

Using an Independent State Ombuds Model to Resolve Conflict in K-12 Public Schools

The Office of the Education Ombuds
Governor's Office
State of Washington

Presented by
Jennifer Harris
Attorney/Ombuds/Legal & Policy Analyst
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www.oeo.wa.gov 1-866-297-2597

The Office of the Education Ombuds “OEO”

The Role of an Education Ombuds

- Listen to concerns and perspectives
- Advocate for consumer access to fair processes
- Ensure focus is on positive student outcomes
- Resolve complaints through alternative dispute resolution techniques
- Collect data, identify trends, and report recommendations to policy makers and elected officials to improve educational access and outcomes for students
- Answer questions about the public education system

OEO created in statute 2006

RCW 43.06B.010 Office created – Purposes – Appointment – Regional education ombuds.

(1) *There is hereby created the office of the education ombuds within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.*

(2)(a) *The governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity and shall be qualified by training or experience or both in the following areas:*

- (i) Public education law and policy in this state;*
- (ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and*
- (iii) Community outreach.*

(2)(b) *The education ombuds may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education ombuds.*

What is an Education Ombuds?

- Trained problem-solvers who bring families and educators together to resolve conflict, while focusing on the best interest of the student involved.
- Have extensive knowledge of the public education system, education laws, school/district policies, conflict resolution techniques, and cultural competence skills.
- Impartial and independent third party who listens to all sides of the problem, and advocates for fair and equitable public education processes for all students.

Confidentiality

Individuals can talk to OEO in complete confidence.

- By law, we protect all information we gather from students, parents, and others in the course of our work.
 - To protect the privacy of everyone we work with, we keep minimal records.
-

RCW 43.06B.040 Confidentiality.

*The education ombuds shall treat **all matters**, including the identities of students, complainants, and **individuals from whom information is acquired**, as confidential, except as necessary to enable the education ombuds to perform the duties of the office.*

Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law.

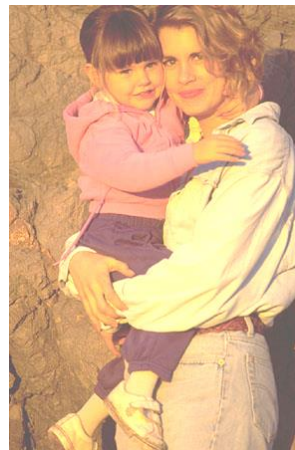
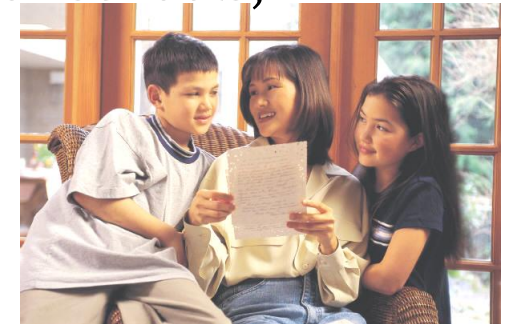
Who should call OEO?

- Any parent/legal guardian or student who is experiencing a problem or conflict with a public school or school district.
- Anyone who has questions about public education, family involvement, how to communicate better with schools, etc.

Education Ombuds have access to a phone language line and can get immediate interpretation for over 100 languages.

