

# Family income, child behavior factors in legal disputes about kids with autism

January 12 2015, by Sharita Forrest

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Special education professor Meghan M. Burke examined parents' use of procedural safeguards in resolving disputes with schools about the education provided to their children with autism. Credit: L. Brian Stauffer

Families whose children with autism spectrum disorders spend less than 20 percent of their time in mainstream classrooms are nearly twice as likely to resort to litigation, such as filing for due process hearings or mediation, when they disagree with school officials about their children's education, according to a recent survey of parents.

The Web survey, which gathered responses from more than 500 [parents](#) in 47 states and Washington, D.C., examined characteristics of [children](#) with ASD, their families and [family](#)-school relationships to identify factors that might predict parents' utilization of procedural safeguards to protect their and their children's rights.

More than 26 percent of parents who participated in the survey reported they had filed for mediation or due process hearings, two procedural safeguards that are available to them under the Americans with Disabilities Education Act.

However, families with incomes above \$100,000 were significantly more likely to take legal recourse compared with families who earned half as much, a disparity that special education researcher Meghan M. Burke of the University of Illinois called "very worrisome."

"That's a huge problem, to see that parents who come from low-income backgrounds have less access to these safeguards," said Burke, who conducted the research with Samantha E. Goldman of Vanderbilt University's Peabody College. "Due process and mediation are definitely last resorts for parents and schools to resolve their differences, but you want it to be an equitable resort. The playing field needs to be leveled so that lower-income families have access to pro bono and sliding-scale attorneys who can help them file, if that's something that they need to do."

Compared with peers who have other disabilities, disproportionate numbers of students with ASD wind up at the center of litigation because their parents and schools disagree about placement or other aspects of their education, Burke said.

While legal proceedings can be effective in helping parents and schools resolve disagreements, the average cost of a due process hearing is

estimated to be \$60,000 - an option beyond the financial means of many parents, especially low- or middle-income families whose pocketbooks may already be strained by out-of-pocket expenditures for educational and behavioral supports for their children with ASD.

Burke and Goldman also found links between the strength of parent-school partnerships and greater use of mediation or due process. However, Burke said long-term studies are needed to determine causality - whether parents who have great partnerships with schools are less likely to file due process, or if these relationships are eroded when parents seek the help of judges or hearing officers to resolve disputes.

Children who engaged in more internalizing behaviors, such as being withdrawn or anxious, were at greater risk of becoming involved in due process or mediation proceedings as well, the researchers found.

"These kids can easily fly under the radar, as opposed to children who engage in externalizing behaviors, such as physical and verbal aggression," Burke said. "This should shed some light on how we need to make sure these kids are being served appropriately."

The paper was published recently in the *Journal of Autism and Developmental Disorders*.

**More information:** The paper, "Identifying the Associated Factors of Mediation and Due Process in Families of Students with Autism Spectrum Disorder," is available from SpringerLink:

[link.springer.com/article/10.1...07/s10803-014-2294-4](http://link.springer.com/article/10.1...07/s10803-014-2294-4)

Provided by University of Illinois at Urbana-Champaign

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