous procedure implemented with assistance from the Virginia Department of Education. In the three cases used, interviews occurred before and after mediation and were focused on the participants' perceptions of the conflict, their perceptions of each other's positions, and their perceptions related to their relationship with each other. Interviews were taped and transcribed. Using a standard analytic inductive technique, each case was analyzed individually for themes that emerged from the interviews, and cross-case analysis was conducted to identify common themes within and across groups. Finally, answers to interview questions were analyzed as they related to specific research questions.

Findings suggest that mediation did not result in improved relationships. While school representatives expressed hopes for improved relationships with the families with whom they were in dispute, the family members expressed no expectations for improvements. Further, while disputants agreed when they described the mediation issue, their perspectives of the dispute were different. Families interviewed did not understand the mediation process and were unsure about what to expect. After mediation, family
members did not view the process as significantly different from previous attempts to resolve their disputes with school districts. Problems with trust and communication and different perspectives between families and school administrators about the needs for the students emerged as factors that led to the dispute and continued after mediation. Positions, rather than interests, seemed the major focus of both groups as they entered mediation and also afterward.
THE EFFECTS OF MEDIATION ON RELATIONSHIPS BETWEEN
FAMILIES OF STUDENTS WITH DISABILITIES AND SCHOOL PERSONNEL.
Chapter 1: The Problem

Since the passage of the Education of Handicapped Children Act, P.L. 94-142, in 1975 (reauthorized in 1991 and 1997 as the Individuals with Disabilities Education Act [IDEA]), families have been afforded certain rights relative to the education of their child with a disability, including the right to formal complaints and due process hearings to address disputes with public schools. By the mid-1990s, most states had begun to implement alternatives to due process hearings to assist in the settlement of disputes (Project FORUM, 1998). Among these alternative dispute resolution strategies was mediation, a process that involves an impartial third party to assist with a voluntary resolution.

In 1997, Congress amended the IDEA to require the availability of mediation at state expense whenever a due process hearing is requested. The President’s Commission on Excellence in Special Education in 2002 also emphasized the need to develop less adversarial approaches to disputes, recommending that mediation be available any time it is requested rather than the current regulation that only requires the offer of mediation after a due process hearing is requested (Commission on Excellence in Special Education, 2002).

While a number of advantages to mediation have been noted in the literature, including cost and time savings to both families and schools (Beyer, 1999; Domenici, 1996), an important advantage speculated is the positive effect mediation may have on relationships between families and schools after a disagreement or dispute (Beekman, 1999).
1999; Beyer, 1999; Heumann, 1997; Mills & Duff-Mallams, 2000). Due to the adversarial, win-lose approach of formal complaints and due process hearings and the potential for retaliation through appeals and other strategies by a losing party, due process hearings have often resulted in damaged relationships (Beekman, 1999). That is, trust, cooperation, communication, and a mutual collaborative focus on the student are relational aspects potentially lost or damaged as a result of an adversarial, win-lose approach such as the use of a due process hearing to settle a dispute (Beyer, 1999).

Statement of the Problem

Emerging empirical evidence supports claims that mediation can result in cost and time savings as well as provide an effective procedure for resolving disputes resulting in agreements (Beyer, 1999; Domenici, 1996; Heumann, 1997; Opuda, 1998). To date, however, studies have not focused on the effects of mediation on the relationships between families of students with disabilities and school personnel who are in dispute. Since conflict will likely continue as parents and schools work to implement IDEA, and since mediation is relatively a new procedure used to settle special education disputes in some states, research is needed to provide guidance to families and school officials regarding its effectiveness in improving relationships between families and school personnel.

This study is significant because it contributes to emerging data on the nature of relationships between schools and families before and after participating in mediation. These data, along with other research, will be useful to families and schools in making decisions about participation in mediation and what to expect. For example, if mediation
does help resolve the problem but does not fundamentally change the way the parties communicate and work together, another dispute is almost inevitable. If, however, research finds that mediation fundamentally changes the way the disputants interact and perceive each other in a positive way, it may have a more lasting impact than the resolution of a single dispute, thus influencing the way that mediation is presented and utilized.

As the researcher, my background brings perspectives to this research important to note. My experience includes teaching special education students, school-based administration as an assistant principal, university-based coordination of a technical assistance program, and state-level administration of special education programs. At the time of this research, I was employed as a local director of special education programs and services.

Statement of Purpose

Since IDEA requires parent participation in the decision making for children with disabilities, there are many points of potential conflict or disagreement. Examples of required parent participation include involvement in the eligibility process, participation in the development of the student’s Individualized Education Program (IEP), and involvement in changes in any aspect of the student’s program proposed by the school district. Families also have the right to request changes in students’ programs or services. While the school district has the right to refuse specific requests, written notice of the refusal must be provided along with a justification for the refusal. In addition, informed consent from parents must be secured before many decisions can be implemented.
Due process rights provided via IDEA have traditionally resulted in the use of state complaint procedures and due process hearings to settle disputes, both of which result in win-lose decisions. Although these approaches lead to settlement of the disputes, they may result in increased tension and hostility between disputants (Schumack & Stewart, 1995). Mediation, on the other hand, is a win-win approach designed to reach an agreement that both parties support. Further, Bush and Folger (1994) discussed the longer term potential of mediation that results from empowerment and recognition in the mediation process. Specifically, they indicate that when empowerment in the process and recognition of the other viewpoint are realized through the process of mediation, the result of the mediation is greater than the mere solution to the dispute as the way disputants interact with each other is transformed in a positive way.

The purpose of this study was to explore the effect that mediation has on the relationship between families of students with disabilities and school personnel after a dispute. The following research questions were explored:

1. To what extent did disputants agree on the nature of the dispute?
2. How did mediation differ from previous attempts to solve their dispute?
3. What did disputants expect from their mediation?
4. What factors led to (or prevented) reaching a mediated agreement?
5. What was the impact of mediation on relationships between disputants?

Operational Definitions

Although many of the terms and phrases used in this study are common to the field of special education as well as to the study of dispute resolution, a number of connotations
can be used. The following operational definitions provide clarification on the use of these terms as they are used in this study.

**Collaboration**

Walther-Thomas, Korinek, McLaughlin, and Williams (2000) discuss collaboration as the interaction between two or more people who have mutual respect and trust for each other in a spirit of parity. The elimination of struggles resulting from positions of power results in parties who listen to alternative perspectives and make decisions based on the information available with a shared focus on the goal. Ideally, parties would hold no hidden agendas and would be free to share all information influencing their opinions and positions. Collaboration requires a high degree of trust if participants are expected to be open and honest in their communication.

**Communication**

Gallagher, Bagin, and Kindred (1997) define communication as “a cooperative enterprise requiring the mutual interchange of ideas and information, and out of which understanding develops and action is taken” (p. 71). They further describe communication as “drawing people and their viewpoints closer together, and thus facilitating the quality of the relationship they enjoy” (p. 71). Certainly, the intent of IDEA is to establish mechanisms (such as eligibility and IEP decisions) to facilitate effective communication between families and schools. The notion that communication improves the quality of relationships contributes to the claim that mediation can assist in improving relationships between disputants. Noce (2000) describes communication as a “social process of constructing meaning through human interaction” (p. 6) through which participants can
interact constructively or destructively. She further elaborates that constructive communication is empowering, consistent with the concept of mediation.

*Disputant*

In this context, disputer is defined as either the representative(s) of the family or the school district participating in a special education dispute.

*Dispute*

For the purposes of this study, dispute is defined as a conflict resulting from IEP development or program implementation that resulted in the request for and participation in mediation.

*Due Process Hearing*

A due process hearing is a formal mechanism for resolving disputes between two parties involving a hearing officer and often the use of attorneys. The outcome of a hearing is a written decision by the hearing officer with findings related to each point of dispute. Some states have an appeal process using a two-tiered system of hearings (Project FORUM, 1998). Appeals beyond due process hearing systems move to the state or federal court system depending on the issue.

*Families of Students with Disabilities*

For the purposes of this study, families of students with disabilities are defined as family members who participate in the mediation process.

*Empowerment*

Bush and Folger (1994) define empowerment as “the restoration to individuals of a sense of their own value and strength and their own capacity to handle life’s problems” (p. Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.
2). For the purposes of this study, empowerment is used to describe disputants' perceptions of their ability to represent themselves at the mediation table in a manner in which they hold the power to help shape the outcome.

**Mediation**

Mediation is a formal process that uses an impartial person, a mediator, to facilitate communication between two parties in dispute. The aim of mediation is for the parties to reach a mutually agreeable resolution (Beer & Stief, 1997; Dominici, 1996; Moore, 1996). It is an alternative to traditional win-lose approaches such as due process hearings or court proceedings and has been used successfully for labor and international disputes (Beer & Stief, 1997; Domenici, 1996). In recent years, mediation has been considered more frequently also for special education disputes (Beekman, 1999). Mediators are trained in a process that brings two willing parties together with a focus on communication (Dominici, 1996; Moore, 1996). The process requires that both parties be treated equally and respectfully and that the mediator work to ensure a climate of trust (Moore, 1996). Mediation used in this study is the mediation available through the Virginia Statewide Special Education Mediation System (SSEMS) provided by the Virginia Department of Education. Mediator training includes basic special education law and regulations.

**Recognition**

Bush and Folger (1994) define recognition as "the evocation in individuals of acknowledgment and empathy for the situation and problems of others" (p. 2). For the
purposes of this study, recognition is used to define disputants' acknowledgment, appreciation, understanding, and respect for each other's perspectives.

School Personnel

For the purposes of this study, school personnel are defined as representatives of the school district who participate in the mediation process.

Trust

Tschannen-Moran and Hoy (2000) provide a very complex analysis of trust. Most pertinent for this study, however, is their definition of trust as "one's reliance on others' competence and their willingness to look after rather than harm what is entrusted to their care" (p. 548)." The Microsoft Encarta College Dictionary (Soukhanov et al., 2001) defines trust as "confidence in and reliance on good qualities, especially fairness, truth, honor, or ability" and "a person who or thing that people place confidence or faith in."

Relationship

Fisher and Brown (1988) see a working relationship as an ongoing process that enables parties to deal with differences. Aspects of this relationship include a balance of reason with emotion, understanding of each other's perspectives, effective communication, honesty and reliability, persuasion as opposed to coercion, and acceptance of each other.

Summary

Although mediation has been used in some states for a number of years to resolve disputes in special education, until 1997 there was no standard on the federal level for the use of mediation between families of students with disabilities and their schools. This
study was designed to explore the effects, if any, that mediation may have on the relationships between special education disputants. The results will be useful to general and special education administrators and to families as they examine alternative approaches to dispute resolution.
Chapter 2: Review of the Literature

Since the passage of PL. 94-142 in 1975 (reauthorized as the Individuals with Disabilities Education Act or IDEA), children with disabilities and their families have been assured the opportunity for an appropriate education in public schools. Despite equal rights protections of the Fourteenth Amendment to the U.S. Constitution, prior to that time, millions of children with disabilities were either not educated or not receiving appropriate education in public schools (Heufner, 2000; Heumann, 1997). Since 1975, states and localities have implemented numerous models and approaches to provide the mandated special education and related services needed by students with disabilities.

As professionals have become more knowledgeable, so have families, often leading to disagreement and disputes. Feinberg and Beyer (1998) discuss a number of areas that have led to increased disputes between families and professionals. For example, research on various approaches coupled with media attention on some of the more controversial strategies has given rise to disputes among professionals as well as between professionals and families. While some families do not believe that the services being offered by their children’s schools are appropriate, others are pleased with the services offered but want additional services as well. In addition, differences between public school and private practitioners have resulted in disputes between families and their children’s schools (Feinberg & Beyer, 1998). As schools have worked to develop a variety of strategies, services, and supports to meet the needs of students with disabilities, issues leading to disputes between families and school professionals continue. Included in this section is

11
current research on issues leading to disputes in special education, relationship variables affecting disputes, alternatives for special education dispute resolution, factors leading to effective mediation, reported effects of mediation, and research implications.

Issues That Lead to Disputes in Special Education

Issues leading to disputes in special education vary based upon the climate of the time as well as a number of other variables such as promising new therapies and methodologies (Feinberg & Beyer, 1998). As families seek new or innovative services that may hold promise for their children with disabilities, schools are faced with escalating costs. Since special education costs per child already exceed twice the cost on average of educating students in general education (Beyer, 1999), such additional costs associated with providing new methods or services can be daunting. Further, due to the possibility that new methodologies, however promising sounding, may be discredited over time, providing them to a student may set a precedent that the schools do not want to establish.

This is particularly true for specific categories of children with disabilities for whom very specific research and methods are developed. According to Feinberg and Beyer (1998), research such as that published on the use of applied behavior analysis with children with autism in the late 1980s and early 1990s promised amazing outcomes. As the media and advocacy groups shared this information with the public, families seeking treatments for their children with autism began requesting, and sometimes demanding, the services this methodology. Without further evidence, schools were reluctant to provide Lovaas therapy particularly since it would cost approximately $40,000 a year per child.
As a result, Lovaas cases have dominated the dispute systems nationally over the past few years.

According to Feinberg and Beyer (1998), disputes may occur due to the potential discrepancy between an “appropriate education” as required by IDEA and what might be “optimal” or offer a better benefit to the child. The Supreme Court attempted to clarify this in an early case involving a child with a hearing impairment (Hendrick Hudson Central School District Board of Education v. Rowley, 1982). This case resulted in the decision that free appropriate public education or FAPE had to result in “some educational benefit.” Despite the guidance from that case, however, and subsequent clarifications through judicial proceedings, the discrepancy between “appropriate” and “best” continues to provide the source of many conflicts between families and schools (Polk v. Central Susquehanna Intermediate Unit, 1988; Burlington School Committee v. Massachusetts Department of Education, 1984).

Although the right to an education through IDEA was intended to provide the same basic opportunity to students with disabilities as to children without disabilities, the limitations imposed by some disabilities interfere in the ability to define easily an appropriate education in the context of that which is provided to students without disabilities. Using autism as an example, the communication and social needs of children with autism sometimes take precedence over more academic needs in an effort to achieve a level of communication and social skills that will enable the student to achieve basic academic skills. Similarly, the education of students with more severe disabilities may
target independent living as an outcome. These situations can result in conflict when the schools and families disagree over the intended outcome of their public schooling.

Another factor that can lead to disputes is the difference of opinion between private practitioners and school professionals (Feinberg & Beyer, 1998). Although IDEA requires that schools consider privately secured reports and allows families to bring outside professionals to meetings, schools are not required to accept outside professionals' recommendations and diagnoses. When school professionals disagree with private reports and outside professionals whom the parent has involved in the evaluation and treatment of their children, disputes can arise. Such disputes may be the result of the "appropriate" versus "best" issue previously discussed. They may also entail different approaches or philosophies. For example, a parent of a preschool child who has had cochlear implants may have been served after the surgery by a speech pathologist with specific training for children who have undergone this procedure. Due to the success realized after the surgery, families may request that the public schools provide a speech therapist with the same training. While the schools may feel that their therapists are trained to provide the services to these students, families, on the advice of private therapists, may disagree, sometimes resulting in formal disputes.

Special education disputes fall into the three basic categories previously discussed (Feinberg & Beyer, 1998): (a) cost disputes over new or unproven (and perhaps promising) methodologies, (b) "best" versus "appropriate" services, and (c) differences of philosophy between school and private professionals. Since these differences are not likely to disappear in the foreseeable future, disputes between schools and families are a reality.
that is likely to persist. As families face their duty of attempting to do what is best for their children, schools face their own duty to provide effective services within the limitations of their budgets and staffs. Resolving disputes is one aspect of both jobs.

Relationship Variables Affecting Disputes

Beyer (1999) discusses the disadvantages of using rights and responsibilities as positioning tools: yet IDEA has traditionally relied on these power positions for dispute resolution. According to Beyer, this stance not only focuses the dispute as a win-lose struggle, but also takes the attention away from the child. Beyer further claims that families who achieve substantively what they desire do so through bargaining and cooperation, and exercising their rights interferes in the ability to compromise and work collaboratively. In other words, when families are displeased or unsatisfied, exercising their rights creates an adversarial climate in which neither party works together to find a solution acceptable to both.

In addition, Dukes (1996) contends that when rights are exerted, alienation can occur due to the formal relationships that are forced and the interference in natural communication. In fact, he argues that the formal communications that coincide with rights can have negative effects such as isolation and result in “an unsustainable way of maintaining human relations” (p. 137). In other words, natural relationships are not developed when stands are taken based on rights, thus requiring rights to sustain certain actions.

Another relational aspect is based on differences in values, perceptions, and goals and the expectation that conflict may ensue due to these differences as a natural
occurrence whenever two parties interact and communicate (Gourlay & Soderquist, 1998). Applied to special education situations, if families and school representatives realize that they have different goals for students and have already disagreed on IEP goals, as an example, their recognition of this difference may result in shortened conversations or attempts to avoid interacting with each other.

It is the manner with which conflict is handled that determines the course of the dispute. Gourlay and Soderquist (1998) discuss the "conflict culture" in organizations as a variable that affects the way that conflicts are handled. This culture can be applied to special education disputes. Thus, many advocacy groups have created a culture that promotes the use of rights to force certain actions while school districts have created a protective culture with an eye on budgets and setting precedents. One important aspect to dispute resolution is the culture in which families and school officials work to settle disputes.

Noce (2000) discusses aspects of communication that are destructive and constructive. Destructive communication patterns are driven by weakness or self-absorption. Destructive communication can contribute further to the dispute by creating barriers to alternatives that may satisfy both parties. By contrast, Noce identifies empowerment and recognition of the other’s situation as variables contributing to constructive communication. Constructive communication sets the stage for disputants to collaborate, thus identifying solutions that neither may have identified alone. Similarly, Johnson and Johnson (1997) discuss constructive and destructive conflict and the benefits of constructive conflict. They identify increased trust, satisfaction with the outcome of the
conflict, and an improved ability to solve future conflicts as indicators that conflict has been constructive.

Although relationships are complex, the variables noted above are critical in setting the stage for dealing effectively with disputes. In brief, if school officials create a climate that embraces collaboration with families, thus inviting alternative viewpoints and opinions, creative solutions are possible. If the focus remains on the child rather than rights and responsibilities, the outcome is likely to be less adversarial. If communication remains open and constructive, parties can understand other viewpoints.

Alternatives for Special Education Dispute Resolution

Procedural safeguards are provided in IDEA to ensure that parents are involved in decisions regarding their children's special education (Yell, 1998). Among these safeguards is the provision of mediation as well as the right to due process hearings. Yell explains that rights are either procedural or substantive and that procedural protections provide the means to ensure substantive rights. Since IDEA is a procedural law, however, Beyer (1999) explains that rights are primarily limited to the procedures used to make decisions rather than the decisions themselves. Traditionally, state complaint processes are used to settle issues related to procedures used to make decisions while due process hearings are generally used to settle disputes related to decisions resulting in a student's identification, evaluation, placement, or provision of a free appropriate public education. Mediation provides a third process that can be used to settle disputes, but it was designed to serve primarily as an alternative to costly due process hearings since IDEA requires that
school districts inform parents of the availability of mediation whenever a due process
hearing is requested by a family.

Complaints

The Virginia Department of Education (VDOE) in *The Special Education Due
can seek resolution of a dispute by filing a complaint with VDOE. Complaints must be in
writing and signed, include a statement that explains how the school district has allegedly
violated special education regulations, and be sent to the Virginia Department of
Education. VDOE is required to make a determination of compliance within 60 calendar
days of receipt. If the school district is found to be in violation, corrective action is
required. There is no cost to parents to file a complaint. Although it is included here as an
alternative, the complaint system was not targeted for comparisons in states that had
mediation systems before 1997. While the complaint system is a win-lose alternative,
meaning that the allegation is either supported or not supported via the investigation, it
has not resulted in the disadvantages typically associated with due process hearings.

Data from the Virginia Department of Education annual reports on due process
hearings and complaints (1998, 2000a, 2002a) show an increase in complaints over the
last decade. Although there was not a consistent increase from year to year, complaints
increased from 89 in 1993-94 to 193 in 2001-2002, more than doubling.

Due Process Hearings

Historically, due process hearings have served as the mechanism under IDEA to
resolve disputes between families and schools (Beyer, 1999; Yell, 1998). This protection
for families originates with the Fifth and Fourteenth Amendments of the United States Constitution with the rights guaranteed by IDEA (Heufner, 2000; Rothstein, 2000; Turnbull & Turnbull, 1998; Yell, 1998). Both amendments ensure that no one can be deprived of “life, liberty, or property, without due process of law” and that the right to an education cannot be deprived. The Fifth Amendment pertains to the federal government while the Fourteenth Amendment pertains to state governments.

As Beyer (1999) indicates the major limitation to due process hearings is based on the nature of IDEA itself. Since IDEA is a procedural law, as already noted, rights are limited substantively. Families, however, have the right to dispute any aspect of their child’s program. The law’s focus coupled with families’ rights to disagree have led to appeals in federal courts.

Despite this limitation of rights, requests for due process hearings have continued to rise. For example, Project FORUM (2002) reports that the number of due process hearings requested nationally between 1991 and 2000 almost tripled from 4,079 requested in 1991 to 11,068 in 2000. Although this report shows that the number of hearings actually held at the first level only increased from 1,574 in 1991 to 3,020 in 2000, this represents significant costs to both school districts and families. In its annual reports on due process hearings and complaints, VDOE (1998, 2000, 2002) does not reflect the same level of increase. In fact, since 1993-94, the lowest number was 84 in 1996-97 and the highest number of requests for due process hearings was 120 in both 1994-95 and 2001-2002 fiscal years. Despite Virginia’s differences from the national perspective, it can be
assumed that those who participated in due process hearings would have preferred not to be in such an adversarial relationship.

Beyer (1999) discusses the financial costs of due process hearings to both families and schools. While families bear the costs of an attorney and time missed from work and other duties, schools bear the costs of an attorney as well as other costs associated with the hearing such as the hearing officer, someone to transcribe the proceedings such as a court reporter, and teachers and other professionals who are taken from their work settings to serve as witnesses.

A review of the literature did not reveal specific variables leading to the increase. It could be the result of the increased number of children with disabilities being served under IDEA. Further, advocacy agencies have increased over time, perhaps leading to families who are more knowledgeable about the law and their rights. In addition, media attention to specific disabilities and methodologies may also have contributed. Regardless of the reasons, however, the increase in requests for due process hearings has been troublesome for schools.

Due process hearings continue to be an option for settling disputes, offering advantages as well as disadvantages. Some disputes involve differences that prevent the disputants from reaching agreement through mediation. Following are advantages and disadvantages to this approach.

Advantages. Although due process hearings have been viewed negatively by many, there are some advantages, including:
1. The decision is final and binding, meaning that it is enforceable either through court action or complaint procedures (Opuda, 1998).

2. The decision must be reached in a timely manner (Opuda, 1998).

3. It allows either party an excuse for giving in to the other party based on a hearing officer’s decision (Opuda, 1998).

4. Hearing officer systems must be impartial and base decisions only on information presented to them (Goor, 1995).

5. The availability of the hearing process ensures that families can participate in the educational decisions for their child (Goor, 1995).

These advantages are similar to any legal proceeding in which two parties represent different perspectives. The major advantage is that the decision, after exhausting all appeals as desired, provides both parties with direction on an issue that is specific to the child who was the subject of the hearing. It may also give the school district direction that could improve the way it operates or provide services to a larger group of children.

Disadvantages. While the advantages of due process hearings offer an outcome that both parties “live with,” the disadvantages outnumber the advantages. The major disadvantage is the adversarial nature of proceedings (Beyer, 1999; Opuda, 1998). Thus, the win-lose aspect of the hearing procedure leaves the “losing” party often feeling resentful. In fact, the major disadvantage of the adversarial relationship that follows is that it continues long after the dispute is settled. Additional disadvantages of the process include:
1. Dependence on due process hearings to settle disputes interferes with more collaborative problem-solving attempts due to families relying on rights under IDEA to forward disputes and due to the schools’ reliance on legal responsibilities (Beyer. 1999).

2. The cost, both financially and emotionally, is high for both schools and families (Beyer. 1999; Opuda. 1998).

3. Due process hearings may result in parental attacks on teachers and therapists with whom they had previously developed good relationships and whose work had benefited their child; the result can negatively affect these relationships (Beyer. 1999).

4. Valuable local resources are being allocated for due process proceedings rather than being allocated for programs and services (Beyer. 1999).

5. Families often view the process as unfair (Beyer. 1999).

6. While free legal assistance may be an option, families with the financial resources to employ an attorney are often the only families able to use due process hearings to settle disputes (Beyer. 1999).

7. The demands on staff to be available as witnesses in hearings and the demands for time to prepare for hearings interfere with other work of the school (Opuda. 1998).

8. After exhausting state systems, appeals must be directed to the court system with costs often prohibitive to families and schools (Opuda. 1998).
Obviously, the disadvantages of due process hearings outweigh the advantages. The financial costs to schools and families are significant and may prevent some families from moving forward through this process. More important, however, is the damage to relationships that occurs in the process of the win-lose scenario of due process hearings. Assuming students will be in the school district either until they graduate or until they complete their program, these damaged relationships can affect the way that families and schools interact for a number of years. While advocating for their children is important for families, alternative methods for settling disputes such as mediation may offer a better solution.

*Mediation*

To reduce the costs of dispute resolution and to provide a more positive alternative to traditional due process hearings, Congress included in the 1997 amendments to IDEA the required availability of mediation. Mediation in special education is defined by Schumack and Stewart (1995) as “a process in which a mediator, a neutral third party, helps people reach an agreement about the educational placement, program, or other services to be provided for a child with special needs. A mediation is conducted in an informal, private, and cooperative forum. The mediator provides a problem-solving structure and process, and assures that everyone involved will be listened to with respect. The mediator does not make decision for the parties” (p. 3). Mediation is an alternative to win-lose approaches (such as due process hearings) for settling disputes between two parties; it has traditionally been used for labor and international disputes (Beer & Stief.
In recent years, mediation has begun to be considered more frequently for special education disputes (Beekman, 1999).

As noted, the number of requests for due process hearings more than doubled nationally within the last decade. In an effort to remedy the difficulties and costs associated with due process hearings, a number of states began implementing mediation systems prior to the requirement, some as early as the late 1970s. Project FORUM (1998) of the National Association of State Directors of Special Education surveyed states to investigate the status of mediation systems. This study found that six states implemented mediation between 1975 and 1979. By 1990, 23 additional states had started mediation systems. As of 1996, all but eight of the 50 states and two non-state jurisdictions had implemented mediation as a form of alternative dispute resolution. Virginia was among the states that had not developed a statewide mediation system before the 1997 Amendments to IDEA.

The 1997 Amendments not only required state mediation systems, they also standardized mediation systems nationally by legislating specific requirements to be implemented in every state. For example, Project FORUM (1998) found that 11 states did not have a specific set of qualifications for mediators. Funding of mediation was also not found to be consistent, with six states using a combination of funding sources that included funds from IDEA Part C, local school district funds, Comprehensive System of Personnel Development (CSPD) funds, IDEA Part B funds, and state funds. The 1997 Amendments require that the costs of the mediation be born by states, leaving both local schools and families free of any financial responsibility. In addition, states were required to
develop systems that used trained mediators who are also knowledgeable about special education laws and regulations.

According to Opuda (1998), Congress intended for mediation to result in "parent/school collaboration, decision making by consensus, informal dispute process, child centered process, and parent/school cooperation" (p. 1). By strengthening the language to involve families in all decisions and encouraging consensus decisions, disputes were expected to decrease. In fact, the focus on the required availability of mediation was directly targeted toward a less adversarial, more collaborative approach. As summarized by Project FORUM (1998), specific requirements in IDEA for mediation include:

• The mediation must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

• The state must maintain a list of individuals who are qualified mediators and are knowledgeable in laws and regulations relating to the provision of special education.

• A state education agency (SEA) or a local education agency (LEA) may establish procedures to require families who choose not to use the mediation process to meet, at a time and location convenient to the families, with a disinterested party who is under contract with a parent training and information center, a community parent center or an appropriate alternative dispute resolution entity which will encourage the use of mediation to families.
• The state shall bear the cost of the mediation process, including the costs of
  meetings described above. (p. 1)

The Virginia Department of Education (2000b) reported that in 1994 it was one of
11 states without a mediation system. Following the IDEA Amendments of 1997,
however, Virginia developed a system using eight contracted mediators to work with
disputants on issues related to eligibility for special education or the “provision, scope, or
delivery” of these services (p. 2). Qualifications of mediators include a four-year college
degree, completion of mediation training, and experience as a mediator. VDOE trained
these mediators on special education laws and regulations and provides annual training to
update the mediators. Mediators are required to meet timelines for case resolution and
administration of cases assigned to them. Strategies and approaches used in mediation are
left to the discretion of the mediators.

