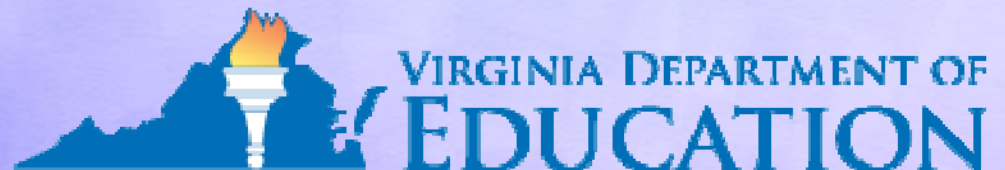


# ***Utilizing Data to Guide Compliance and Promote Dispute Resolution Effectiveness***

Office of Dispute Resolution and Administrative Services  
Division of Special Education and Student Services

CADRE 5<sup>th</sup> National Symposium  
October 26, 2011



# GOOD GRIEF!

**Indicator 15**

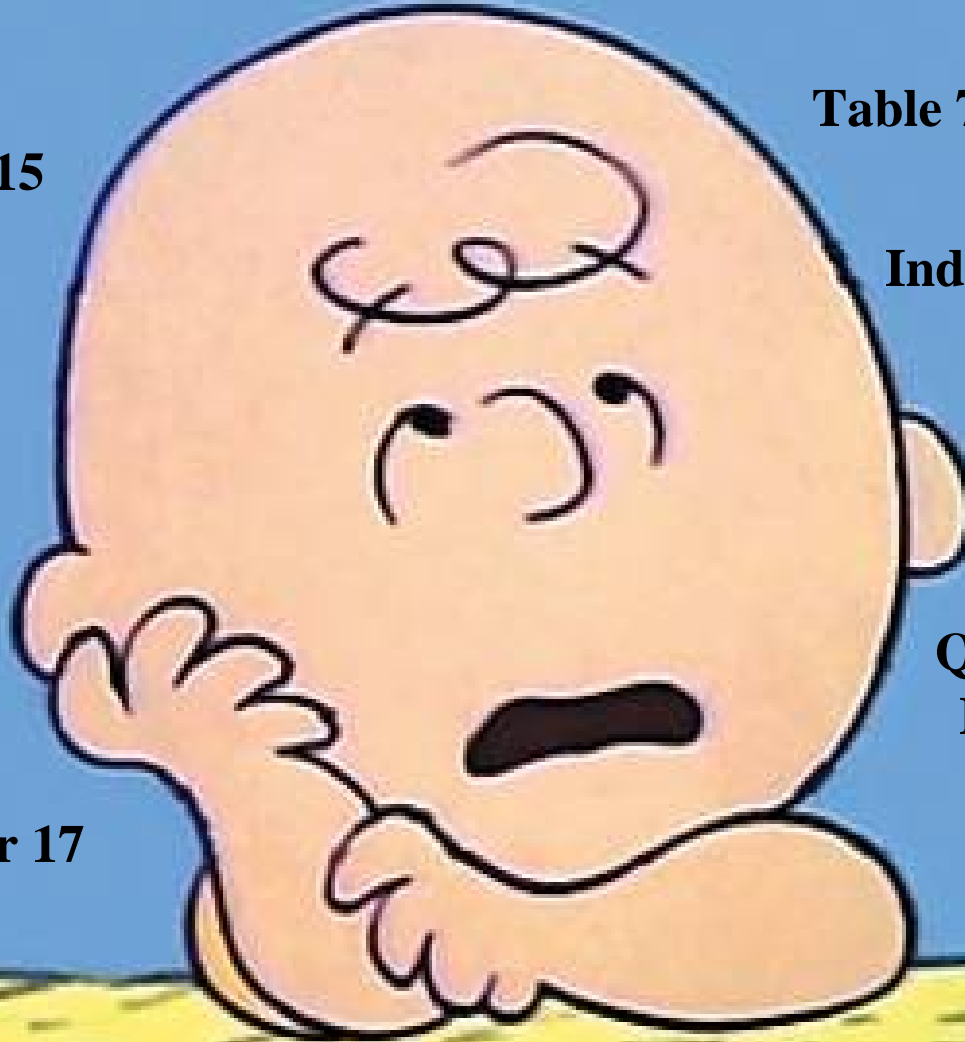
**Annual  
Reports**

**Indicator 17**

**Table 7**

**Indicator 16**

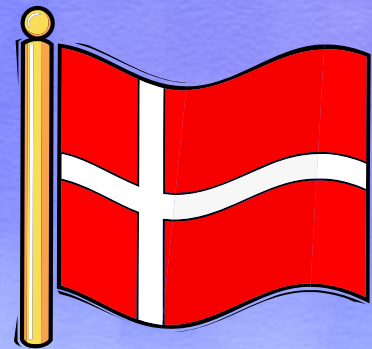
**Quarterly  
Reports**



# EXCERCISE

- Pick a whole number from 1 – 9
- Multiply that number by 9
- Add the sum together
- Subtract 5 from the sum
- Correlate your answer to a letter of the alphabet (i.e. 1= A, 2= B ... 10= J, etc.)
- Identify a country that begins with your letter
- Identify an animal that begins with the last letter of your country
- Identify a color that begins with the last letter of your animal

**HOW MANY OF YOU ARE  
THINKING ABOUT AN ...**



Collection and use of data is much like a magic trick. There is a significant amount of data that can be collected and the input has to be correct in order to achieve the desired outcome. **However,** when it comes right down to it – it really isn't magic at all, as long as the data input is accurate its construction, collection, and use should not leave you feeling like Charlie Brown.

