

The Influence of COVID-19 on Pennsylvania Rural Schools' Due Process Hearing Decisions

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During the COVID-19 pandemic, rural Pennsylvania Local Education Agencies (LEAs) were found to have failed to properly offer special education services in alignment with the Individuals with Disabilities Education Act (IDEA). The Commonwealth of Pennsylvania ranks among the most litigated states in disputes over the proper facilitation of services as mandated by IDEA. Despite this high volume of litigation, there was no analysis of how being defined as a rural LEA influenced due process hearing officer decisions after the COVID-19 pandemic. The current study addresses this research gap by reviewing special education due process hearing activity for rural LEAs and comparing activity for the two years before and after the COVID-19 pandemic-mandated office closures. Findings offer guidance on problematic practices by analyzing the relationship between the pandemic and hearing officer ruling outcome, activity frequency before and after the pandemic, and remedies owed by rural LEAs from post-COVID decisions.

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For the 2020–2021 school year, over 307,000 students residing in the Commonwealth of Pennsylvania qualified for special education or related services under the Individuals with Disabilities Education Act (IDEA). This number equates to roughly 18% of the Pennsylvania students enrolled in local public schools (Pennsylvania School Board Association, 2022). IDEA is a federal legislation that makes free and appropriate public education (FAPE) available for students with disabilities by facilitating and procuring early intervention, special education, and other rehabilitative services (United States Department of Education, 2023). Under IDEA, six major principles are established for students with disabilities: the right to a FAPE, appropriate evaluations in all suspected forms of disability, proper development and facilitation of Individualized Education Programs (IEPs), an education in a classroom setting that is the least restrictive environment (LRE), meaningful participation for students and families in the creation and facilitation of specialized services, and following procedural compliances as mandated by the legislation (Mississippi Parent Training and Information Center, 2023).

If an individual feels that their rights protected under IDEA have been violated, they may take legal action under the constitutional provisions of due process. The term for

such a litigation method is a special education due process hearing. A special education due process hearing can best be described as follows:

Due process hearings are similar to trials, with the Hearing Officer presiding and acting as a judge. An attorney will represent the educational agency. An attorney may also represent the parent or may proceed without counsel. Witnesses are questioned and cross-examined, and evidence is admitted into the record for the Hearing Officer's consideration. After the hearing, the Hearing Officer issues a written decision, which is a legally enforceable document setting forth the legal obligations of all the parties. (Office for Dispute Resolution, 2023a, para. 3).

The 2021–2022 school year saw the Commonwealth of Pennsylvania among the ten most litigated states in disputes over the proper facilitation of services as mandated by IDEA (Center for Appropriate Dispute Resolution in Special Education, 2023). The Office for Dispute Resolution (ODR), the facilitator of special education due process hearings for the Pennsylvania Department of Education, stated that prior to the COVID-19 pandemic-mandated office closures, Pennsylvania was on track to surpass its record for special education due process complaints during the 2020–2021 school year (2021). Despite 18% of Pennsylvania Local Education Agencies (LEAs) identifying as rural (National Center for Education Statistics, 2018), there has been limited exploration of how a school's Urban/Rural status could influence special education due process hearing outcomes. This study aimed to identify how rural Pennsylvania LEAs involved in special education due process hearings were affected by the COVID-19 Pandemic. By reviewing the remedies owed by rural LEAs since the COVID-19 Pandemic and exploring whether a relationship exists between the pandemic and hearing officer ruling outcomes, changes can be made in any identified actions of non-compliance with the law. The promotion of findings can shape positive changes for future educational practices.

Literature Review

One out of seven American students in rural school districts qualify for special education services under IDEA (McCabe & Ruppap, 2023; Showalter et al., 2019). Despite IDEA being a law that is meant to protect all American students, regardless of their school's population size (Turnage, 2020), the experiences of rural students with disabilities are significantly different than those of their peers receiving an education in more urban settings. Academically, students with disabilities attending rural schools were found to have lower reading scores and a higher number of out-of-school suspensions than their suburban and city peers (MacSuga-Gage et al., 2022). Smaller school populations have rural LEAs hiring fewer teachers than more urban school districts. Rural LEAs have fewer staff available to teach special education programming compared to more populated school settings (Karadimou, 2022). Staffing shortages have led to limitations in the allotment of Advanced Placement (AP) courses, Gifted and Talented programs, and after-school activities for students enrolled in rural schools (Drescher &

Torrance, 2022; Gutierrez & Torrones, 2023). While evidence suggests rural youth are graduating at similar rates to their suburban and urban peers of the same age, studies show that fewer pursue college as an option upon graduation (Kryst et al., 2018). Students with disabilities attending rural schools have been found to have lower rates of college enrollment than their peers attending urban and suburban high schools. Upon graduation, this same population had lower employment rates, limited job opportunities, and fewer options for vocational rehabilitation services (Erickson et al., 2018).