To access the State Special Education Mediation System (SSEMS), both the
parents and school representative must complete a form indicating that both are requesting
mediation and submit the request to VDOE who will assign a mediator to the case. Use of
SSEMS is not limited to cases in which a due process hearing has been requested, but it is
required to be offered when a request for a due process hearing is received by a local
school district. The use of mediation, when it follows a request for a due process hearing,
may not delay the due process hearing.

Prior to the IDEA Amendments of 1997, Congress heard a great deal of testimony
about the adversarial relationship that exists between schools and families when forced to
enter into due process hearings and the federal judicial systems. While mediation had

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emerged as a less adversarial option in many states, it was not universally used nor was it implemented consistently prior to 1997. Although the new requirements for mediation continue to leave some flexibility to states, the common elements are intended to provide a quality system that is easily accessible to families and school. Following are reported advantages and disadvantages for the use of mediation.

**Advantages.** As already implied, the major advantage of mediation is its collaborative nature. Absent the win-lose stance of situations such as due process hearings, the collaborative focus results in better communication between the parties and a win-win outcome (Beekman, 1999; Opuda, 1998). With special education disputes, this means the focus remains on the needs of the child who is the subject of the dispute. There are also other advantages. While not an exhaustive list, the following represent some of the more relevant advantages for using mediation to resolve special education disputes:

- Mediation is accessible to families who may not be able to afford to employ an attorney or may not have the time to spend in a lengthy hearing (Beyer, 1999; Moore, 1996);
- The parties involved control the settlement as opposed to a hearing officer or court judge who may not be familiar with the child, the child’s disability, or be knowledgeable in special education law (ALLIANCE & CADRE, n.d.; Beekman, 1999);
- It can be used early in a dispute due to its affordability, thus preventing the dispute from escalating to a level that results in a competitive stance (ALLIANCE & CADRE, n.d.; Domenici, 1996);
Since it requires no preparation or witnesses, it avoids the cost of staff time that might otherwise be required for a due process hearing (Opuda, 1998):

As required by IDEA, states must provide the funding for special education mediation, thus providing an incentive for local schools to foster its use and potentially save thousands of dollars in due process hearings (Beyer, 1999; Shortt, Douglas, & McLain, 2000):

Mediation can help each party understand the other viewpoint (ALLIANCE & CADRE, n.d.).

Disadvantages. While mediation promises to provide a positive alternative to due process hearings for settling disputes between families and schools, some limitations apply. For example, although mediation may be used as a first step in the process of dispute resolution, it cannot be used to delay a parent's right to a due process hearing. If mediation is not successful, it can delay resolution of the dispute resulting in additional time and funds spent by both families and schools (Beekman, 1999). Successful mediation, on the other hand, may only appear to be successful until the implementation of the settlement. Since the outcome or settlement is not enforceable or binding (Beekman, 1999; Opuda, 1998), disagreement over its implementation could result in a more bitter dispute due to the lack of trust and understanding that might result. Beekman (1999) also mentions the possibility of information revealed during mediation as "discovery" for an ensuing due process hearing. Although the mediation itself is confidential, information that is revealed could be used to investigate specific aspects of the case.
Beyer (1999) discusses the potential problem resulting from a lack of legal guidelines for special education mediators. While the law requires that special education mediators be trained both in mediation and special education law, the ambiguity of the requirement leaves much room for discrepant knowledge and skills. Thus, less trained and less skilled mediators may afford a limitation or disadvantage to using mediation if the process is not a positive or successful experience for either party.

While mediation usually does not entail the use of attorneys, IDEA does not prohibit it (Beyer. 1999). This determination is left up to states. If attorneys are made a part of the process, some might argue that the advantages of cost savings and the ability of poorer families to access a process for dispute resolution are negated.

Another potential disadvantage to mediation as required by IDEA is the legal responsibility for mediation being given to states (Beyer. 1999). Even though the mediators selected for use by states cannot be state employees or be employed by school districts, Beyer (1999) claims a potential for mediators to sway outcomes in the schools' favor to ensure that they are maintained in their roles, possibly providing a situation of perceived or real conflict of interest.

Although the advantages appear to outweigh the disadvantages of mediation, the disadvantages can be damaging to its use and perceived effectiveness. Effective mediation, however, promises to assist in the resolution of many special education disputes while preserving positive relationships between schools and families of children with disabilities.
Factors Leading to Effective Mediation

A number of factors have been identified that lead to effective mediation. These include knowledge about mediation and its use, the attributes and training of the mediator, the attitudes of the parties involved in the conflict, and the nature of the conflicts.

The use of mediation for special education disputes is reliant largely on the states and local school districts to ensure that those involved in the special education process, including families, are aware of the availability of mediation as well as its purpose and the nature of the process (Mills & Duff-Mallams, 2000). The requirement that mediation be available has implications for special education administrators if this mechanism is to be successful. Specifically, ensuring that teachers and school principals are knowledgeable about the advantages and disadvantages of mediation is necessary to ensure that its use is offered early in a dispute. Since administrators such as local special education administrators are not usually notified by families until the dispute has escalated, empowering school personnel to suggest mediation before relationships are damaged will assist in ensuring successful use of mediation.

According to Mills and Duff-Mallams (2000), successful mediation requires that both parties enter into mediation with “good faith.” In other words, both parties must be willing to work together toward a solution. If schools or families agree to mediate only because they feel they must, success is not as likely. Both parties need to be able to suspend judgments during the mediation in order to facilitate effective communication and understand each other’s perspectives. That means also being open to potential solutions.
that have not been discussed prior to the mediation as well as considering those that have already been explored.

Some aspects, however, cannot be negotiated such as beliefs, values, and prejudices (Beer & Stief, 1997). While all individuals bring specific perspectives to disputes, the mediator must realize when those aspects that cannot be negotiated are contributing to the dispute and attempt to separate those from specific issues related to the dispute. If the dispute cannot be separated from personal aspects such as values and beliefs, the likelihood of successful mediation is diminished.

The skills of the mediator, including the ability to select appropriate strategies throughout the process such as caucusing, are critical to the success of the mediation (Beyer, 1999; Mills & Duff-Mallams, 2000). Contextual situations bring different challenges to the mediation table. Effective mediators know when different strategies might be useful, and they spend time prior to the mediation preparing and understanding the nature of the dispute. Planning an appropriate strategy as well as being able to change the strategy, as needed, to foster clear and effective communication will contribute to the mediation's success.

Usually, the school representative(s) at the mediation table should be the person(s) with whom families have a dispute. Further, in order to mediate, individual(s) must be empowered to make decisions (Mills & Duff-Mallams, 2000). This can be troublesome to special education administrators if school personnel do not have a clear understanding of the limitations of the school district or knowledge about other services that might meet the needs of the student. While cost is not an acceptable excuse for denying a needed service
to a child, there are usually more options than one to consider. Making sure that school representatives at the mediation table are knowledgeable about the limitations and options will enable these representatives to be empowered to mediate responsibly.

Perhaps most important, Fisher, Ury, and Patton (1991) discuss the importance of focusing on interests rather than positions. In other words, rather than focusing on the dispute in terms of what each party believes is the solution (or their positions), a focus on the reasons or factors that influence the positions (or their interests) may allow those in dispute to reach solutions that address the interests of both parties without either position winning or losing. For example, parents of a student with a disability may request the use of assistive technology that the school team does not believe is needed by the student. Rather than focusing on the request and refusal, probing the reasons for the request may reveal goals or objectives that both the parents and school team support. Focusing on a solution that addresses interests, according to Fisher et al. allows those in dispute to discuss and perhaps agree on solutions that meet the need of both perspectives.

Reported Effects of Mediation

National data on the impact and effectiveness of mediation in special education disputes are not available due to inconsistent data collection among states (Schrag & Schrag. n.d.). While a few states have reported effectiveness, data were not conclusive due to variability in the data. The Virginia Department of Education (2002b), however, has compiled data since the inception of the state mediation system showing a 75% to 78% rate of resolution. Mediation requests rose from 49 in the 1999/2000 school year to 98 during the 2000/2001 school year with the majority of issues related to services.
including types of services, sufficiency of services, and the setting of services (Virginia Department of Education. 2000b). Mills and Duff-Mallams (2000) provide a qualitative perspective with four case studies that were successfully mediated and report on those factors that led to each successful resolution. Consistent data collection among the states will be necessary, however, if conclusions are to be drawn about the effectiveness of mediation in special education disputes. Until more data are available, it will be necessary to study the impact on individual cases as well as looking to individual states to examine state data to determine the effectiveness of state programs.

While successful mediation is expected to result in fewer requests for due process hearings, a number of variables may affect the ability to measure effectiveness if data are not collected carefully. For example, as discussed, a promising new instructional approach covered by the media and advocated by special interest groups may cause an increase in the number of due process hearings requested. If the data do not account for this variable, the effectiveness may not be realized using the data.

Effects of mediation can also be measured by using a cost benefit analysis that focuses on return on investment (McDougall. n.d.). While the focus of mediation effectiveness should rest primarily on the benefit to children, cost savings cannot be ignored. The use of mediation is an investment by the state as well as the parties involved, and one expectation is cost savings to both families and local school districts. McDougall provides some guidance on steps to take to measure return on investment that should be considered as states collect data. These steps include identifying costs prior to
mediation, identifying costs of the mediation system, and comparing certain costs after the mediation program is implemented.

**Research Implications**

Mediation offers a promising alternative to special education disputes between families and schools. Success relies on a number of factors including the willingness of participants to enter into a collaborative rather than a competitive process. Success also relies on a number of factors including the skill of mediators and the nature of the disputes. Further, the skill and ability of those in the position to offer mediation as an alternative also has an effect on the manner in which families understand mediation as a positive alternative to due process hearings. Successful mediation offers cost savings to both schools and families, and it provides an option to dispute resolution that may foster improved relationships between families and schools who are in dispute.

Local school districts need guidance as they present mediation to families. Having data that demonstrate the effectiveness and benefits to families will assist in increasing the use of mediation as an alternative to due process hearings. Research, therefore, is needed on a number of aspects related to special education mediation. Although research investigating potential cost and time savings may be most crucial for policy makers, more substantive is the impact that mediation will have on the disputants. For example, if a dispute occurs between the parent of a preschooler with a disability and the school district, the resentment and potential negative aftermath from a due process hearing could affect negatively the relationship between the family and the school district for years to come. Conversely, settling the dispute between these parties with mediation may result in better
communication and collaboration, potentially affecting positively the relationship for the rest of the child's public schooling. An investigation of the impact that mediation has had on relationships between disputants will assist local administrators, advocates, and families to make decisions about selecting their course of dispute resolution in a more effective manner.

Conclusions

Mediation offers a promising alternative to traditional dispute resolution approaches in special education. To determine its effectiveness, consistent data collection over time is necessary. The investigation of specific variables that led to resolution through mediation and the specific variables that interfered would be helpful to mediators as well as potential participants in special education mediation. Since it has been claimed that mediation holds the possibility for positively affecting the relationships between families of students with disabilities and their schools, one substantive area for study is the effect that mediation has on the nature of relationships between families and schools that experienced dispute. If, in fact, investigation finds that the relationship is affected positively, one important benefit would be the lasting impact on the way that families and schools relate to each other. For example, if a dispute occurs when a child with a disability is in preschool or in the primary grades, the family and school have many years left to work together on behalf of the student. Strained relationships are not only difficult for those in dispute, but could impact negatively the student. If investigation finds that mediation does not affect relationships between disputants, the decision to mediate will be
reliant on other advantages identified such as cost savings and the possibility of resolving the dispute at hand.
This qualitative, exploratory study was designed to explore the effects of mediation on the relationships between participants in special education mediation. That is, families of students with disabilities and school representatives who participated together in mediation were interviewed. Although the interviews explored perceptions related to specific aspects of the dispute and the mediation process, the major focus was the effect, if any, that mediation had on the participants' relationship with each other. Results of this investigation add to an emerging research base focused on the effects of mediation in special education disputes. Although the literature implies that characteristics such as communication, collaboration, empowerment, trust, and recognition of the other's perspective are important aspects to effective relationships, this study was designed to elicit responses from participants without specific references to these characteristics. Instead, interview questions were developed to elicit the participants' thoughts and ideas regarding relationships as well as the factors that contributed to their dispute. The following research questions were explored in this study:

1. To what extent did disputants agree on the nature of the dispute?
2. How did mediation differ from previous attempts to solve their dispute?
3. What did disputants expect from their mediation?
4. What factors led to (or prevented) reaching a mediated agreement?
5. What was the impact of mediation on relationships between disputants?
Procedures

An exploratory, qualitative research approach was chosen for this study due to the specific nature of each special education dispute, the emerging nature of current research in this area, and an interest in gaining a depth of information not generally available through a quantitative approach. Interviews were chosen as the method for data collection, because they allow the researcher to elicit rich information with open-ended questions that also enable the researcher to probe for additional information and for clarification (Marshall & Rossman, 1999).

Although results cannot be generalized due to the qualitative nature of the study, including a limited number of participants (Marshall & Rossman, 1999), the findings provide information about the impact on relationships in the specific cases explored. This information may be transferable to similar special education disputes and mediations. Findings also build upon current research and provides a foundation on which future research may be implemented.

Permission to conduct this study was secured from the School of Education’s Human Subjects Research Committee and the Committee for the Protection of Human Subjects at The College of William and Mary. After securing permission and prior to implementing the study, a pilot was conducted using the proposed interview protocols with both families and school officials who had previously participated in mediation. Two cases were used for the pilot. Participants were solicited on a voluntary basis from individuals who were known by the researcher to have participated in mediation. The purpose of the pilot was to evaluate the usefulness of the interview questions for soliciting
the type of information to be explored and to evaluate the clarity of questions.

Adjustments were made to questions that pilot participants felt were unclear or to questions that did not elicit the information sought. For example, the piloted questionnaire included the following. "Talk with me about your relationship with the school district (or the family) at the time the student was identified with a disability and found eligible for special education." This question was deleted because the school representative participating in mediation (often a special education administrator) may not have been involved directly with the family at the time the student was originally found eligible for special education. It was also determined that relevant information related to the dispute, including applicable information from the initial identification for special education, would surface in the interviews.

Participation in this study was voluntary, requiring consent from both officials in school districts and parents who were approaching mediation. Specific criteria were established for participation in the study in order to limit the types of disputes and outside variables. These criteria were designed to limit variables that may interfere in the results or perceptions of mediation as well as to limit the focus of the mediations in order to more easily compare and contrast perceptions regarding the dispute and perceptions about mediation. The criteria included the following:

1. The nature of the dispute was related to services on the student’s IEP in order to be able to compare responses on similar types of issues.

2. Each mediation was conducted by a different Virginia mediator to prevent the study results from being specific to a mediator.
3. It was each family's first request for mediation, and the family had no history of complaints or due process requests with the Department of Education. This prevented results from prior formal dispute procedures from interfering in the results of the dispute being mediated.

4. All of the student’s eligibility process and special education services were provided in the same school district, or the student had received services in the school district for at least three years in order to minimize effects resulting from experiences in another locality.

The researcher requested assistance from the Virginia Department of Education (VDOE) to solicit participation in this study (see letter in Appendix A). VDOE agreed to assist the researcher by disseminating information to mediation participants (see letter in Appendix A). Information provided to prospective participants included a letter from the researcher and a form to complete and return to the researcher. The letter provided basic information about the study and solicited participation in the study (see Appendix B). The form requested contact information as well as basic information about the student and family; it also requested a signature indicating agreement to participate in the study (see Appendix C). The letter to families offered a stipend of 50 dollars for their participation to be provided after the conclusion of the post-mediation interview. The letter to school officials offered a summary of findings after the conclusion of the study.

Upon receipt of a request for mediation, an official at VDOE screened it for compliance with this study's criteria. When a request met the criteria, the official contacted the researcher to provide some basic information and to review the criteria. The
official also called the mediation participants to inquire about their interest and willingness to participate in this study. If both parties agreed verbally to participate, the official then sent a stamped packet that was provided by the researcher to mediation participants. The packet included the introductory letter and agreement form as well as a stamped envelope addressed to the researcher to return the form. When the researcher received a form from only one of the participants, she contacted the official at VDOE who, in turn, contacted the person who had not returned the form to inquire about their interest and willingness to participate. This either prompted the completion of the form, if there was continued interest, or prompted a call to the other party to inform them that their case would not be used for the study.

When the researcher received by mail completed forms from both participants in a mediation, she contacted both parties and arranged for separate interviews at mutually agreeable times and locations prior to the mediation. If the mediation date had already been arranged, post-mediation interview times and dates were also set. If the mediation date had not been finalized, the post-mediation interviews were arranged at a later time.

Three cases using the identified criteria were used for this study. The criteria limited variables that might affect the way that disputants participated in mediation or the perceptions of those who participated in mediation. Cases were used based on the order in which they were received. In other words, the first three cases that were identified, contacted, and interviewed were included in the study. Once all three cases were completed, the researcher contacted the official at VDOE to inform him that no further contacts were necessary.
The researcher arranged for interviews with the family member(s) and school officials prior to the mediations. Each participant was interviewed using the pre-mediation interview guides included in the Appendix D. The questions included in this guide were developed to assist the researcher in soliciting the perceptions and experiences that resulted in the dispute as well as the nature of the dispute and the disputants’ expectations of the mediation process. Both parents and school officials were asked the same questions.

After the conclusion of mediation, the researcher interviewed the mediation participants again using the post-mediation interview guides included in Appendix D. The focus of this interview was the disputants’ perspectives of the effectiveness of the mediation, including potential changes in their perceptions of each other and the dispute. Perceptions related to the relationship between the disputants and their future expectations as partners in the student’s education were also queried.

All interviews were taped and transcribed. In addition, the researcher took notes during the interviews in case there were problems with the tapes. Following the post-mediation interviews, a letter was sent to all participants thanking them for their participation and providing them an opportunity to review the transcripts for accuracy or for clarification. Except for minor editorial notations, no corrections or clarifications were made by participants.

Design

The study used a qualitative, exploratory design that included interviews to explore perceptions held by both family members and school officials of their dispute and their
thoughts about their relationship before and after a mediation experience. The semi-structured interviews were conducted using a set of predetermined questions. The use of prompts and probes enabled the researcher to request additional information by asking for clarification or expansion of ideas. The interviews were taped and transcribed for use for member checking and data analysis.

Member checking occurred after the interviews, which gave participants the opportunity to make corrections or to clarify their responses. Transcripts were mailed to the participants following each interview with a request to return them to the researcher within two weeks if changes were to be made. Participants were asked to review the transcripts for accuracy and were informed that they could also clarify responses if appropriate. Only two transcripts were returned. They included only editorial changes, thus resulting in no significant changes in responses. Had there been substantive changes, the changes, rather than the original transcripts, would have been used for this study.

A standard analytic inductive method was used to analyze the data (Miles & Huberman, 1994; Ratcliff, 2001). This method uses inductive reasoning to identify and to modify the identification of themes as they emerge within and across data. This technique results in the identification of codes and themes that lead to findings. Single-case or case-study analysis was conducted first, resulting in identifying themes for each participant and presented by case. Second, cross-case analysis was conducted, which resulted in identification of common themes from each group, a comparison of themes between groups, and identification of themes across groups and across all participants. Finally, responses to specific interview questions were used to address the research questions as displayed in Table 1.
Table 1

*Relationship Between Research Questions and Interview Questions*

<table>
<thead>
<tr>
<th>Research</th>
<th>Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To what extent do disputants agree on the nature of the dispute?</td>
<td>Pre-1. Would you please describe your disagreement with the family/school district? Tell me about your position on this issue and what is the family’s/school district’s position?</td>
</tr>
<tr>
<td>2. How did mediation differ from previous attempts to resolve this dispute?</td>
<td>Pre-2. From your perspective, what led to your disagreement with the family/school district? Probes: What are your thoughts about the reason(s) for the disagreement? What do you believe are the reasons for the family’s/school district’s position? Why do you think the family/school district disagrees with you?</td>
</tr>
<tr>
<td></td>
<td>Pre-4. What did you and the family/school district do to attempt to settle your disagreement prior to the request for this mediation? Why do you think these attempts were not successful?</td>
</tr>
<tr>
<td></td>
<td>Post-2. Would you please describe your participation during mediation? What did you do differently during mediation? What did the family/school district do differently?</td>
</tr>
</tbody>
</table>
3. What do you know about the mediation process? What do you expect from mediation? How do you think the mediator will include you in the process? In other words, how do you think you will be expected to participate in mediation?

Pre-6. What do you think the family/school district expects from this mediation? How do you think the mediator will include the family/school district in the process? In other words, how do you think the family/school district will be expected to participate in the mediation?

Post-4. You indicated in our last meeting that you expected mediation to (fill in with their answer from the last interview). Did the mediation process fulfill your expectation? Why or why not?

4. What factors led to or prevented reaching a mediated agreement? What do you think helped the family/school district understand your perspective? Why or why not?

Pre-5. Tell me what you know about the mediation process. Probes: What went well? What didn't go well? Were there any surprises?

Post-3. During mediation, do you think the family/school district understood your perspective on the issue(s) that led to your dispute? Probes: If so, give me an example of something that led you to believe that. What do you think helped the family/school district understand your perspective?

Post-5. Did your mediation result in an agreement between you and the family/school district? What factors do you believe led to or prevented you from reaching your mediated agreement?
5. What is the Pre-3. How would you describe your current relationship with the family/school district? Probes: How impact of mediation about trust between you and the family/school district? How would you currently describe your/ the on relationships family’s role in decisions at IEP meetings? How are your/the family’s thoughts and ideas used in between disputants? decisions?

Pre-7. How do you think mediation will affect your relationship with the family/school district?

Post-6. Did mediation change or affect the way you feel about the family/school district? If so, how have your feelings changed?

Post-7. Would you please describe your current relationship with the family/school district?

Post-8. How do you think your participation in this mediation will affect your future relationship with the family/school district? Probes: How will the mediation experience affect the way you participate at future meetings such as IEP meetings? What will you do differently, if anything? Talk with me about trust between you and the school district. What do you think will happen as the result of mediation in the next 2-3 weeks? In the next year?

Note. Prefixes in the “Interview” column refer to the interview from which the questions come. “Pre-” indicates questions included in the interview before the mediation. “Post-” indicates questions included in the interview after the mediation.
Data Collection

This study was approved by the Committee for Human Subjects Review at The College of William and Mary in December 2001. Upon receipt of approval, the researcher piloted the interview guides with mediation participants known to the researcher. Due to complications scheduling interviews with one family, an alternative family was selected and the pilot was concluded in February 2002. After proposed revisions of the interview guides were approved by the dissertation committee, packets were developed and a meeting was held with an official at VDOE who assisted with the identification of participants and distributed the researcher’s packets. Two cases had been identified and interviewed by April 2002. The third case was not identified until the fall of 2002 due to a lack of cases meeting the required criteria. This case was completed in the fall of 2002. The analyses were completed and the dissertation was defended in April 2003.

Data included a transcription of each taped interview as well as demographics collected related to the criteria for participating in the study. The transcriptions were developed in two ways. The first was a direct transcription of the entire interview, including the researcher’s questions and probes along with the participants’ responses. This transcription was used for the inductive analysis (see Chapter 6) to address interview questions and their correlation with the research questions. Second, each transcription was then edited to exclude all questions and probes from the researcher. Using these transcriptions, the participants’ comments were analyzed for themes without regard to specific questions. These transcriptions were used as the basis for the identification of themes for each case in Chapter 4 and for the cross-case analysis presented in Chapter 5.
The interviewer also took notes during the interviews for the purposes of having a back-up if problems occurred during taping. These field notes included the researcher's perceptions regarding the participants' body language, tone of voice, and other indicators that may reflect upon the answers provided by the participants.

Tables are used to display comparisons within and across cases for each question as well as the general themes that emerge. Narrative explanations of the tables and findings are included as are relevant quotes from interviews. Attention was paid to specific themes related to communication, collaboration, trust, and recognition of each other's perspective. Other themes also emerged, which are identified and explored in the findings in Chapters 4 and 5.

Data Analysis

A standard analytic inductive technique was used to analyze the data. Rather than searching for and applying predetermined themes, this approach uses inductive reasoning to identify themes that emerge from the data (Miles & Huberman, 1994; Ratcliff, 2001). Case-study analysis as well as cross-case analysis within and across groups were used. Responses were analyzed first by using transcriptions that included only participants' responses without the questions that prompted the responses. This resulted in identifying themes that emerged in each interview and were analyzed separately for family members and school district participants for each case. These case studies are reported in Chapter 4. Cross-case analysis was then conducted which resulted in identifying common themes among all parents, of all school representatives, and then all participants. This analysis is reported in Chapter 5. Finally, responses were analyzed according to their correspondence
to the questions asked to address the research questions as indicated in Table 1. These findings are reported in Chapter 6.

**Limitations and Delimitations of the Study**

The variables affecting the findings were delimited in several ways. Although the limited number of participants impacts negatively the ability to generalize the findings, the use of specific criteria limiting participation in the study resulted in findings that may be transferable to similar situations faced by schools and families. The fact that all participants used the mediation system developed by VDOF further limits findings since each state is allowed to establish its own procedures and strategies for using mediation as an alternative dispute procedure; findings, therefore, need to be researched in other states’ systems before attributing findings to those situations.

Variables outside the control of the researcher that may further limit transference are the factors that led to the dispute and the manner in which they were handled prior to the mediation. For example, if an informal resolution was reached in a previous dispute and either party viewed the other as not adhering to the agreement, trust may have been severely impacted. Other variables include the influence of outside sources such as attorneys, advocates, and other parents who may be used by either party as an advisor before, during, or after the mediation. Expectations as well as values and interests may also have affected the perceptions of both disputants after the mediation.

Finally, due to the time limits of this study, long-term effects of mediation were not investigated. Additional research may be appropriate to investigate perceptions of the participants one year or more after the mediation.
Summary

This study employed the use of interviews with families of students with disabilities and school personnel who were in dispute and participated in mediation. Interviews were conducted both before and after mediation. Interview questions were designed to address the research questions and were piloted and revised for clarity. Criteria for participation limited the factors that may have unduly influenced the families’ perceptions such as previous participation in due process hearings or experiences in other school districts.

A standard analytic inductive method was used to analyze the transcripts from the interviews. Single-case analysis was conducted to identify emerging themes from the family and school district representative for each case, as presented in Chapter 4. Cross-case analysis was conducted through which common themes among group members were identified (see Chapter 5). Finally, responses to specific questions were analyzed to address the research questions and the findings are presented in Chapter 6.
Chapter 4: Case Studies

In this chapter, each of the three cases included in the study will be presented. The identification of themes within each of these cases will provide information about the nature of each dispute and the factors that influenced the outcome of mediation. In addition, the themes provide insight about the relationships between the families of the students with disabilities and the school districts.

Three students with disabilities who receive special education were the focus of interviews with their parents and administrators from their school districts. Disputes had evolved in each of the cases, and the parents and school administrators agreed to use mediation in an attempt to resolve their disputes. Each dispute concerned differences in opinion about the special education services needed by the student. Interviews were conducted before and after mediation, and interview transcripts for each participant were analyzed separately for themes that surfaced from their interviews.

The students who were the focus of each dispute had initially been identified as having a disability and had received all of their special education and related services from the same school district. In other words, no student had been identified in one school district and moved to another school district after being identified as a student in need of special education. Therefore, the parents were unlikely to have been influenced by preconceived notions based on practices in another school district. The cases also were not likely influenced by the results of previous complaints or due process hearings since the parents had not previously filed a complaint or a request for due process with the Virginia
Department of Education (VDOE). Names have been changed and the school districts are not identified to protect the anonymity and confidentiality of the students, their families, and the school districts. In addition, specific information about the cases that might compromise the participants’ anonymity has been modified or deleted. However, the participants’ voices are used to present each case enabling the reader to understand the nature of each dispute and the issues and factors that influenced each case.

The Case of Caroline Kent

Caroline Kent is a middle school female diagnosed with a medical condition and other associated problems. Labeled as other health impaired by the school district, she also has a measured ability at the borderline mental retardation range. As reported by her parents, private testing has suggested short-term memory and auditory processing difficulties which are potentially related to her medical problems. Caroline has an older brother who also receives special education as a student with a learning disability. Mrs. Kent, the children’s mother, is very involved in her children’s education, and she volunteers at Caroline’s school frequently.

The dispute in this case is focused on Caroline’s special education needs. Specifically, Mr. and Mrs. Kent requested speech and language therapy as a related service based on consultations with private physicians and evaluators who reportedly believed that Caroline’s short-term memory and auditory-processing problems could be improved with speech and language therapy. Based on the evaluation of the school district’s speech therapist, the school district refused to provide speech and language therapy explaining that she was performing commensurate with her ability scores.
In the past, Caroline was placed in a self-contained class for students with mental retardation. At the time of the interviews, she was served in an inclusive setting in middle school where her parents shared that Caroline had exposure to curriculum and peers that were unavailable in her previous placement. In her middle school inclusive placement, Caroline received a number of accommodations and also the support and specialized instruction from a special education teacher. Mr. and Mrs. Kent also claimed that Caroline was happy in the inclusive placement, having suffered emotionally and educationally from the time she spent in the self-contained setting.