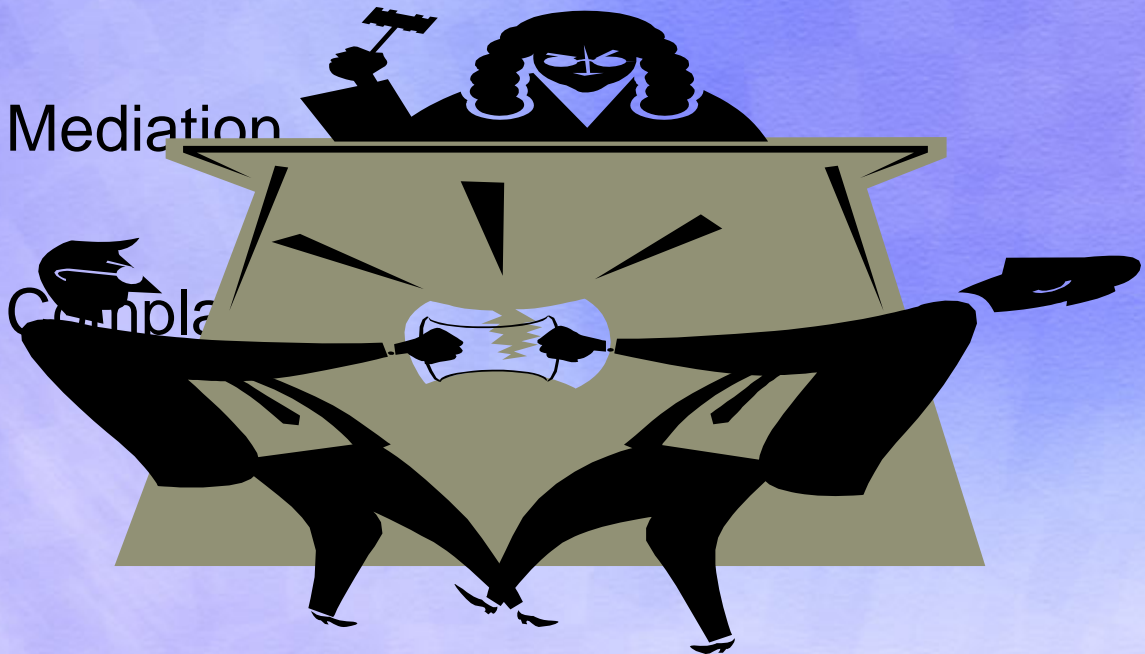


# VIRGINIA'S DISPUTE RESOLUTION PROCESSES

- Due Process

- Mediation

- Compla



# ORGANIZATIONAL CHART

Virginia Department of Education

Division of Special Education and Student Services

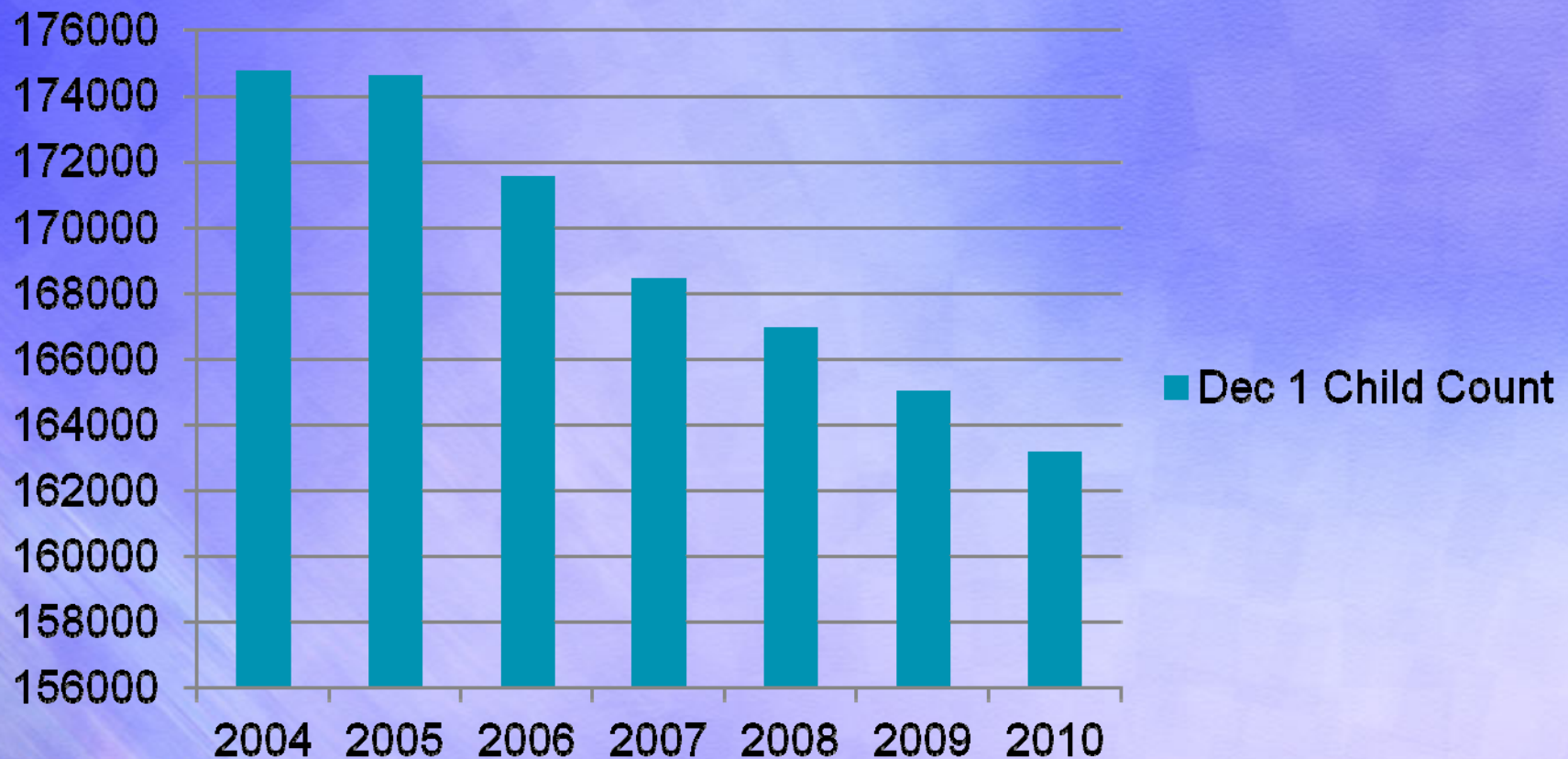
Office of Dispute Resolution and Administrative Services

## ODRAS Director

Coordinator of Complaints Services	Coordinator of Mediation Services	Coordinator of Due Process Services	Coordinator of Administrative Services	Secretary
Complaints Specialist			Administrative Services Specialist	Program Support Staff
Complaints Specialist				
Complaints Specialist (Part Time)				