Despite being identified more often with developmental disabilities than their suburban and urban peers, rural students with disabilities often are not initially offered appropriate educational services when entering the primary school setting (Zablotsky & Black, 2020). Other identified violations of IDEA that occur in rural school districts include improper training of staff on identifying students with disabilities, not offering families an opportunity to have meaningful participation in the process of creating specialized services, educating students in inappropriate classroom settings (Turnage, 2020), educational programming with improper goals and services (Hott et al., 2021), and non-certified educators teaching special education classes due to staffing shortages (Karadimou, 2022).

IDEA Violations Occurring in Pennsylvania Rural Schools During the COVID-19 Pandemic

During the COVID-19 pandemic, rural Pennsylvania students with disabilities were identified as among the most vulnerable populations to not receive a proper education due to financial constraints faced by their schools (Schafft et al., 2022). Subsequent research now indicates that during the mandated school closures, rural Pennsylvania students with disabilities did not receive appropriate educational, rehabilitative, and health services as mandated by IDEA. Listed reasons for rural Pennsylvania LEAs not complying with the law included limited internet access, staffing shortages, and inadequate staff training on appropriately facilitating specialized services in an online setting (Pennsylvania Department of Education, 2021).

Before the COVID-19 pandemic, rural school principals and superintendents struggled to integrate technology into their schools. Budget issues and limited internet provisions in the local community caused rural Pennsylvania LEAs to have less access to technology than suburban and urban school districts (Kotok & Kryst, 2017). During the COVID-19 pandemic, this trend did not cease to exist. As such, insufficient technology would lead to rural Pennsylvania schools violating IDEA. Without proper internet service, rural Pennsylvania families could not attend IEP meetings, receive communication about their educational rights, or interact with their student's teachers. In rural schools, classroom modifications, mental health supports, and rehabilitative services were inaccessible due to lack of appropriate technological resources (LeTendre et al., 2023).

When defining the qualifications of a special education teacher, IDEA specifies that the educator must be certified to teach in the state where they provide services (Sec 300.156). Before the COVID-19 pandemic, a 2019 study indicated that rural Pennsylvania school districts lacked certified special education teachers (Fuller & Pendola, 2020). During the COVID-19 pandemic, the lack of trained special education teachers in rural Pennsylvania schools was a continuing issue. Identified staffing shortages included a lack of special education teachers, counselors, and social workers in rural Pennsylvania LEAs (Shafft et al., 2022). Due to staffing shortages and insufficient training in virtual instruction methodologies, rural Pennsylvania special education teachers reported not providing appropriate instruction to their students as mandated by IDEA. Special education teachers in rural Pennsylvania reported that their paperwork was overwhelming, and they struggled to meet deadlines of compliance monitoring as necessary by IDEA (Shafft et al., 2022).

During the COVID-19 pandemic, rural Pennsylvania schools violated various principles of IDEA due to limitations in technology and staffing. As IDEA is federal legislation, all public schools must follow the statutes and mandates of the law in the United States of America. If an individual feels their rights under IDEA have been violated, they may take legal action through the procedural safeguard of due process. Such a litigation method is known as a special education due process hearing. A special education due process hearing is similar to a civil trial. Overseen by an impartial hearing officer, this method of litigation involves a student and an educational institution. The student may use legal counsel or represent themselves pro se, while the educational institution always uses an attorney. Like civil court cases, parties may call on witnesses and present evidence to make their case. The appointed hearing officer reviews all of the presented materials and then provides a judgment on the disputed matter through a written decision. The decision offers guidance and remedies for any owed by the parties involved. As a written legal document, the decision must be followed by all parties involved in the impartial hearing (Office for Dispute Resolution, 2023a).