The mediation resulted in an agreement between Mr. and Mrs. Kent and the school district. The agreement included the provision of speech therapy with an understanding that if no improvements were realized the parent would withdraw their request for speech therapy. On the other hand, if the therapy resulted in gains, the school district agreed to continue the services.

Several themes emerged in the interviews with Mr. and Mrs. Kent and with Mr. James, the special education administrator who participated in the mediation. These themes are summarized in Table 2 and elaborated in the next sections.
Table 2  

*Themes and Codes Related to Caroline Kent*

<table>
<thead>
<tr>
<th>Participant</th>
<th>Themes</th>
<th>Codes Associated with Themes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. and Caroline's Needs</td>
<td>difficulties in school. educational</td>
<td></td>
</tr>
<tr>
<td>Mrs. Kent (parents)</td>
<td>diagnosis. medical diagnoses. private</td>
<td></td>
</tr>
<tr>
<td></td>
<td>evaluations at personal and public expense</td>
<td></td>
</tr>
<tr>
<td>Educational Services</td>
<td>criteria. personnel. delivery of services</td>
<td></td>
</tr>
<tr>
<td>Legal Requirements</td>
<td>medical vs. educational relevance. special education process. becoming more knowledgeable about the law</td>
<td></td>
</tr>
<tr>
<td>Emotions</td>
<td>sense of urgency. frustration. concern.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>anxiety. anger. desperation</td>
<td></td>
</tr>
<tr>
<td>Relationships</td>
<td>conflict. mistrust. communication.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>participation at meetings</td>
<td></td>
</tr>
<tr>
<td>Reasons for School's Refusal</td>
<td>staff. funding. eligibility criteria</td>
<td></td>
</tr>
<tr>
<td>Mediation</td>
<td>decision to mediate. mediation process.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>questions about mediation. expectations</td>
<td></td>
</tr>
</tbody>
</table>
Caroline's disability, parents' desires

Mr. James

Legal Issues

compliance, IEP process

School District Issues

eligibility process, criteria, resources, services

Relationships

trust, communication, participation at meetings

Mediation
decision to mediate, mediation process, questions about mediation, expectations

Mr. and Mrs. Kent's Story

Both parents participated in the pre-mediation interview, but due to an emergency involving Caroline, only Caroline's father participated in the post-mediation interview. Mr. and Mrs. Kent were very open and willing to share their thoughts and perceptions.

Primary themes (see Table 2) that emerged from the interviews included Caroline's needs, educational services, legal requirements, emotions, relationships, reasons for the school's refusal to provide the services, and mediation. The Kents seemed truly to be speaking from the heart and were both totally engaged in the interview process, sometimes speaking over each other at the same time. It must be noted that the entire mood of both interviews was extremely emotional.

Caroline's needs. One theme that ran throughout both interviews was Caroline's needs, which were explained in detail by both parents. They described Caroline as a child who has had difficulty in school since kindergarten and had been identified initially by the school as a student with mental retardation with cognitive scores in the borderline range.
Later, they shared that a medical condition was diagnosed that limits Caroline's ability to participate in physical activities and may have more severe implications as Caroline matures.

Through private testing sought by Mr. and Mrs. Kent, Caroline was also identified with processing, comprehension, and short-term memory difficulties for which speech and language therapy was recommended. They shared that the results of these reports led to their request to the school district to place Caroline in an inclusive placement and to provide speech and language therapy as a related service. Although Mr. and Mrs. Kent verbally acknowledged Caroline's limitations, both expressed that they felt additional assistance from a speech therapist would help Caroline's processing, comprehension, and short-term memory. Mrs. Kent described Caroline's needs as they relate to school as follows:

Her long-term memory is great. That is actually one of her strengths. Dr. . . . recommends speech and language and it all came down to her having auditory deficits. And language. She's got receptive-expressive problems. She has been diagnosed with that from three different doctors. . . . (Another doctor) did a full evaluation on her. . . . and his recommendations were speech and language enrichment. . . . We went to (another clinic) and had a speech and language evaluation, and they recommended speech and language (services). . . . She has poor comprehension. She has short-term memory (problems) which falls into that because it affects her being able to keep up in class. Caroline has a problem. She understands what you are saying to her, but she has a hard time putting it back out.
Mr. and Mrs. Kent shared that they had traveled as far as four hours away from their home on several occasions to obtain evaluations from professionals at respected hospitals and universities. Each evaluation was followed with at least one meeting with the evaluators to hear and discuss the results of the evaluations. They expressed that everyone except the school district agreed that Caroline had needs that would warrant speech and language therapy.

*Educational services.* Another theme that surfaced in the interviews was the educational services available in the school district. The criteria used by the school to decide about services needed and provided was unclear to Mr. and Mrs. Kent, so they questioned whether funding, case load requirements, or labels were used to limit the students who received particular services. Besides their request for speech therapy, they fought to remove the mental retardation label in an attempt to return Caroline to her neighborhood school. They felt that Caroline’s placement in a self-contained class away from her neighborhood school had negative effects on Caroline and that a change in her disability label was necessary to make this change. To use her words, Mrs. Kent explained, “That was our fight, to put her back in her base school where she was happy and where she whole-heartedly wanted to be. Changing her label, we got other health impaired.” As they explained, it was the change in label that resulted in a change back to an inclusive classroom in Caroline’s neighborhood school where “she doesn’t pull out her hair anymore and she is now back to the way she was before we put her in that environment.” Their confusion, however, was evident as they questioned decisions related to the determination
of need for services, how services are provided, as well as the requirements that result in who provides the services to specific students.

*Legal requirements.* The legal requirements and the process the school district used to make decisions comprise another theme. Mr. and Mrs. Kent were clearly frustrated by what they reported as the legal requirements and the process the school district used in response to the evaluations that they had secured privately. They indicated that these evaluations were repeatedly dismissed as either inferior to the tests administered by the school personnel or irrelevant due to their medical, rather than educational, focus. Mr. Kent’s frustration with the legal requirements was heard when he stated.

I read a card that they gave us. At the parent’s request, a case evaluation is available at their expense. Then they should be providing for places to take her and the criteria to follow. They didn’t. So that is why we said, okay, (this hospital) is good. They handle children, so we took her there. But the speech and language in the school district said that is not good enough because that is a medical background.

Mrs. Kent followed his comment with.

(The hospital) evaluation was done on a medical model and hers was an educational evaluation so, therefore, they were going to stick by theirs. But I don’t know how an educational can override a medical. That gets me there.

The process used to identify students and determine which services were appropriate was clearly a mystery to them, despite their apparent attempts to understand. They suggested that all of their private evaluations pointed toward Caroline’s need for
speech therapy. According to Mr. and Mrs. Kent, however, the school district denied speech therapy based on the consistency between Caroline's language scores and what would be considered appropriate for a student with Caroline's cognitive ability. Mrs. Kent elaborated.

If her cognitive was higher and her scores (language scores) were where they are now, then she would qualify. It is that her cognitive level is too low. It is too equal with her (language) test scores. If we could change her cognitive level, she would be qualified. Their (the school's) position is that they have a level to cut off and there is a cut-off and everybody could benefit from speech and language. Everyone. We (meaning the school district) have got to make the cut-off somewhere. Unfortunately, it is that grey area and so Caroline doesn't qualify.

And I even asked Mr. James (the special education director) at that meeting. "So if I could change my daughter's cognitive level and make it higher, we would be eligible?" . . . And he basically said, "Yeah, if we could change her cognitive level." Because then, I'm just going to make up a score. Let's just say that her cognitive level was an 89 and her ability is 40, then they see room to grow. But because the cognitive level is 89 and let's say she was an 85 (language score), there is no deviation.

The Kents shared that they did not accept the fact that Caroline did not have "room to grow." They firmly believe that Caroline does have the potential to improve her skills. Consequently, they were frustrated by what they saw as a barrier based on what they understood were the legal requirements for eligibility for speech services.
Trying to understand the legal requirements, Mr. Kent talked about his efforts to learn and comprehend. He shared, “I did buy a book from Wright’s Law to try to learn about all this stuff.” He also explained that he asked for help from a friend who had some legal experience and that this friend began to advise them and attend meetings with them.

They shared that they had been asking for speech and language services for three years and that over that time period, they had become more knowledgeable about the law. They indicated that they worked to learn more about the law by asking school personnel, by talking with private evaluators, by talking with officials at the Virginia Department of Education, and by seeking out legal references. Mr. Kent stated, “Slowly, but surely, we are learning more and more. I just don’t want to wait until the 12th grade, before we finally say we’ve got it. By then it is too late.”

Parents’ emotions. An additional theme was Mr. and Mrs. Kent’s emotions, which permeated other themes that emerged in their interviews. Anger, frustration, concern, desperation, anxiety, and a sense of urgency are examples of the emotions that were evident. Anger was displayed when Mrs. Kent shared that the school offered to pay for an independent educational evaluation but not speech and language therapy when she said.

They just threw $470 out the window making us get another evaluation. . . .

Would it have cost $470 to get speech and language for a year? Was it cheaper for them to do that? Because that money was definitely thrown out the door.

Her anger was directed at a district willing to pay for an evaluation that she and her husband perceived as redundant, but they were not willing to spend that same money on the services that they were requesting. Mrs. Kent also expressed anger over the time that
Caroline spent in the self-contained classroom with children with mental retardation: she felt that Caroline regressed in that class and lost valuable time. Both parents’ sense of urgency was apparent as they talked about the need to get services for Caroline soon since they felt that they had lost years of opportunity and could not afford to pay for speech services privately.

As they discussed their lack of understanding of the law and their attempts to learn, they both seemed troubled about their inability to find the answers they were desperate to understand. At the top of the list was their sense of concern and love for Caroline. They wanted to give her every chance to learn and to be independent as an adult, and her medical diagnoses provide for an uncertain future. The following statement expresses a mother’s sense of frustration and despair as Mrs. Kent shared a reflection from a recent IFP meeting.

Even though they see there is a receptive written language problem, they didn’t know what to do to help her and that (the speech therapy) would set her up for failure. My response to them was. “You won’t be setting my daughter up for failure because she is only 12 years old and she is not going to know. I am going to be set up for failure.” I cried. “I’m ready for failure. You are not even willing to give me that chance to see failure.”

Mr. Kent expressed their sense of urgency when he said. “They probably know, or they should know, that me and my wife are willing to go as far as it takes to make sure (Caroline) gets what is appropriate.”

*Relationships.* Relationships emerged as a theme for a number of factors, including conflict, mistrust, communication, and participation in meetings, and they echoed...
throughout their interviews as the Kents discussed the conflict that led them to mediation. Much of this conflict and the reasons for it have been discussed earlier, and deal with the Kents’ desire for the school district to provide speech and language therapy. There was also the continuing conflict over Caroline’s placement. Even though Caroline’s label had been changed and she had been moved to an inclusive placement at her parents’ insistence, the Kents felt that a self-contained classroom for students with mental retardation continued to be an option that the school wanted them to consider. Mr. Kent conveyed the following:

I mean we had somebody (in the school district) look at Caroline last year before she even went to (her current placement), and they talked with her a few minutes or whatever it was. And their comment was, “I know I don’t know your daughter that well, but I’m thinking EMH.”

Mrs. Kent elaborated on her husband’s comment when she said.

Oh, yeah. I went to the school to interview the teachers to look at the whole options and placement. I went to the EMH teacher and I spoke with him about his class and he asked me some questions about my daughter. He didn’t even know my daughter. I told him her cognitive level and what did he tell me? “Well, I really don’t know your daughter that much.” He saw her one day. because he did an observation . . . and he recommended EMH. And that was all. Good-bye. No. Good-bye. See ya. One observation and talking to me? Bye. Don’t think so. So you know what? If I trusted where they want to put my child, she would
be there again this year. They know how I feel. They know I have been there and
done that.

Mrs. Kent further explained her mistrust.

I have no trust. I’ll tell them that. I’m sorry I don’t trust you, and I have been
through this since first grade. I cried in first grade. “Oh, please. I hope we are
doing the right thing.” I did the worst thing I could have ever done in my life.
Putting her where I put her and where the school wanted to put her and what they
wanted to do for her.

Mr. Kent agreed. “We trusted the school to put her in EMH and the school
thought that was the best place. And that was terrible.”

The Kents described participation in meetings as one-way, with the school
personnel failing to really hear their concerns. As noted, they reported that they
continuously made requests after private evaluations indicating Caroline’s need for speech
and language therapy. Perhaps one of the most powerful statements was made by Mr.
Kent when he said. “I think they are trying to wear us down until we give up. . . . (they)
just keep pushing -- no. no. no . . . until (we) give up. And (they) won’t have to worry
about that no more.”

While they stated that they think they had a good relationship with the school
district, their elaboration would indicate otherwise. While they may speak politely to each
other, the Kents describe their relationships with school personnel in less than positive
ways.
Reasons for school's refusal. The reasons for the school’s refusal to provide the services Caroline needed was another theme. While discussing the criteria used for determining whether or not Caroline would receive speech therapy, Mrs. Kent stated. I think that it has something to do with whoever is in charge. . . . That is what I think. I think that money might have a little bit of an impact, but more strongly. I think somebody at the school board. . . . Who has made that cut-off? Is it the state? Federal government? I don't know. We have not been able to find any information on that. And can they bend?

Mrs. Kent discussed their suspicions that the reason for the refusal of speech services might be related to a shortage of speech therapists and a maximum number of students that a therapist is allowed to serve. Mr. Kent stated. "I think it is just a matter of staffing and money because at the last meeting we had they did say they had to go out and hire outside people." Mr. Kent further expressed his suspicion that the refusal was related to money. "We know it is expensive, because we have called to check on it to see if we could afford it and we can't." He later stated. "I still think it comes down to expense. It costs them so much money per child for special education. . . . It is just going to cost more (for speech therapy)."

Although they discussed a number of possible reasons for the school district's refusal of speech therapy, Mr. and Mrs. Kent made positive comments about Mr. James, the special education director. Despite their mistrust of the school district and their negative feelings about services that had been offered and provided to Caroline, they both felt very positive about Mr. James and believed that other powers were interfering with
their ability to acquire speech therapy through the school district. They felt that something or someone was influencing Mr. James' decision not to provide the speech therapy. Mrs. Kent stated the following about Mr. James, "(He) is very nice... He is a very nice man. Knowing that he is a parent... I believe in my heart that it would be very hard to believe that he doesn't want to help my child. And something is stopping him and I don't know what."

Mediation. Mediation was another key theme. The Kents discussed how it was decided that mediation would be used, questions they had about mediation, their expectations, the mediation process, and the results of the mediation. Although the Kents indicated that it was Mr. James, the director of special education, who had suggested mediation as a strategy to use to attempt to settle their dispute, they had agreed to try this approach. Mr. Kent stated.

He offered mediation, but I think a couple of meetings prior to that I was feeling that it was going to go that way sooner or later. Since he offered it, I thought, "Well, we don't have anything to lose, so let's try it."

The Kents had questioned whether mediation would work in their case since they only saw one solution to their dispute with the school district. Mrs. Kent stated, "I told the mediator, 'I don't know if the mediation meeting is going to do us any good. To us, there is only one thing to do.'"

Mrs. Kent expressed being skeptical about the mediation prior to the mediation. For example, she probed, "I don't know if she (the mediator) speaks for us." She also questioned.
She (the mediator) ought to see our evidence and explain to them why we feel the way we – you know? I guess that is what she (the mediator) is for, right? To try to get each party to understand where each party is coming from? Regarding their hopes for mediation, Mr. Kent explained.

Well, I am hoping they are going to agree, because we have gone this far to give her services, and try it at least for the year. Now this year is almost over so maybe at least start it for next year. Give it to her for the full year and then evaluate her again.

Mr. Kent also shared, “I think they (the school district) are expecting for us to settle for something less. I think they are going to come up with something else that is different or they haven’t mentioned before . . .” Regarding what they expected mediation to be like.

Mrs. Kent shared.

I picture us all sitting at the table and arguing our concerns, and I picture this going on for a very long time. That is what I picture, and I think they are going to fight what they think and we are going to fight what we think and eventually this is just going to have to end.

Regarding what she expected from the school district at mediation. Mrs. Kent shared. “I think they are going to stick together.”

After the mediation. Mr. Kent commented on the process by saying.

. . . between the mediator keeping them on the task of what we wanted or what they were going to do, and me and my wife keeping on track instead of wandering off in different directions – because the meeting could have gone on for four or five
hours, you know, six hours for that matter – but since we kept on sticking right to
the same thing, I think it lasted 3 or 3 ½ hours, something like that.

He later elaborated, “I think the mediation went better that I expected it to go. I kind of
expected them to come in and just keep putting their foot down and saying no."

Mr. Kent discussed the results of the mediation noting that they had reached an
agreement. Mr. Kent summarized the agreement.

I think what we have come up with is the fact that we are going into another IEP
meeting. They are going to recommend that they give her speech and language
consultative services for right now since it is almost at the end of the school year
and SOI. [Standards of Learning] testing is getting ready to come up and they
don’t just want to pull her out for every little thing that is going on. So at the
beginning of the school year, they will also implement speech and language
services. At that time, they will come up with some sort of benchmark to test her –
like middle of the year or so – and find out where she is from there.

Mr. Kent expressed concern about the agreement, however, when he shared.

As mediation was coming to an end, the mediator was writing down everything.

When she was done, she asked that everybody sign it. I didn’t have any problem
signing it. But the school said no. She (the mediator) was shocked. She was
advised that their counsel, their lawyer, said don’t sign anything – regardless – until
they have had a chance to look at it. So, it is stuff like that where that trust
level and dropping the guard thing falls into play. You kind of wonder why if they
are agreeing with it, why not sign it.
Mr. Kent also commented on what he thought would happen as a result from the agreement.

Well, I can only think that we are going to go into the next IFP meeting, which is actually this week, and we are going to go over the recommendations that were made and implement that into her IFP. The only reason I say that I think we are going to do that is because it was agreed upon. Everybody agreed that that is what it was and it was clarified — you know — two or three times before we left the meeting. I think everybody will meet and agree that there has been a problem and it is going to be corrected.

Mr. James' Story

Mr. James is the director of special education. At the time of these interviews, he had been working in his position for less than two years. He expressed empathy toward Mr. and Mrs. Kent and stated that he understood their frustrations and concerns. He indicated that he was somewhat knowledgeable about Caroline and had been informed of the decisions made by Caroline’s IFP team. He revealed a desire to settle the dispute in a manner that would satisfy everyone, including the parents as well as those who had participated in the decision to refuse speech therapy for Caroline.

Themes that emerged from interviews with Mr. James included unrealistic parent expectations, legal issues, school district issues, relationships, and mediation. His interviews were notably shorter than the parents’ interviews. His responses to questions were direct and succinct.
Unrealistic parent expectations. The theme, unrealistic expectations, was based on Mr. James' understanding of Caroline's disability and her parents' reactions. A parent himself, he conveyed an understanding and empathy from a parent's point of view and shared that everyone could benefit from this service. From his professional point of view, however, he indicated that he believed that the Kents may not have realistic expectations for Caroline. In his own words, he stated.

I believe that the parents are not necessarily out of the grieving process. I don't think they realize some of the limitations that the student may have. . . . I think that this student is struggling, struggling a lot. And I think the parents are still looking for that miracle. And while I am a believer in miracles, I am also a realist and I believe in addressing education where it needs to be addressed. . . . And I support our professionals and their opinions.

It was clear that he felt that the Kents were seeking whatever services they could for Caroline despite the limitations imposed by her measured cognitive abilities. In fact, his comment referencing the belief that the Kents were in the grieving process implied that they may be experiencing denial of what Mr. James perceives as reality.

Legal issues. Legal issues, another theme that emerged from Mr. James' interviews, dealt with the IEP process as well as compliance with state and federal special education regulations. He discussed the IEP team's responsibilities and the fact that professionals who comprise these teams have the expertise to make decisions regarding eligibility for services. He referenced the need to comply with state regulations and to
supervise this process. Mr. James indicated that he did not think it would be appropriate to override the team’s decision. He described his role by saying.

I advocate for students. My role as a director is one that advocates for families, but at the same time balancing the school district’s position and ensuring that we are in compliance with state regulations as well as being fiscally responsible. So I think it is a tough position. It is the toughest job in the division.

He asserted that the IFP team is assigned the responsibility to determine services needed, and elaborated that the team was knowledgeable about Caroline and her needs and that the speech pathologist was an integral member of that team. In his words.

Our speech and language people actually brought in our department chair as well as a speech therapist to really look at it and see if the services were needed, and we felt they weren’t. My position on it is, as the director, I don’t want to get in the position of telling any of our professionals or any of our related services providers as to who is eligible or not. That is how I operate and I trust their expert opinion and back them and support them and also support the families and facilitate the process.

School district issues. School district issues was another theme in Mr. James’ interviews. The eligibility process and the criteria used by IFP teams to determine services needed and available resources or services were components of this theme. The process and criteria used to determine eligibility for services were integral to the denial of speech services and an important element addressed in Mr. James’ interview. He emphasized that the school district has to determine which students qualify since they cannot provide
everything to every child. "It wouldn't be special if every student got it. And I would like to see the day where every student could get these services, but at this point and time, that is not the way the public school system (district) is set up." While Mr. James shared that they must provide the services needed to students who are eligible, he conveyed that the district needs to do it responsibly. He also indicated that the resources available influence decisions when he said,

Of course we have to provide services wherever they are needed, but fiscally, you know. we are a public school system (district) and we have to use our resources sparingly. Not necessarily... sparingly is the wrong word... but correctly. It wouldn't be special education if we didn't have a line to say, "okay, you are qualified for it."

It was evident that it is important that "the line" be drawn and that the decisions be made equitably and consistently.

*Relationships.* The most overriding theme in Mr. James' interviews dealt with relationships. Communication, trust, and participation in meetings were specific aspects of relationships between the Kents and the school that were highlighted. He felt that he had a good relationship with the family and voiced the following.

I try to call them when I hear of things that they might be interested in -- workshops, conferences -- and keep them informed, and they participate in the special education advisory on occasion. I support the family like I support any other family. I respect them and I provide the best learning environment for their children.
He also discussed the way that the Kents interact with those who work at Caroline's school, implying that there may be some problems.

They are very active in the IEP process and I applaud that. I think there are some boundary issues maybe going into the classroom. I think that some of the teachers would think off hand, especially the regular education teachers, that they are hounding them. And doing those kind of things... I think that their relationships in the school could be better.

He discussed trust, both his trust of the Kents and the Kents' trust in him and the school district. In the initial interview, he said, "I think they trust me 100%. At least I hope so." Although he did not address specifically his thoughts about the trust the parents had for the school district in the first interview, in the second interview he stated, "I think they trust the school district as a whole a little more, because the school was willing to bend and compromise." Regarding his trust of the Kents, however, he stated.

I trust them on the surface. I trust anyone on the surface. You know, if they disagree with something about their own child, then I believe their motivation is a lot greater than surface trust. I trust them to do things legally. I trust them to do things appropriately, but you know... trust is an interesting word. I don't blindly trust them, or trust anyone for that matter. Especially since they have the best interest of their child at heart. So do I. It is a little more emotional when it is your own child.

Mediation. Mediation was another theme of Mr. James' interviews. Aspects of mediation discussed included the decision to mediate, the mediation process, expectations
of mediation, and the results. Mr. James shared that it was his suggestion that they use mediation by saying.

Well, we have met probably two times, possibly three at IEP meetings. And we have met informally and then have corresponded through letters to discuss the issue. And I thought it was going nowhere – that we needed some other approach and that’s when I suggested mediation. And they whole-heartedly welcomed the approach and that is what we are getting ready to do.

Mr. James commented that the process of mediation would provide “an opportunity for the parents to communicate with . . . someone outside the school division (district).” He further stated.

We’ve got to make them feel comfortable and let them know that the school division (district) and myself are trying to resolve the situation. We are not afraid of outside people coming in. We embrace it. I think it will make them more comfortable and give them a chance to hear our opinions and hear their opinions and hopefully come to some consensus.

Mr. James also noted.

I think it is an opportunity to communicate on a different level – not in the formal IEP meeting, not in a school setting necessarily. It is one where you can relax in a confidential environment where you are not . . . I think it is a good thing. . . . I think it will open up a level of understanding and the issue will be resolved.”
Researcher’s Comments

It appeared that both the Kents and Mr. James wanted to solve their dispute in a friendly and reasonable manner. Neither party wanted to be adversarial. Both the Kents and Mr. James indicated that they liked each other and felt that each wanted to help Caroline.

The Kents’ story, however, was filled with emotion and a great deal of details as they described a process that for them did not make sense and would allow their daughter to fail without implementing services that they thought might help her. The Kents were emotional and animated as they communicated their frustration, anger, and desperation.

Mr. James, on the other hand, was much more subdued and more succinct in expressing his frustration. Although Mr. James used fewer words and demonstrated less emotion, it should not be interpreted as uncaring, however. As he indicated, he relies on the professionals who make decisions in eligibility and IEP meetings to determine appropriateness of services, and it appeared that he felt pulled in two directions – wanting to work with the Kents while also respecting the opinions and expertise of his employees.

Not surprising, there were a few inconsistencies between the stories provided by each party, primarily in the way each party viewed the other or the way they interpreted the position of the other party. Mr. James, for example, indicated that he felt that the Kents trusted him completely but that he did not trust them completely since their motivation was more emotional. When Mr. and Mrs. Kent discussed trust, however, they indicated that they did not trust anyone in the school district, even after the mediation. While they felt that Mr. James was a nice man who wanted to do the right things for students, they felt
that there was something else influencing him. The Kents, however, did not see any reason for the school district not to trust them.

Most surprising was the way that Mr. James' story could be interpreted when read. Perhaps because his responses were much shorter in length and because they held little emotion when compared with the Kents'. Mr. James' comments could be interpreted negatively by the reader. His voice and body language, however, indicated that he was troubled by the dispute and that he cared about the school district doing the right thing for Caroline.

Mediation in this case resulted in an agreement, and both the Kents and Mr. James felt positive about the outcome. The school district agreed to provide the speech therapy on a temporary basis with some regular assessments designed to document Caroline's benefits from the therapy. The Kents agreed that they would agree to terminate the speech services if no improvements are achieved.

The Case of Taylor Norris

Taylor Norris is a fourth-grade male identified in kindergarten by the school district as having other health impairment due to attention deficit and hyperactivity disorder. Severe emotional issues prompted his mother's request for a more restrictive educational placement for Taylor. Mrs. Norris indicated that Taylor had been diagnosed privately with psychiatric disorder leading to her request. After several unsuccessful IEP meetings at which no agreement was reached regarding an appropriate placement for Taylor, Mrs. Norris requested mediation as a mechanism to solve her dispute with the school district.
Based on the reported guidance of private physicians and psychologists. Mrs. Norris requested a specialized setting with specific related services available at all times. Although she had identified a private school that offered such a setting, she was open to alternatives from the school district that would meet Taylor's needs. The school district offered alternative placements, but Mrs. Norris refused them due to her belief that they were not appropriate.

Mrs. Norris requested mediation and followed her request with a request for a due process hearing. She did not want to have a due process hearing, but she hoped that her request for a hearing would result in the school district providing what she felt Taylor needed at mediation.

Both parties participated willingly in mediation. During their interviews, they shared their perceptions and thoughts about mediation as well as the factors and influences that brought them to mediation. Unfortunately, the dispute was not settled in mediation.

A number of themes emerged in the interviews with Mrs. Norris and Dr. Fields, the special education administrator who participated in the mediation. These themes are summarized in Table 3 and elaborated in the next sections.
Table 3

*Themes and Codes Related to Taylor Norris*

<table>
<thead>
<tr>
<th>Participant</th>
<th>Themes</th>
<th>Codes Associated with Themes</th>
</tr>
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<tbody>
<tr>
<td>Mrs. Norris (parent)</td>
<td>Taylor's Needs</td>
<td>difficulties in school and home, emotional needs</td>
</tr>
<tr>
<td></td>
<td>Educational Placement</td>
<td>criteria, personnel, delivery of services</td>
</tr>
<tr>
<td></td>
<td>Parent's Emotions</td>
<td>frustration, anxiety, anger, desperation</td>
</tr>
<tr>
<td></td>
<td>Relationships</td>
<td>conflict, mistrust, communication, participation at meetings</td>
</tr>
<tr>
<td></td>
<td>Reliance on Private Practitioners</td>
<td>educational recommendations of private psychologists/psychiatrists</td>
</tr>
<tr>
<td></td>
<td>Reasons for School's Refusal</td>
<td>funding, eligibility criteria</td>
</tr>
<tr>
<td></td>
<td>Mediation</td>
<td>decision to mediate, mediation process, expectations, results</td>
</tr>
<tr>
<td>Dr. Fields (special education administrator)</td>
<td>Dissimilar Perceptions</td>
<td>Taylor's disability. Taylor's progress at school, parents' desires</td>
</tr>
</tbody>
</table>
## Mrs. Norris’ Story

Mrs. Norris’ interviews embodied an overwhelming mood of frustration and desperation. She was open and willing to share her thoughts and perceptions, and a number of themes emerged. Primary themes (see Table 3) included Taylor’s needs, educational placement, emotions, relationships, reliance on private practitioners, reasons for the school’s refusal, and mediation.