# VIRGINIA POPULATION OF STUDENTS WITH DISABILITIES

## Dec 1 Child Count



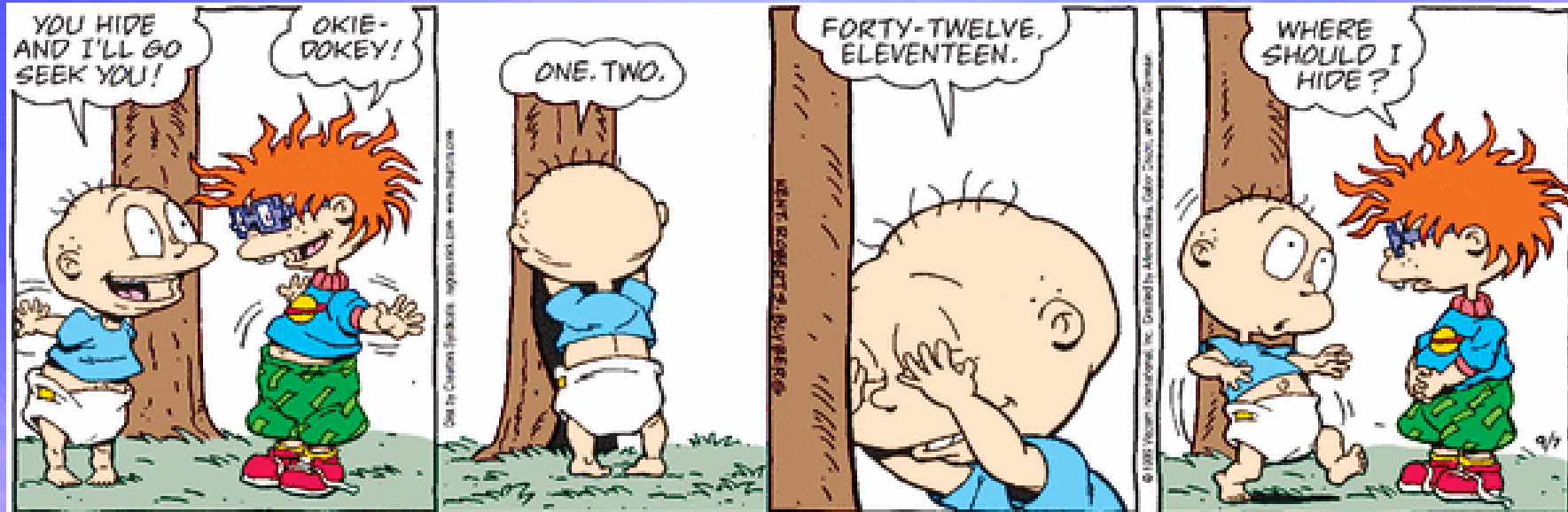


# Keeping track in tough times



Dispute resolution may seem to present unusual challenges. We must still track important events.

# Using the Right Data



It important that we focus on useful and accurate data that will affect the way disputes are resolved.

# Useful Data

- **Data that must be reported**
- **Data that affects actions taken in cases**
- **Data that merely promotes compliance**
- **Data that demonstrates changes are occurring**
- **Data that describes what has taken place**

# DUE PROCESS SERVICES



# Due Process Tracking

- The Virginia Department of Education uses two Data Collection tools
- We use a tracking Log or Spreadsheet (Previously demonstrated)
- We keep complementary handwritten lists of data
- At critical points the spreadsheet and handwritten lists are compared and reconciled to assure accuracy.

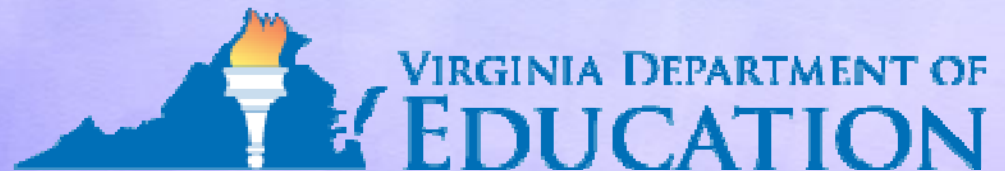


# Data Demonstration



# Focusing Data on a Problem Area

- Hearing Officers are to issue decisions in due process hearings within 45-days See, 34 C.F.R. 300.515; 8 VAC 20-81-210 Q.6.
- Since the passage of IDEA 2004, the Resolution Period precedes the 45-day timeline
- There may be adjustments to the 45-day timeline
- When the due process complaint is amended the timeline “begins again”



# Hearing Timeliness

- Virginia Hearings were historically outside the 45-day timeline—cases lasting a year or more
- Hearing Officers were not granting continuances in an effective manner (compliance with VA Regulations)
- Orders granting continuances were not in a format acceptable to OSEP
- In March 2005, OSEP came to Virginia for a Verification Visit





# Visit Result

- One of the areas of non-compliance cited by OSEP was failure to meet the 45-day timeline in due process cases.
- OSEP stated, “... **VDOE’s log showed that the State ... did not meet those requirements for nine of the 65 requests.**”
- This was considered a critical area that needed to be addressed by VDOE.
- VDOE presented strategies to OSEP to address this area of noncompliance.



## **VDOE's strategies to insure timeliness**

- **1.** Provision of coaching and ongoing training to the hearing officers
- **2.** Coordination between Coordinators of due process and mediation to avoid delay
- **3.** Formation of a workgroup to review policies, practices and procedures
- **4.** Review of state's hearing timeline data to look for patterns
- **5.** Review of Applicable case law
- **6.** Funding for development of a Guidance Document

## OSEP's Response

- “OSEP accepts these strategies for ensuring compliance with the requirements ...”
- OSEP took the position that VDOE must insure that the corrective action was undertaken within one year
- OSEP required that, “The State must submit data and analysis documenting such compliance ...”

# Data Became Essential

- OSEP clearly required pertinent data to be presented
- Not only would data be evidence of compliance but it became a tool to solve the compliance problem



# Report to Hearing Officers

- We reported to the hearing officers OSEP's findings regarding the 45-day timeline.
- VDOE explained the critical need to resolve this issue.



# Report to Hearing Officers

September 22, 2005

## MEMORANDUM

TO: Virginia Department of Education Special Education Hearing Officers

FROM: Ronald P. Geiersbach, Coordinator of Due Process Services  
Office of Dispute Resolution and Administrative Services

RE: U. S. Department of Education, Office of Special Education and Rehabilitative Services, OSEP Monitoring Report Dated May 1, 2005

# Report to Hearing Officers

OSEP stated that VDOE must bring Virginia's due process system into compliance with the 45-day timeline requirement. OSEP is requiring VDOE to ensure that the 45-day timeline is met as soon as possible. The State must submit data and analysis documenting such compliance, no later than 30 days following a one-year timeline.