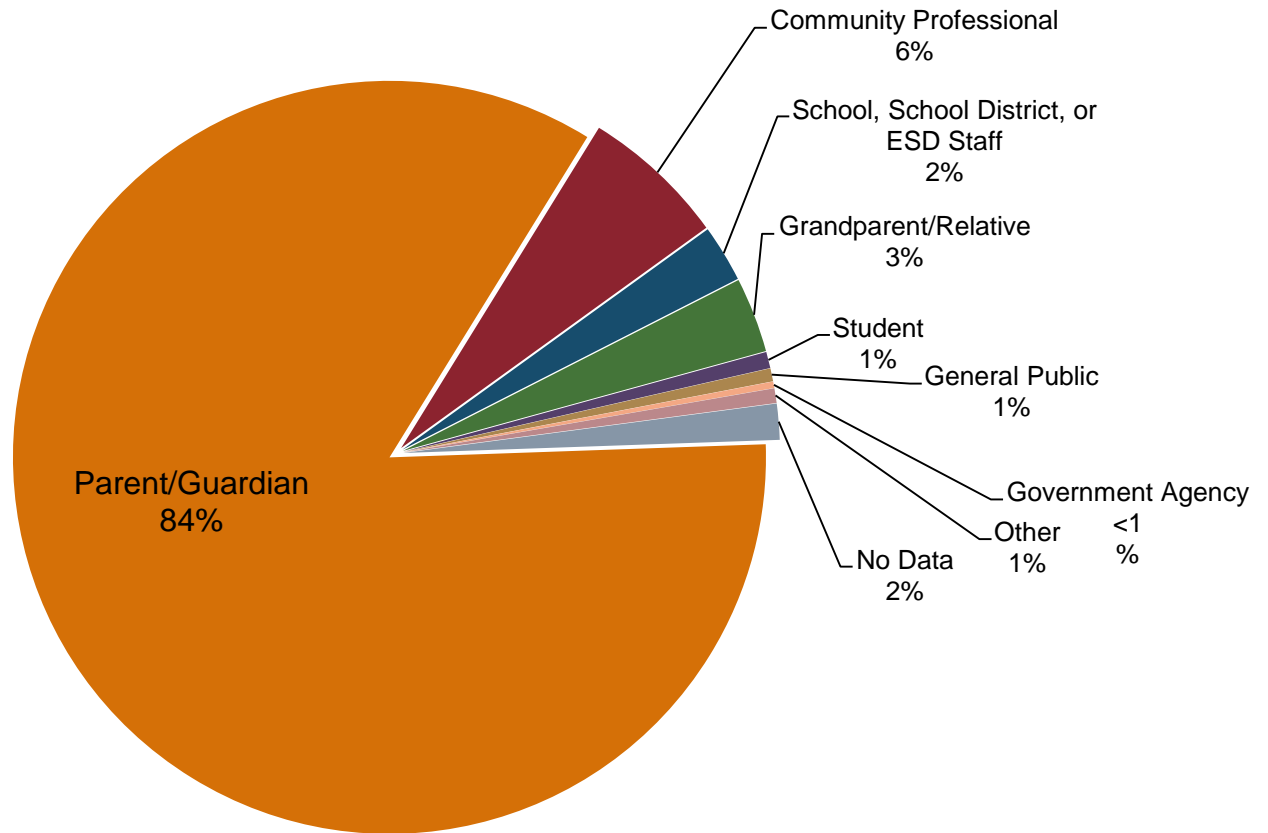
Call toll-free: 1-866-297-2527

www.oeo.wa.gov



Who does call OEO?

Callers



RCW 43.06B.020

Powers and duties. The education ombuds shall have the following powers and duties:

- (1) To develop parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements required by the superintendent of public instruction. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and **should focus on reaching parents who have not previously been involved with their children's education;***
- (2) To provide information to students, parents, and interested members of the public regarding this state's public elementary and secondary education system;*
- (3) **To identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies** for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;*
- (4) **To identify and recommend strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;***
- (5) To refer complainants and others to appropriate resources, agencies, or departments;*
- (6) **To facilitate the resolution of complaints** made by parents and students with regard to the state's public elementary and secondary education system;*
- (7) To perform such other functions consistent with the purpose of the education ombuds;
and*
- (8) To consult with representatives of the following organizations and groups regarding the work of the office of the education ombuds, including but not limited to: [see list in copy of statute provided]*

In addition to core functions, OEO also provides the following services:

- Train families, educators, and community-based professionals about the public education system, conflict resolution, and effective parent engagement.
- Produce publications and tools for parents translated in a variety of languages.
- Collaborate with families and educational stakeholders to address systemic issues including bullying and harassment, school discipline, and the educational Opportunity Gap.
- Outreach to underserved communities across the state to assist in accessing and navigating Washington's public education system.

OEO does not:

- NOT provide legal advice or services
- NOT have authority to enforce laws or standards.
- NOT force a school to take a specific course of action or fire employees.
- NOT work on cases related to elected officials or allegations of educator professional misconduct

What may distinguish OEO from other Ombuds in the Education system?

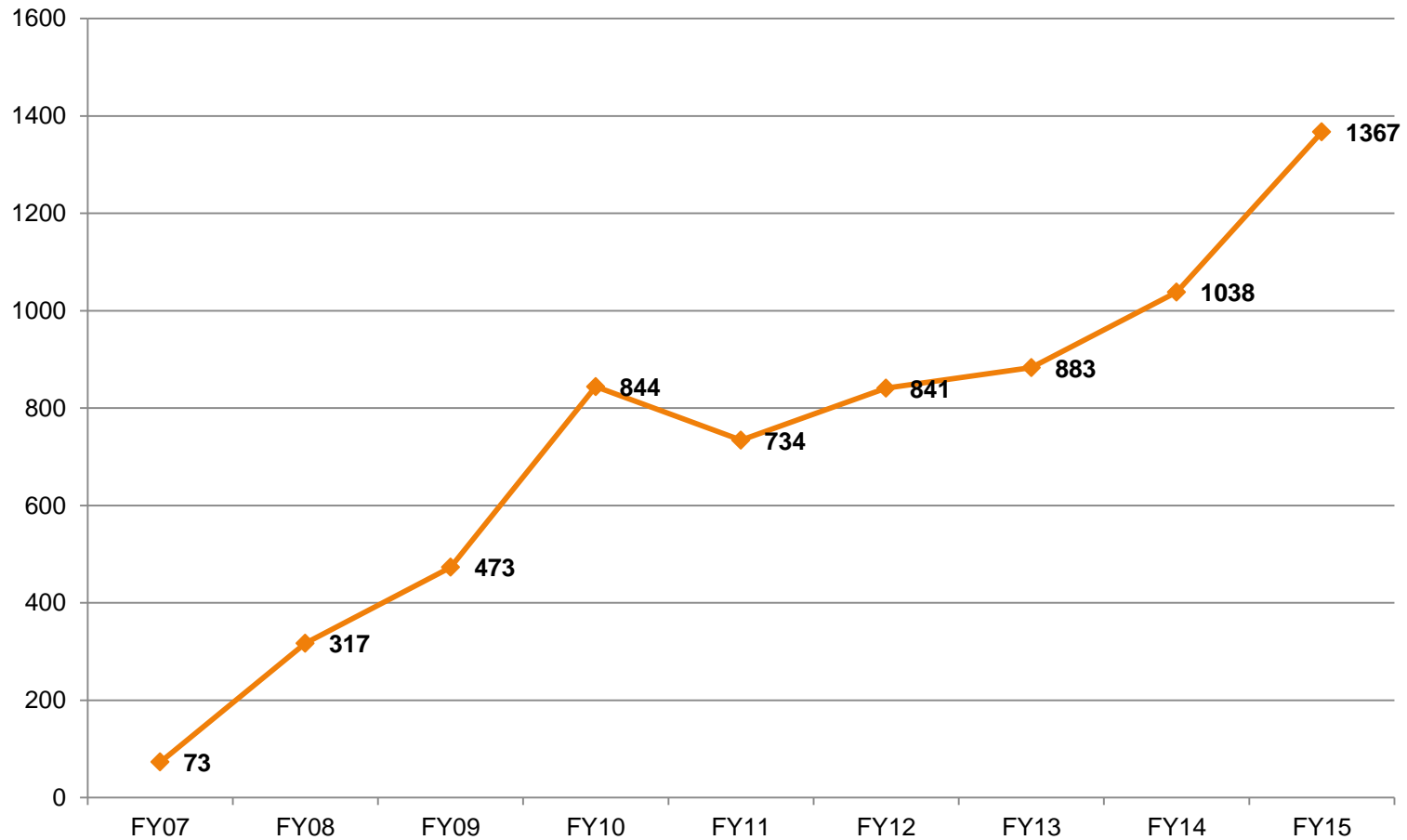
- Address all K-12 issues, not just SPED
- Separate from all education agencies
- No investigative or enforcement authority
- Emphasis on independence and objectivity...