Mrs. Norris was very emotional in her first interview, and she freely shared her history of trying to acquire appropriate services for Taylor. In the second interview, she

<table>
<thead>
<tr>
<th>School District Role</th>
<th>different expectations of school’s role, use of resources, services</th>
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<tbody>
<tr>
<td>Parent’s Reliance on</td>
<td>a number of independent evaluations, paid by parent and school district; parent’s use of private providers for advice and participation at IEP meetings</td>
</tr>
<tr>
<td>Private Practitioners</td>
<td></td>
</tr>
<tr>
<td>Relationships</td>
<td>trust, communication, participation at meetings</td>
</tr>
<tr>
<td>Mediation</td>
<td>decision to mediate, ambivalence about mediation in this case, mediation process, expectations, results</td>
</tr>
</tbody>
</table>

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was much more direct in her responses and less emotional. She seemed frustrated by the process since the mediation did not result in an agreement. She also expressed that she would move forward with a due process hearing, hoping that she would get what she desired from that mechanism.

Taylor’s needs. Taylor’s needs was the major theme throughout both interviews. Although Mrs. Norris shared that Taylor had loved preschool, she also indicated that the director at the preschool had alerted her to possible processing difficulties and suggested that she talk with the school district about testing. Mrs. Norris decided to wait to see how he progressed. In kindergarten, Taylor began to exhibit behaviors that were of concern. As the year progressed, these behaviors were continuing and Mrs. Norris consulted a physician and ruled out medical problems. When she suggested that Taylor be tested at school for learning problems, the kindergarten teacher, according to Mrs. Norris, responded that she did not think testing was warranted and, according to Mrs. Norris, suggested Taylor was lazy. After talking with the guidance counselor who, as recounted by Mrs. Norris, indicated that testing would be premature due to possible developmental issues, Mrs. Norris consulted with someone at the Virginia Department of Education and, within a few days, the process for evaluation was initiated that led to Taylor’s identification for special education. She shared that it was a frustrating process and that only after contacting someone at the state level was something done.

Mrs. Norris shared Taylor’s progress through each school year before identifying his needs at the time of this dispute. Taylor’s first, second, and most of third grade were better with the special education and supports provided, although he continued to have
problems with homework. Mrs. Norris shared that near the end of third grade she found some song lyrics that Taylor had written that were disturbing, which led her to seek the advice of a psychologist. The result was a recommendation by the psychologist for a small, specialized classroom. This was followed by an IEP meeting which the psychologist, as well as the school district's specialist, also attended. They discussed a self-contained class for students with behavior problems and the team felt that it would not be a good environment for Taylor. At that time, they agreed to abbreviated homework as an accommodation in his IEP to meet his frustration needs. That seemed to help, but Mrs. Norris then explained an incident that Taylor had shared with her:

He said his teacher embarrassed him. I said, 'What happened?' He said, 'When I went to turn in my homework and there were other kids standing around the desk when I was there, she told me, "You know Taylor, the other children are starting to realize that you are not doing as much homework as them."' And he said, "Mom, I was so embarrassed and so upset that I just wanted to run away."

Mrs. Norris shared how inappropriate she felt those comments were and talked about her follow-up with the teacher who, according to Mrs. Norris, did not think her comments to Taylor were inappropriate. She shared that this was something that the IEP team had agreed was needed, but that the teacher seemed to take it upon her herself to decide what he needed.

At the start of fourth grade, Mrs. Norris reported that Taylor visited his psychologist to help with the transition back into school after summer break. Although she indicated that Taylor responded to questions about school positively, in hindsight, she
reported that his behavior suggested otherwise since he was reluctant to get out of bed and get dressed each morning. About a week into third grade, an incident occurred that resulted in an appointment with a psychiatrist the next day. Due to his emotional instability, Taylor was hospitalized and Taylor was approved for homebound instruction as the result of the doctor’s report.

Homebound services did not go well, according to Mrs. Norris, because Taylor did not want to do the work. On homebound, a lot of his work had to be completed independently. Mrs. Norris reported that Taylor could not handle it. Mrs. Norris shared that after pushing him to do his work one day, an episode occurred that resulted in him being hospitalized again. During this hospital stay, Taylor was diagnosed with a significant psychiatric disorder.

Mrs. Norris arranged privately for comprehensive evaluations as a result of this episode, and when the testing was completed, she requested a meeting with the school district to discuss placement for Taylor. During the interviews, she repeatedly expressed her frustration over her attempts to make the school understand Taylor’s emotional needs and their effects on him. While she expressed that she knew that Taylor was bright and had performed well on the standardized tests, she believed that his emotional state had suffered as the result of his placement. She believed that his emotional needs needed to be met, as well as his academic needs, and that not meeting his emotional needs would affect his academic progress.

*Educational placement.* Linked to Taylor’s needs was the theme related to Taylor’s educational placement. His mother did not feel that it was appropriate to send
him back to his regular school due to a number of factors, including its inappropriateness as well as the fact that everyone knew about the episode that led to his hospitalization. She did not feel that Taylor would be able to handle the talk, and she expressed that she did not trust the teachers to behave appropriately toward Taylor. She shared that his doctors felt that he needed a very small class with the availability of a clinical psychologist at all times. Mrs. Norris reported that the school offered two placements, but she rejected both since she did not feel that either were appropriate. Mrs. Norris explained her reaction to the two offers from the school district:

. . . before I agreed to anything and before I signed anything that day. I wanted to see the two placements that they were offering me. . . . So I went to the first one, and it was horrible. There was a kid in there that was just ballistic – screaming out. He had his own little cubbie that he had to be behind when he was out of control. And it looked like he spent a lot of time there. . . . They asked me.

“What do you think about that one?” And I said, “That one is not even an option.” . . . So the other one we went to – we set up another day. . . . it was a small, quiet, very quiet class, and I was talking to the teacher. There were kids in there who were mentally retarded. I asked what the age group was. There were a couple of second graders and a couple of third graders. Taylor is in fourth. There were no kids his age, and they didn’t have the programs that he needed like the social skills or the stress management.

Mrs. Norris went on to explain what he needed when she reflected what she told the school district.
He needs to have built into his curriculum the stress management and the social skills, because they are very important at this time. I asked them if they have a psychologist on staff, and they went, “Well, we don’t have that. We have a guidance counselor.” And I said, “Well she’s not a clinical psychologist and he needs that.”

The school district reportedly informed her that Taylor had his own private psychologist and that they should use him for psychological services when he needed them. She believed that Taylor needed a clinical psychologist available to him at school since his needs were so troublesome and required expert treatment if he had an episode at school.

After mediation, Mrs. Norris shared the following perspective regarding what she communicated about Taylor’s placement needs at mediation and her interpretation of the school district’s response:

I felt like they weren’t listening to what I was saying about his needs. Because there were some things that they said they could do for him and was good for him and they were right. What they were offering was good for him, but it wasn’t all he needed. He needed more. And I was trying to explain that to them, and it was like they were just . . . like I wasn’t even saying it. They were just totally blowing over the issue that he needed to be within a small school environment of his peers. And I mean that is coming from the psychologist. And they were just not even taking that into consideration at all. And a few other things about his emotional state and they said “Well, we are not here to help him psychologically.” And I said, “No, but the psychological and academic go together.” And again, it was
like the chicken and the egg. . . . So then I talked to my lawyers about it when we took a break. They said “No, it does go together and if it is school academics that is causing the emotion, then they have to deal with the big picture. They just can't pick out the educational and just deal with the educational. They have got to treat it as a whole.” And it didn't seem that they were doing that at all. . . . It was like they had tunnel vision.

Mrs. Norris shared that the school district did not offer anything new at mediation. She expressed disappointment that the school district had not identified other options for educational placement, knowing what she expected.

*Emotions.* The mood of Mrs. Norris’ interviews included a number of emotions—frustration, anxiety, anger and desperation. She explained that she had presented evidence to the school district that Taylor’s emotional needs were severe and had explained to the school district the steps that she had taken to get help for Taylor and to prove to the school district that Taylor’s needs were extensive. She had arranged for her private providers to attend meetings to share information, and she had made their reports available to school personnel.

She was extremely frustrated with the two placement options offered by the school district. During the previous spring when Taylor’s emotional needs had begun to be evident, the IEP team had responded to her inquiry about other placement options during an IEP meeting. According to Mrs. Norris, the school district had discussed one alternative placement, which they did not feel would be appropriate for Taylor. This same option was one of the two options being offered by the school district before and during
mediation. She was frustrated with the school district's offer to place Taylor in a setting that had previously been explained as inappropriate.

Mrs. Norris also expressed a great deal of anxiety about Taylor and this situation. She was worried about Taylor and uneasy about her conflict with the school district. Her worry about Taylor was evident when she shared a conversation she had with a school official:

I said, "What if the placements you’re offering don’t work?” And he said, “You don’t know unless you try.” And I said, “At this point in time, it’s not a chance I can take. With the health of my child or the welfare of my child to put him in there to see if it’s going to work or not. Because if it doesn’t work, it could crush him.” He said, “Yes it could, but you don’t know until you try.” And I said, “You just said it could crush him. I’m not going to take that chance. I took that chance in May and listened to you, and he ended up where we told you it would end up if this wasn’t addressed. And it happened.”

She further demonstrated her anxiety when she expressed uneasiness about her conflict with the school district due to her other child who received special education at the public school that Taylor attended.

. . . And the relationship concerns me because of my other child who is also in special education and has that special education teacher for a teacher, so I’m very cautious because I don’t want him to feel the brunt of what’s going on with his brother. I don’t want her taking it out on him. And I know professionally they’re not supposed to . . .
Mrs. Norris also expressed anger and desperation at times. She shared that from the time Taylor was in kindergarten, she had to fight for services for him. Her emotions were evident as she ended the interview prior to mediation.

I think they think I’m a ranting mom and I just want my child to go to a private school and that I’m not going to give up until they do . . . But I’m not, because I mean I’m a mom protecting her child. and I think I’ve let the school do their thing for four years and my child has gotten worse. And I can’t give in to that anymore. I’ve got to stand up and not give up and fight for the welfare of my child.

Relationships. As Mrs. Norris talked about her dispute with the school district, she talked a great deal about the people with whom she dealt from the school district. She described her relationship with the school district before mediation as follows:

I have no trust at this time for the school district, because I trusted them in May and my child ended up in the hospital because they didn’t want to do anything about it. And now they want me to send him to a placement that they sat and told me was not a good placement for him and how they want to put him there. So how can something be not good in May and now all of a sudden be the best place for him?

When Mrs. Norris talked about her meetings such as IFP meetings, she described them by saying that the specialist was in control.

Other people on the committee, off the record when I’ve spoken with them . . . have agreed with me. (The specialist) walks into the room and we bring it up again, and they sit there with their mouths shut and don’t speak up and just follow
his lead. It's like they are afraid to speak up and say – like they are not allowed to.

She further described interactions at meetings as follows:

It's cute because they ask my opinion and when they write the things, their wording is they have considered what she said and we have considered what the professionals have said, but they still come up with their own findings. Like they still say that he doesn't have a processing problem even though I have two reports from (the hospital) that say that he has got problems.

Mrs. Norris stated that her relationship with the special education teacher was now uncomfortable: “She was always very nice and then the last meeting we had, when I had to sign the IEP saying that I didn’t accept the two programs that they offered me. she got very snippy with me.”

After mediation, Mrs. Norris expressed a continued lack of trust with the school district. Although she noted that the personnel who participated in the mediation were different and acted nice and professional, she described her feelings when she said:

I don’t really feel comfortable with them. I don’t trust them. . . . I don’t because to me they act like they are God. I hate saying this. They are the school system (district). This is who we are. You are just the parent. We know more than you do. We know what we are talking about and you don’t. So we know that what we have to offer is the right thing and you don’t know what you are talking about.

She also expressed a lack of trust when she talked about the need to bring a tape recorder to meetings in the future.
I know now (that) from now on if I have any meetings, I am bringing a tape recorder, because they say, “Well, that is not in our notes from the meeting.” Well, it was said. . . . They pick and choose what they write. If they don’t feel it is important to them, it may be important to me. So I am writing it down so I know. So, then you get, “Well, I never said that.” Yes, you did. My psychologist heard you, my husband heard you. You said it. . . . So, if we have a tape recorder, I can pull the tape up and say yes, here it is. Or knowing that I have a tape recorder, they may not say a lot of the things that they said that could have gotten them into trouble. So I think that would help.

Mrs. Norris talked about what she expected from school professionals and what she thought should happen:

Try and help more and take into consideration what they (the children) are going through personally instead of what’s on paper. Think more about the child and what he is going through instead of his tests and his papers and his notes from the teachers. I think that if they had showed more of that, then I would trust them more knowing that they really did care about my child and they did want to really and truly help him the best they could.

Reliance on private practitioners. It is apparent that Mrs. Norris became very reliant on the private doctors and therapists who were treating Taylor. His psychological health had resulted in hospitalizations, and her request for a small classroom as described was the result of consultation with Taylor’s doctors and therapists. She trusted their advice when she no longer trusted the school district. Her trust and reliance on them was
unmistakable as she told her story. At one IEP meeting, for example, she shared that she had delayed responding to the school district's proposal in order to consult with Taylor's psychologist. She consequently turned down the school district's proposal based on the psychologist's comments. She discussed the conflict between her reliance on private practitioners and her relationship with the school district.

They (the school district) tried to cut down everything that I had done. and you know. I'm saying that the doctors say that he needs this and they said. "We're not doctors and we can't comment on the medical thing" and I said. "That's why I've got doctors." And they said. "Well. we can only do educational. We can't take care of medical and emotional."

Mrs. Norris' reliance on her private evaluators was also evident as she described an IEP meeting at which she had made arrangements for two private practitioners to attend to discuss Taylor's needs. Mrs. Norris explained that the IEP meeting was very lengthy starting with Taylor's needs from the beginning. She explained that her psychologist had to leave after two hours and before they got to the discussion about placement.

*Reasons for the school's refusal.* Mrs. Norris stated that she did not know why the school district would not offer the kind of placement that she and her doctors felt Taylor needed.

From dealing with (the school's specialist), he is very stubborn and this is what he is offering and it's like they really don't want to back down. ... Do they not want to spend the money? Do they not want to put the money up? I mean. is it
political? I don't know. It could be a number of things. Because I don't know why it has to be a fight to get a proper placement for a child with special needs. She also explained that the school district refused to look at his emotional needs, only concentrating on his academic performance. In fact, she shared that they told her that it was hard to place him when his report cards were so good. She said, "Because when you look at his report card, it doesn't look like he needs it. But if you don't look at his report card and look at his behavior, look at his emotional state." She also expressed the following in an attempt to explain why the school district may have refused her request:

But when they get dead set on what they are offering and they are not bending, it feels to me that they are taking into consideration. . . . I think it is politics. I think they let the politics get in the way of the children sometimes. Not all the people, but that is how I have felt through all of this.

Mediation. Mediation was a theme that naturally surfaced in both interviews due to the nature of the situation and the fact that Mrs. Norris had requested mediation to hopefully resolve her dispute with the school district. She expressed her expectations for mediation by saying,

I expect the school and myself having or talking about what we can do to meet and the mediator will be there to offer her opinion and if things start to get a little well. I expect her to have an unbiased opinion - and we'll be talking back and forth and she'll say "Well, how about this or how about that?" That's what I'm expecting.
As she further discussed mediation, she shared how she felt the school district would participate.

I think they’re going to go in there and not budge. . . . I think they will expect me to give in to their wishes, but I’m hoping that they will just give him what he needs. . . . I think they’re going to be expected to give a little or just like they’ll expect me to. I think they’ll be expected to try to come to a middle point – an agreement with me.

After mediation, she explained mediation like this:

It went well. I liked mediation better than going to all these other meetings because it was calmer. And I liked the mediator. She was very good, very thorough. She brought out what was going on and then asked questions about it – trying to get us to think deeper into what is going on. That part went good – really well. And then. . . . I just liked the calmness of mediation. The people that you are dealing with are nicer. Nothing had changed, though. They were still offering the same thing and not willing to offer anything else. It was very short.

Mrs. Norris expressed further how the mediation went when she shared.

I was thinking that there were going to be other options. You know they were going to have . . . they weren’t just going to offer me what they had already offered me. I figured that we could explore other options even within the county. But within the school district I was hoping maybe they did have other programs out there that they hadn’t offered before that they were going to put on the table and say this is how we can better help (Taylor) and this is a better program for
you. But it wasn’t brought up. It wasn’t done. To me it sounded like the same programs that they were offering me before.

**Dr. Fields’ Story**

The administrator for special education, Dr. Fields, had been in her position for less than one year at the time of the interviews but had previously held other administrative positions in the school district and had a great deal of experience in special education. Although she expressed concern about Taylor from the reports shared by Mrs. Norris, she noted that reports from the school indicated a different situation. She shared her desire to settle the dispute in a manner that would satisfy everyone including both parents as well as the school district.

Themes (see Table 3) that emerged from interviews with Dr. Fields included dissimilar perceptions of Taylor’s needs, the school district role, the parents’ reliance on private practitioners, relationships, and mediation. Her interviews were notably shorter than the parents’ interviews with her responses to questions being direct and succinct.

**Perceptions of Taylor’s needs.** Dr. Fields shared a description of Taylor that was very different from his mother’s. According to Dr. Fields,

From the school’s perspective, Taylor is a child who, prior to the homebound instruction, was doing very well at school last year as a third grader. He scored in the advance proficient on his standards of learning assessments. That matched very closely with his report card grades and the performance that he was making on his IEP objectives... (T)he school saw a child that was happy, doing well academically. In fact, at the IEP meeting, there had been discussion initiated by
the school to decrease the level of services because Taylor was not demonstrating any needs for those services.

Dr. Fields went on to describe how she felt Mr. and Mrs. Norris would describe Taylor.

The parents see a different picture in that they see a child who has been diagnosed with a psychiatric condition. The feeling it is exacerbated by the stress that Taylor is feeling at school and from their perspective, a comprehensive elementary school is not the best place for Taylor – which is a very interesting place to be given that we are seeing things so differently.

Despite Taylor’s reported problems that resulted in the need for homebound instruction, it is clear that Dr. Fields and Mrs. Norris perceived Taylor very differently and that these differing pictures of Taylor were the basis for the dispute over services needed.

The school district’s role. As Dr. Fields explained, the school district had offered appropriate alternatives and had taken the parents’ request for alternative placements into consideration, leading to the two options that had been offered. She explained that the school district had taken into consideration information provided by the parent from private evaluators in determining services on the IFP. She also shared that meetings had sometimes been difficult due to the demands resulting from information from private evaluators. She explained.

The school . . . used the information from the psychiatrist and even though we weren’t seeing it at school, they were willing to provide some additional support in terms of time with the special education teacher. That was rejected. So I think
that one of the reasons we are here is because we have people advising the family that don’t have the knowledge about the educational component of it. I think that it’s a rock and a hard place situation where we would really like to kind of reach out and help Taylor’s psychiatric piece. We are limited in what we can provide.

Dr. Fields also shared that the school had attempted to arrange services to meet the needs that Mrs. Norris had identified in her request. For example, Mrs. Norris had requested a full-time clinical psychologist who could address Taylor’s severe emotional needs when and if they occurred. Dr. Fields shared that the school had offered to make available psychological services, but Mrs. Norris did not believe that their offer was adequate for Taylor’s needs. Dr. Fields explained.

For example, we said we could make sure there is a psychologist that’s available and we could have someone – and we have a system that we could have someone there very quickly if Taylor needed it. They wanted it to be an instantaneous process. They wanted a licensed clinical psychologist. We have a few but we don’t have those readily available, although we did offer what we could to provide for them a psychologist, a clinical psychologist when available. So we made attempts for the IFP to really do what we felt would preserve the relationship with the family and address Taylor’s needs.

No agreement was reached at mediation, and Mrs. Norris had already decided to move forward with a due process hearing if mediation was not successful. Since Taylor was receiving homebound instruction at the time of the interviews. Dr. Fields indicated that she realized that the school district was responsible for providing an appropriate
education for Taylor. She noted that a due process hearing would serve a valuable purpose since they needed to place Taylor in a more appropriate placement than the homebound setting. She stated, "We can't continue to leave Taylor in a homebound placement. It is not the best for Taylor, and we need to figure out where this is going. We need to have somebody help us."

Parents' reliance on private practitioners.

Dr. Fields expressed frustration with Mrs. Norris' reliance on private practitioners noting that these evaluators had developed their opinions and recommendations without visiting the options offered to Mrs. Norris. For example, Dr. Fields shared:

There is actually a psychiatrist and a psychologist that have attended a number of the meetings. Neither of these doctors have visited any of the classrooms, which really limits their understanding of what can be provided, though they are advising the parents against anything other than the situation (that was described previously).

Relationships. Dr. Fields talked about the relationship between the school district personnel and the Norris family. Prior to mediation, she had hoped that mediation would enhance what she felt was already a good relationship. She stated,

I hope it (mediation) perpetuates the sense that we are willing to work with them. I think we are at a point where what we were able to offer them was based on the available evidence and it just didn't match what the parent expected. Up and to this point, I think that the relationship with them was a good one. I think that the fact that there was no agreement does not necessarily mean that the relationships
havent't been good, strong, or respectful or trustful. So I hope it serves to strengthen the relationship through the process of our willingness to hear again the information to maybe - through the help of a mediator - to maybe explore some avenues we have not considered. I would certainly hope that it would not harm the relationship. We may leave our relationship at the same point. but it would certainly be my hope that we won't harm our relationship.

After the mediation. Dr. Fields also talked about the relationship between the school and Mrs. Norris, indicating that she continued to feel that they had a good relationship. She said,

I don't think we damaged the relationship through our mediation. We had conversation after the mediation had ended. I am not really sure what the mom's sense is. but I don't - from the perspective of the two people that were from the (school district) who were involved in the mediation - we had discussion about this. and I think we left feeling like this is a mom that we can work with. There is certainly no animosity or anger toward the family...

Dr. Fields later explained.

I have no reason not to trust mom. . . . So I think that I still feel there is. from my perspective. I don't have any information that tells me that I can't trust the mother. Nor do I believe that we did anything to lessen her trust of us. I think that the openness - I would say that from my perspective. there is trust there.

She later explained.

Well. I would say that the way in which we interacted with mom . . . would be the
way I hope we continue to interact with her. That we were good listeners. We listened and responded to her concerns. . . . She and Taylor were the center of the discussion. And we never got to the point where there was any anger. It was all very professional.

Mediation. Dr. Fields discussed her hopes for mediation during the initial interview, appearing positive about the possibilities that mediation held:

I expect there to be support for both sides really to maybe even have our perspectives reframed for us – maybe in a way that we have not thought about before. To have someone help us to be asking the right kinds of questions. How might we approach it differently? We have worked hard to work things out prior to this, but we haven’t explored all of our possible avenues.

After the mediation. Dr. Fields shared that she felt the need to explain her role at the start of the mediation. She shared in the interview:

I shared and provided a little bit of background about why I was there because very often they want to know why there is a central office person there. I described my role, my knowledge of Taylor. I explained that we found it to be – to expedite the process of mediation if there is someone at the mediation that can actually agree to what the two parties feel is important, whether or not we can fund certain options, whether or not the programs are there, whether or not we can provide new technology. So then I described that as being my role – that I had reviewed the file and had more than adequate information about the child. So – also part of my role was to share as a synopsis all of the information that I
gathered, our perception at this point in terms of what has happened and what we feel would be an appropriate response to the request from . . . based on the parent’s request, the criteria that she had in order to best meet her son’s needs . . . how we could address each of those points.

Dr. Fields seemed very disappointed in the mediation experience, especially with Mrs. Norris’ participation. She indicated that Mrs. Norris was not willing to hear other options or perspectives and came to the meeting with a closed mind. “My sense was that she was not open and I say that because very often as we were sharing our perspective, she would interrupt and negate what we just said.” Dr. Fields also shared the following related to her perception about Mrs. Norris’ participation at the mediation:

What I believe inhibited our ability to mediate was that the mother came to the meeting – my perception – with the clear intent that the mediation wouldn’t work. That what brought her to mediation – which we didn’t discover until about an hour into the meeting – was that she had a particular school in mind and that was the only thing that would work for her.

Researcher’s Comments

This case provides two quite different perspectives about the child, Taylor Norris. To hear the descriptions each party provided, one would never suspect that they are describing the same child. Their viewpoints seem so disparate that it is suspected that the real description of the child was likely not offered by either, but includes some from both.

It was unsettling to hear such an emotionally charged story and such great concern from Mrs. Norris and such a different tone from Dr. Fields. Certainly, when a
parent is advocating for his or her own child, a parent would be expected to be much more emotional that would a school administrator who deals regularly with the needs of students with disabilities. Nevertheless, it was disturbing to hear such a different state of heart from the two parties.

Most disturbing to the researcher was Mrs. Norris' desire to move forward with the due process hearing. While the first interview was so emotionally charged with care and concern, it seemed that the parent was looking forward to moving forward with a due process hearing. Mrs. Norris had secured legal services from a law school at no cost (reportedly to give the students some real experience), and the fact that it would not cost anything seemed to interfere in Mrs. Norris' willingness to hear and consider alternatives from the school district. This prompts some thoughts about the possible negative effects of free legal services if there is no incentive to participate in mediation in good faith. Although it is beyond the scope of this study, it would be interesting to hear about the due process hearing, the testimony and exhibits offered, and the outcome.

*The Case of Harvey Oliver*

Harvey Oliver is a second-grade student diagnosed with both Asperger Syndrome and a central auditory processing disorder. Harvey began receiving private speech therapy when he was 2 years old to address his mother's concerns about Harvey's expressive language. Shortly after initiating private speech therapy, Harvey was identified through an early intervention program where he began to receive his speech therapy until he was 3, at which time he transitioned into the school district. He attended the school district's preschool special education program and also received speech therapy services.
until he entered kindergarten. Once he entered school-age programs, he was served inclusively within the general education setting with pull-out therapies. As a second grader, Harvey continues to receive special education and speech therapy.

Due to issues with his behavior while in preschool, Mrs. Oliver consulted with a physician who diagnosed Harvey at 4 years old with attention deficit hyperactivity disorder (ADHD). The doctor recommended medication at that time, but Mrs. Oliver refused. She did, however, begin to give Harvey prescribed medication for ADHD when he was 6 after his behaviors were interfering with his progress at school. Mrs. Oliver reported that Harvey was tested prior to kindergarten to determine his readiness for kindergarten and that there were no problems noted from the testing.

The dispute between Mrs. Oliver and the school district resulted from Mrs. Oliver’s concerns about Harvey’s lack of progress and her request for specialized speech services. She believed that the school speech pathologist did not have the expert training required for her son and requested an alternative. The school district refused her request for specialized therapy. Both parties voluntarily agreed to participate in mediation to attempt to settle their dispute.

Mrs. Oliver shared that she had also filed a formal complaint with the Virginia Department of Education at the same time that she requested mediation with the hope that it would bring the added incentive for the school district to meet her request through mediation. Although the mediation was considered successful since it resulted in a signed agreement by both parties, both Mrs. Oliver and Mrs. Tucker, the special education administrator, expressed that the real issue was not resolved.
A number of themes emerged in the interviews with Mrs. Oliver and Mrs. Tucker. These themes are summarized in Table 4 and elaborated in the next sections.