# Some Strategies for Improved Results

- Pre-hearing Conferences
- Set the hearing date at an early point in the process – Virginia requires that the hearing date be set in 5 days from the receipt of the case
- Resolve preliminary issues as soon as possible so that the parties can focus on the hearing steps earlier in the process— We encourage--early and often--for pre-hearing conferences
- Emphasize the need to complete the hearing within the 45-day timeline to the parties
- Require specific facts that demonstrate the need for an extension of the timeline in the best interest of the child



# Achieving Success



# 45-day Study Group

- It became essential to study the timeline procedures in place and to determine what changes might improve the hearing officers implementation of the 45-day timeline
- The study group reviewed pertinent case law and procedural requirements as part of the process
- The study group began drafting a guidance document to provide effective assistance to hearing officers



# Guidance Document

- The Guidance document was issued in 2008 after several meetings and drafts were circulated
- Five hearing officers served on the study group
- Art Cernosia, Esq. served as a consultant on the project
- The Guidance document is posted on the VDOE website
- The timeline is specifically described so that hearing officers and hearing participants have this information in a clear and concise format



# Using the Guidance Document

- Review with hearing officers
- Discussing the time line and ways in which the Resolution period may be extended
- Discussion of complaint amendments
- Review of procedure for extensions of the 45-day timeline
- Each of these steps usually involves reference to due process spreadsheet

# Techniques in the Document

- **Obtain needed information quickly**
- **Manage Mediation—obtain extension of 30 day resolution period if requested**
- **Take steps to move the case as soon as possible**
- **Inform the party of your practices- send letter**
- **Specifically confirm an expectation that there will be no need to extend the 45-day timeline**
- **Note that receipt of transcript is not a prerequisite to drafting an opinion**
- **Aggressively use the time provided by**

# Hearing Officer Reviewer



- Another technique that VDOE adopted was to have a reviewer at each PHC and hearing
- The reviewer is merely an observer and provides a report to VDOE
- The reviewer also reviews the report with the hearing officer after each hearing
- The discussion is to assist the HO in improving case management
- The reviews have also highlighted the need to manage the case in the 45-day timeline
- The reviewer's presence has also assisted in managing outbursts at hearings

# Reviewer Reports

If any extensions were granted to the 45-day timeline, did the request for the extension come from one of the parties?

Yes

No

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If an extension was granted, was it in the best interest of the child?

Yes

No

---

---

Is the extension granted for cause, and not for attorney convenience?

Yes

No

# Data Outcome

School Year	Hearing Requests	Exceeding 45-Day	Change
2002-2003	100	46	
2003-2004	127	46	0
2004-2005	107	31	-15
2005-2006	98	12	-19
2006-2007	69	0	-12
2007-2008	87	2	+2
2008-2009	81	3	+1
2009-2010	79	1	-2
2010-2011	65	1	0



# Timeline as Critical Data

- We continued to share this data with the hearing officers so they could understand the critical nature of the deadline in the case.
- This information was shared with the parties so they would understand the timeline in the case.



# Working as a Team

- VDOE's sharing of data and information served to resolve this issue. When the information was made available to the hearing officers and in turn communicated to the parties the data led to a teamwork solution.



- The case is managed with an understanding of critical data.