“The governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity....”

over strict neutrality...note one of OEO’s official purposes:

“...advocating on behalf of elementary and secondary students....”

Over 7000 cases resolved: Annual growth in total number of Cases addressed each year



What does this level of demand look like day to day?

Last year (2013-14)....

5 Education Ombuds...

...Served more than **1100** students

...In **793** Schools

...in **185** Schools Districts

...Located in **36 of 39** Counties

In Washington State.

OEO's strategic criteria - 2014-2017

In order to maximize the impact of its limited resources in reducing the Opportunity Gap, OEO prioritizes direct intervention and outreach to:

Students who experience the following:

- Exclusion from or extended periods out of school
- Chronic disciplinary actions
- Truancy or drop out
- Current or recent institutionalization, including juvenile rehabilitation, in-patient admission, or placement in CLIP facility
- Living in kinship care, including with a grandparent or extended family member
- Homelessness, placement in foster care, in state care or at risk of out-of-home placement
- Academic failure or high risk of not graduating
- Restraint, isolation or aversive interventions at school
- Mental health issues, including suicidal ideations or expressions
- Bullying, intimidation, harassment

OEO's strategic criteria - cont.

A student whose parent or care-giver is:

- Limited English speaking
- Migrant, immigrant, or refugee
- Incarcerated or detained
- Experiencing mental health issues

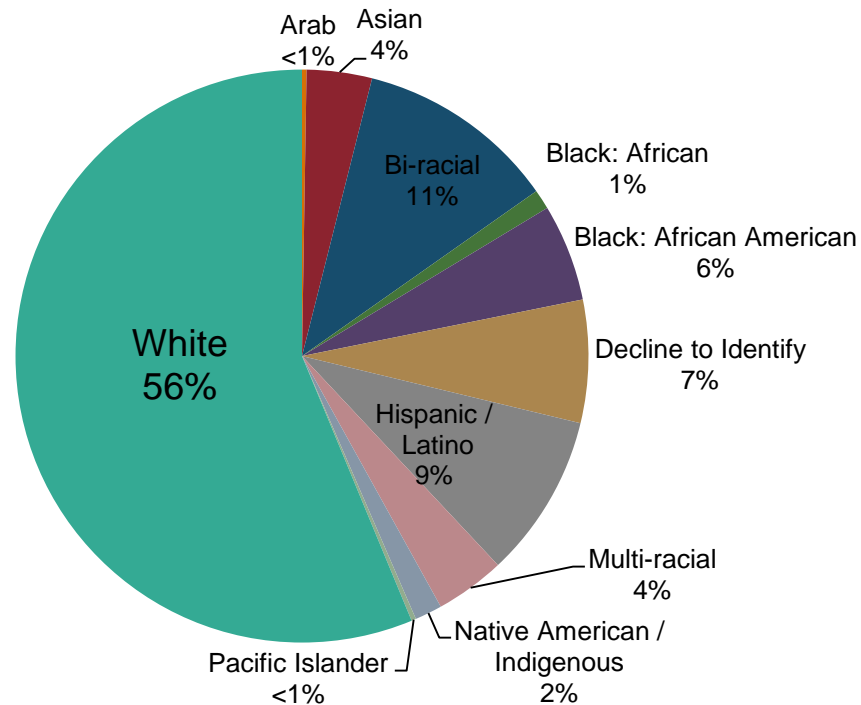
AND

- When the process is unfair or has not been followed correctly
- When the relationship between the adults directly affecting the student's outcome is destructive, hostile, or combative and/or reflects an imbalance of power

How are we doing on reaching those students & families with less access?