Table 4

*Themes and Codes Related to Harvey Oliver*

<table>
<thead>
<tr>
<th>Participant</th>
<th>Themes</th>
<th>Codes Associated with Themes</th>
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</thead>
<tbody>
<tr>
<td>Mrs. Oliver (parent)</td>
<td>Harvey’s Needs</td>
<td>lack of progress, regression, needs associated with disability</td>
</tr>
<tr>
<td></td>
<td>Educational Services</td>
<td>criteria, personnel, delivery of services</td>
</tr>
<tr>
<td></td>
<td>Relationships</td>
<td>trust, communication, participation at meetings</td>
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<tr>
<td></td>
<td>Reliance on Private Practitioners</td>
<td>educational recommendations of private practitioners</td>
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<tr>
<td></td>
<td>Reasons for the</td>
<td>funding, eligibility criteria</td>
</tr>
<tr>
<td></td>
<td>School’s Refusal</td>
<td>decision to mediate, mediation process, expectations, results</td>
</tr>
<tr>
<td>Mrs. Tucker (special education administrator)</td>
<td>Dissimilar Perceptions of Harvey’s needs</td>
<td>Harvey’s disability, Harvey’s progress at school, parents’ perception</td>
</tr>
<tr>
<td></td>
<td>School District Issues</td>
<td>use of private providers to provide services, use of resources, services</td>
</tr>
<tr>
<td></td>
<td>Qualifications of Service Providers</td>
<td>education, experience, training provided by school district</td>
</tr>
<tr>
<td></td>
<td>Relationships</td>
<td>trust, communication, participation at meetings</td>
</tr>
</tbody>
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Mrs. Oliver's Story

At the time of the interviews, Mrs. Oliver had concerns about Harvey's progress and expected that appropriate services could and would remediate his deficiencies, thus resulting in no need or a greatly minimized need for special education services. She described Harvey as a bright child with language processing deficiencies associated with Asperger Syndrome. She indicated that the therapist provided by the school district did not have the expertise required to deliver the services required by Harvey and that specialized services were needed. She indicated in her interviews that she is very persistent and that she was unwilling to give up on her requests to get the required services for Harvey. Primary themes (see Table 4) that emerged from the interviews included Harvey's needs, educational services, the reasons for the school district's refusal to provide the requested service, Mrs. Oliver's reliance on private practitioners, relationships, and mediation.

Harvey's needs. Mrs. Oliver spent a great deal of time, particularly in the first interview, talking about Harvey's disability and his associated needs. As indicated, she believed that he is a bright child with the ability to do well in school and in life with appropriate services. She shared that he has average intelligence as indicated by a measured ability score of 101. She stressed that his identified central auditory processing disorder is just as important as Asperger Syndrome in determining his needs.
Mrs. Oliver firmly noted that she believed that Harvey needed services from professionals who have training and experience with children who have both Asperger Syndrome and a central auditory processing disorder. She pointed out that his language problems affect other areas, and expressed concerns about his lack of progress at school by specifying areas in which he needed assistance. She shared. “Everything to do with handwriting, reading, reading comprehension, speaking, processing the language, is all delayed to some degree for Harvey. It’s not really clicking for him.” She also explained that she was not happy with his progress. “I have got the support of all his pediatricians, his psychologist, his therapist... no one sees improvement in Harvey’s speech except the people at school.”

Mrs. Oliver acknowledged that there had been behavioral improvements during the current school year, but also indicated that the school district was not seeing the whole picture. She said.

He is able to sit in his chair for longer, his meds have been increased. He was hyper. He is able to be redirected easier. He is a more malleable child. But what I think they are seeing... We are seeing peripheral improvement, but I don’t think we are fixing the brain. He has a left side that needs to work with the right side. Right now he is all right side. He is all visual instead of audio. I don’t think we are fixing or helping to narrow the gaps between his learning style.

Although this dispute is about current services being provided and offered, the dispute may also be about his needs in relation to meeting Mrs. Oliver’s goal and vision for Harvey. Mrs. Oliver shared, “My goal for Harvey is for him to graduate with a GPA
that will allow him the accessibility for him to further his education if he desires. That is my ultimate goal for Harvey." She also shared.

In my mind, I am pretty firm as to what he needs because no one has shown me that I am either (a) wrong or (b) that he needs something different. I guess that is one in the same. But if I am wrong and the school system (district) is doing everything they can do for him, then I need to see documentation, because the documentation I see negates there is progression and that actually the changes are regression.

**Educational services.** Mrs. Oliver spoke at length about the need for a speech pathologist who was more qualified than the one provided by the school district. She had not been pleased with services in the past and at the start of the school year had met with the speech pathologist who had been assigned to learn about her background. Mrs. Oliver was not pleased with the speech pathologist’s qualifications. “She had worked with children who had Asperger’s, she had worked with children who had auditory processing disorders, but never one who had both.”

Mrs. Oliver also talked about the school district and the services provided to children with disabilities:

I think in their minds they are doing their job. I think, though, at some point you have to put the heart back into educating the child and take each child as an individual. I think the system works for certain kids and for the bulk of kids. I think the system really, really works for the bulk of kids. I think it will really, really work for my 3-year-old who exhibits no signs of being an Asperger kid.
But, I don't think this system works for those children who are not as obviously impaired as if you were in a wheelchair or had CP or was mentally retarded. She went on to say that the services needed for Harvey were more specialized and harder to identify and that this was the result of needs that were not as obvious as those for children who have more visible disabilities. She described the services provided to children like Harvey by saying, "We patchwork and piecemeal these as best we can, but sometimes even then it's not exactly what the child needs and we have to serve him or her as best as we can."

Mrs. Oliver did not feel that the school district had provided the educational services that should have been provided. She provided the following as evidence:

I question the notion of retention coming up several years in a row. If he were meeting his goals, if the goals were meeting his needs. I don't think we would have retained him or even talked about retaining Harvey. And it wasn't just this year. It was the year before. If we should have retained him the first grade, then we should have done something different last year so we would not have had to retain him. We knew this was an issue and we knew he was behind and we knew he had deficit areas even then. I think this is just one of those children that could potentially fall through the cracks and maybe has slipped . . .

Reasons for the school district's refusal to provide requested service. Mrs. Oliver did not think that her request was unreasonable and she knew that the school district contracted for specialized speech services for other students. She shared that she did not understand the reasons for determining who would receive the specialized services when
she stated. "I never get direct answers from special services as to what makes them more qualified and my child less qualified." She indicated that she had asked directly for a reason for refusing her request and that the reason she was given was that he is improving. She disagreed, however, with the claim that Harvey has improved and indicated that there may be other reasons. For example, she stated. "I do believe that there are budgetary issues. . . . I believe when you bring in a contracted employee, that is, of course, more expensive. I think that kind of plays into the issue."

*Reliance on private practitioners.* Mrs. Oliver relied on information she secured from the private sector and held it in higher esteem than the feedback she received from the school district. It was obvious that she spent a great deal of time and resources to secure the opinions of professionals outside of the school district. She works in the medical community, and she indicated that she has great faith and trust in the objective opinions received from those who have evaluated Harvey outside of the school district. She provided one rationale for a reliance on outside professionals when she stated. "No one sees improvement in Harvey's speech except the people at the school. My issue is that they are rendering subjective opinions and not objective, valid data that substantiates that he is improving." She later elaborated.

He has the same teacher today that he had two years ago. He has had the same teacher three years in a row. Now, that in a way is positive. . . . Her opinion is biased at this point, because she completely understands how he speaks and she understands how he works and how he processes. . . . I question the ability to use a subjective opinion as opposed to objective data.
His needs prompted Mrs. Oliver to secure several private evaluations and consultations with doctors and private therapists throughout the state, which provided much of the foundation for her description of Harvey’s needs. For example, she explained that both an audiologist and a pediatric occupational therapist who conducted evaluations offered their professional opinions. “Both have gone on record indicating at this point that Harvey needs someone who is specialized in Asperger kids and can provide the speech-language pathology services that he needs for the way that he processes.” In addition, she shared that she had some educational and medical testing done to look at potential processing difficulties. She shared, “We had him tested and he did test out positive for a central auditory processing disorder which was significant. It wasn’t just a mild one. It was a significant one.”

**Relationships.** Mrs. Oliver shared a number of positive as well as negative aspects of her relationship with the school district. One thing she clearly articulated was that she believed that everyone involved in Harvey’s education truly cares about him. She never departed from that stance. However, she did express quite a few frustrations related to her relationship with the school district. Among the negative aspects she mentioned were communication and trust.

Mrs. Oliver clearly felt that communication between the school district and home was neither effective nor positive. For example, when she discussed her request for the specialized speech services, she indicated that she communicated with school officials and, at times, never received a response. In her words, “I did not get good
communication from them, even courteous responses back as far as timeliness of returning phone calls or e-mails." She later elaborated.

... but I still feel like there has to be a valid reason why someone would blatantly ignore a parent's concern... The lack of return calls, I would document when I would call people and when I got calls back. At times I would never even get calls back or responses from e-mails.

She also shared.

"I never felt that the communication was very good... I tend to hyper-communicate. I think, because I just think we all need to know the same thing... I don't believe the communication is what it needs to be, because I have direct questions that are sort of not being answered, and I am not sure anybody knows the answers... I may not like the answer but at least you have answered my question. I don't do well when people ignore specific things.

Mrs. Oliver also discussed her trust with the school district, indicating that it was not what it once was. She shared.

I believe that the relationship is somewhat strained. Again, trust has to be earned in my book. My trust was ready to give in kindergarten and first grade. Through the years. I feel like it's been kind of chipped away and chipped away, chipped away. I feel like my concerns have been minimized.

As she talked about the delivery of services to Harvey, she shared.

To be honest I feel like I have case managed Harvey for his entire tenure at (the school). I feel like I have been the case manager for him. That is frustrating to
me because I have to feel comfortable with the care that my child is given, the education he is given, the people that are doing it. I feel like I have always had to check up on them to make sure he is getting his (services).

After mediation, she reported a continuing problem with trust.

I would like to gain some sort of level of trust with the school district I have chosen for my child to attend where I don’t feel like I have to monitor his progress on a day-to-day basis. I would like to feel like there is one person, whether it’s his case manager or the principal, that is there that could do that on a regular basis.

She also stated, “I don’t hold the same respect for the parties involved that was a given at one time. Again, respect is earned. In my book, it’s an automatic until proven otherwise. I just tend to give trust and to give respect.”

Mediation. Prior to the mediation, Mrs. Oliver spoke positively about her expectations but had a number of questions about the process such as how long it would take, whether there would be multiple sessions; she also had questions about how much time she should plan to be away from work. She shared that she called the mediator who answered some of her questions. Describing her expectations for the mediation, she shared, “I hope for a resolution of the issues, that Harvey’s needs would be met.” When she discussed what she thought would happen at the mediation, she said,

I think I am expected to go in with an open mind and to communicate back and forth... I think I will be a little more guarded and even more – like – clipped. I don’t have a whole lot of warmth at this point. I feel like I have been so nice for
so long. I feel almost taken advantage of to be honest. . . . I have not been asked to bring anything. I anticipate that I will start speaking and that I will be interrupted, that it will probably be very emotional. I will expect them to defend their stance.

After the mediation, Mrs. Oliver shared that they had come to an agreement, but that the issues were not resolved. This was because an independent educational evaluation and continued consultation from a specialized speech pathologist were included in the agreement, thereby postponing a decision about the original issue. About the process, Mrs. Oliver stated, “The process of mediation, if you just look at the process of mediation – yes, I believe that works. I believe it redirects people when you are going off-task and brings them back to the hub of the conversation and the hub of the issue at hand.” Finally, she shared, “. . . for me, it’s important to take a negative situation and it becomes less negative if you can learn from it. I have learned from this process.”

Mrs. Tucker’s Story

Mrs. Tucker, the school administrator who participated in the mediation, has been an administrator for the school district for several years but only recently became involved with Mrs. Oliver due to her dispute with the school district. Mrs. Tucker reported that several changes in administration over the past few years had resulted in inconsistencies in the way that services have been provided, particularly contracted specialized services. Mrs. Tucker believes that this climate of change has contributed to the dispute between Mrs. Oliver and the school district since the school district had and continues to contract for specialized services for some children. The circumstances that currently result in these
decisions, however, and those that led to these decisions in the past have changed.

Mrs. Tucker shared that the school district had provided appropriate services by qualified professionals to Harvey. Although there had been some turnover in staff, Mrs. Tucker reported that Harvey had been successful in school, making appropriate progress toward his IFP goals and objectives. The speech pathologist providing services at the time of this dispute had a graduate-level degree in speech and was endorsed as a speech and language pathologist both by the Virginia Department of Education and the American Speech and Hearing Association. The school district refused Mrs. Oliver's request for the school district to contract for specialized speech services, believing that they had and were continuing to provide appropriate services by a qualified speech pathologist. Mrs. Tucker shared that the school district compromised with Mrs. Oliver by contracting with the specialized provider for consultation services. Mrs. Tucker was very open and appeared concerned about the conflict they were having with Mrs. Oliver. Themes (see Table 4) that emerged in her interviews included dissimilar perceptions of Harvey’s needs. Mrs. Oliver’s reliance on private practitioners, school district issues, relationships, and mediation.

**Dissimilar perceptions of Harvey’s needs.** Mrs. Tucker described Harvey and also indicated that she thought Mrs. Oliver saw her child as more disabled that he really is. She stated,

I think one issue is that this is a child – yes, he has a disability, no one is disagreeing with that – but he is really making progress. He is really doing quite well academically, socially. But still he has progress to make. I am not saying he
is ready to be dismissed from special education. But this is a child who is making progress and, by all accounts, he is doing well. But Mom continues to see him as very, very disabled. Because of that, I think she feels that he needs more services, different services, more specialized services that what is needed or is appropriate.

She also maintained.

This is a child who has made a lot of progress in the past year, year and a half, by all accounts. Mom has stated that several times, the teachers, the principal. He is a little guy who started out just really having a hard time at school. Not a lot of progress, and it took a while for the folks to really kind of get a handle on his disability. He is a very unique kid and we don’t have anything real concrete as far as – is it autism? Is it Asperger’s? Is it . . . what is it?”

Specifically, Mrs. Tucker compared Harvey’s past and current performance the following way. “This is a kid who used to sit underneath the desk and not come out, and hit kids in line. Now, this is a kid who follows the class rules, sits in a desk, raises his hand, and he gets along with other kids.”

Mrs. Tucker expressed that Mrs. Oliver did not seem to believe that the school district has a good understanding of Harvey and his needs. She shared.

I think that Mrs. Oliver really feels that we are not understanding Harvey’s needs - that we don’t have a good handle on what he needs. And if we did, we would recommend that he needs a different kind of service than what we are providing.

Qualifications of the service provider. Mrs. Tucker was adamant that the speech pathologist assigned to provide services to Harvey had the necessary qualifications. She
described the speech therapist’s qualifications by stating.

She has experience, three or four years – I believe it’s four years – working with kids with autism, because we have had a self-contained program and an inclusion-resource program at that elementary school for four years. This speech therapist has been the one who has worked with all of those kids for three or four years. She’s got a lot of expertise, a lot of knowledge. She has gone to a lot of training. I know we have provided her with more training than any of our other speech therapists because of the population of kids that she works with. She has never had a chance to work with this child until this year. I really feel like the parent has not given her a chance to work with her son.

Later, she reiterated the qualifications of the speech pathologist when she stated. “We are talking about services from a master’s level – a speech therapist with her Cs (a certification provided through the American Speech and Hearing Association), with experience, demonstrated experience – lots of kids she has worked with successfully.”

School district issues. Mrs. Tucker shared several aspects of the dispute that involved school district issues. The first was that the turnover in administrators resulted in different criteria for decisions to provide services, resulting in an inconsistency in the types of students who were provided contracted services by specialists. According to Mrs. Tucker, previous attempts to remedy relationships with parents and create a more collaborative climate led to more agreements to requests for specialized services. Although criteria have since been refined, Mrs. Tucker expressed frustration with her
inability to appease Mrs. Oliver with an explanation about why some children have received and are receiving these services. She explained.

You cannot explain to a parent why one child has a service, and we are saying no to their child, because of confidentiality. That is hard for parents to understand. I have tried to explain to her . . . why students sometimes get an outside service, without betraying confidentiality.

Mrs. Tucker also shared that it might have been easier to give in to Mrs. Oliver’s request, but that it would set a precedent for any parent to make a request and expect to get what they request.

Another issue was the assignment and use of human resources. According to Mrs. Tucker, Mrs. Oliver’s concerns began when the speech therapist who had worked successfully with Harvey the previous year was assigned to another school. Mrs. Oliver had expressed to Mrs. Tucker that she wanted Harvey to continue with the same therapist; her request was denied since that therapist would be at another school. Her dispute with the school district challenges the ability of the school district to assign staff according to needs. Consistent with the assignment of human resources, Mrs. Tucker explained that the services being sought by Mrs. Oliver are limited and available to only a limited number of students from the school district. Although the school district contracts for these services for some children, Mrs. Tucker emphasized that the school district needed to responsibly assign students in order to be able to meet the needs of those students whose needs cannot be met by other therapists who are employed by the school district. She shared.
I guess this seems like such a simple situation. Just give in to the private therapy if it means that much . . . but, you know. I just don’t feel like that is the right thing to do. I think if we did that we would have more problems because pretty soon any parent who wanted a private therapist would get a private therapist, and that is not right . . . And that is another issue that Mom does not realize. This private therapist is so busy. I don’t know if she could take another child."

*Relationships.* A number of different relationships exist between the school district and the parent – relationships with each provider, the principal of the school, as well as the relationships developed between the parent and the administrators in the special education office. Mrs. Tucker expressed factors that have influenced a number of these relationships. These factors include trust, collaboration, and communication.

Mrs. Tucker expressed a problem with trust on Mrs. Oliver’s part before participating in mediation. She said, “If she trusted us, the system, I think she would be comfortable letting us provide services and she would not be asking for something else.” She also shared, “I think the parent has a distrust of our office. I think they feel like services are not given out equally or fairly.”

Mrs. Tucker also indicated that she did not trust Mrs. Oliver because she had been forwarding her e-mail correspondence to a representative at the VDOE without informing Mrs. Tucker. She voiced her frustration with this lack of trust, and, unfortunately, mediation did not seem to improve this. In fact, after mediation, Mrs. Tucker expressed the following:
... she does not trust the school system (district). She does not trust us to diagnose her child's disabilities, and we explained that we don't necessarily diagnose. That is not our role. We identify disabilities, but we do not diagnose subtle medical conditions. I think we got some of that squared away. Trust is an issue... while trust is an issue. I think both of us are willing to continue to work at that relationship - working on resolving the differences and continue to focus on Harvey... I don't think she is going to trust us for a long time.

Mrs. Tucker felt that the climate and collaboration at IEP meetings had been adversely affected by the relationship that developed due to Mrs. Oliver's demands and complaints. She shared.

There is some hesitation and apprehension on the part of the teachers and therapists because they don't want to offend her. They don't want to be - under attack may be too strong of a term - but, for instance, our speech therapist is just terrified that she is going to offend Mrs. Oliver, and the other therapists see that and they try to be very careful with what they say. It doesn't make for a real positive climate at an IEP meeting.

Mrs. Tucker conveyed frustration that Mrs. Oliver expected too much in terms of communication. In fact, Mrs. Tucker shared that the number of e-mails she had received from Mrs. Oliver was extremely excessive. She said, "It's been overkill. There are times that I don't know what else to say. I have said it all. But I think because she is not hearing what she wants to hear, she keeps going very persistently." On the other hand, Mrs. Tucker expressed that perhaps their communication had not been what the parent
needed. For example, she speculated that perhaps the school district had focused too much on Harvey's progress and success in school whereas Mrs. Oliver really needed to have it confirmed that Harvey does have a disability.

Mediation. Mediation was discussed at length in both interviews by Mrs. Tucker. Specifically, she expressed her thoughts about the decision to mediate, the mediation process, her expectations, and the results of mediation. Although the school district agreed to mediate, Mrs. Oliver stated.

In some ways, I am a little bit concerned about this mediation more than others. I am not sure how willing I am to compromise and I know to go into mediation you have to be willing to compromise. So I am going to have to be willing to compromise, even though that may mean giving into something I don't believe is necessary.

Although she expressed that her expectations included a willingness of both parties to compromise, she added.

I just feel that Mrs. Oliver's idea of what is going to happen is that she is going to get this private therapy. My idea of a compromise is that both parties kind of give a little bit. . . . I don't want to go in and be expected to give it all.

She expressed a desire to settle the dispute and to come to an agreement, but she was not positive about her expectations from this mediation.

Mrs. Tucker described the mediation process as positive, noting that the mediator was very good and kept everyone on task despite the fact that it lasted more than four hours. The outcome, however, was not as positive in Mrs. Tucker's view.
I guess the mediation was disappointing because even though we came up with a written resolution, I know it was not a resolution. It wasn't...the issue wasn't settled. But I think it was productive in that - I think I heard some things that I hadn't heard earlier. That and I think I went away with a clear sense that maybe we do need to go back and look at that IFP and make sure that IFP is appropriate.

The agreement included a provision for the parent to get an independent evaluation and for the IFP to include consultation services from the specialist for the duration of the current IFP.

Researcher's Comments

This case differed distinctly from the other cases in one respect: Mrs. Oliver was not as emotional as the other parents. She answered the interview questions calmly and attempted to explain her side very methodically using results from her private evaluations. On the other hand, Mrs. Tucker seemed frustrated not only because they were in dispute, but she truly seemed to want to make things right while also believing that the school district had already gone beyond what was required. Although she entered mediation with the notion that the school district had provided what was needed, she left mediation admitting that she had been open to hearing things differently and intended to revisit the services included on Harvey's IFP.

Both parties also expressed frustration with the fact that the dispute was not really resolved at the mediation even though they reached an agreement. The agreement, in essence, delayed the dispute by both agreeing to get more information to be considered at
a future IEP meeting. Mrs. Oliver seemed frustrated by this, but also expressed that she was waiting for results from her complaint to VDOE.

This case brings into question the definition of a mediated agreement. If both parties agreed to sign an agreement while acknowledging that the dispute was not resolved, was this mediation “counted” by the state as a success or not?

Summary and Conclusions

The three cases included in this study focused on a dispute between the families of a child with a disability and their school districts. In each case, the parent(s) expressed to their school districts their disagreement with the services either being provided or proposed to be provided. After a number of meetings in each case to address their dispute, each family agreed to use mediation as a mechanism for discussing and, hopefully, resolving their disputes. However, none of the families seemed to fully understand mediation and what to expect. How can family members be expected to participate successfully in a process that they do not understand?

In the case of Caroline Kent, mediation resulted in an agreement. In the case of Taylor Norris, no agreement was reached, and Mrs. Norris requested a due process hearing to resolve her dispute. In the case of Harvey Oliver, both parties signed an agreement that neither viewed as resolving their dispute, and Mrs. Oliver had submitted a complaint to VDOE. Might these outcomes be due, at least in part, to the families’ lack of understanding about mediation?

Themes that emerged across groups will be explored in Chapter 5. Themes from families and themes from school district representatives will be discussed separately to
identify similarities and differences within groups. In addition, outliers will be identified and discussed.
Chapter 5: Cross-Case Analysis

In this chapter, themes will be identified and discussed across cases. First, themes identified by parents will be identified and discussed, both themes common to all parents and those that were unique to individual parents. This discussion will be followed with a similar discussion related to themes identified by the school representatives who participated in these mediations. Lastly, comparisons between the two groups will be made. Before the analysis, however, each case will be reviewed briefly.

The first case, which involved Caroline Kent, focused on a dispute related to Mr. and Mrs. Kent’s request for speech and language therapy for Caroline, a middle school student. Mr. and Mrs. Kent had repeatedly requested speech and language therapy for their daughter due to auditory processing and short-term memory difficulties that had been diagnosed by private evaluators. According to the Kents, the private evaluators had suggested that speech therapy would help Caroline with these problems. Mr. James, the local special education administrator, indicated that the IEP team refused to include speech and language therapy on Caroline’s IEP because her achievement was commensurate with her measured ability. Mr. and Mrs. Kent had done research related to their rights under IDEA and agreed to mediation when it was suggested by Mr. James.

The second case focused on Taylor Norris, an elementary school student, whose mother requested a specialized placement due to significant emotional problems that had worsened over the year prior to her request. Taylor was receiving homebound instruction at the time of the dispute and, according to Mrs. Norris, the homebound instruction was
not appropriate due to Taylor’s difficulties completing school work independently. In addition, Taylor’s private psychologist and psychiatrist had recommended a specialized placement. Dr. Fields, the special education administrator who participated in the mediation, shared that Taylor had been doing well prior to his homebound instruction and that his IEP team was recommending a decrease in services in an inclusive placement.

After a number of meetings, Mrs. Norris requested a due process hearing and agreed to use mediation to attempt to settle the dispute. Her hope was that the school district would provide an appropriate placement in mediation to avoid a due process hearing.

The third case was about Harvey Oliver, a primary-grade student, whose mother had requested specialized speech services due to her belief that his speech therapist did not have the knowledge, skills, and experience required to meet Harvey’s needs. Mrs. Oliver was not satisfied with her son’s progress in school and shared that she believed that, with the right intervention, he could remediate his skills such that he would not need special education in the future. Mrs. Tucker, the special education administrator who participated in the mediation, reported that Harvey had been making good progress in school and that his speech therapist was experienced with students like Harvey and had received support from the school district to attend specialized workshops and seminars to enhance her skills. Mrs. Oliver requested mediation to try to resolve her dispute with the school district. She had also submitted a complaint to the Virginia Department of Education (VDOE) related to the appropriateness of the decisions the school had made regarding Harvey.
In all three cases, the parents had requested services that their school districts had refused through the IEP process. None of the parents had ever participated in a formal dispute resolution process and had no history of requests for either a due process hearing or a complaint to VDOF until this request for mediation. Each had secured private evaluations that influenced their requests for services that their school districts had refused.

Similar themes surfaced among the parents and among the school district representatives. Following is an exploration of themes across the two groups followed by comparisons between the two groups. Table 5 provides a summary of themes across groups and will be used as the basis for the following discussion.
Table 5

Themes Across Groups

<table>
<thead>
<tr>
<th>Themes</th>
<th>Family</th>
<th>School District</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Mr. &amp; Mrs. Kent</td>
<td>Mr. James</td>
</tr>
<tr>
<td></td>
<td>Mrs. Norris</td>
<td>Dr. Fields</td>
</tr>
<tr>
<td></td>
<td>Mrs. Oliver</td>
<td>Mrs. Tucker</td>
</tr>
<tr>
<td>Child’s Needs</td>
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<td>✓</td>
</tr>
<tr>
<td>Placement or Service</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Reasons for School’s Refusal to Provide Services</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Parents’ Emotions</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Dissimilar Perceptions of Needs; Unrealistic Parent Expectations</td>
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<td>✓</td>
</tr>
<tr>
<td>Legal Requirements/ Legal Issues</td>
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<td>✓</td>
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<tr>
<td>Qualifications of Service Provider</td>
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<tr>
<td>School District Issues/Role</td>
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</tr>
<tr>
<td>Reliance on Private Providers</td>
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</tr>
<tr>
<td>Relationships</td>
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<td>✓</td>
</tr>
<tr>
<td>Mediation</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
Family Themes

Common Themes

As can be seen in Table 5, three themes emerged among all of the parents who participated in this study. The themes related to (a) their children’s needs, (b) placement or services needed by their children, and (c) reasons why their school districts refused the services they requested. Due to the nature of the dispute and the focus of the interviews, it was not surprising that these themes emerged in each case.

All parents spent a great deal of time explaining in the interview why their children needed the requested. It was as if they were trying to convince the interviewer that their requests were appropriate and that their school districts either did not understand or were under other influences that were preventing them from providing the needed services. For example, Mrs. Oliver, Harvey’s mother, shared the following:

My disagreement has to do with Harvey’s lack of progress or regression in the area of speech and language – processing, speaking, the whole pragmatic of the English language. Everything to do with handwriting, reading, reading comprehension, speaking, processing the language, is all delayed to some degree for Harvey. It’s not really clicking for him. Even his handwriting. Harvey has been tested by just about every specialist you can have from MCV (Medical College of Virginia) to northern Virginia. His medical needs are being met and have been met on a continual basis. At this point, it’s really up to the school district. The reporting mechanisms that are in place have given us a complete picture of how Harvey learns, how he processes and, in my opinion, after five years of utilizing
(the school district’s) - what I call - generic speech and language services. Harvey needs a specialist in the speech and language type area.

Harvey’s needs were referred to throughout both interviews with Mrs. Oliver. Mrs. Kent as well as Mrs. Norris shared similar arguments, indicating that they had reports from private evaluators that supported their requests for the services they were requesting.

Another common theme was the placement or service families were requesting. Each was passionate about their request and felt that there was little room for compromise. They were very specific about the services they were requesting. As an example, Mrs. Norris stated the following related to the services she was requesting for Taylor:

At this point. Taylor needs to have . . . he needs to be in a small, low-stress classroom and school environment. because at a big school, he gets lost, stressed out, and it is just too overwhelming for him. After everything he has been through, he needs a psychologist – a clinical psychologist – on staff for him when he needs to go away and talk. And he needs to have stress management, a daily stress management study. And social. He needs social skills, because with the right frontal lobe, he has a hard time reading people. He doesn’t know how to act in groups.