# Annual Report

## **PART I DUE PROCESS HEARING SYSTEM**

- o Baseline Data

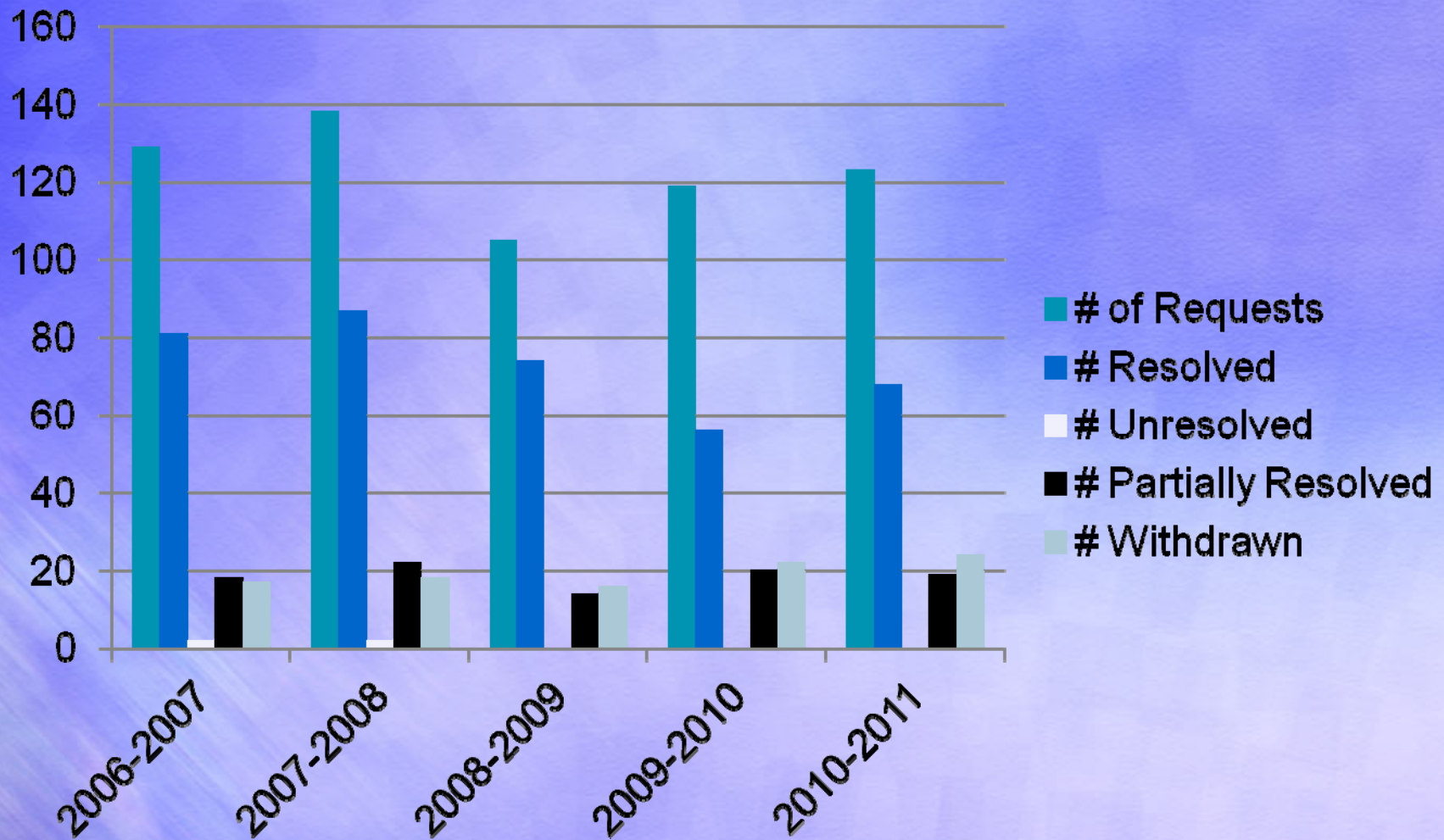
- o Hearing Officer Performance

- Management of Hearings
- Decisions
- Managing the 45-Day Timeline

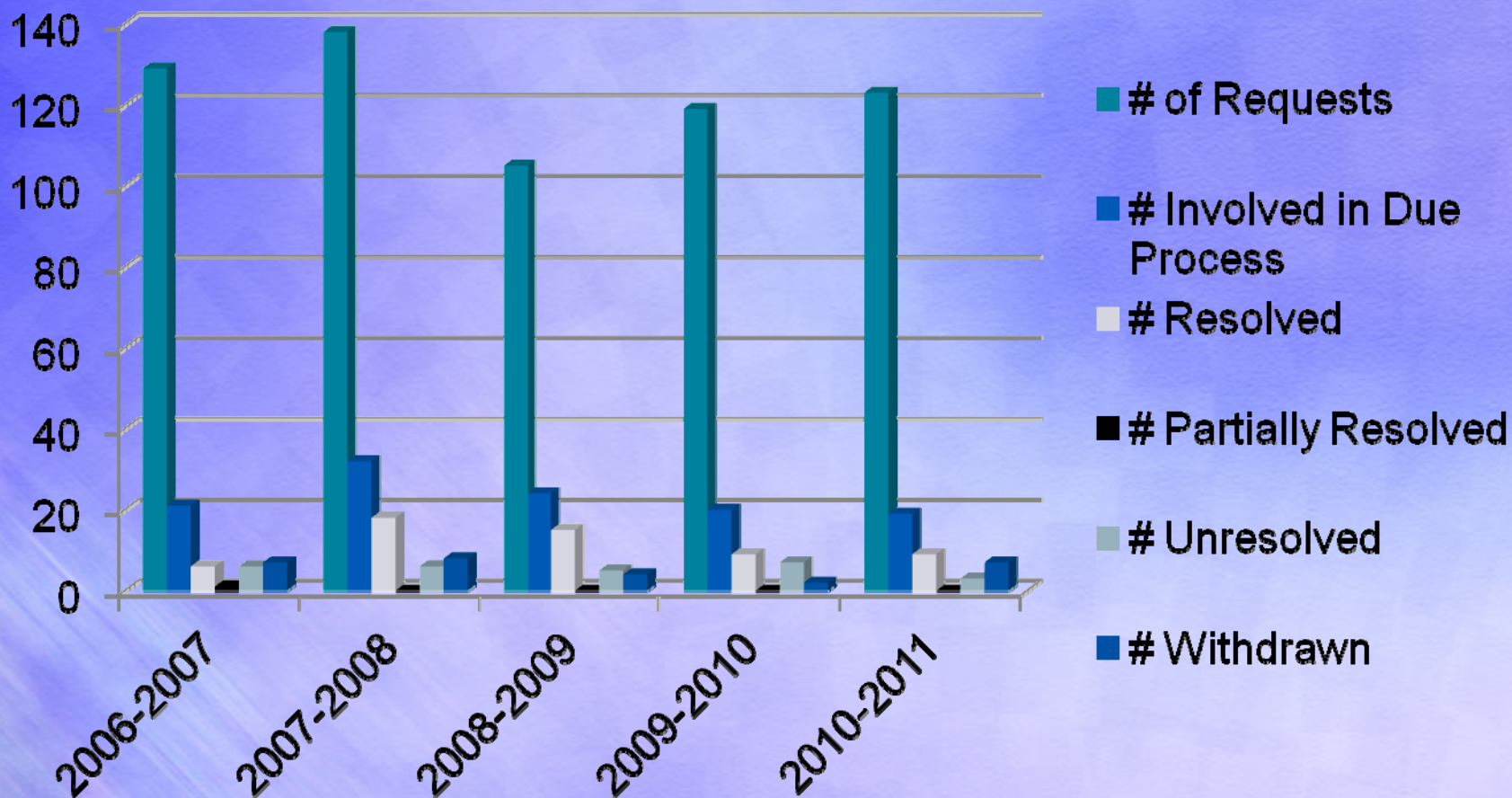
# MEDIATION SERVICES



# FIVE YEAR TREND IN MEDIATION SERVICES



# MEDIATIONS INVOLVING A DUE PROCESS HEARING



# COMPLAINTS SERVICES



# COMPLAINTS SPECIALISTS RESPONSIBILITIES

- Assigned by regions to process complaints and inquiries
- Attend regional meetings
- Collaborate with mediation and due process coordinator
- Provide technical assistance to LEAs and the general public (advocates, attorneys, parents, etc.)
- Respond to inquiries made through elected officials (i.e. Governor, Secretary of Education, Superintendent of Public Instruction, State/Federal representatives, etc.)

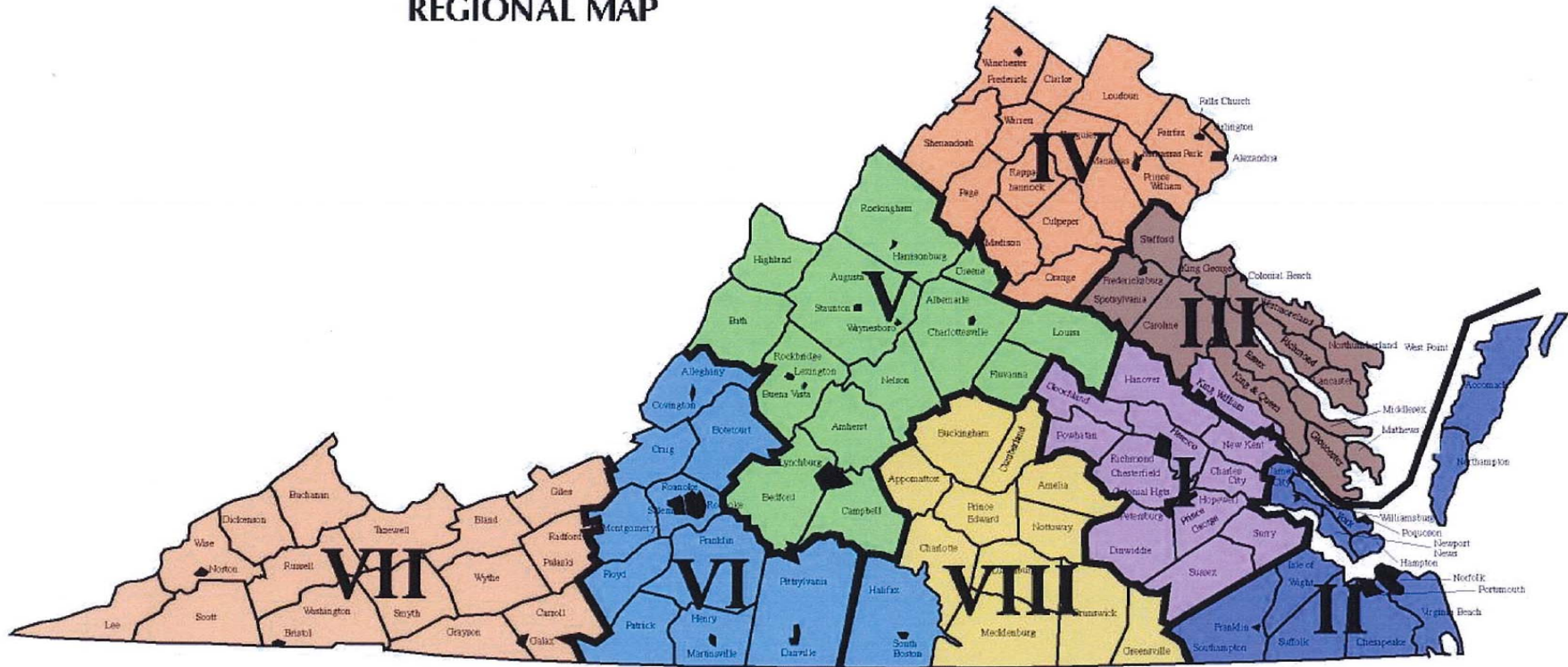


# COMPLAINTS SPECIALISTS RESPONSIBILITIES (Continued)

- Provide training on all aspects of special education laws and regulations to LEAs and others as requested or deemed necessary as part of corrective action
- Participate in Federal Program Monitoring reviews
- Assist each other