Special Education Due Process Hearings Occurring in Pennsylvania

Before the COVID-19 pandemic, the Commonwealth of Pennsylvania was identified as a state with many special education legal disputes (Blackwell & Gomez, 2019). In an analysis of national special education due process hearing activity for the school years 2012–2018, Pennsylvania ranked among the top ten most litigious states (Fairbanks et al., 2021). A review of 502 Pennsylvania special education due process hearings between February 2008 and September 2013 determined that in close to 75% of hearings, families chose to be represented by a lawyer. The school district was victorious in 252 of the hearings (Hoagland-Hanson, 2014). For the 2018–2019 fiscal year, Pennsylvania hearing officers issued 58 decisions. Of these decisions, 18 had

rulings entirely in favor of the LEA and 26 partial favorability. For the remaining 14 hearings, the student and their family prevailed (Office for Dispute Resolution, 2020).

In a multi-state sampling of due process complaints for the 2016–2017 school year, rural LEAs were identified as less likely to be involved in legal disputes over IDEA than suburban and urban schools. According to Nowicki (2019), there were three possible reasons for this phenomenon: less attorney availability in small towns, fewer educational opportunities, and parents fearing backlash from their community for suing the local school. When accounting for only the Pennsylvania-based sample, rural LEAs had fewer due process complaints, state complaints, and mediation requests than urban and suburban schools involved in the study.

Under IDEA, there is a two-year statute of limitations for raising complaints relating to improper implementations of special education services under the legislation (20 U.S.C. Sec. 1415(f)(3)(C)). With the prolonged nature of organizing and conducting special education due process hearings, some scholars believe that hearings relating to issues experienced during the COVID-19 pandemic remain entirely conducted (Zirkel, 2023). According to legal scholars, the filing date for alleged violations due to COVID-19 closures can be as late as March 18, 2022 since the pandemic-induced closing occurred on March 18, 2020 (Spar, 2021). With this date being so recent, there was little data available for analyzing trends in special education due process hearings after the COVID-19 pandemic involving rural schools.

Nationally, sampling on trends from special education due process hearing decisions between March 2020 and August 2020 showed fewer hearings occurring during this period when compared with the previous school year (Zirkel & Jones, 2020). Similar results were found when equating for the 2020–2021 school year (Zirkel, 2021). As of 2023, failing to implement a FAPE was the most common issue raised by students and their families in special education due process hearings after the COVID-19 pandemic. For this raised complaint category, hearing officers are more likely to rule against schools in their published decisions (Zirkel, 2023).

The Office for Dispute Resolution facilitates special education due process hearings for the Pennsylvania Department of Education and does not identify the urbanicity of LEAs involved in special education due process hearings. The closest information ODR's fiscal reporting offers is based on geography. An example can be seen in the following statement: "For the past twenty years, due process activity has been predominantly centered in the southeastern part of the Commonwealth, and FY 2022 is no exception despite the intervening pandemic shutdown in March 2020" (Office for Dispute Resolution, 2023c, p. 45).

Before closing their offices due to the COVID-19 pandemic, ODR reported that by March 2020, Pennsylvania was on track to surpass its yearly record for special education

due process complaints (2021). When discussing Pennsylvania hearings after the COVID-19 pandemic, ODR stated that “the statistics from those years are outliers and difficult to reconcile within a five-year comparison of ODR services” (2023c, p. 5). What remains to be seen is the influence of the COVID-19 pandemic on rural LEAs involved in special education due process hearings in the Commonwealth of Pennsylvania.

Research Gap

Throughout the COVID-19 pandemic, rural Pennsylvania LEAs struggled to follow the IDEA. Various principles of the law were violated due to the limited availability of appropriate staff and technology. What remained to be identified was whether or not these violations were subsequently being raised in special education due process hearings. According to the Office of Special Education and Rehabilitative Services, when reviewing hearing officer decisions for research, the information can only be analyzed to identify training needs for LEAs, State Education Agencies, and hearing officers (Zirkel & Vander Ploeg, 2019). With nearly 20% of LEAs in Pennsylvania being defined as rural, an analysis of how this status influences special education due process hearing decisions has a justification. Legal scholars indicate that school districts involved in special education due process hearings find the price of litigation a costly burden (Wettach & Sanders, 2020). By reviewing the activity of rural LEAs from before and after the pandemic, areas of problematic practice could be identified if they exist. Identifying these issues can help save schools the financial burden of legal fees.