As with the theme related to needs, all three parents were similarly focused on the placement or service that was needed and what it should look like. Since it was difficult at times to separate their children’s needs from the placement or service they were requested.
their interviews often intertwined the two since their requests were directly related to their children’s needs as they saw them.

The last common theme among all the families involved the reasons for the school’s refusal to provide the services they were requesting. While all the parents indicated at some point in their interviews that they did not know why the school districts would not provide the services they requested, each also provided some reasons why they suspected they might have been refused. These reasons related to factors such as budgets, staffing, and resources. None shared that they thought the school district believed that their child did not need the service. Mr. and Mrs. Kent were quick to point out that they thought it was related to both money and staffing. Mr. Kent stated, “I think it is just a matter of staffing and money because at the last meeting we had, they did say that they had to go out and hire outside people.” Mrs. Kent followed his comment with, “He sat right there in our meeting and told us there was a shortage of speech and language (therapists).” As with the two previous themes discussed, the parents in the other two cases had similar sentiments related to the reasons that the school district refused to provide the services they were requesting.

Another theme worth noting emerged in two of the cases, those relating to Caroline Kent and to Taylor Norris. That theme was the parents’ emotions. In each of these cases, the parents’ entire interviews were emotional in tone and the way they phrased their responses. While they did not necessarily state that they were frustrated, angry, or worried about their children, these emotions were evident. By comparison, Mrs. Oliver expressed concern about Harvey, her emotions were not as evident.
Outliers

Only one theme emerged as an outlier in the family group. The theme, legal requirements and legal issues, emerged in the case involving Caroline Kent. That is, Mr. and Mrs. Kent discussed the efforts they had made to understand the legal requirements and their rights. For example, they discussed a book they had purchased on special education law and referred to the prior written notice that the school district was required to provide them each time their request for speech and language services was refused. They also discussed the discrepancy criteria that the school district used to determine a student's need for special education and related services. According to the Kents, Caroline did not qualify for speech and language services because her performance was not significantly discrepant from her measured ability. Most poignant was when Mr. Kent stated, "Slowly but surely we are learning more and more. I just don’t want it to wait until the 12th grade before we finally say, ‘We got it.’ By then it is too late."

School District Themes

Common Themes

As seen in Table 5, only one theme emerged in all three cases as being unique to the school districts – school district issues and the school’s role. In two cases, dissimilar perceptions of the student’s needs or unrealistic expectations emerged as a significant theme. Neither theme was unexpected due to the nature of the disputes, the focus of the interviews, and the positions the school representatives held in their school districts.

The theme relating to school district issues and role, as stated, was not unexpected because the school district representatives in all three cases were special education
administrators in their localities. As special education administrators, their jobs entail managing budgets, ensuring compliance, as well as supervising the services that are delivered to students with disabilities. They indicated that they are expected to "draw the line" in terms of deciding the criteria for services and managing the resources available. In each case, the administrator discussed his or her legal responsibilities for the student who was the focus of their case. They discussed the difference between "appropriate" and "best," as well as "need" versus "benefit." Mr. James (Caroline Kent case), for example, shared, "Of course, we have to provide services wherever they are needed, but fiscally, you know, we are a public school district, and we have to use our resources sparingly... sparingly is the wrong word, but correctly." In describing the school district's role related to Taylor Norris' emotional needs and the parent's request, Dr. Fields stated:

That led us to a situation where our position right now is that what the parents are asking for is really separate from an educational component. The schools sees that we have been able to provide services and supports, and Taylor was able to receive benefit from that. I think we see a real separateness there. The psychiatric conditions, since we are not seeing that have an impact on education, does not fall on us to provide for the kind of setting that the family is describing.

Addressing the issue of "best" versus "appropriate," Mrs. Tucker (Harvey Oliver's case) stated, "This is a parent who wants the best, demands the best and doesn't have an understanding, or maybe an acceptance, of an appropriate education. She wants the best education." It is obvious from these statements that the special education administrators
were influenced greatly by the issues related to managing special education services and by their roles as they saw them.

One theme was common for two of the school administrators: the dissimilar perceptions of the student's needs including unrealistic parent expectations. For example, Mr. James shared that he believed Mr. and Mrs. Kent did not have a true picture of Caroline when he stated.

I don't think they realize some of the limitations that this student may have. And that relates to other issues around the dispute. I think the child is probably – the expectation – although I very much support high expectations, I think that this student is struggling – struggling a lot. And I think the parents are still looking for that miracle.

Dr. Fields shared a different picture of Taylor Norris from the parent when she stated.

The school’s perspective with regard to Taylor is very different than the parents'. From the school’s perspective, Taylor is a child who, prior to the homebound instruction, was doing very well at school. . . . He scored in the advanced proficient range on his Standards of Learning assessments. That matched very closely with his report card grades and the performance he was making on his IEP objectives.

In contrast to the descriptions and needs the parents provided, these two administrators were very aware that their perceptions of the students were very different.
Outliers

Two themes emerged as outliers, each with different school districts. In the case of Caroline Kent, Mr. James discussed legal requirements and issues that must be considered. For example, he stated, “It wouldn’t be special education if we didn’t have a line to say, okay you are qualified for it. I believe everybody could benefit from speech and language services, even myself. But it wouldn’t be special education. It wouldn’t be special if every student got it.” He discussed the role of the IEP team in making these decisions and that it would be inappropriate for him to tell them what decision they should make.

In the case of Harvey Oliver, Mrs. Tucker talked a great deal about the qualifications of the speech therapist who had been providing services to Harvey. For example, she stated.

This speech therapist has been the one who has worked with all of those kids for three or four years. She’s got a lot of expertise, a lot of knowledge. She has gone to a lot of training. I know we have provided her with more training than any of our other speech therapists because of the population of kids she works with.

Comparison Between Groups

Common Themes

Two themes emerged among all participants – relationships and mediation. Given that the primary focus of this study was the impact mediation may have on relationships, it was expected that these two themes would be evident across all participants. Most interesting, however, were the differences in the way these were defined. For example, none of the parents felt that they understood mediation or knew what to expect from the
process. The school administrators, on the other hand, were quite familiar with mediation and knew what to expect. The way that relationships were addressed was also different between the two groups. While all three parents were quick to discuss their lack of trust in the school district, the school administrators' reactions were mixed. Mr. James shared that he thought the parents trusted the school completely; yet, he indicated that he did not trust anyone. Dr. Fields expressed that she felt that there was no reason for the parent to distrust the school district while Mrs. Norris indicated that she had no trust in the school district. In the case of Harvey Oliver, both Mrs. Tucker and Mrs. Oliver expressed a lack of trust for each other.

**Differences in Themes**

There was a distinct difference in the themes that emerged within each group. Themes that characterized the family group were much more child-focused, including such themes as the child's needs, placement or services, and emotions. Conversely, themes that characterized the school district group were much more system-focused, including such themes as legal issues and requirements and school district issues and roles. Although all participants shared two themes, relationships and mediation, their conversations about these topics differed. That is, the parents discussed both in ways that kept their children at the center while the school representatives discussed both in relation to the system's needs.

**Summary and Conclusions**

In this chapter, themes were identified within and across groups. It was not surprising that the parents' themes were more child-focused dealing with emotions, their
children’s needs, and the services they were requesting. In contrast, the school representatives’ themes were more system-focused, dealing with their roles and legal responsibilities. It was also surprising to find that in two of the cases, Mrs. Norris and Mrs. Oliver requested mediation since they both indicated in their interviews that they did not know what to expect beyond the fact that a mediator would lead the process and hopefully help them resolve their disputes. In the case of Caroline Kent, it was Mr. James who suggested mediation and this was the only case that resulted in a resolution of the dispute. Although an agreement was reached in the case of Harvey Oliver, both the school administrator and the parent were quick to note that the agreement did not resolve the dispute.

In Chapter 6, the findings will be discussed as they relate to each research question. Delimitations and limitations will be identified as well as implications for future action including practice, professional development, and further research.
Chapter 6: Findings

This study explored the perspectives of special education disputants who participated in mediation. The specific purpose of the study was to investigate the impact, if any, of mediation on the relationships between families of students with disabilities and their school districts. Because there is no comparative research in the literature that addresses this issue, these findings cannot be compared to the literature. They can, however, be compared to literature related to the development of such topics as constructive and destructive relationships (Noce, 2000), constructive and destructive conflict (Johnson & Johnson, 1997), the importance of trust for collaboration (Tschannen-Moran & Hoy, 2000), and the focus on interests as opposed to positions (Fisher et al., 1991). Voluntary participants in special education disputes were interviewed separately before and after mediation to inquire about their thoughts and perceptions related to their dispute, their relationships with their disputants, and the mediation process.

Virginia is divided into eight regions for educational purposes of communication and collaboration between and among school districts. Each of the three cases was from a different region. One was from a rural area in the northern part of the state, one was from a suburban area in the north-central part of the state, and the third was from a suburban area in the central part of the state. In two cases, the parents were high school graduates and one case involved a single mother who was a college graduate. Each of the school representatives interviewed who participated in mediation were special education administrators in their respective school districts. All of the families and school district
representatives were Caucasian. Mediators were not interviewed and were not a part of this study; their race is unknown.

The disputes in all three cases were about services requested through the IFP process. In the case of Caroline Kent, Mr. and Mrs. Kent requested speech and language services and the school refused to provide these services. In the case of Taylor Norris, Mrs. Norris requested a specialized placement. The school district offered alternatives that the parent refused, and they could not come to an agreement on Taylor's special education needs. In the case of Harvey Oliver, Mrs. Oliver requested specialized speech and language services. The school district refused her request but included specialized consultation services on Harvey's IFP. In all three cases, parents and school district representatives agreed to participate in mediation as a strategy for settling their dispute.

In Chapter 4, each case was presented separately, including a summary of the issue and the themes identified in the interviews with each party. To identify themes, interview transcripts were used that included only responses from the participants. In Chapter 5, cross-case analysis addressed responses from each group, family members and school district representatives. Common themes as well as outliers were identified and discussed for each group.

In this chapter, delimitations and limitations are identified, followed by findings addressing each research question. Responses from the interview questions that were designed to address each research question were used for this analysis. For each research question, a table displays themes and relevant information from interview responses to the related questions, and serves as a foundation for narrative explanations and as a tool to
summarize the information for the reader (Miles & Huberman, 1994). Following the
discussion of findings, implications for research, practice, and professional development
will be addressed.

Delimitations and Limitations of the Study

The researcher delimited the amount of time to conduct the research with each
case. Upon identifying participants, they were interviewed before mediation and soon
after mediation. The total time span between the two interviews did not exceed three
weeks. Perceptions and thoughts captured, therefore, were limited to a short time span
and captured during the interviews.

The criteria used to identify prospective cases were the second delimitation.
Among other things, the criteria narrowed the study to only those cases whose disputes
were about special education services to students. Other types of disputes such as
disputes about evaluation, eligibility or disability labels were not considered. While the
process of mediation has also been used in areas such as labor and international relations,
research and discussions are limited to its use in special education disputes between
families of students with disabilities and their school districts as it applies to IDEA.

The criteria also excluded cases with a history of due process and required that all
of the student’s special education had been provided by the same school district. Since
school districts have some flexibility in their implementation of special education services,
this requirement prevented perceptions from previous experiences with other systems from
entering into the findings. The last criterion required that each case have a different
mediator. This requirement prevented the findings from being skewed by a specific
mediator, thus focusing on the process rather than the person who implemented the process.

The small number of cases was the third delimitation. Although the use of only three cases may impact the ability to generalize the findings, the use of specific criteria limited the number of cases available to the researcher. The depth of findings, however, from these three cases will provide insights into relationships and perspectives about the mediation process that result in implications for practice, professional development and further research.

A fourth delimitation was the exclusive use of participants in Virginia. Although each state in the nation is required to develop mediation as a dispute resolution alternative and must meet certain requirements such as strategies that inform school districts and parents, each state is allowed some flexibility in the development of its system. For example, the way in which families and schools are informed about mediation may be different and may influence the use of mediation and the outcomes.

The fifth delimitation was the exclusion of the mediator's thoughts and perceptions. Since the focus of this study was the impact of the mediation between the disputants in each case, the mediators' perceptions were not relevant and they were not interviewed.

The qualitative exploratory nature of this study also results in limitations that further restrict its use of findings. In other words, these findings cannot be generalized. The findings of the study do not provide distinct conclusions that necessarily apply to other situations, but readers can make the connection to other situations as they wish. For
example, the findings may be transferable by the reader to similar situations and provide insights into the process of mediation and the nature of relationships between families of students with disabilities and their school districts.

Limitations of this study also include factors outside the control of the researcher that may have affected the participants' interview responses and, thus, the findings. These include factors such as previous disputes and the manner with which they were handled. Each case in this study had a history of conflict over the student's educational needs. It is likely, therefore, that the disputants were affected by their perceptions of the outcome of previous conflicts. For example, if an informal resolution was reached in a previous dispute and either party felt the other did not follow the agreement, trust may have been negatively affected. Other factors include the influence of outside sources such as attorneys, advocates, and other parents who may have been used by either party as an advisor before, during, or after the mediation. Expectations as well as values and interests may also have affected the perceptions of both disputants after the mediation. Interview questions were developed to capture participants' thoughts and ideas at the time of each interview and did not include questions designed to capture thoughts about previous situations or about outside influences that may have impacted the participants' thoughts and perceptions. Finally, the findings are limited to participants' thoughts and feelings during the time span used of the interviews with no long-term follow-up. The findings, therefore, only reflect their thoughts and perceptions directly before and soon after the mediation.
Findings and Discussion

Research Question 1: To what extent did disputants agree on the nature of the dispute?

Issues leading to disputes in special education have been varied and influenced by the times (Feinberg & Beyer, 1998). As discussed in Chapter 2, these issues often involve services for children and focus on "appropriateness," which is a difficult issue to resolve due to perception and the legal understandings regarding the provision of an "appropriate education." As parents of children with disabilities seek information and understanding of their children's disabilities, they often receive information from the medical and other sectors of the community that are outside the school district. Due to potential differences in ideology among professions in various fields as well as individual professional perspectives, these sometimes differ from decisions made by the schools (Feinberg & Beyer, 1998). In fact, a variety of influences may affect parents' perceptions of the needs for their child with a disability, including media reports about new strategies that promise certain results, the opinions of friends and relatives, plus their own tacit understandings. As disputes evolve, emotions, facts, and perceptions all influence the perceptions of both parties in the dispute (Gourlay & Soderquist, 1998).

Considering the variety of influences affecting the perceptions of those involved in a special education dispute, this study investigated whether both parties agreed on the nature of the dispute with the assumption that resolution of a dispute would rely on agreement on the nature of the dispute. Because there is no comparative research in the literature on this issue, these findings cannot be compared to the literature. Instead, research on special education mediation addresses the percentage of cases resolved in
mediation and money potentially saved as the result of successful mediation. Two questions were asked to each person interviewed to address this research question. Both questions were included in the interviews that took place before mediation and were designed to elicit responses that described the disagreement that would be discussed at mediation.

One criterion used to select cases for this study was the requirement that the dispute involve issues related to IFP decisions or implementation. That criterion limited the types of disputes by eliminating disputes over such points as evaluation, eligibility, and disability labels. In each of these three cases, the family was requesting a service that the school district refused to provide. Although the participants described their disputes similarly in terms of what had been requested and refused, they provided different responses when they were asked about what led to the dispute. In other words, while parents and school officials defined similarly the issue that would be discussed at mediation, their perceived reasons leading to mediation demonstrated discrepancies. Table 6 provides a summary of the issues identified and the factors that the disputants thought led or may have led to the dispute.
<table>
<thead>
<tr>
<th>Case Name</th>
<th>Identification of the Dispute – Agreement Between Families and School</th>
<th>Contributing Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caroline Kent</td>
<td>Parents wanted speech therapy and school denied speech therapy</td>
<td>Family</td>
</tr>
<tr>
<td></td>
<td>• staffing</td>
<td>• parents’ unrealistic expectations</td>
</tr>
<tr>
<td></td>
<td>• budget</td>
<td>• parents looking “for that miracle”</td>
</tr>
<tr>
<td></td>
<td>• shortage of speech therapists</td>
<td>• parents are emotional</td>
</tr>
<tr>
<td></td>
<td>• criteria used to determine need for speech therapy</td>
<td>• equity issues/fairness in providing services</td>
</tr>
<tr>
<td></td>
<td>• lack of trust in school</td>
<td>• criteria used to determine need for speech therapy</td>
</tr>
<tr>
<td></td>
<td>• child’s needs</td>
<td></td>
</tr>
</tbody>
</table>
| Taylor Norris | Parents requested a placement with specific criteria and services; school district offered options that parent refused | • budget  
• politics  
• stubbornness of specialist  
• decision based on past grades without regard to current emotional issues | • parent’s reliance on doctors for advice on placement  
• doctors do not have correct information  
• limitations of school district |
|----------------|-------------------------------------------------------------------------------------------------|--------------------------------------------------|
| Harvey Oliver  | Parent requested a private speech therapist to provide services and school district refused | • budget  
• regulations  
• lack of skills of teachers to deal with child’s disability  
• lack of trust in school to deliver services  
• lack of child progress | • parent’s desire for the best  
• parent’s perception of child is more disabled than he is  
• parent’s refusal to see child’s progress  
• school believes child is making good progress  
• lack of parent’s trust based on past experience |
As seen in Table 6, family and school perceptions of factors that contributed to the dispute were very different. All three families noted their belief that school budgets or funding may have contributed to the districts’ refusal to provide what they were requesting. Other factors were varied. Nevertheless, parents generally identified factors that dealt with the school districts’ limitations or constraints such as budgets, regulations, personnel shortages and skills of staff, and also their lack of trust in the school district to make appropriate decisions due to these constraints. On the other hand, school representatives generally identified factors that dealt with what they felt were the families’ incorrect images or perceptions of their children such as their inability to face the reality of their child’s disability or unrealistic expectations and perceptions influenced by private practitioners such as psychologists and evaluators who had not observed the child at school. Although both families and school personnel entered mediation with similar or like perceptions of the dispute to be discussed, the disparate factors identified as leading to the dispute did not show total agreement.

Gourlay and Soderquist (1998) discussed the likelihood of conflict when differences in values, perceptions, and goals exist. The conflicts in these cases centered on these types of differences. That is, Mr. and Mrs. Kent had higher expectations for Caroline and felt that achievement of those expectations depended on Caroline receiving speech therapy; the school district had lower expectations for Caroline and felt that the parents were unrealistic. In other words, their perceptions of Caroline and their goals for her were very different.
Likewise, the perceptions Mrs. Norris communicated resulted in the picture of a very emotionally troubled boy who could not function within a regular school setting. The school district, on the other hand, viewed Taylor very differently based on their experience and felt that Mrs. Norris had been unduly and incorrectly influenced by private practitioners. Again, their perceptions and goals were different for Taylor.

Finally, Mrs. Oliver did not believe the speech therapist providing services to Harvey had the skills necessary to provide adequate therapy to children with autism and therefore requested services from someone she viewed as an expert. The school district, on the other hand, felt that Mrs. Oliver viewed Harvey as more disabled than he is and refused to see the progress he had made, instead wanting “the best.” Again, their perceptions about Harvey and their goals for him were different. Based on the literature and the nature of these disputes, it is not surprising that conflict ensued.

Findings from this investigation reveal a surface agreement on the nature of the dispute resulting in the ability of both parties to identify the service to be discussed at mediation. The opposing perceptions related to factors leading to the dispute, however, suggest a lack of mutual understanding of the students involved in these cases. While the parents suspected that the school districts’ rejection of their requested service might be based, at least in part, on constraints of the school district, the school districts believed that their decisions were based on the children’s needs. While the school districts suspected that the families’ requests for the services in dispute were related to their incorrect perceptions of their children’s abilities, the families’ perceptions of their children were their reality. Since the nature of the disputes was directly tied to the needs of the
children in these cases, there was not agreement between the school districts and the families in these three cases.

*Research Question 2: How did mediation differ from previous attempts to resolve this dispute?*

Noce (2000) and Johnson and Johnson (1997) described constructive and destructive ways to deal with communication and conflict. Noce suggested that constructive communication sets the stage for collaboration and creative solutions to disputes and requires empowerment and recognition of each other's perspectives. According to Johnson and Johnson, constructive conflict results in increased trust, satisfaction with the outcome of the conflict, and an improved ability to solve future conflicts.

Mediation was mandated via IDEA to provide a less adversarial method for resolving disputes given that due process hearings were on the increase. Mediation is designed to foster those aspects Noce (2000) attributed to constructive communication by using an impartial mediator to facilitate empowerment, recognize each other's perspective, and identify creative solutions. Since mediation is used after other attempts have failed to resolve disputes, exploring the differences between mediation and these earlier attempts may provide insights into the factors that contribute to mediation when it is successful as opposed to previous unsuccessful attempts. Because there is no comparative research in the literature that addresses this issue, these findings cannot be compared to the literature.

Participants were questioned about prior attempts to settle their dispute and about their participation in mediation. Table 7 provides an analysis of responses by case and
mediation participant. Although significant differences might be expected between mediation and previous attempts, that was not the case. Considering that the result of mediation may have influenced the participants' perceptions about mediation, their comparison of mediation with previous attempts may have been different had their mediation outcomes been different. Of the three cases, the case of Caroline Kent resulted in an agreement, the case of Taylor Norris did not result in an agreement and moved forward to a due process hearing, and the case of Harvey Oliver resulted in an agreement although both parties shared that the dispute had not been resolved in the agreement.

Before mediation, both family and school representatives identified strategies they had used to attempt to resolve their dispute. These included IEP meetings, repeated requests from parents for services (phone calls and letters), and alternative offers from the school districts. The reasons the parents attributed to the failures of these attempts were varied. For example, Mr. and Mrs. Kent felt that if they had known the law better they would have been able to present their case more effectively. In essence, they accepted partial responsibility for not being able to resolve the dispute without mediation. Mrs. Norris, on the other hand, blamed the school district for not providing appropriate alternatives and stated that the school district had been critical of her actions to request different services for her son. Finally, Mrs. Oliver offered that she had made many phone calls, had many IEP meetings, and had finally called the superintendent's office and still received no response. She felt that the lack of communication from the school district was at least partly to blame for not resolving their dispute in earlier attempts.
<table>
<thead>
<tr>
<th>Case</th>
<th>Families Prior Attempts</th>
<th>Families Mediation</th>
<th>School Districts Prior Attempts</th>
<th>School Districts Mediation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caroline Kent</td>
<td>• IEP meetings</td>
<td>• Parents presented a written summary of testing results outside of IEP • Independent education direct with reasons for emotional and would evaluations paid for by request school district • Parents did not feel that they knew the law well enough to present case</td>
<td>• IEP meetings</td>
<td>• School representatives • Informal meetings did nothing different • Letters • Parents were bolder • School did not do • Parents did not feel that they knew the law well enough to present case</td>
</tr>
<tr>
<td>Case</td>
<td>Families</td>
<td>School Districts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>----------</td>
<td>-----------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Prior Attempts</td>
<td>Mediation</td>
<td>Prior Attempts</td>
<td>Mediation</td>
</tr>
<tr>
<td>Taylor Norris</td>
<td>• Requested alternatives and school provided no alternatives</td>
<td>• Parent open to other ideas</td>
<td>• IEP meetings where school made offers and represented the school</td>
<td>• Different people</td>
</tr>
<tr>
<td></td>
<td>• School criticized parent's actions</td>
<td>• Other ideas were not offered by school</td>
<td>• School compromised in making its offer</td>
<td>• Parity for &quot;air time&quot;</td>
</tr>
<tr>
<td></td>
<td>• School did not offer what child needed</td>
<td>• Parent did nothing different</td>
<td>• Parent would not compromise</td>
<td>• Parent interrupted and did not do anything</td>
</tr>
<tr>
<td></td>
<td>• School people were calmer</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Case</td>
<td>Prior Attempts</td>
<td>Mediation</td>
<td>Prior Attempts</td>
<td>Mediation</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>---------------------------</td>
<td>----------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Harvey Oliver</td>
<td>• Repeated requests and requests denied</td>
<td>• Parent was more direct with request and</td>
<td>• Parent called assistant superintendent, who</td>
<td>• Took more time than other meetings</td>
</tr>
<tr>
<td></td>
<td>• Phone calls with no return calls</td>
<td>• School did nothing</td>
<td>• School did not give in</td>
<td>• Mediator kept everyone focused</td>
</tr>
<tr>
<td></td>
<td>• Called superintendent’s office with no response</td>
<td>differently</td>
<td>• School thinks parent views it as personal</td>
<td>• Parent was more direct</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Administrator and principal were working together</td>
</tr>
</tbody>
</table>
School representatives also offered varied reasons for failed attempts to resolve their disputes prior to mediation. Mr. James (Caroline Kent case), for example, felt that the parents were emotional and not open to compromise, while Dr. Fields (Taylor Norris case) made an offer for services that the parent did not accept. Finally, Mrs. Tucker (Harvey Oliver case) thought that the school district was providing appropriate services, but also felt the parent perceived the district’s refusal to provide the requested services as a personal action against the parent.

Mr. and Mrs. Kent and Mrs. Oliver did not think the school representatives did anything differently at mediation. For her part, the only difference Mrs. Norris noted was that the school representatives were calmer; the participants representing the schools, however, were people who were different from those with which Mrs. Norris had been dealing. Mr. James (Caroline Kent case) felt the parents were bolder in their communication, and Dr. Fields (Taylor Norris case) shared that the parent frequently interrupted the school representatives during mediation and would not listen to the school’s perspective. Mrs. Tucker (Harvey Oliver case) shared that mediation took much more time than other meetings and that the parent was more direct with her communication.

Mediation is designed to bring two disputing parties together with an impartial third party to facilitate communication and assist both parties in reaching an agreement (Schumack & Stewart, 1995). It is expected that both parties will be willing to listen to each other’s perspectives respectfully. Mediation relies on a process that the mediator controls with the intent that both parties will approach the dispute differently than during
previous unsuccessful attempts at resolution. Based on the three cases in this study, it is
doubtful that the participants approached the problem differently than in previous attempts
to resolve their conflict, thus it is doubtful that they left the mediation having experienced
constructive conflict, as noted by Johnson and Johnson (1997). Not surprisingly,
therefore, none of the participants shared that mediation had resulted in increased trust or
an improved ability to solve future conflicts.

Noce (2000) suggested that constructive communication sets the stage for
collaboration and creative solutions to disputes and requires empowerment and
recognition of each other’s perspectives. None of the participants noted that mediation
had resulted in a mutual understanding of each other’s perspectives, nor did they indicate
that they felt empowered at the mediation table. Only Mr. Kent noted that his research on
the law made him feel that he was better able to present his perspective on Caroline’s legal
rights, but he did not think the school district did anything differently. In fact, it seems that
both parties in all three cases approached the conflict from the “rights” and
“responsibilities” stance, which Dukes (1996) asserted leads to the kind of relationship
that interferes in natural kinds of communication. In summary, findings suggest that in
these three cases, mediation was not substantially different from previous attempts to
resolve these disputes.

Research Question 3: What did disputants expect from their mediation?

As discussed, mediation is designed to assist the disputing parties in identifying a
solution that results in an agreement resolving the dispute. It uses an impartial mediator to
facilitate a process that helps each party understand the other’s perspective and identify
and discuss alternatives. It is offered as an alternative to families as a voluntary approach to dispute resolution (Project FORUM, 1998). Since expectations may affect the way that participants interact and communicate at mediation, exploring expectations of mediation was important. Participants were questioned before mediation about their expectations of the mediation, and after mediation they were asked about their expectations being fulfilled. Because there is no comparative research in the literature that addresses this issue, these findings cannot be compared to the literature.

As seen in Table 8, in all cases, both family and school representatives said that they expected or hoped to reach an agreement via mediation. Mr. and Mrs. Kent and the school district both entered mediation having expressed an expectation of honesty and openness, with mediation offering the opportunity to provide information and make their case differently. Mrs. Norris, however, entered mediation very differently, suggesting that she was not willing to give up anything that she was requesting and that she expected to move forward with a due process hearing. Mrs. Oliver was not sure what to expect, but that she thought both sides would be expected to have an open mind. She also shared that she hoped the mediator would be able to explain the legal responsibilities of the school district, but she did not think that would happen.