# REGIONAL ASSIGNMENTS

## VIRGINIA DEPARTMENT OF EDUCATION REGIONAL MAP



# ODRAS REGIONAL ASSIGNMENTS

## Assignments when fully Staffed

Regions I and VIII

Regions II and III

Regions IV and V

Regions VI and VII (Part Time)

## Current Assignments

Regions I , II, and VIII

Regions III, IV, and V

Regions VI and VII (Part Time)

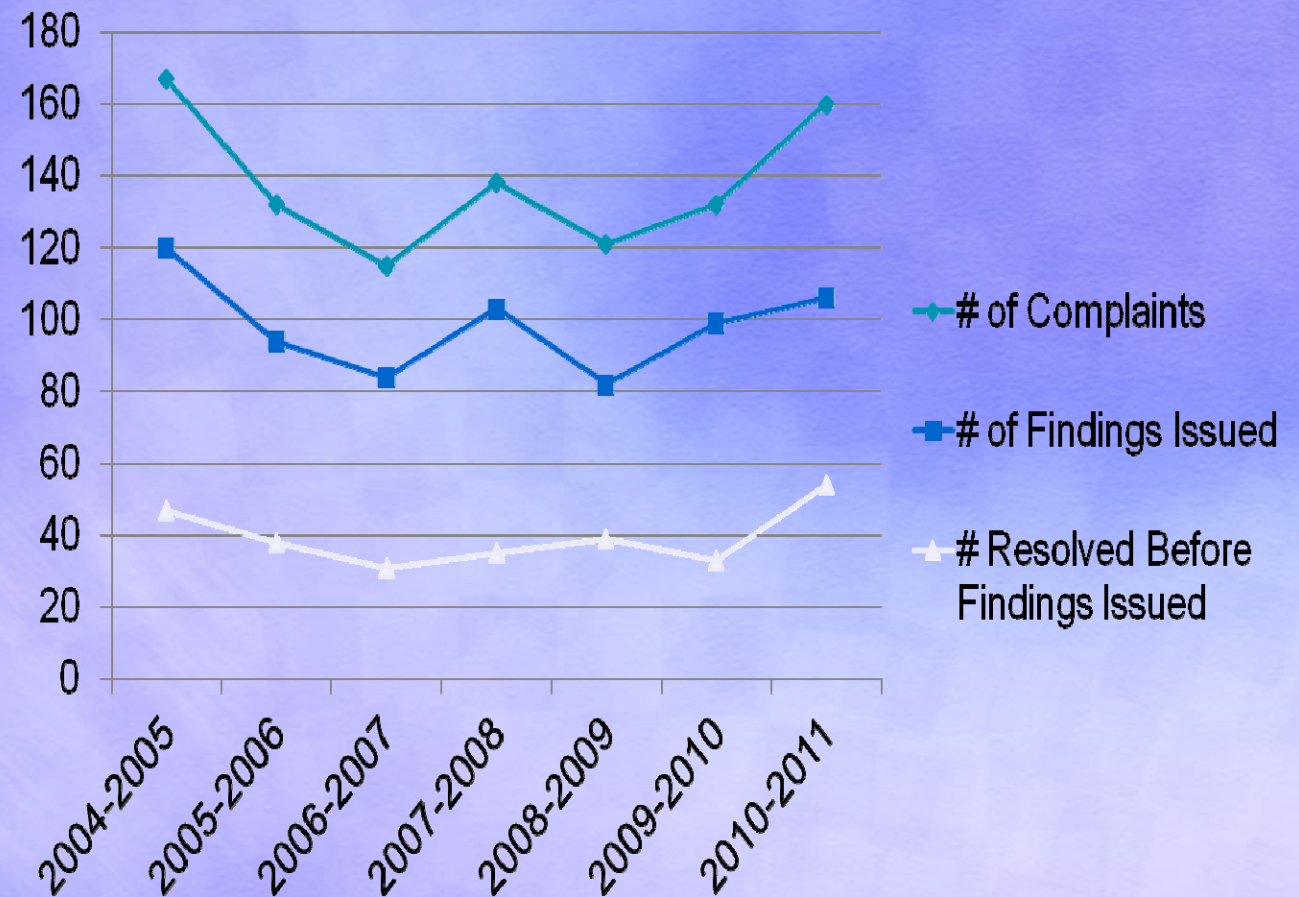
# Assignment to Regional Team

- Office of Dispute Resolution & Administrative Services (ODRAS)
- Office of Special Education Instructional Services (SEIS)
- Office of Federal Program Monitoring (FPM)
- Office of Instructional Support & Related Services (ISRS)
- Special Education Director – LEA Representative
- Technical Training and Assistance Center (TTAC)

# **Other Offices with Whom Complaints Specialists Work to Resolve Concerns**

- Office of Student Services (OSS)
- Special Education Advisory Council (SEAC)
- Advocacy Groups
- Attorneys
- Coordinator of Due Process Services
- Coordinator of Mediation Services

# SEVEN YEAR TRENDS IN COMPLAINTS PROCESSING



# Why Do We Collect Data

- Annual Reporting
- Quarterly reporting
- Inquiries from Director
- Inquiries from Parents, Advocates, Other Consumers
  - General inquiries
  - FOIA requests
- Request from Superintendents
  - Internal Data
  - Comparative Data
- Corrective Action Plan Development
- Identifying Training Needs (Local or Regional)



# Why Do We Collect Data (Continued)

- Ready means of tracking complaint activity
  - Processing
  - CAP
  - Appeals
  - CAP Verification