Race/Ethnicity of Students Served by OEO

Language Access - % needing interpretation: 4%

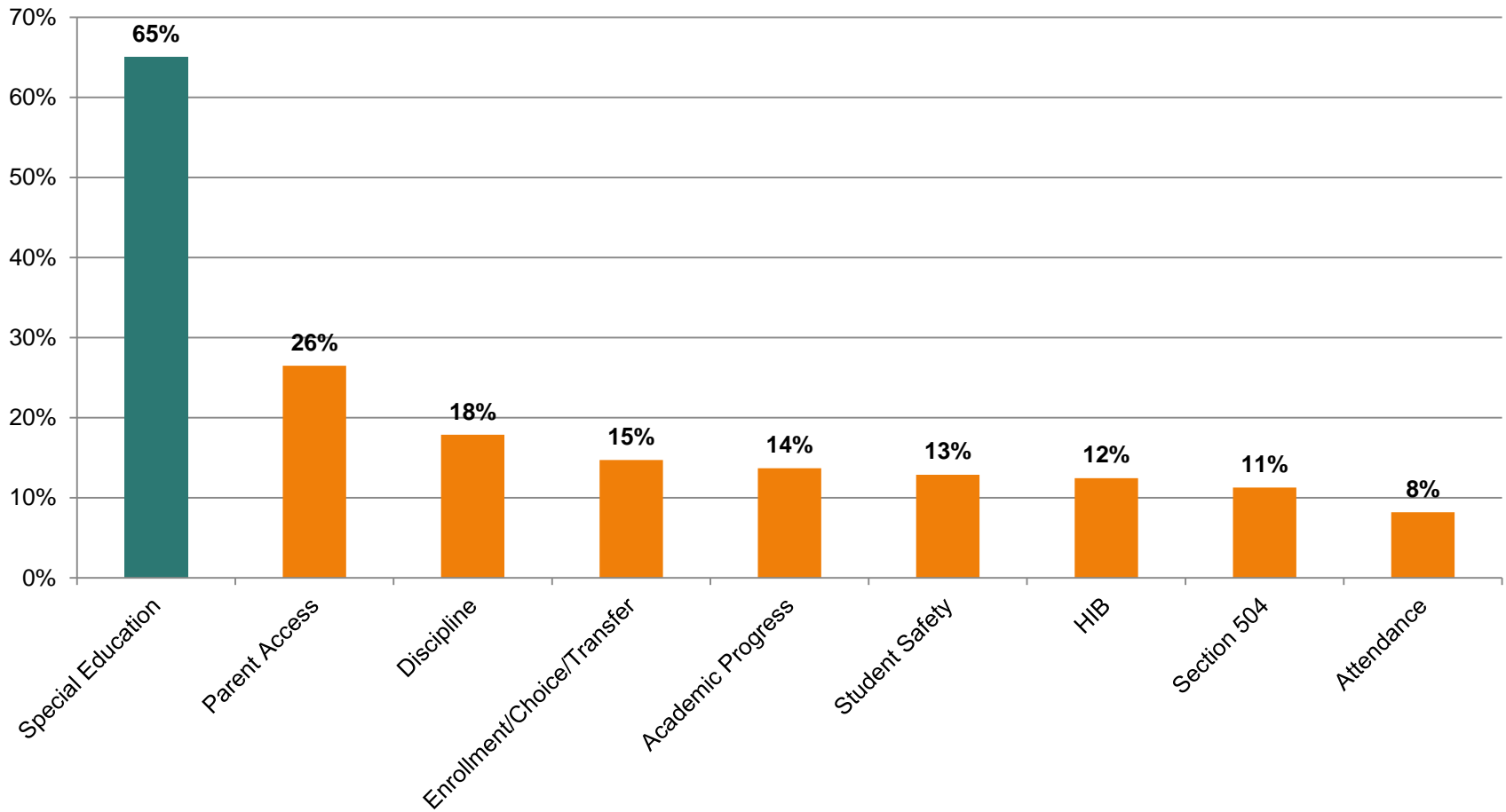


Most Common Issues - across all areas of education

- Special Education, including 504 Plans
- “Parent Access”
- Discipline/suspension
- Enrollment & Transfers
- Academic Progress
- Student Safety
- Bullying/harassment (HIB)
- Attendance & Truancy
- Discrimination