After mediation, the only parents who indicated that mediation had met their expectations were Mr. and Mrs. Kent. Both the school district and parents compromised, and they reached an agreement. Both were very positive about the experience and pleased with the outcome.
Table 8

*Expectations from Mediation*

<table>
<thead>
<tr>
<th>Participant</th>
<th>Expectations for Self</th>
<th>Expectations of and about Disputant</th>
<th>Did Mediation Meet Expectations?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. and Mrs. Kent</td>
<td>• An agreement</td>
<td>• Anticipated that they would be</td>
<td>• Yes, reached an agreement with</td>
</tr>
<tr>
<td>(Caroline's Parents)</td>
<td>• Mutual agreement</td>
<td>expected to settle for something</td>
<td>provision of speech therapy</td>
</tr>
<tr>
<td></td>
<td>• Expected to listen</td>
<td>less</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Expect school to listen</td>
<td>• Did not expect the mediator to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Expected mediator to explain</td>
<td>be a judge</td>
<td></td>
</tr>
<tr>
<td></td>
<td>parent's side to school if they don't understand</td>
<td>• Expected the mediator to try to get agreement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Did not know what to really expect</td>
<td>• Expected it to take a long time with everyone being given time</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Expected to be open and honest to talk</td>
<td>• Expected to give reasons</td>
<td></td>
</tr>
<tr>
<td>Participant</td>
<td>Expectations for Self</td>
<td>Expectations of and about Disputant</td>
<td>Did Mediation Meet Expectations?</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------------</td>
<td>-------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Mrs. Norris (Taylor's Mother)</td>
<td>• Expected to compromise</td>
<td>• Expected me to give in to them</td>
<td>• Did not meet expectations</td>
</tr>
<tr>
<td></td>
<td>• Not willing to give up anything</td>
<td>• Expected to be included the same way they include parent</td>
<td>• Thought school would offer additional options but it did not</td>
</tr>
<tr>
<td></td>
<td>• Expected to go due process</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Hoped to reach an agreement</td>
<td>• Expected to give a little like the parent</td>
<td></td>
</tr>
<tr>
<td>Mrs. Oliver (Harvey's Mother)</td>
<td>• Hoped for a resolution</td>
<td>• Expected me to say okay to a compromise</td>
<td>• Good process</td>
</tr>
<tr>
<td></td>
<td>• Hoped child's needs would be met</td>
<td>• Expected mediator to include both sides the same way</td>
<td>• Kept people on track</td>
</tr>
<tr>
<td></td>
<td>• Wasn't sure what to expect for the process</td>
<td>• Expected to have an open mind</td>
<td>• Did not fulfill expectations</td>
</tr>
<tr>
<td></td>
<td>• Expected to have an open mind</td>
<td></td>
<td>• Reached an agreement, but not a resolution</td>
</tr>
<tr>
<td></td>
<td>• Expected to be interrupted</td>
<td></td>
<td>• I wasn't willing to negotiate too much</td>
</tr>
<tr>
<td></td>
<td>• Hoped mediator would explain legal responsibility for assigning staff, but didn't think he would</td>
<td></td>
<td>• Would use mediation again</td>
</tr>
<tr>
<td>Participant</td>
<td>Expectations for Self</td>
<td>Expectations of and about Disputant</td>
<td>Did Mediation Meet Expectations?</td>
</tr>
<tr>
<td>----------------------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>Mr. James</td>
<td>• Expected opportunity to communicate on different level</td>
<td>• Didn’t think parent knew what to expect</td>
<td>• Yes, school compromised and parents compromised</td>
</tr>
<tr>
<td>Caroline Kent Case</td>
<td>• Hoped for resolution</td>
<td>• Expected to have an impartial observer to hear them</td>
<td>• Reached an agreement</td>
</tr>
<tr>
<td></td>
<td>• Expected to reach consensus</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Expected mediator to facilitate open communication</td>
<td>• Expected to be “vindicated”</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Expected them to participate the same as school</td>
<td></td>
</tr>
<tr>
<td>Dr. Fields</td>
<td>• Expected mediator to help re-frame perspectives</td>
<td>• Expected equity</td>
<td>• Yes in terms of “putting things on the table”</td>
</tr>
<tr>
<td>Taylor Norris case</td>
<td>• Expected new perspectives</td>
<td>• Expected to reach an agreement</td>
<td>• No in terms of reaching an agreement</td>
</tr>
<tr>
<td></td>
<td>• Expected to identify solutions that are agreeable to all</td>
<td>• Expected to share information and perspective</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Expected to be clear about that they want from the mediation</td>
<td></td>
</tr>
<tr>
<td>Participant</td>
<td>Expectations for Self</td>
<td>Expectations of and about Disputant</td>
<td>Did Mediation Meet Expectations?</td>
</tr>
<tr>
<td>--------------------</td>
<td>----------------------------------------------</td>
<td>------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Mrs. Tucker</td>
<td>• Expected mediator to facilitate</td>
<td>• Expected the mediator to agree</td>
<td>• Won't know for sure until time</td>
</tr>
<tr>
<td>(Administrator in</td>
<td>discuss</td>
<td>with her and see it the way she</td>
<td>has passed</td>
</tr>
<tr>
<td>Harvey Oliver case)</td>
<td>• Expected to be open to compromise</td>
<td>sees it</td>
<td>• Reached an agreement but not</td>
</tr>
<tr>
<td></td>
<td>• Was not sure a compromise was possible</td>
<td>• Concerned about parent’s</td>
<td>really a resolution</td>
</tr>
<tr>
<td></td>
<td>• Expected both would have time to talk</td>
<td>• Expected parent would be given</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Expected to listen to parent</td>
<td>• Expected parent to listen to</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>understand school perspective</td>
<td></td>
</tr>
</tbody>
</table>
Mrs. Oliver and Mrs. Tucker agreed to certain compromises resulting in a signed agreement, but both reported that their agreement left their differences unresolved. Mrs. Oliver shared that mediation had not met her expectations because the dispute had not been resolved even though they had reached an agreement. She indicated that she liked the process, however, and would use it again. Mrs. Tucker shared Mrs. Oliver's thoughts about the mediation and indicated that only time would allow them to determine whether the mediation met their expectations.

It was not surprising to learn that Mrs. Norris and Dr. Fields did not reach an agreement through mediation despite the school district's offers to compromise by offering services designed to address Mrs. Norris' concerns. Mrs. Norris entered mediation without the willingness to compromise and with the expectation that she would need a due process hearing to settle her dispute.

Generally, while comments about mediation were positive, the findings indicate that the parents in all three cases were not sure what to expect. While they thought that mediation was supposed to be about having an open mind and about compromise, they did not know what to expect of the process. In contrast, the school representatives indicated an understanding about mediation.

Research Question 4: What factors led to (or prevented) reaching a mediated agreement?

According to Mills and Duff-Mallams (2000), successful mediation relies on the "good faith" participation of both parties. This means that both must participate with a willingness to work toward a mutually acceptable solution. Success also relies on the
willingness of both parties to suspend judgment as well as to be open to potential solutions previously not identified or discussed. Beer and Steif (1997) indicated that the likelihood of reaching an agreement through mediation is decreased if the dispute cannot be separated from personal aspects such as values and beliefs. Fisher et al. (1991) discussed the importance of interests rather than positions in reaching agreements. This requires exploring the reasons for positions rather than just focusing on the positions taken by each party in a dispute. In addition, the mediator's ability to use appropriate strategies and to adjust as needed also increases the likelihood of reaching an agreement (Beyer, 1999; Mills & Duff-Mallams, 2000). Mills and Duff-Mallams also suggested that it is important that the school representative participating in mediation be the person with whom the parent has a dispute.

To gain an understanding of how mediation went, what may have contributed to reaching an agreement, and what may have interfered in reaching an agreement, the participants were asked after their mediation to describe the mediation process. Because there is no comparative research in the literature that addresses this issue, these findings cannot be compared to the literature. A summary of responses is displayed in Table 9.
Table 9

Factors Leading to Mediation Outcome

<table>
<thead>
<tr>
<th>Participants</th>
<th>Description of Mediation</th>
<th>What Prevented or Contributed to Reaching an Agreement?</th>
<th>Result of Mediation</th>
</tr>
</thead>
</table>
| Caroline Kent Family | • Mediator explained process  
• Mediator facilitated and parents went first  
• School presented its perspective  
• Mediator kept everyone on track  
• Brought neighbor as a support  
• School listened and understood family perspective | • Mediator kept everyone on task  
• Parents expressed desires and used past experiences that they had not communicated before | Reached an agreement |
| School | • There were no surprises  
• Mediator explained process and roles and had everyone introduce themselves  
• Both sides shared thoughts  
• Process went well  
• Family understood school perspective  
• Reached a compromise | • Having the building administrator there was positive  
• Looked globally at situation  
• Felt the need to compromise | |
<table>
<thead>
<tr>
<th>Participants</th>
<th>Description of Mediation</th>
<th>What prevented or contributed to reaching an agreement?</th>
<th>Result of Mediation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taylor Norris</td>
<td><strong>Family</strong></td>
<td>• Calm</td>
<td>• School would not look at other options</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mediator asked lots of questions</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Very quick – only a couple of hours</td>
<td>• School did not understand what child needs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• School didn’t really listen and did not understand parent’s perspective</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>School</strong></td>
<td>• Started with informal dialogue</td>
<td>• There was a real difference of opinion about what student needs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mediator asked both sides to explain their perspective</td>
<td>• Parent relied mostly on private counselors and doctors</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mediator explained process</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mediator facilitated dialogue, asked questions</td>
<td>• Perspectives were too different to come to a middle ground</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• They brainstormed ideas</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parent would not compromise</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parent would not consider school perspective</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parent brought attorneys</td>
<td></td>
</tr>
<tr>
<td>Participants</td>
<td>Description of Mediation</td>
<td>What Prevented or Contributed to Reaching an Agreement?</td>
<td>Result of Mediation</td>
</tr>
<tr>
<td>--------------</td>
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<td>--------------------</td>
</tr>
<tr>
<td>Harvey Oliver Family</td>
<td>• Long – 4.5 hours</td>
<td>• Everyone got tired and the meeting had to end</td>
<td>Reached an agreement but both parties indicated that the dispute was not resolved.</td>
</tr>
<tr>
<td></td>
<td>• Discussion had no requirements like IEP meetings</td>
<td>• Seemed the most reasonable thing to do at that point</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Mediator was effective</td>
<td>• The outcome would have happened without mediation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Communication was good for most part</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• School representatives shut down after a while and no longer heard what parent was saying</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School Personnel</td>
<td>• Both sides described their knowledge of student and his needs</td>
<td>• Mediator pushed for an agreement</td>
<td>Parent submitted a formal complaint to VDOE.</td>
</tr>
<tr>
<td></td>
<td>• Parent had list of goals with timelines</td>
<td>• Mediator focused on IEP process and pushed for everyone to agree</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Long – over 4.5 hours</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Did not get the opportunity to make some points</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Caucused with colleagues to discuss options</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Mediator effectively kept everyone on track</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Parent didn't understand school's perspective</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Disagreement on child's needs</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Participants generally explained that the mediator started with directions and then facilitated conversation by asking questions and helping to generate dialogue. All spoke positively about the mediator and the mediation process, although Mrs. Oliver commented on the length of the meeting, which was about four and a half hours. No one identified any surprises, although Mr. James commented that he did not know that Mr. and Mrs. Kent were bringing a neighbor with them. Mr. and Mrs. Kent indicated that they brought their neighbor with them to be an impartial observer and provide them advice. Mrs. Norris brought her attorneys with her. Mrs. Oliver brought a colleague from work who is trained as a mediator and has a degree in education. Each family felt that they needed the support of someone they trusted.

The mediation with the Kents seemed to run the most smoothly as described by both the parents and the school representative. When asked what contributed to reaching an agreement, Mr. and Mrs. Kent expressed that it was the result of the mediator keeping everyone on task and the fact that they were more direct in making their case by using past experiences. They reached an agreement that both parties felt positive about. Mr. James reported that having the building administrator involved was helpful and that the school district was willing to compromise.

The mediation that focused on the needs of Taylor Norris was the least successful, ending after about two hours with no agreement. Mrs. Norris reported that the school refused to look at other options and did not understand Taylor’s needs. Dr. Fields shared that there was a real difference of opinion about Taylor’s needs and that Mrs. Norris would not listen or trust the thoughts and advice of the school professionals. Instead, Mrs.
Norris had consulted with private doctors and therapists whose opinions she trusted, and she would only accept what they had recommended.

It is interesting that Mrs. Oliver signed an agreement with the school district that did not resolve her issues. The agreement included an independent educational evaluation, which would have been provided without mediation. The agreement also included consultation through the duration of the current IEP from a specialized therapist. She reported that everyone was tired after four and a half hours and that they needed to end the mediation. She liked the mediator and felt that the communication had been good. Nevertheless, she felt that the school representatives had eventually shut down and that they would not get any further at the mediation. She expressed that she would use mediation again. The school representative shared that the mediator “pushed for an agreement” and focused on the IEP process as the mechanism for addressing some of the issues. While they did reach an agreement, the school district did not agree to the specialized services requested, which was the issue brought to the mediation table. Thus, both Mrs. Oliver and Mrs. Tucker shared that the agreement had not resolved their dispute.

The literature suggests that successful mediation is more likely when the school representative that participates is the person with whom the parent has a dispute (Mills & Duff-Mallams, 2000). Nevertheless, in all three cases, the administrator of special education represented the school district rather than the school representatives who had participated in IEPs and refused the parents’ requests. While reasons for selecting school personnel to represent the school district at mediation were not addressed in this study.
the participation of special education administrators may be due to the process of requesting mediation. Since IDEA requires school districts to offer mediation when a due process hearing is requested (Project FORUM, 1998), and since a due process hearing must be requested through the local administrator, it is possible that all formal requests for resolving disputes in many local school districts are handled by local special education administrators who then represent the school district.

As mentioned, Mills and Duff-Mallams (2000) suggest that effective mediation is reliant on "good faith" participation. Since mediation requires that the participants be open to other ideas, "good faith" participation requires that both family and school representatives enter mediation with an open mind to alternative solutions. Prior to mediation, none of the parents indicated prior to mediation that they were willing to compromise.

Mrs. Norris said in her interview to mediation that while she hoped an agreement would be reached, she was not willing to give up anything that she had requested. This mediation ended without an agreement. Mrs. Oliver also indicated that she was not willing to compromise what she felt Harvey needed since she felt that he was at a critical age for learning. While this mediation resulted in an agreement, both sides agreed that the dispute was not resolved. Mr. and Mrs. Kent seemed the most open, but they also indicated that their intent was to acquire speech services for Caroline and did not think that there was another solution. This case resulted in an agreement and both the parents and the school district compromised by providing Caroline the speech services with some criteria for measuring its effectiveness before including this service in future IFPs.
Findings suggest that a lack of good faith participation, a focus on positions rather than interests, as well as the person who represented the school districts are factors that may have prevented the resolution of disputes in the cases involving Taylor Norris and Harvey Oliver. Even though Mrs. Oliver shared that their dispute was not resolved, she signed an agreement due to the length of the session and the fact that the mediator pushed for an agreement. She noted that everyone was tired and that she felt an agreement was needed in order to end the session. In the case of Caroline Kent, it was the school district’s willingness to compromise as well as the family’s willingness to explore options that led to agreement.

Research Question 5: What was the impact of mediation on relationships between disputants?

Since no empirical evidence supports the claim that mediation has a positive impact on relationships with families of students with disabilities and their school districts, questions were asked before and after mediation designed to probe participants about their perceived relationships with each other. Information about relationship variables such as collaboration, trust, and communication were targeted since research suggests that these variables are critical for effective relationships (Gordon, 2002; Johnson & Johnson, 1997; Noce, 2000; Tschannen-Moran, 2001). Because there is no comparative research in the literature that addresses this issue, these findings cannot be compared to the literature.

Table 10 summarizes participants’ perceptions of their relationships with each other before mediation and how they expected mediation would affect their relationships after mediation. All three families shared a lack of trust with their school districts before
mediation. Only Mr. and Mrs. Kent also included positive descriptors of their relationship with the school district. Mrs. Norris and Mrs. Oliver both had other negative perceptions about their relationships with their school districts such as frustrating, uncomfortable, cautious, and intimidating.
Table 10

**Impact of Mediation on Relationships**

<table>
<thead>
<tr>
<th>Participant</th>
<th>Before Mediation</th>
<th>After Mediation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Description of</td>
<td>Expected Effects of</td>
</tr>
<tr>
<td></td>
<td>Relationship</td>
<td>Mediation</td>
</tr>
<tr>
<td>Mr. and Mrs. Kent</td>
<td>• Good relationship</td>
<td>• No better or worse</td>
</tr>
<tr>
<td>(Caroline's Parents)</td>
<td>• Lack of trust</td>
<td>• Good</td>
</tr>
<tr>
<td></td>
<td>• Open communication</td>
<td>• Open</td>
</tr>
<tr>
<td></td>
<td>• School listens except for this issue</td>
<td>• More trust</td>
</tr>
<tr>
<td></td>
<td>• communication</td>
<td></td>
</tr>
<tr>
<td>Participant</td>
<td>Before Mediation</td>
<td>After Mediation</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td></td>
<td>Description of Relationship</td>
<td>Expected Effects of Mediation</td>
</tr>
<tr>
<td>Mrs. Norris</td>
<td>Lack of trust</td>
<td>No change</td>
</tr>
<tr>
<td>(Taylor's Mother)</td>
<td>Uncomfortable</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Formal</td>
<td>Friction</td>
</tr>
<tr>
<td></td>
<td>Cautious</td>
<td>Not comfortable</td>
</tr>
<tr>
<td>Mrs. Oliver</td>
<td>Strained</td>
<td>Probably no</td>
</tr>
<tr>
<td>(Harvey's Mother)</td>
<td>Lack of communication</td>
<td>difference</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Respect must be</td>
</tr>
<tr>
<td></td>
<td></td>
<td>earned</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Frustrating</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lack of trust</td>
</tr>
<tr>
<td>Participant</td>
<td>Before Mediation</td>
<td>After Mediation</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td></td>
<td>Description of Relationship</td>
<td>Expected Effects of Mediation</td>
</tr>
<tr>
<td>Mr. James</td>
<td>- Good relationship</td>
<td>- Can only improve</td>
</tr>
<tr>
<td>(Administrator in Caroline Kent Case)</td>
<td>- Surface trust relationship</td>
<td>- Respect family relationship</td>
</tr>
<tr>
<td></td>
<td>- Consider their ideas in decisions</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>- Parents very involved</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>- Parents trust school completely</td>
<td>-</td>
</tr>
<tr>
<td>Dr. Fields</td>
<td>- Good relationship</td>
<td>- Hope it will be</td>
</tr>
<tr>
<td>(Administrator in Taylor Norris Case)</td>
<td>- Family frustrated strengthened</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>- Hostile</td>
<td>- Won't be harmed</td>
</tr>
<tr>
<td></td>
<td>- Friction</td>
<td>-</td>
</tr>
<tr>
<td>Participant</td>
<td>Before Mediation</td>
<td>After Mediation</td>
</tr>
<tr>
<td>-----------------</td>
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<tr>
<td></td>
<td>Description of</td>
<td>Expected Effects of</td>
</tr>
<tr>
<td></td>
<td>Relationship</td>
<td>Mediation</td>
</tr>
<tr>
<td>Mrs. Tucker</td>
<td>Lack of trust</td>
<td>Some</td>
</tr>
<tr>
<td>(Administrator</td>
<td>Cordial</td>
<td>improvement if</td>
</tr>
<tr>
<td>in Harvey</td>
<td>Frustrating</td>
<td>resolution is</td>
</tr>
<tr>
<td>Oliver Case</td>
<td>Constant</td>
<td>reached</td>
</tr>
<tr>
<td></td>
<td>communication</td>
<td>Otherwise, no</td>
</tr>
<tr>
<td></td>
<td>Mixed feelings</td>
<td>drastic</td>
</tr>
<tr>
<td></td>
<td>improvement</td>
<td></td>
</tr>
</tbody>
</table>
Before mediation, the school representatives did not perceive their relationships with the families in the same light as the parents perceived their relationships. In fact, the representatives from the Caroline Kent and the Taylor Norris cases shared that their relationship with the families was good, whereas the representative from the Harvey Oliver case described the relationship as cordial. They also used other descriptors that were not as positive, but these were used to characterize how they thought the parents felt. For example, the school representative in the Taylor Norris case described their relationship as hostile and friction-filled due to the perception that the parent was feeling very negatively about the school district.

The participants were also asked about how they expected mediation to affect their relationship. All three families suggested that they did not expect any change in their relationship while the school representatives indicated that they hoped for improvement.

After mediation, one parent indicated that the relationship was better, one said that there was no change, and one noted that it was worse. It may be no coincidence that the one who indicated a better relationship also was the case that resulted in a mediated agreement. Further, the parent who planned to move forward with a due process hearing felt that there was no change, and the parent who did reach an agreement that did not resolve the issue felt that the relationship was worse. In fact, she characterized her relationship with the school as tedious and guarded, with a lack of trust.

The school representatives, after mediation, were not as consistent in their views as they were before mediation. For example, the representative from the Caroline Kent case felt the relationship was not changed, having felt that the relationship was good...
before mediation. He also thought that the relationship would be strengthened over time and that trust would improve. In the case of Taylor Norris, the school representative offered that she did not know whether there was any change but felt that no damage was done at least. She also suggested that the future relationship with the family was uncertain because they would be participating in a due process hearing. Finally, the school representative in the Harvey Oliver case was the least hopeful regarding improved relationship. While she shared that she hoped their relationship was better, she perceived a lack of trust and a tentative relationship. She expressed that she was willing to work to improve their relationship, but she did not know how their relationship would be affected by the results of the investigation resulting from the parent’s complaint to the state agency.

Based on these cases, findings suggest that mediation alone does not result in improved relationships. Tschannen-Moran (2001) suggested that trust is critical for collaboration, and in all three cases parents indicated a continued lack of trust after mediation. These findings suggest that mediation alone may be too little too late.

Summary of Findings

This study examined the effects of mediation on relationships. While the three cases were very different, with differing outcomes, all participants felt good about the mediation process and the potential it might have. The family members liked being able to address their dispute outside the formal IFP process where regulations dictate the process and the climate is very formal. They liked being able to talk and express their thoughts and ideas in a less formal setting.
While the participants for each case generally agreed with each other when they described the dispute being mediated, the variables that led to the disagreement were viewed very differently. Parents generally felt that their requests were denied due to influences such as school budgets, staffing issues, politics, or something that was organizational in nature rather than a true feeling that their children did not need the services they were requesting. The school representatives, on the other hand, identified factors such as parents' unrealistic perceptions of their children's needs.

When asked how mediation differed from other attempts to resolve their disputes, the parents did not think the school representatives did anything differently at the mediation table. Although mediation provided a different structure, the parents did not believe the school representatives participated differently. In other words, they felt that the school districts were not willing to compromise and used the same reasons for not agreeing to what they requested as they had earlier. By comparison, while the school representatives perceived the parents as bolder or more direct, they did not indicate more substantive differences such as understanding their viewpoints.

When asked about their expectations from mediation, the parents either expected to reach an agreement or hoped to get what they requested. The parents also expressed that they did not know what to expect from the process other than they were all supposed to be open, honest, and willing to compromise. They also shared that they thought the school districts expected them to compromise or settle for something less that they had requested. The school representatives were more knowledgeable about mediation and knew what to expect including the role of the mediator as a facilitator. They felt that the
parents expected different things from mediation. One school representative expressed that she felt the mother expected the mediator to agree with her and support her. Another school representative shared that he thought the parents expected to be “vindicated.” The outcome of the mediation influenced whether mediation met the parents’ and school representatives’ expectations of the mediation. In other words, when an agreement was reached, the mediation met expectations since an agreement was the major expectation expressed by all participants. It was interesting, however, to hear from one school representative who did not reach an agreement that mediation partially met her expectations by getting the issues “on the table.”

In this study, mediation did not affect relationships as one might have expected. Mediation is supposed to bring participants to the table as equals with the expectation that those who participate are willing participants who understand the process; but that did not happen in these three cases. The parents did not fully understand the mediation process. In fact, this was a first-time experience for all three families. While the results cannot be attributed to their lack of knowledge from this study, the parents’ descriptions of their relationships with the school after mediation did not reflect improvements except in the case of the Kents, who described their relationship with the school as guarded but better. Mrs. Oliver described her relationship with the school as worse. They all expressed a lack of trust before the mediation and all but the Kents continued to feel a lack of trust after the mediation.

The school representatives did not view the effects of mediation on relationships much differently from the parents. The school representatives in the Caroline Kent and the
Taylor Norris cases felt that they had a good relationship with the families before mediation, even though they also identified some negative aspects to their relationships. In the case of Harvey Oliver, the school representative described the relationship before mediation as frustrating but cordial with a lack of trust. After mediation, they did not express a positive change in their relationships with the families. In the case of Caroline Kent, the representative noted that there was no change. The school district representative in the Taylor Norris case reported that the relationship after mediation was tense, but she did not think any damage had been done even though it was hard to tell if there was any change. The school representative in the Harvey Oliver case expressed that she hoped things were better, but acknowledged that there was a lack of trust and that things were tentative.

When questioned about the mediation process and the factors that led to the outcome, participants identified different points. In fact, no common ground was reached. Points included the mediator keeping everyone on task, looking globally at the situation, the school district would not look at other options, perspectives were too different to come to a middle ground, everyone got tired and the meeting had to end, and the mediator pushed for an agreement. Each of these points was from a different participant, thus resulting in no common factors.

Implications of Findings for Future Action

The findings have implications for future action including practice, professional development, and further research. Practice involves suggested actions taken to resolve disputes and to use mediation as an alternative dispute resolution strategy. Professional
development includes opportunities designed for educators and administrators to increase knowledge and develop and improve skills. Research includes those questions that need to be further investigated. Table 11 provides a summary of these implications for major findings. Following the table, the implications for each area are discussed.
<table>
<thead>
<tr>
<th>Finding</th>
<th>Implications for Practice</th>
<th>Implications for Professional Development</th>
<th>Implications for Questions to Investigate in Further Research</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Disputants agreed on the nature of the dispute on “the surface,” but they identified very different factors or reasons that led to the dispute. In addition, they viewed the students and their needs very differently.</td>
<td>• Use meetings outside the IEP context between parents and school-based administrators to clarify interests and perspectives. Problem solve approaches to meet interests. • Offer training to parents to learn about dispute resolution and communicating interests rather than positions.</td>
<td>• Train administrators and teachers on communication.</td>
<td>• Does agreement on the nature of the dispute influence the outcome or resolution of disputes? • Do disputants understand each other’s interests, as opposed to positions, when they enter mediation? • How do mediators deal with different perceptions regarding the nature of the dispute?</td>
</tr>
<tr>
<td>Finding</td>
<td>Implications for Practice</td>
<td>Implications for Professional Development</td>
<td>Implications for Questions to Investigate in Further Research</td>
</tr>
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<td>------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>2. Mediation was not significantly different from previous attempts to resolve the dispute.</td>
<td>• Develop internal pre-mediation dispute resolution focus on identifying interests.</td>
<td>• Train teachers and administrators on pre-mediation dispute resolution strategies that include a focus on identifying interests.</td>
<td>• What factors influence the way families and schools resolve disputes?</td>
</tr>
<tr>
<td></td>
<td>• Ensure mediation assists in identifying interests and working on mutual understanding about the student prior to working toward an agreement.</td>
<td></td>
<td>• What factors lead to successful dispute resolution?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• What factors lead to reaching an agreement through mediation?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• What factors prevent reaching an agreement through mediation?</td>
</tr>
<tr>
<td>Finding</td>
<td>Implications for Practice</td>
<td>Implications for Professional Development</td>
<td>Implications for Questions to Investigate in Further Research</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>---------------------------</td>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td>3. Families indicated an uncertainty about what to expect from mediation and did not understand the process.</td>
<td>• Design and implement opportunities for parents to learn about dispute resolution alternatives including mediation.</td>
<td>• Train administrators and teachers on mediation and factors that may lead to a positive outcome.</td>
<td>• What factors influence a family's decision to participate in mediation? • What are effective strategies for informing parents about mediation and how to participate effectively?</td>
</tr>
<tr>
<td>Finding</td>
<td>Implications for Practice</td>
<td>Implications for Professional Development</td>
<td>Implications for Questions to Investigate in Further Research</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>4. Families shared a lack of trust in their school districts before and after mediation.</td>
<td>- Design and implement strategies designed to foster trusting relationships, such as offering opportunities to attend seminars together to learn about successful practices and providing opportunities to explain the special education process along with goals for students with disabilities.</td>
<td>- Train teachers and administrators about effective communication, including strategies for establishing trust.</td>
<td>- How does trust influence the nature of disputes?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- How does trust influence early resolution strategies to resolve disputes?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- How does trust influence participation in mediation?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- How does trust influence the outcome of mediation?</td>
</tr>
<tr>
<td>Finding</td>
<td>Implications for Practice</td>
<td>Implications for Professional Development</td>
<td>Implications for Questions to Investigate in Further Research</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------------</td>
<td>-------------------------------------------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>5. Special education administrators represented the school districts in all three cases.</td>
<td>• Empower school-based administrators to request mediation and represent the school district in mediation.</td>
<td>• Train teachers and administrators on dispute resolution, including mediation as an alternative.</td>
<td>• What effect does the person who represents the school have on the outcome of mediation? • What effect does the person who represents the school have on relationships between the school and families?</td>
</tr>
<tr>
<td>6. No common factors led to the mediation outcome.</td>
<td></td>
<td></td>
<td>• What factors lead to specific outcomes? • How do the factors that influence a family's decision to use mediation affect the outcome of mediation?</td>
</tr>
<tr>
<td>Finding</td>
<td>Implications for Practice</td>
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<td>7. Families did not expect a change in their relationship for mediation</td>
<td>• Encourage and plan a process for pre-mediation meetings</td>
<td>• Train for administrators and teachers on</td>
<td>• Are improved relationships important to families who participate in mediation?</td>
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<td>with the school district due to mediation while school representatives shared a hope for improvement.</td>
<td>• between families and school representatives to explain mediation and answer questions.</td>
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<td>• What factors lead to improvements in relationships once trust is damaged?</td>
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<td>Finding</td>
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<td>8. Mediation did not result in improved relationships.</td>
<td>• Develop and implement strategies and mechanisms focused on establishing and maintaining constructive relationships prior to and during conflicts.</td>
<td>• Train administrators and teachers on developing and maintaining constructive relationships.</td>
<td>• When schools are represented at mediation by school representatives who were involved in the dispute, are relationships improved? • What happens to relationships longitudinally when agreement is reached at mediation? • What differences exist in relationships between special education disputants who used mediation and due process hearings?</td>
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Implications for Practice

Findings suggest that steps taken to resolve disputes were too little too late. Each family in this study revealed that they did not trust the school district to do what is right for their children and, instead, felt that variables such as budgets, staff limitations, and regulations and procedures influenced decisions for their children. School representatives, on the other hand, felt they had offered what was appropriate for the students and did not reveal that system resources or regulations interfered in making decisions that were child-centered. Both parents and school representatives communicated concern for the students involved in each dispute, but their communication with each other was not viewed as effective by either parents or school personnel and a lack of trust and collaboration was evident between the families and their schools. Further, there were significant differences between the perceptions that the parents and school held about each student.