Prior to the pandemic, rural Pennsylvania LEAs were determined to be less likely to be involved in special education due process hearings than urban and suburban schools. After reviewing the literature, it was evident that rural Pennsylvania schools struggled to implement proper services for students as mandated by IDEA during the COVID-19 pandemic. What was not known was whether or not these violations were being raised in special education due process hearings. In order to address this research gap, the following questions were proposed:

1. Were rural Pennsylvania LEAs involved in more hearings before or after the COVID-19 pandemic?
2. Can a significant relationship be established between hearing officer ruling outcomes and the COVID-19 pandemic for rural Pennsylvania LEAs?
3. What remedies are rural Pennsylvania LEAs being held responsible for providing students since the COVID-19 pandemic?

Methodology

The conceptual framework of this study builds upon a similar analysis technique as instituted by Blackwell & Blackwell (2015), Schanding et al. (2017), and Rush (2022). In the works of these scholars, a single state's due process hearing officer decisions were reviewed for a specific timeframe. Ex post facto data collection methodologies were

implemented in all three of these studies. Decisions from the past were analyzed for specific variables such as student demographics, legal representation, or raised issues. Upon reviewing selected variables across all hearings, analysis techniques were conducted to determine whether patterns could be established.

Research Design

Unlike other research methods that incorporate experimentation on subjects, this project required a non-experimental design. To answer the proposed research question, a methodology needed to be implemented that allowed for the retrospective analysis of events that had already occurred, specifically, hearing officer decisions before and after the COVID-19 pandemic in the Commonwealth of Pennsylvania. For this reason, a quasi-experimental ex post facto research design was implemented. This study identified an event that had already occurred (i.e., the special education hearing), and a dependent variable (i.e., ruling outcome, COVID-19 pandemic, Urban/Rural status, remedy owed) was proposed. The researcher then reviewed the event to determine any effect the event had on the analyzed variable (Sharma, 2019).

Data Source, Participants, and Setting

The Office for Dispute Resolution (ODR) facilitates all special education due process hearing activity for the Commonwealth of Pennsylvania. On their website is a database that houses all written hearing officer decisions published since 2006. Before ODR makes hearing officer decisions available for public review, they redact all information that could be used to identify the students and their families involved. The following statement on the process can be found on their website: "Since 2006, the Office for Dispute Resolution has made hearing officer decisions available to the public on this website. Before these decisions are posted, all identifiable student information is removed to maintain confidentiality" (Office of Dispute Resolution, 2023b, para. 1).

The data source for this study was all published due process hearing officer decisions uploaded between March 16, 2018 and March 15, 2022. The participants of this study were all of the parties involved in the special education due process hearing decisions being analyzed. This included but was not limited to students and their families, expert witnesses, hearing officers, rural LEAs, and legal counsel. The research setting was the Commonwealth of Pennsylvania between March 16, 2018 and March 15, 2022.

Data Collection and Analysis

Since no experimentation occurred on subjects, and all identifiable information of hearing the publisher of the data source had previously redacted participants, there was no need for an Institutional Review Board (IRB) approval before incorporating the data collection and analysis in this study. The first step of data collection procedures required the researcher to go to the ODR website and download all hearing officer decisions

published between March 16, 2018 and March 15, 2022. There were 347 publications available for download from the database under this filtration method. Upon reviewing the publications, there were 24 instances in which duplicates of the same publication had been uploaded. These 24 publications were removed, leaving a final population of 323 hearing officer decisions for review.

The second step was to identify the LEA involved in the hearing. Any LEAs not defined as rural by the Pennsylvania Department of Education were removed from the study. Of the 323 reviewed decisions, 28 involved rural Pennsylvania LEAs. Once only decisions involving rural schools were left, they were grouped into pre- and post-COVID samples. Each decision was then reviewed for its ruling outcome and any remedies owed in the hearing officer's subsequent ruling.