Distribution of Issues/areas of concerns

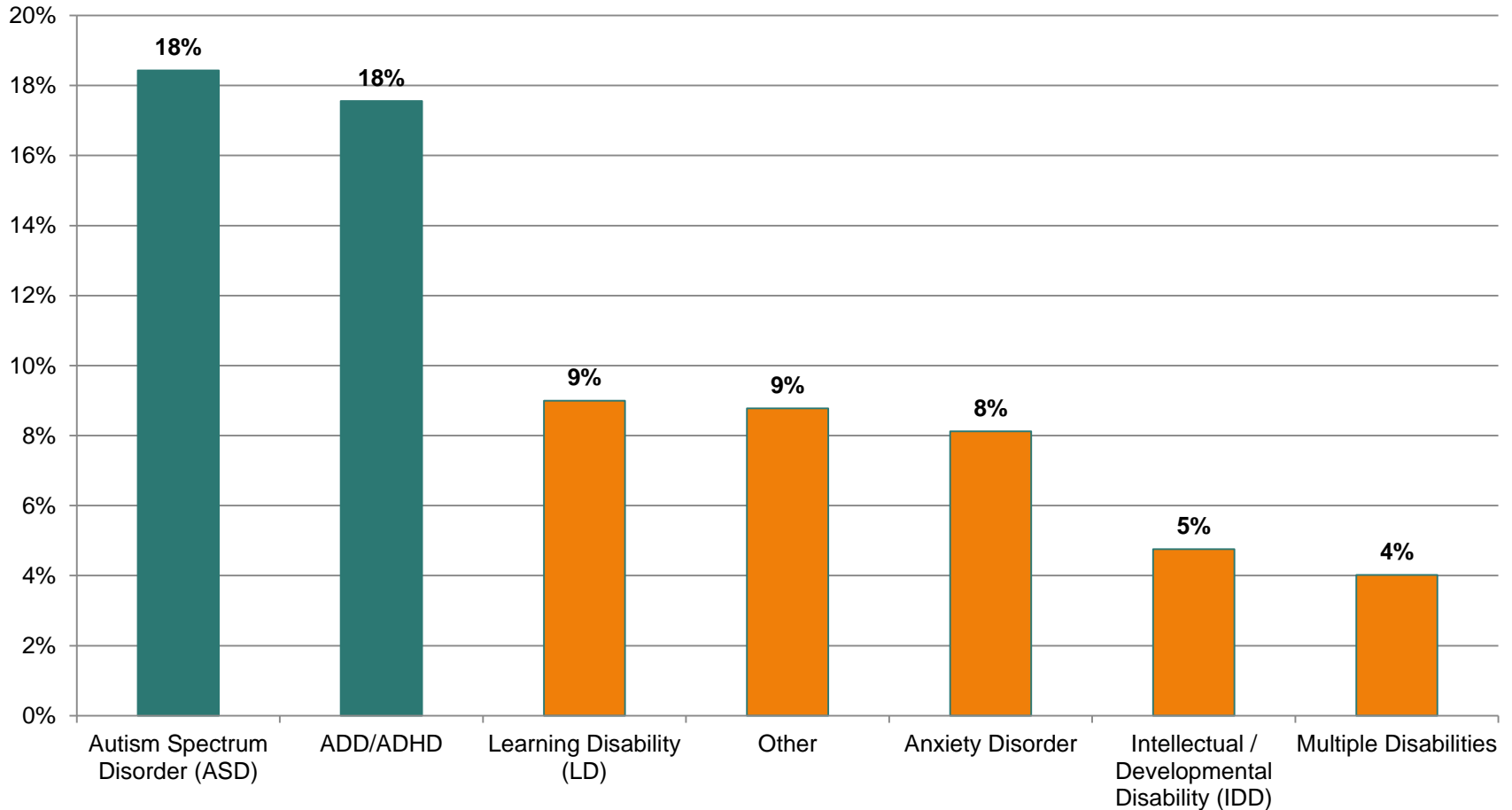
Case Issues



Special Education Cases

-- by disability category

Student Disability



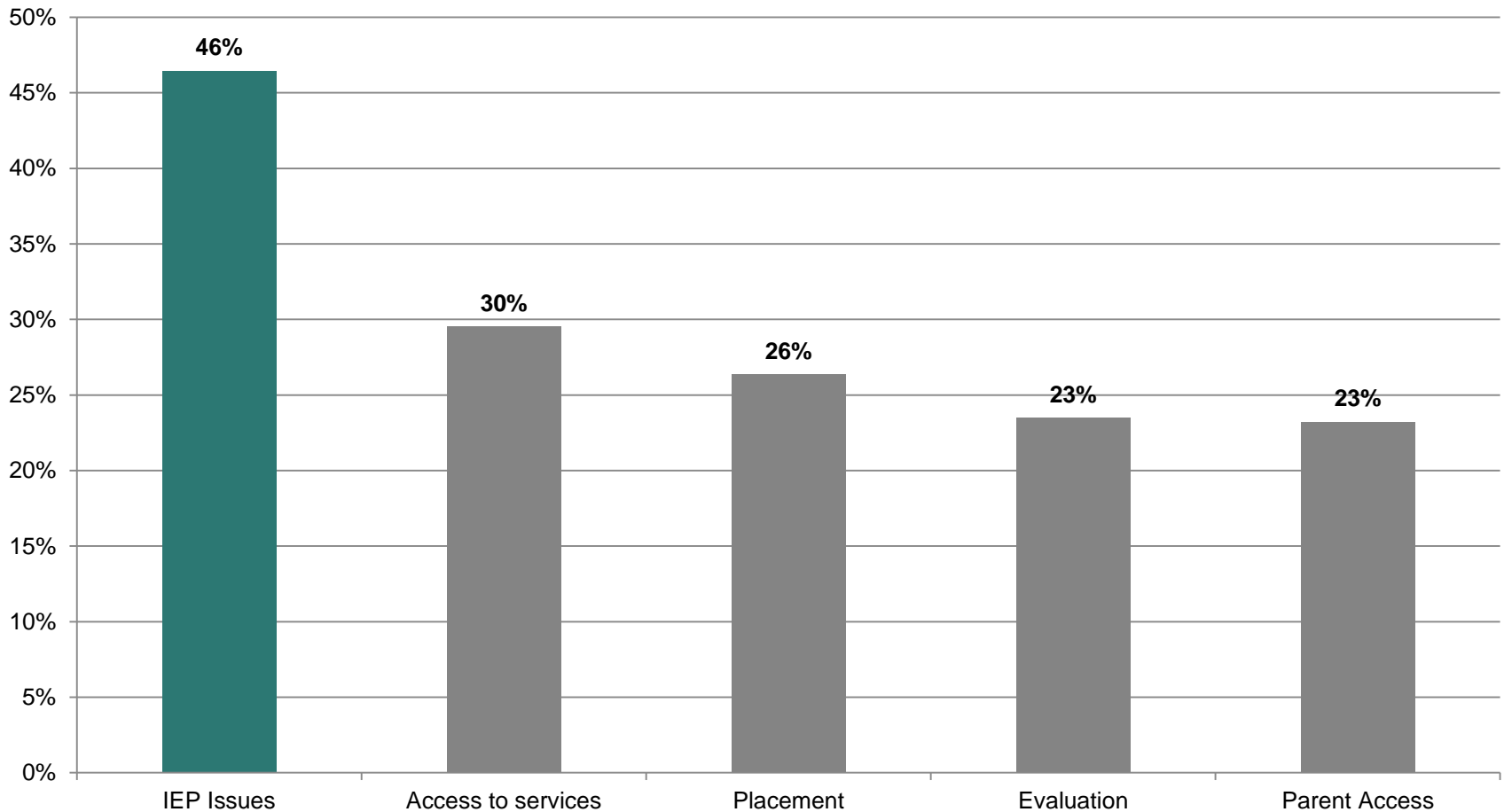
Factors contributing to SPED disputes

The most common underlying factors resulting in disputes affecting students were:

- Communication breakdown between parents and school officials.
- Lack of or inadequate school response
- Families not understanding the school system
- School staff not following federal, state or local policies with accuracy and/or consistency.