Effective communication and collaborative relationships require work, and perhaps schools need to develop formal plans and strategies focused on developing relationships that foster trust and mutual understandings. Tschannen-Moran (2001) found a significant link between trust and collaborative relationships and the evidence that collaboration depends on trust. Likewise, Gordon (2002) pointed to the importance of trust if parents and schools are to be effective partners in the education of students. Taking the time to offer opportunities for parents and professionals to learn about the special education process – particularly for parents when the student is initially identified as a student with a disability or upon transfer into the school – may be one strategy that provides parents information while also offering schools an opportunity to develop a relationship with
parents designed to nurture trust. In addition, offering parents opportunities to learn how to voice their interests as opposed to positions may lead to improved communication and, consequently, better relationships. Once a conflict is apparent, listening for the underlying reason for the conflict is important and may require a building administrator to establish a meeting with the parents to discuss the differences. While different strategies may be appropriate, a plan for building and nurturing trust and collaborative relationships would enable the school appropriately to identify and respond to conflicts before they have resulted in damaged trust and collaboration.

IFP teams are charged with developing a plan with many components such as a narrative description of the student's current performance, goals and objectives, services including accommodations and modifications, participation in testing, transition services for students aged 16 and older, and transportation needs. It is important to remember that school personnel participate in these meetings for many students, but parents only participate in their own child's. Making opportunities available routinely to explain this process to parents, including an explanation of how and why schools make certain decisions about services, may result in increased trust and better understanding of services that are appropriate for delivery in schools. It might also help develop relationships that result in the trust necessary for constructive communication (Noce, 2000) and constructive conflict (Johnson & Johnson, 1997). In essence, taking responsibility for building trusting relationships in a proactive manner may prevent disputes or prevent the escalation of disputes that damage relationships.

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While schools do not have the power to "make" parents hear their perspective, teachers and administrators can learn better listening skills. In all three cases in this study, the school representatives seemed to take a defensive posture, focusing on the reasons for their actions. Perhaps listening deeper to parents' concerns would help them better understand parent perceptions and concerns. For example, if parents are demanding a certain service, rather than focusing on why the service is not appropriate, it might be more productive to ask probing questions about why the parents are requesting the service and what they hope to achieve. Once parents' perspectives are heard, discussions about alternatives to address their real request would result in a service or strategy that both the parent and the school would agree is appropriate.

As discussed, the literature suggests that the person who represents the school district in mediation should be the person in conflict with the parents (Mills & Duff-Mallams, 2000). In all three of the cases in this study, it was the local administrator of special education who represented the school district. School districts may need to review their practices to include the individuals who have been in conflict with the parents if they want to resolve the dispute and avoid potential damage to relationships.

Implications for Professional Development

Focusing on the skills that promote trust and collaboration between and among families of students with disabilities and their administrators, teachers and related service providers may be appropriate for professional development activities for practicing professionals as well as for graduate and undergraduate preservice educators. For example, opportunities to develop the skills necessary to identify the beginning of potential
conflicts without becoming defensive would enhance professionals' ability to respond appropriately to parents while also preventing damage to relationships. Once trust is damaged, relationships become uncomfortable for both parents and schools, thus potentially affecting the success schools have with students. Equipping professionals with skills in relationship-building seems critical during a time when parents have high expectations and knowledge of their rights.

Further, professional development that addresses communication between schools and families would enhance the schools' ability to listen for interests as well as prevent defensive postures, resulting in constructive communication. In particular, school-based administrators as leaders in their buildings need to be able to model and promote these skills. These skills also need to be addressed with preservice teachers so they are prepared upon employment with a school district. If professionals are to prevent disputes and deal with disputes effectively, it is critical that they maintain constructive relationships by taking the time to listen and use effective listening techniques. In addition, through professional development focused on dispute resolution, professionals can learn the knowledge and skills to select appropriate strategies or mechanisms to address the dispute. This should include mediation as an alternative, along with information about the process of mediation and what is expected when one participates in mediation.

Implications for Future Research

While the findings of the present study do not support the claim that mediation results in improved relationships, they do provide insights into the mediation process and point to several questions for future research. These include longitudinal investigations to
explore relationships over time between families and schools that had used mediation. While this study did not find that relationships improved, the implementation of the agreements that resulted in two of the cases may result in a positive impact on relationships over time. In addition, exploring differences between special education disputants who participated in mediation and due process may reveal a positive correlation to mediation versus due process. While investigations of only those who participate in mediation may not reveal significant improvements, comparing the relationships between mediation participants and due process participants may reveal significant differences.

The current literature has not looked at case outcomes over time. Instead, research has focused on measuring the success of mediation based on the number or percentage of mediations that result in signed agreements. It would be interesting to investigate the number or percentage of cases resulting in agreements that also ultimately used due process hearings to resolve the same or similar dispute. In the case of Taylor Norris, for example, a signed agreement was reached but both parties indicated that the dispute had not been resolved.

Factors affecting the way families and school representatives participate in mediation are also in need of further research. These variables include the timeliness of the mediation, the information provided to parents about mediation, and the way such information was shared. For example, each dispute in this study had gone on for a long time. Had mediation been used earlier, would the relationships between families and schools have been perceived differently? None of the parents seemed to understand mediation even though they each had received information. Had the families been better
informed about mediation, would they have had different expectations that resulted in different outcomes? In addition, did financial status influence the parents' agreement to use mediation? That is, if parents have the money to hire an attorney, is the use of mediation perceived differently?

Intervention research might investigate the results of mediation when both parents and school personnel have been trained in constructive communication and constructive conflict resolution. Can you train parents and school personnel to communicate and deal with conflict more effectively?

A number of questions come to mind as the findings of this study were reviewed. Following are questions to be explored in future research to add to the research base on special education dispute resolution:

1. Does agreement on the nature of the dispute influence the outcome or resolution of disputes?
2. Do disputants understand each other's interests, as opposed to positions, when they enter mediation?
3. How do mediators deal with different perceptions of the nature of the dispute?
4. What factors influence the way families and schools resolve disputes?
5. What factors lead to successful dispute resolution?
6. What factors lead to reaching an agreement through mediation?
7. What factors prevent reaching an agreement through mediation?
8. What factors influence a family's decision to participate in mediation?
9. What are effective strategies for informing parents about mediation and how to participate effectively?

10. How does trust influence the nature of disputes?

11. How does trust influence the outcome of mediation?

12. What effect does the person who represents the school district have on the outcome of mediation?

13. What effect does the person who represents the school district at mediation have on relationships between the school and the family?

14. What factors lead to specific outcomes?

15. How do the factors that influence a family's decision to use mediation affect the outcome of mediation?

16. Are improved relationships important to families who participate in mediation?

17. What factors lead to improvement in relationships once trust is damaged?

18. When schools are represented at mediation by school representatives who were involved in the dispute, are relationships improved?

19. What happens to relationships longitudinally when agreement is reached at mediation?

20. What differences exist in relationships between special education disputants who used mediation and due process hearings?

Closing Statement

This study explored the thoughts and feelings of families and school personnel who participated in special education mediation. The responses and themes that emerged
provided insights into the relationships between the parties. Rather than finding that mediation resulted in improved relationships between parents and their schools, the study showed that as a result of the conflict, the trust between the parties had been too damaged for one mediation session to remedy.

It was particularly disturbing to hear the love and concern expressed by the parents for their children along with a lack of understanding about criteria or other influences that resulted in the school district’s refusals to provide the requested services. Conversely, the administrators, whose interviews were noticeably shorter than those of the families, seemed somewhat judgmental and frustrated by the families’ requests for services that, in their opinions, were not needed. In fact, it seemed that while the parents spoke from “the heart,” the administrators spoke from “the head.” While families shared their hopes and fears, the administrators shared their obligations and legal responsibilities. Both families and school administrators seemed to be focused on positions rather than interests, thus defending their own stands at the expense of coming together through mutual understandings to meet the needs of the children.

In the wake of No Child Left Behind and upcoming amendments to IDEA, the mounting focus on accountability for student outcomes and potential changes in procedural regulations may result in increased points of conflict between families and their schools. As they both work to create and provide educational opportunities designed to meet the needs of their children and students with disabilities, values, goals, perceptions, and desires will likely contribute to the interests and positions of both schools and families. Differing expectations and varying interpretations of rights will likely be the subject of due
process hearings and court proceedings as the ambiguity of the laws is clarified by hearing officers and judges.

In the cases involved in this study, mediation seemed to be "too little too late." The damage to the relationships was too great to be overcome in one session. Mediation theoretically holds the promise to transform conflict into constructive relationships, but that was not the case in this study. To realize the promise of improved relationships, teachers and administrators need to gain and maintain the basic trust of families by listening for the purpose of understanding their interests when they inquire about and request specific services for their children. Professionals need to rise above conflicts with families by looking more deeply into the interests that families may bring to the table, both in informal and formal meetings. Understanding their challenges and frustrations may lead to conversations and relationships that result in collaborative decisions that everyone supports. While we must not be so naive as to believe that we can prevent all conflicts, establishing trusting and collaborative relationships from the start and nurturing those relationships in an ongoing manner may prevent disputes that result in destructive communication and conflict.

LeBaron (2002) stated.

Conflicts happen, leaving us with knotted stomachs, furrowed brows, shaky knees. They stress us and stretch us— they show us what we value even as we stand to lose it. Conflicts are significant emotional events. They happen in relationships, calling on our creativity and all our ways of knowing. To address conflicts constructively, we need intuition and imagination to navigate the nuances of
conflict's terrain. We need our bodies, sensitive instruments that both receive and send signals reflecting our deep, inner wisdom. We need our emotions in active dialogue with our thoughts, giving us cues to action. And we need our spirits, sources of resilience, strength and purpose. (p. 3)

Dealing with conflict effectively requires knowledge related to understanding conflict and relationships and the skills to put into practice the strategies that promote the use of intuition and imagination in communication efforts.

It is hoped that this study will lead to future research that together will result in the guidance necessary to learn to deal with school conflicts in positive and constructive ways. It is further hoped that these combined research efforts will result in the guidance needed by school districts to develop the communication tools, strategies and mechanisms that result in and maintain constructive relationships with families of children with disabilities. When conflict extends beyond our abilities to resolve it, it is also hoped that this and future research will provide the guidance needed to determine when and how to use mediation as effective alternative dispute resolution process.

Personal Statement

As a local special education administrator with a variety of experiences focused on services to students with disabilities, this research provided a rich, but challenging, opportunity for growth. Having worked with unhappy parents at the local and state level for more years than I would like to admit, and having experienced the negative consequences of due process hearings, I have long promoted the use of mediation as a less adversarial approach to settling disputes. I began my doctoral studies with an interest in
mediation, so it was no surprise to my committee chair when I chose this topic for my dissertation study.

The irony of this experience is that I believed that I knew what the outcomes of the study would be when I began. I expected to find that mediation results in more trust, more collaboration, and better working relationships between the parents and their schools. I naively believed that mediation could transform damaged relationships. Instead, the findings challenged my mental models and my tacit understandings of relationships between parents and schools, especially of the perceptions that parents of students with disabilities hold about their schools. I experienced a great amount of cognitive dissonance as I read and reread transcripts. It was this cognitive dissonance, however, that resulted in a great many questions and insights that began informing the way I deal with relationships in the school division where I am employed as I write this.

As a special educator in Virginia for more than a quarter of a decade, I have worked with a number of the people who administer special education services throughout the Commonwealth and have felt positive about the sensitivity and passion that these individuals bring to their roles. As a result, I expected the administrators I interviewed to be more focused on the emotions of the conflict and the needs of the students who were the subjects of the mediations. That was not the case. Most disturbing, I began to imagine myself responding similarly to the interview questions, thus focusing on legal responsibilities rather than the student.

The difference between the administrators’ interviews and the interviews with parents was distinct. In fact, the differences were so great that I began to question how
conflict could ever be resolved when one party was driven by love and passion while the other was driven by laws, regulations, and resources.

I learned that parents need to be heard at a deeper level than we sometimes take the time for. The listening needs to focus on hearing their interests, asking questions that clarify their interests, and working together toward solutions aimed at their interests. I also learned that trust has many dimensions and is influenced by how we respond to parents both verbally and nonverbally as well as how we do our jobs on a day-to-day basis. It is affected by how important parents think their child is to the school and how responsive the school is to questions and concerns that parents raise.

As I started this study, I believed that mediation was the schools' answer to dealing with conflicts with parents of students with disabilities. After completing the study, I continue to believe that mediation has the potential to transform special education conflicts. To do so, however, I believe the process needs to take into consideration that the two parties in special education mediation are fundamentally different from those who participate, for example, in divorce or labor mediation. The emotion and passion of parents on one side of the table who are looking out for the most precious part of their lives cannot be compared to the feelings and beliefs that school representatives bring to the table. To develop parity, I believe, will require an approach that is focused more on restoring trust and relationships and secondly on reaching a signed agreement. I sincerely hope that this research provides a springboard for further investigation and exploration and proves useful in developing strategies that result in constructive relationships as well as constructive conflict.
Appendix A

Letters to and from the Virginia Department of Education
April 27, 2001

Mr. Doug Cox
Assistant Superintendent
Virginia Department of Education
P.O. Box 2120
Richmond, VA 23218-2120

Dear Mr. Cox

I was happy to see you on April 6 at the Virginia Special Education Advisory Committee meeting and appreciate the extra time you spent discussing my dissertation proposal with me. As I shared with you I am proposing a study that investigates the effects of mediation on relationships between school personnel and parents of students with disabilities. I am proposing a qualitative study that would entail interviews with parents and school officials before and after mediation. Five cases are proposed for inclusion in my study.

As you know, identifiable information related to mediation is confidential. In order for me to access participants, therefore, I am seeking your assistance. Specifically, I am requesting that your staff:

- screen mediation requests against my study criteria,
- place a call to prospective participants to inform them about the study and to inquire about their interest and willingness to participate in my study (due to quick turn-around between receiving a request for mediation and scheduling the mediation), and
- address and mail packets that will solicit their participation. (I will provide postage-paid packets ready for dissemination to mediation participants that will include a letter from me soliciting their participation, an information/consent form to complete and sign as a participant, and a self-addressed, stamped envelope for the return of the consent form.)

I have talked with Dr. Don Fleming over the past year as I have explored this topic. Dr. Fleming has been very helpful with ideas for consideration and has referred me to appropriate resources as I have narrowed my research focus. I have discussed my proposal with him and integrated a number of his suggestions. I have also indicated that I would be willing to share with the Virginia Department of Education the results of my study. My findings may be helpful to you as you assess the success and needs of the state mediation program.

I will be happy to provide additional information or address questions you may have as you consider my request. I appreciate your consideration and look forward to hearing from you.

Respectfully,

M. Suzanne Creasey

PC Dr. Don Fleming

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May 7, 2001

Ms. M. Suzanne Creasey
131 Bastille Court
Williamsburg VA 23185

Dear Ms. Creasey,

In response to your April 27 letter inquiring about the possible support of your dissertation study by the Department, I am writing to inform you that staff at the Virginia Department of Education will facilitate data collection efforts with selected mediation cases handled by the Statewide Special Education Mediation System (SSEMS). Specifically, Dr. Don Fleming and Mr. James Cooke, Esquire will assist your dissertation efforts as outlined in your recent letter (e.g., screen mediation requests against study criteria). As you know, Dr. Fleming and Mr. Cooke manage SSEMS.

In closing, let me say that I am confident that Department staff will meet your data collection needs and very shortly the College of William and Mary will be granting you a doctoral diploma to be framed and placed on a wall at the central office of the York County Public Schools.

Best regards,

H. Douglas Cox
Assistant Superintendent
Instructional Support Services

[Signature]

D. Fleming
J. Cooke
Appendix B

Sample Letters to Prospective Participants
Dear Parent(s),

I am currently a doctoral candidate in the School of Education at The College of William and Mary, and I am in the process of conducting a study for my doctoral dissertation. The focus of my research is the use of mediation for special education disputes. The research is designed to increase current information on special education mediation. Hopefully, it will be used to refine and improve the use of mediation as a tool for settling disputes between families of students with disabilities and their schools. I am writing to ask for your help. I would like for you to be a part of this investigation.

Due to confidentiality requirements, I have no knowledge of your identity. The Virginia Department of Education has agreed to assist me by sending this correspondence to you and other potential participants for my research. As a recipient of this letter, you have been identified as a party to a special education dispute and have agreed to use mediation to assist in resolving your dispute.

If you agree to participate, you will meet with me once before your mediation and once after your mediation. I will ask you open-ended questions focused on your relationship with your school district. I expect the interview to last approximately one hour. You will be offered an honorarium of $50 per family after conclusion of the second interview as a token of appreciation for your time. You will also be offered a summary of findings from my research.
I have enclosed a consent form for your consideration and a stamped, addressed envelope. If you choose to participate, please complete the form and return it to me. I will contact you upon receipt of this form. If you have any questions regarding the study and your participation, please call me at home at 757-258-4474. I will promptly return your call.

Thank you for considering my request. I hope to hear from you.

Respectfully,

M. Suzanne Creasey
Dear Colleague,

I am currently a doctoral candidate in the School of Education at The College of William and Mary, and I am in the process of conducting a study for my doctoral dissertation. The focus of my research is the use of mediation for special education disputes. The research is designed to increase current information on special education mediation. Hopefully, it will be used to refine and improve the use of mediation as a tool for settling disputes between families of students with disabilities and their schools. I am writing to ask for your help. I would like you to be a part of this investigation.

Due to confidentiality requirements, I have no knowledge of your identity. The Virginia Department of Education has agreed to assist me by sending this correspondence to you and other potential participants for my research. As a recipient of this letter, you have been identified as a party to a special education dispute and have agreed to use mediation to assist in resolving your dispute.

If you agree to participate, you will meet with me once before your mediation and once after your mediation. I will ask you open-ended questions focused on your relationship with the family with whom who are having the dispute. I expect the interview to last approximately one hour. As a participant, a summary of findings will be available per your request.
I have enclosed a consent form for your consideration and a stamped, addressed envelope. If you choose to participate, please complete the form and return it to me. I will contact you upon receipt of this form. If you have any questions regarding the study and your participation, please call me at home at 757-258-4474. I will promptly return your call.

Thank you for considering my request. I hope to hear from you.

Respectfully.

M. Suzanne Creasey
Appendix C

Information and Consent Forms
Parental Agreement and Consent to Participate in Mediation Study

I agree to participate in your study on mediation, and you may use my responses in your research. I understand that my identity will be kept confidential in your report of findings.

Signature:______________________________________________________________

Printed Name: ___________________________________________________________

Address: _______________________________________________________________
_____________________________________________________________________

Phone Number:___________________________________________________________

Best time to be contacted by phone: _______________________________________

Your Child’s School district:_______________________________________________

Your Profession: _________________________________________________________

Your Education (please check):
___ high school  ___ college degree ___ graduate degree

Please also complete the following:

Your child’s birth date: _____________ Your child’s current age: ______________

Your child’s identified disability: _____________________________________________

How old was your child when he or she was first found eligible to receive special education?_____

How many years has your child received special education services? ______________

Has your child attended school and received special education in any other school district other than your current school district? ____ yes ____ no

Have you ever filed a complaint with the Virginia Department of Education? ____ yes__ no

Have you ever participated in a due process hearing with a school district? ____yes __ no
Have you ever participated in mediation with a school district? ____yes____no

Would you like to receive a summary of my research findings? ____yes____no

Please return in the stamped, addressed envelope to:

M. Suzanne Creasey
131 Bastille Court
Williamsburg, VA 23185.

Please feel free to call me at 757-258-4474 if you have any questions.

Thank you for your assistance.
Local School district Agreement and Consent to Participate in Mediation Study

I agree to participate in your study on mediation, and you may use my responses in your research. I understand that my identity will be kept confidential in your report of findings.

Signature: ____________________________________________________________

Printed Name: __________________________________________________________

Your position: __________________________________________________________

Your school district: ____________________________________________________

Address: ______________________________________________________________

How long have you been in this position? ________________________________

Phone Number: __________________________________________________________

Best time to be contacted by phone: ________________________________

Have you ever participated in a due process hearing? ___yes ___ no

Have you ever participated in mediation? ___ yes ___ no

Would you like to receive a summary of findings? ___ yes ___ no

Please return in the stamped, addressed envelope to:

M. Suzanne Creasey
131 Bastille Court
Williamsburg, VA 23185.

Please feel free to call me at 757-258-4474 if you have any questions.

Thank you for your assistance.
Appendix D

Interview Guides
Pre-Mediation Interview Guide for Parents/Guardians

I appreciate your willingness to meet with me and to talk about the disagreement you are having with your school district. This research is being conducted as a part of my dissertation at The College of Williams and Mary School of Education. My research is focused on the use of mediation in special education disagreements.

I will be asking you questions about your disagreement and your thoughts about the school district. Your honest and candid answers will be confidential and will not be shared with the school district. I will also be interviewing you after the mediation. You may choose not to answer a particular question and you have the freedom to end this interview at any time. Your responses will not be used to evaluate mediators or will not be used to impact any settlement or agreement. Do you have any questions?

Before we get started, would you tell me a little about your child?

1. Would you please describe your disagreement with the school district? Tell me about your position on this issue. What is the school district's position?

2. From your perspective, what led to your disagreement with the school district?

   Probes:
   a. What are your thoughts about the reason(s) for the disagreement?
   b. What do you believe are the reasons for the school's position?
   c. Why do you think the school district disagrees with you?
3. How would you describe your current relationship with the school district?

Probes:

a. How about trust between you and the school district?

b. How would you describe your participation in decisions at IFP meetings?

c. How are your thoughts and ideas used in decisions?

4. What did you and the school district do to attempt to settle your disagreement prior to the request for this mediation? Why do you think these attempts were not successful?

5. Tell me what you know about the mediation process. What do you expect from mediation? How do you think the mediator will include you in the process? In other words, how do you think you will be expected to participate in mediation?

6. What do you think the school district expects from this mediation? How do you think the mediator will include the school district in the process? In other words, how do you think the school district will be expected to participate in the mediation?

7. How do you think this mediation will affect your relationship with the school district?
Pre-Mediation Interview Guide for School Official

I appreciate your willingness to meet with me and talk about your dispute. This research is being conducted as a part of my dissertation research at The College of William and Mary School of Education. My research is focused on the use of mediation in special education disagreements.

I will be asking you questions about your disagreement and your thoughts about the family. Your honest and candid answers will be confidential and will not be shared with the family. I will also be interviewing you after the mediation. Your responses will not be used to evaluate mediators. Do you have any questions?

1. Would you please describe your disagreement with the family? Tell me about your position on this issue. What is the family's position?

2. From your perspective, what led to your disagreement with the family?

   Probes:
   a. What are your thoughts about the reasons for the disagreement?
   b. What do you believe are the reasons for the family’s position?
   c. Why do you think the family disagrees with you?
3. How would you describe your current relationship with the family?

Probes:

a. How about trust between you and the family?

b. How would currently describe the family’s participation in decisions at IEP meetings?

c. How are the family’s thoughts and ideas used in decisions?

4. What did you and the family do to attempt to settle your disagreement prior to the request for this mediation? Why do you think these attempts were they not successful?

5. Tell me what you know about the mediation process. What do you expect from the mediation? How do you think the mediator will include you in the process? In other words, how do you think you will be expected to participate in mediation?

6. What do you think the family expects from this mediation? How do you think the mediator will include the family in the process? In other words, how do you think the family will be expected to participate in the mediation?

7. How do you think this mediation will affect your relationship with the family?
Post-Mediation Interview Guide for Parents/Guardians

Thank you for agreeing to this follow-up interview. You have participated in mediation, and I will be asking you some questions related to your mediation experience. Your answers will be confidential and will not be shared with the school district. They will be used for my dissertation research at The College of William and Mary School of Education which is focused on the use of mediation in special education disagreements. Your answers will not be used to evaluate the mediator or will not be used in any way to affect the outcome of your mediation. Do you have any questions?

1. Walk me through the mediation process.
   Probes:
   a. What went well?
   b. What didn’t go well?
   c. Were there any surprises?

2. Would you please describe your participation during mediation? What did you do differently during mediation? What did the school district do differently?

3. During mediation, do you think the school district understood your perspective on this issue(s) that led to your dispute?
   Probes:
   a. If so, give me an example of something that led you to believe that.
   b. What do you think helped the school district understand your perspective?
4. You indicated in our last meeting that you expected mediation would (fill in with their answer from the last interview). Did the mediation process fulfill your expectation? Why or why not?

5. Did your mediation result in an agreement between you and the school district? What do you believe led to or prevented you from reaching your mediated agreement?

6. Did mediation change or affect the way you feel about the school district? If so, how have your feelings changed?
   Probes:
   a. Are things better or worse? How?
   b. Would you talk about that a little more?

7. Would you please describe your current relationship with the school district?

8. How do you think your participation in this mediation will affect your future relationship with the school district?
   Probes:
   a. How will the mediation experience affect the way you participate at future meetings such as IEP meetings? What will you differently, if anything?
   b. Talk with me about trust between you and the school district.
   c. What do you think will happen as the result of the mediation in the next 2-3 weeks? In the next year?
Post-Mediation Interview Guide for School Official

Thank you for agreeing to this follow-up interview. You have participated in mediation, and I will be asking you some questions related to your mediation experience. Your answers will be confidential and will not be shared with the family. They will be used for my dissertation research at The College of William and Mary School of Education which is focused on the use of mediation in special education disagreements. Your answers will not be used to evaluate the mediator. Do you have any questions?

1. Walk me through the mediation process.
   Probes:
   a. What went well?
   b. What didn’t go well?
   c. Were there any surprises?

2. Would you please describe your participation during mediation? What did you do differently during mediation? What did the family do differently?

3. During mediation, do you think the family understood your perspective on the issue(s) that led to your dispute?
   Probes:
   a. If so, give me an example of something that led you to believe that.
   b. What do you think helped the family understand your perspective?

4. You indicated in our last meeting that you expected mediation would (fill in with their answer from the last interview). Did the mediation process fulfill your expectation? Why or why not?
5. Did your mediation result in an agreement between you and the family? What do you believe led to or prevented you from reaching your mediated agreement?

6. Did mediation change or affect the way you feel about the family? If so, how have your feelings changed?
   Probes:
   a. Are things better or worse? How?
   b. Would you talk about that a little more?

7. Would you please describe your current relationship with the family?

8. How do you think your participation in this mediation will affect your future relationship with the family?
   Probes:
   a. How will the mediation experience affect the way you participate at future meetings such as IEP meetings? What will you do differently, if anything?
   b. Talk with me about trust between you and the family.
   c. What do you think will happen as the result of mediation in the next 2-3 weeks? In the next year?
References


Virginia Department of Education.


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Vita

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