In order to answer the first research question, comparisons of the pre-COVID and post-COVID samples were made to identify which group had more activity. For the second research question, a chi-square test was used to determine if a relationship of significance could be established between the attributed hearing officer ruling outcomes for the rural LEAs being made before or after the COVID-19 pandemic. Chi-square tests were performed to determine if changes in observations were due to chance or based on the incorporation of variables for this study. The incorporated variable was the COVID-19 pandemic, tested against the ruling outcomes of all rural LEAs involved in special education due process hearings. After performing the chi-square test, all pre-COVID decisions were removed, and only the post-COVID sample was reviewed for remedies owed. These identified remedies were then used to answer the third research question, which sought to determine what relief is owed by rural LEAs involved in post-COVID Pennsylvania special education due process hearings.

Defining Variables

COVID-19 Groupings

Hearing officer decisions uploaded within the two full years before March 16, 2020, were named as the pre-COVID sample, and those from the two years after were named as the post-COVID sample. According to legal scholars, the date of filing for alleged violations due to COVID-19 closures can be as late as March 2022 since pandemic-induced closing occurred in March 2020, and there is a two-year statute of limitations under IDEA for raised issues in a special education due process hearing (Spar, 2022). In its fiscal reports, ODR lists March 16, 2020 as the official date the COVID-19 pandemic forced its offices to shut down in-person services (2021). Since this data can be referenced and cited in numerous documents uploaded by the data source for this study, it was determined that it would serve as the cut-off point for differentiating hearings occurring before and after the COVID-19 pandemic.

Rural Status

The Pennsylvania Department of Education's website lists all LEAs by Urban/Rural classification (2023). This classification uses a system incorporated by the National Center for Education Statistics (NCES). In this system, LEAs can be put into four primary categories: city, suburban, township, or rural. Rural LEAs are then divided into three subtypes: fringe, distant, and remote (Geverdt, 2019). An LEA is listed as involved in the 323 hearing officer decisions analyzed in this study. To be defined as rural, the participating school needed to be listed on the Pennsylvania Department of Education's list of rural LEAs as found in the Excel spreadsheet provided on the webpage relating to School Locale.

Hearing Officer Ruling Outcomes

ODR acknowledges there is difficulty in measuring hearing officer ruling outcomes. Their fiscal reports acknowledge that the calculation is not a perfect metric; the hearing officer must use their best understanding to decide whether the decision supports the parent or the LEA (Office for Dispute Resolution, 2023c). To create a more sound calculation of this metric, the present study utilized a five-point scale similar to that incorporated by Skidmore & Zirkel (2015). In this scale, the choices were entirely in favor of the LEA, mostly in favor of the LEA, partly in favor of both parties, mainly the student, and entirely in favor of the student.

Owed Remedies

At the end of all hearing officer decisions, there is a ruling. In their written decision, a hearing officer will sometimes grant remedies as forms of relief that the LEA is responsible for providing to a student for not following the law. Three common forms of remedy that schools can be held accountable for upholding as a part of a hearing officer's final judgment are Independent Educational Evaluations (IEEs), compensatory education, and financial reimbursements (Hoagland-Hanson, 2014). In a ruling, multiple types of IEEs can be ordered, and financial reimbursements can be owed as forms of relief. When defining forms of remedy owed by rural LEAs, each form was counted once in this study. For instance, in a decision, an LEA could be responsible for reimbursing a student for attorney fees and school tuition. Similarly, a school could have to fund an assistive technology evaluation and a Functional Behavior Assessment (FBA). Further, an LEA could be responsible for one form of requested reimbursement, not another, and likewise for an IEE.

An LEA was defined as owing an IEE as a remedy when the hearing officer ordered at least one type of assessment or evaluation to be conducted by a qualified examiner who is not employed or affiliated with the involved LEA but paid for at the public's expense. An LEA was defined as owing a reimbursement any time they were ordered to offer a financial remedy for a previously purchased service by a student. This could

include anything from tuition, attorney fees, or even an independent evaluation paid for by the student and their family before the hearing. An LEA was defined as owing compensatory education to a student as a form of remedy any time a specific hourly allotment of owed educational services was mentioned. Compensatory education is not a reimbursement of finance for previous services nor a granting of monetary relief. Instead, it is compensation for time missed by a student and will only be notated if mentioned explicitly by the hearing officer as a part of their ruling.