Where in the IDEA/504 process do we see the most conflicts?

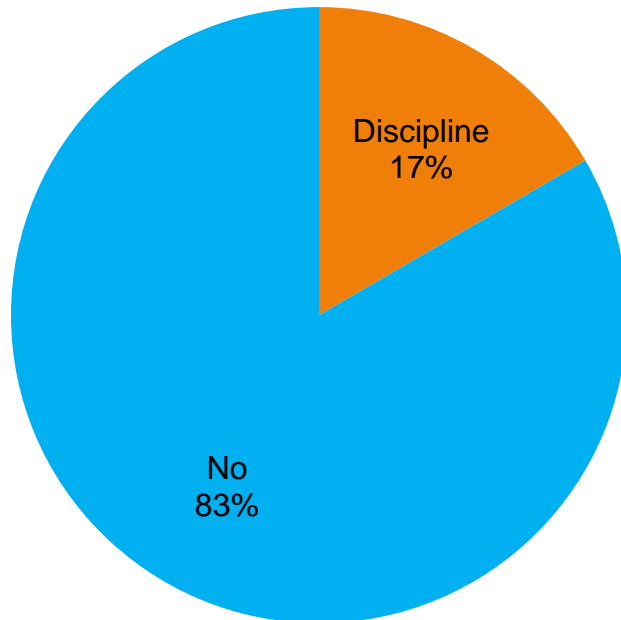
Special Education/504 Cases



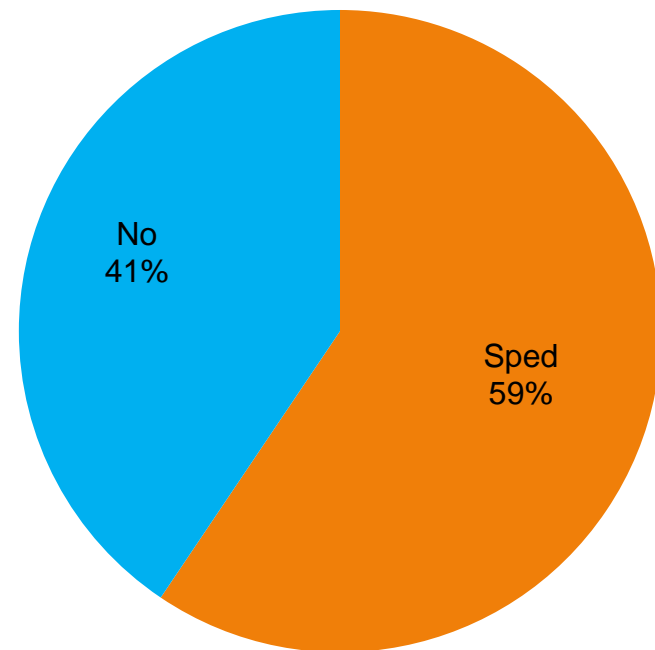
Significant Overlap between SPED and Discipline

(But note: 2013-14 data didn't capture entire effect - overlap is even more pronounced)

Almost 20% of Sped Cases also involve Discipline issues



Almost 2/3 of Discipline Cases also involve SPED concerns



Systemic factors driving SPED disputes

- ‘Parent participation’ procedures not followed
- Lack of timely, comprehensive, quality evaluations.
- Inadequate connection between 1) evaluation results and 2) statement of needs/goals and 3) services being provided.
- Staff not sufficiently trained or skilled to effectively implement IEP services - especially around behavior.
- Lack of staff resources and time in schedule to provide supports with consistency and fidelity, or to gather data
- Health plans that don’t reach educational issues.
- Behavior issues that are part of disability, but not addressed by IEP or 504 plans.
- Services not provided due to cost.