**TO MONITOR AND ENSURE COMPLIANCE  
WITH MANDATED TIMELINES**



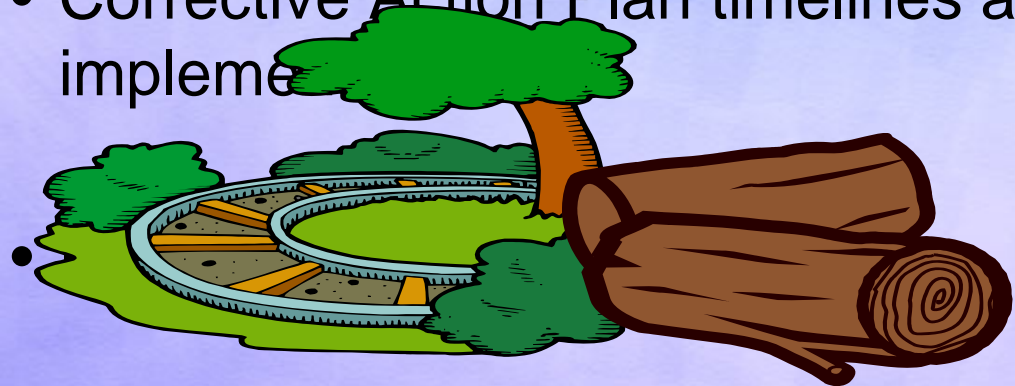
# Tracking of Extensions

- Original Letter of Findings Due Date
- Newly Established Letter of Findings Date
- Reason for Extension
  - Exceptional Circumstances
  - Request of the Parties
- Number of Days Extended
  - Initial
  - Subsequent
- Letter of Findings Mail Date
- Total Number of Days Extended



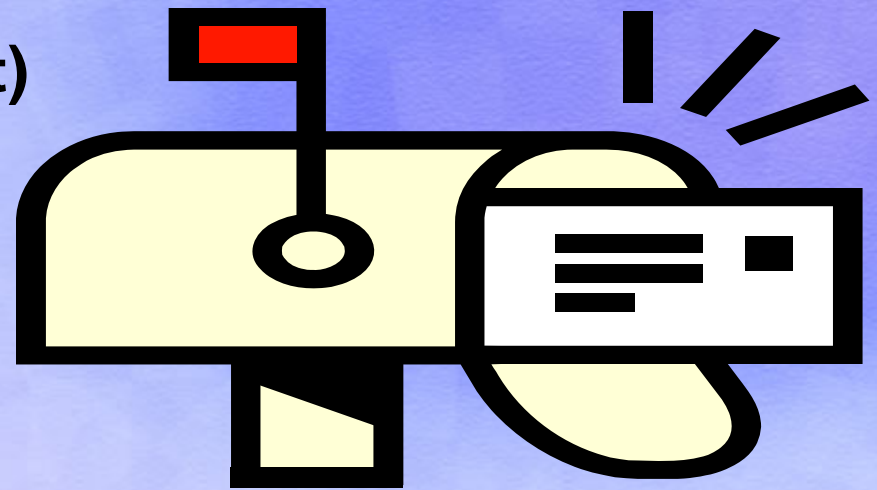
# Complaints Tracking Log

- Utilize one tracking log for each year which contains three spreadsheets for tracking specific elements:
  - Notice of Complaint (INIT) and Letter of Findings (LOF) timelines
  - Corrective Action Plan timelines and implementation



# Notice of Complaint (INIT) and Letter of Findings (LOF) Data Elements

- Case Tracking Number
- Student's Name (Last, First)
- LEA
- School
- Region
- Complaint Case Manger
- CAP Implementation Case Manager
- Date Complaint Received
- INIT Due Date
- INIT Mail Date



# Notice of Complaint (INIT) and Letter of Findings (LOF) Data Elements (Continued)

- LEA Response to Complaint Due Date
- LEA Extension of Response to Complaint Due Date
- Date LEA Response to Complaint Received
- Early Resolution Letter Due Date
- Complaint 60 Day Due Date
- Complaint Extension Due Date
- Number of Days Extended
- Reason For Extension
  - Exceptional Circumstances
  - Request of the Parties



# Notice of Complaint (INIT) and Letter of Findings (LOF) Data Elements (Continued)

- **Letter of Findings Mail Date**
- **Total Number of Days Beyond Original Due Date**
- **Complaint Appeal Received Date**
- **Appeal Reviewer Decision Due Date**
- **Appeal Reviewer Decision Received Date**
- **Findings Status (Remanded, Split, Affirmed, Reversed)**



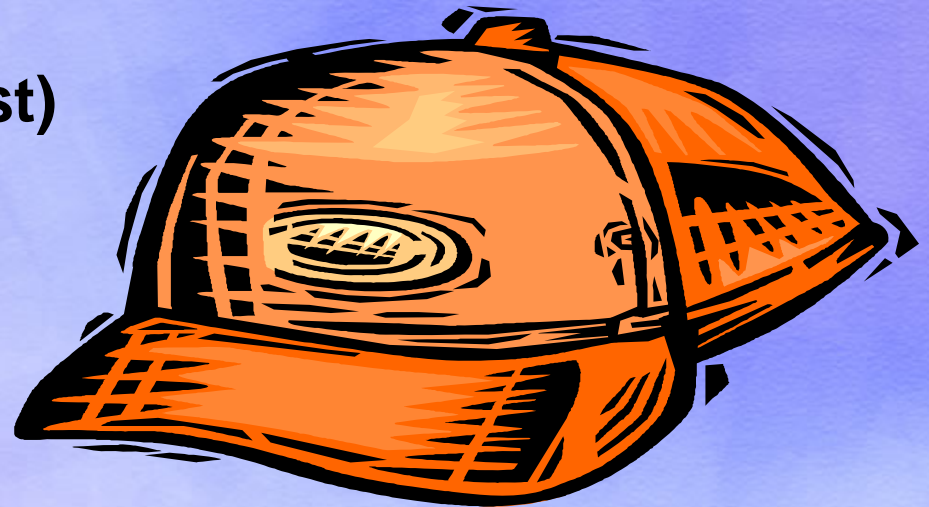
# Notice of Complaint (INIT) and Letter of Findings (LOF) Data Elements (Continued)

- **CAP Due Date**
- **CAP Received Date**
- **CAP Approval and Complaint Closure Date**
- **Complaint Investigation Notes**



# Corrective Action Plan (CAP) Data Elements

- Case Tracking Number
- Student's Name (Last, First)
- LEA
- School
- Region
- Complaint Case Manger
- CAP Implementation Case Manager
- CAP Due Date
- CAP Received Date
- CAP Approval and Complaint Closure Date
- CAP Implementation Verification Request Date



# Corrective Action Plan (CAP) Data Elements (Continued)

- LEA Implementation Response Due Date
- LEA Implementation Response Received Date
- Verification of CAP Implementation Closure
- In