Results

Three research questions were presented in this study. All three questions related to rural LEAs involved in Pennsylvania special education due process hearings. The first question attempted to determine whether these LEAs were involved in hearings more frequently before or after the COVID-19 pandemic. The second question sought to establish whether a relationship of significance could be found between the COVID-19 pandemic and hearing officer ruling outcomes for these LEAs. The final question examined decisions involving LEAs published for the two years after the COVID-19 pandemic closure date and identified what remedies they were responsible for providing as a form of relief.

Table 1 displays a frequency distribution of all types of Pennsylvania LEAs involved in special education due process hearing activity before and after the COVID-19 pandemic. It should be noted that only one hearing involved an LEA that could not be identified by the Pennsylvania Department of Education Urban/Rural classification listing. For this reason, it was given a label of Unknown. Of the 323 reviewed hearing officer decisions, 181 were defined as being pre-COVID decisions. The remaining 142 hearings were defined as post-COVID.

Table 1

Pennsylvania LEAs Special Education Due Process Hearing Activity before and after COVID-19 (n=323)

LEA Type	Before COVID	After COVID
Suburban	124	96
City	36	29
Rural	16	12
Township	4	5
Unknown	1	0
Total	181	142

The first research question examined whether there were more appearances by rural LEAs before or after the COVID-19 pandemic. Within this study, 28 decisions involved LEAs identified as rural. The pre-COVID group 16 involved a LEA that could be defined as rural. For the post-COVID group, 12 could be identified as rural. This indicates that for the two years before the COVID-19-induced office closures, there was more activity by rural LEAs in special education due process hearings than in the two years after.

Table 2 shows a distribution of the 28 decisions involving rural Pennsylvania LEAs by hearing officer ruling outcome and COVID-19 groupings. Of the 16 pre-COVID decisions, six were in part favorability of both parties, and ten were in full favorability of the LEA. For the 12 decisions occurring in the post-COVID timeframe, six were in full favorability of the student, one was in partial favorability of both parties, two were mostly in favor of the LEA, and three were entirely in favor of the LEA. The second research question sought to determine if a relationship of significance could be established between the COVID-19 pandemic and the hearing officer ruling outcome. When reviewing the chi-square test results, the X^2 value was 15.077 with a *p-value* of 0.002. In order to establish that there was no relationship of significance between the ruling outcome and the COVID-19 Pandemic, the *p-value* needs to be greater than .05. Since the *p-value* was less than .05, the null hypothesis that there is no significant relationship between outcomes and the COVID-19 Pandemic must be rejected. This, in turn, implies that a significant relationship can be established between hearing officers ruling in favor of students and their families after the COVID-19 pandemic.

Table 2

Rural Pennsylvania LEAs' Special Education Ruling Outcomes before and after COVID-19 (n=28)

Ruling Outcome	Before COVID	After COVID
Fully Student	0	6
Mostly Student	0	0
In Part Both	6	1
Mostly LEA	0	2
Fully LEA	10	3
Total	16	12

Chi-Squared Tests

	Value	Df	P
X^2	15.077	3	0.002

Chi-Squared Tests

	Value	Df	P
N	28		

The third research question explored what, if any, remedies were owed by rural LEAs involved in post-COVID decisions. Of the 28 decisions involving rural LEAs, 12 occurred after the COVID-19 pandemic closure date. Table 3 shows a distribution of forms of remedy owed by the LEAs involved in these disputes. Three decisions involved a form of reimbursement being owed by schools to students—and four decisions involved at least one form of IEE requested by students and their families. The request was granted in two of these four decisions, and it was rejected in the other two. Seven decisions involved requests for Compensatory Education. In six decisions, schools owed Compensatory Education to students, and the request was rejected in one.

Table 3*Remedies Requested by Families Involved in post-COVID Hearings with Rural LEAs*

Remedy Request	Granted	Not Granted
IEE	2	2
Comp ED	6	1
Reimbursement	3	0

Discussion

When accounting for the Pennsylvania LEAs with at least one special education due process complaint for the 2017–2018 school year, rural school districts only accounted for 19.3% of the state's activity. Regarding frequency of complaint activity, suburban schools had the most, followed by city and then rural (Nowicki, 2019). In the present study, a similar trend occurred. For the 323 analyzed hearing officer decisions, suburban schools had the highest frequency of appearance both before and after the COVID-19 pandemic, followed by city and rural LEAs, respectively. Of the 323 reviewed hearing officer decisions, 181 were defined as being pre-COVID decisions, and the remaining 142 hearings were defined as post-COVID. These results are similar to those reported by Zirkel and Jones (2020) and Zirkel (2021), whose multi-state analysis found fewer hearings occurring after the COVID-19 pandemic than those occurring before.