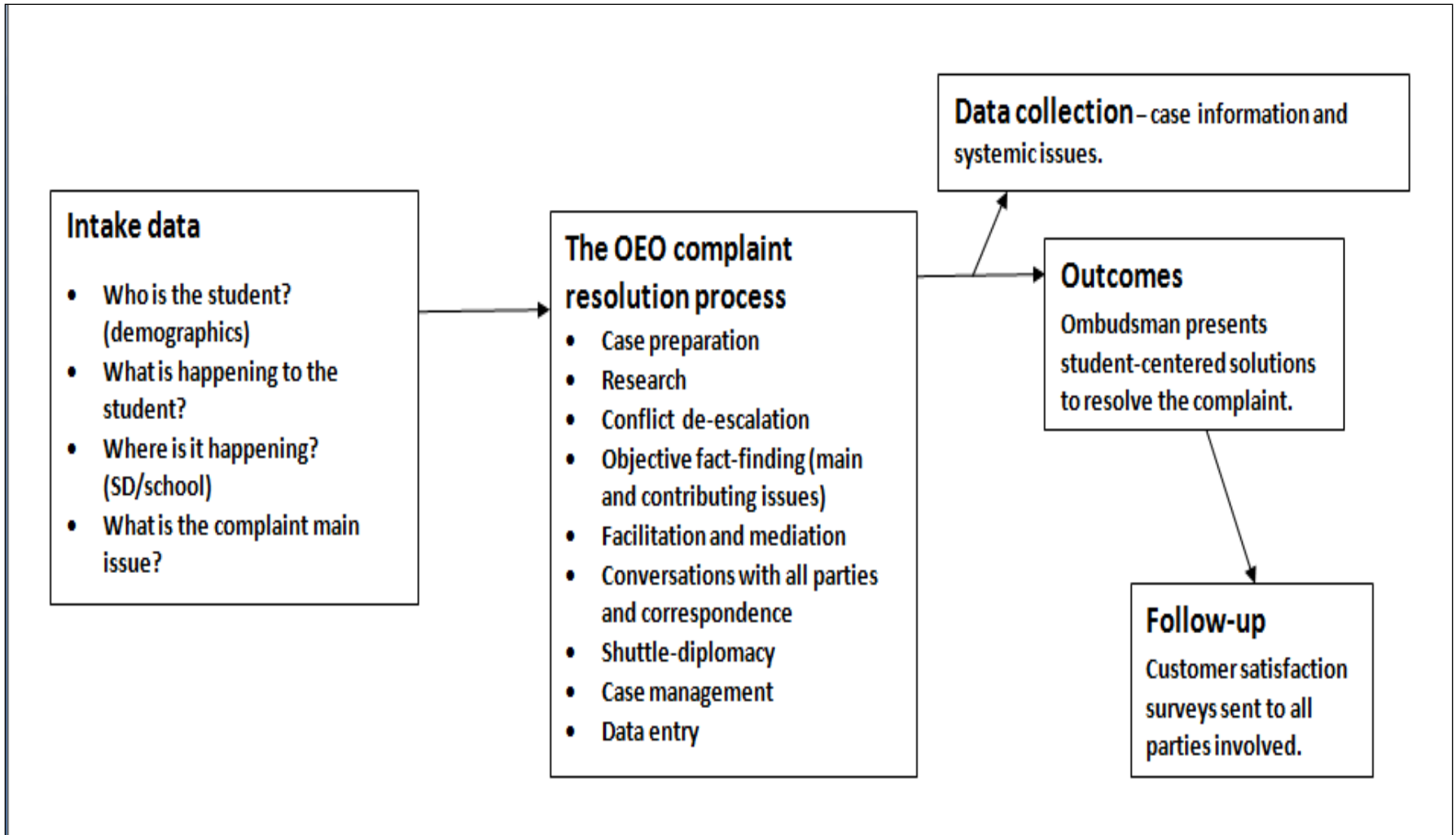
How do we deliver services?

Two (2) Main Levels of OEO Service

- 1) Information, education, referral, consultation, resources
 - Help understanding problem and navigating system, devising strategy for addressing problem and finding resolution.
 - Equip parent with manuals and practical “toolboxes” to enable some parents to work independently.

- 2) Direct “intervention” between student/family and school system
 - Help contacting, telephone intermediary, triangulation, mediation
 - Facilitation of communication, negotiation, finding agreement and resolving issues

Complaint Resolution Process - at a glance



What Common DR tools does OEO use?

“Resolve complaints through alternative dispute resolution techniques”

- Reflective listening
- Restatement & Reframing
- Supporting informed participation
- Limited evaluation
- Leveling of playing field
- Researching options
- Reaching out to other parties
- Telephone Intermediary
- Facilitating negotiations
- Reality testing
- Communicating positions and bottom lines
- Explaining alternatives to negotiation
- Meeting facilitation
- Shuttle mediation
- Limited open-session mediation
- Clarifying interim agreements & next steps

On a limited basis...OEO has also provided:

Formal Mediation

- May be at request of either parent or district.
- Both parties must agree.
- Generally where parent trusts OEO – different obmuds assigned to mediate who hasn't worked with this parent before.
- Have parties sign more formal Agreement to Mediate.

School-wide Mediation

- To address complex issues affecting entire or part of school community.
- Usually requested by district, after agreement with all parties.

How “upstream” is OEO?

OEO Ombuds will generally – but not always or entirely -- step back from the process if/when:

- 1) Parent hires an attorney – why?
 - Less room for Ombuds to be effective – process likely to turn more adversarial, districts less open
 - Creates some redundancy in terms of advocacy/support

- 2) During pendency/investigation of Citizen’s, Due Process &/or OCR Complaints – why?
 - Long time frames
 - Difficult for OEO to work between parties at this point
 - Negotiation is more structured
 - Other DR and legal professionals overseeing the process

- 3) Ombuds determines dispute to be unsuitable for ombuds approach.
 - Ombuds tools exhausted.

How does OEO approach key components of the general DR process?

DR process

- 1) Intake =
- 2) Explain Neutral 3rd party role =
- 3) Confidentiality =
- 4) Party Opening Statements =

OEO

- 1) First level intake/ screening system
 - ensure meets criteria
 - refer to toolboxes
 - outside resources
- 2) Ombuds introduction to consult
- 3) Legal release forms
 - Permission to Contact form
 - FERPA release
- 1) Telephone Intermediary or Shuttle-style
 - Gathered sequentially.

OEO Approach to general DR Tools Cont

DR Process

- 4) Leveling the playing field =
- 5) Creating common base of information =

OEO

- 4) Parents as informed participants:
 - how SPED laws and processes work
 - how to navigate the system.
- 5) No information gaps on either side
 - ensuring all parties have copies of all documents;
 - encouraging IEEs where necessary
 - Encouraging sharing of outside evaluations, medical information

OEO Approach to general DR Tools Cont.

DR Process

- 6) Facilitating Negotiations =

- 7) Supporting Agreements =

OEO

- 6) Reducing communication gaps
 - Helping parties to reframe
 - Summarizing progress
 - Helping parties to communicate when they will stop using informal process.

- 7) Durable agreements:
 - Suggesting writings be made
 - helping identify next steps and timelines.

OEO Approach to general DR Tools Cont.