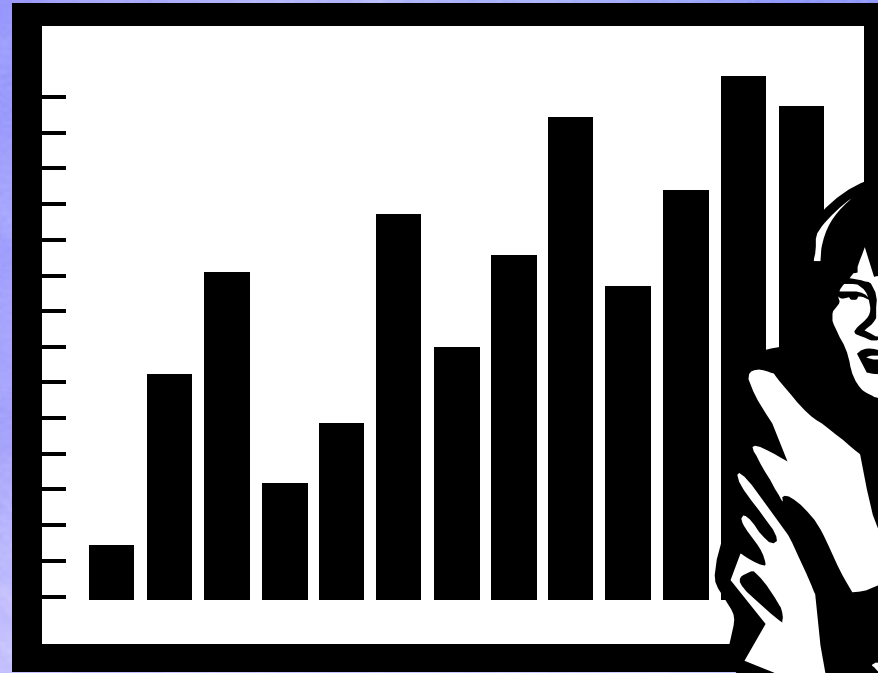


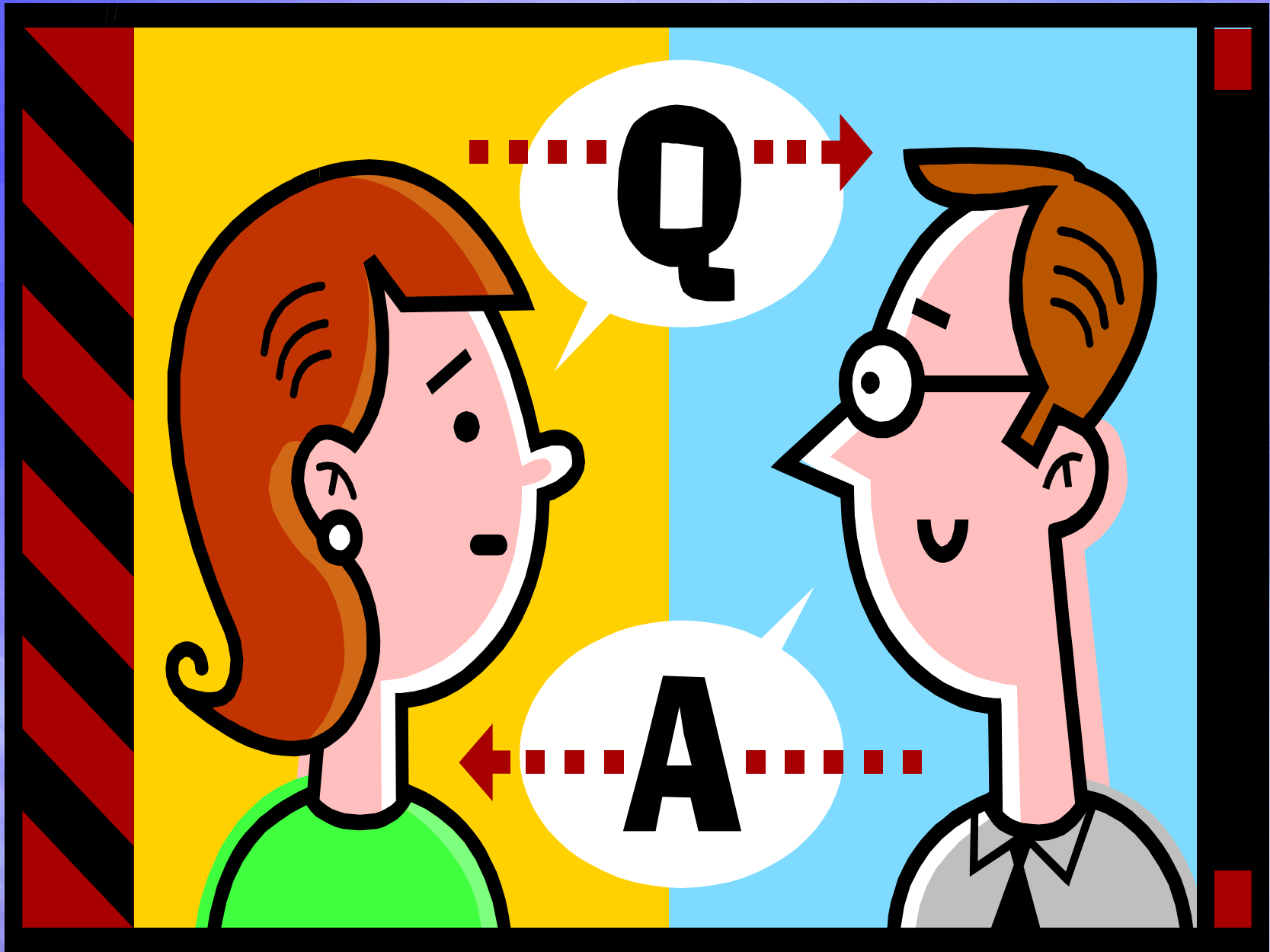
# Issues Bank Data Elements

- **Case Tracking Number**
- **Student's Name (Last, First)**
- **Complaint Case Manger**
- **CAP Implementation Case Manager**
- **LEA**
- **School**
- **Region**
- **Issue #1**
- **Compliance/Noncompliance**
- **Issue #2**
- **Compliance/Noncompliance**
- **Etc.**



# TRACKING LOG USE DEMONSTRATION





# **Office of Dispute Resolution and Administrative Services (ODR/AS)**

Division of Special Education and Student Services



## **Dr. Judith A. Douglas, Director**

Ron Geiersbach, Coordinator of Due Process Services

Patricia Haymes, Coordinator of Administrative Services

Dr. Suzanne Creasey, Administrative Services Specialist

Hank Millward, Coordinator of Complaints Services

Art Stewart, Coordinator of Mediation Services

Scottie Alley, Complaints Specialist

Kathleen G. Harris, Complaints Specialist

Sheila T. Gray, Administrative Coordinator

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[http://www.doe.virginia.gov/special\\_ed/resolving\\_disputes/index.shtml](http://www.doe.virginia.gov/special_ed/resolving_disputes/index.shtml)