Remedies, Relationships, and Relief

While some scholars said that the due process hearings were relatively low during the pandemic, others believe that parents are taking the time to gather evidence and

obtain counsel (Mitchell, 2020). When reviewing the literature, rural families are involved in fewer special education due process hearings than their suburban and urban peers because of the lack of available legal counsel in small communities (Nowicki, 2019). The Pennsylvania Department of Education reported that rural communities were among the most vulnerable to poor educational practices during the COVID-19 pandemic due to their lack of internet availability (Pennsylvania Department of Education, 2021). During the COVID-19 pandemic-induced office closures, ODR offered their services virtually. Of the 323 analyzed hearings, 28 decisions involved rural LEAs. Sixteen of these decisions were published before the COVID-19 pandemic and 12 after. A possible reason that rural LEAs had less activity after the COVID-19 pandemic may be that they could not secure the necessary resources needed to partake in litigation in a virtual setting.

Five different hearing officer ruling outcomes could be attributed to a decision in this study. These ruling outcomes included full favorability for the LEA, mostly in favor of the LEA, partial favorability for both parties, full favorability for the student and their family, and mostly in favor of the student and their family. In the pre-COVID sample, ten had full favorability of the LEAs, and the remaining six had partial favorability of both parties. In the post-COVID sample, six were in complete favor of the student, one was in partial favor of both parties, two were mostly in favor of the LEA, and three were entirely in favor of the LEA. Based on these results, a significant relationship could be established between ruling favorability for students and the post-COVID timeframe. Based on these results, an implication can be made that in post-COVID litigation, rural LEAs have a higher likelihood of being found in non-compliance with IDEA.

With the unforeseen circumstances of the COVID-19 pandemic, the United States Department of Education realized that many students receiving special education services would not be getting all the support they qualified for under IDEA. For this reason, in their Return to School Roadmap, they clarified that compensatory education would likely be a remedy among students who qualified for special education services but did not receive them due to the pandemic (United States Department of Education, 2021). These services were redefined as “recovery services,” it was determined that to mitigate the need for litigation, school officials were to look at previous data and review IEPs to understand and be mindful of lost educational benefits during the pandemic. Remedies were owed in several of the 12 post-COVID decisions. Analyzed remedies included but were not limited to IEEs, reimbursement, and compensatory education. Three decisions involved a form of reimbursement being owed by schools to students. In two decisions, an IEE was owed by the LEA. Finally, in six decisions, compensatory education was a form of relief owed by a rural LEA.

Recommendations for Future Research

One limitation of this study was defining pre- and post-COVID samples from uploaded decisions related to hearings before publication. For this reason, while a

decision may have been published on March 16, 2020, the hearing itself was occurring in a prior timeframe. While this is a small detail, it should still be noted. Another similar issue was the March 16, 2020 date. Realistically, COVID-19 was a problem before this date. The offices did not close, nor did the pandemic magically occur in one day. All these events were happening over extended periods. For this reason, the date is a limitation that should be noted. Future research should establish a clear and precise date of when the COVID-19 pandemic began.

Another limitation was in the remedies owed. The methodology states that several IEEs could be ordered in a single decision. Furthermore, a school could be ordered to pay for one, but not another. A recommendation for future research would be analyzing the hearings from the perspective of remedies. In this data collection, forms of IEE and reimbursement forms could be listed, and each could be noted. From this information, the LEAs can identify what specific evaluative practices they fail to conduct and the forms of financial recoupment they are responsible for paying.

Based on the results, it is clear that COVID-19 is shaping hearing officer ruling outcomes. While there have been fewer appearances by rural LEAs, when they do appear, they are not faring well in hearings. For this reason, future research should begin identifying specific acts of noncompliance with IDEA. By identifying specific issues, training can be conducted to help staff better know how to follow the law correctly. This, in turn, can keep the LEAs out of court and save money. More importantly, the students the law is meant to protect and serve will receive the education they are promised.

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About the Author

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