DR Process

- 8) What if agreement is not reached? =

Formal Dispute Resolution

OEO

- 8) BATNA & WATNA

Helping parent understand more formal dispute resolution options:

- Facilitated Meetings/IEP
- Mediated IEP
- Citizen's Complaint, via State Education Agency
- Due Process Complaint via Office of Admin Hearings

How does OEO work “upstream” on IEP and 504 Issues?

- Identify and address any gaps in parents’ understanding of relevant Special Education laws and regulations.
- Documents review
 - Is the IEP written to meet the student needs?
 - Is there adequate and available evaluation data to inform the process?
- Assistance in understanding the process, including spotting where the process has broken down and what steps are needed to repair it.
- Help communicating with school officials.
- Support in developing a strategy that includes both district and outside professionals in making progress and reaching resolution.

How do OEO's services relate to the more formal end of the SPED Dispute Resolution continuum?

DR Processes under IDEA

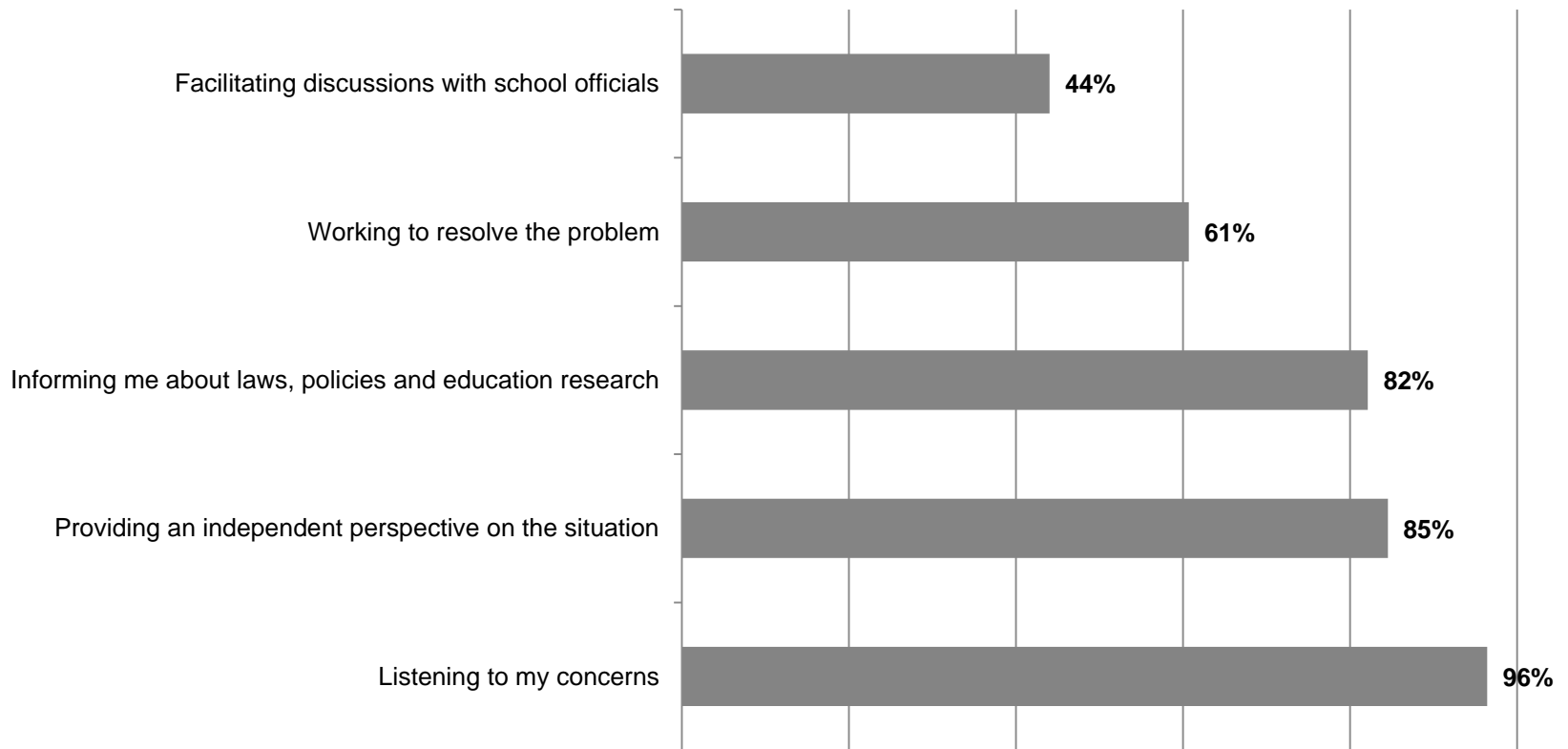
- Facilitated IEPs
- Mediated IEPs
- Manifestation Determination Meetings
- Resolution Meetings
- Citizen's Complaints
- Due Process Complaints
- Litigation
- Legislation

OEO Services

- Information about these options, including where and how to file
- Participate in IEP and MD Meetings at parent request
- Occasionally facilitate IEP meetings with consent of all parties
- Do not generally attend IEP or DP Mediations.
- Support parent to understand process and results
- Will participate in due process hearings at invitation of hearing officer(s).
- No role in litigation
 - **Relevant whether parent has capacity to effectively advocate or has retained attorney
- Restricted from lobbying - but can advise legislators and testify to inform process.

Value added?

Data from OEO's Customer Feedback Surveys:



Contact OEO

1-866-297-2597

www.oeo.wa.gov

Free Language Access services available

Download all publications & Reports free of charge

Print materials available in many languages

Contact Jennifer Harris

206-430-0246 direct

jennifer.harris@gov.wa.gov