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The Editorial Mission
The primary goal of the Journal of Special Education Leadership is to provide both practicing administrators and researchers of special education administration and policy with relevant tools and sources of information based on recent advances in administrative theory, research, and practice. The Journal of Special Education Leadership is a journal dedicated to issues in special education administration, leadership, and policy. It is referred journal that directly supports CASE’s main objectives, which are to foster research, learning, teaching, and practice in the field of special education administration and to encourage the extension of special education administration knowledge to other fields. Articles for the Journal of Special Education Leadership should enhance knowledge about the process of managing special education service delivery systems, as well as reflect on significant techniques, trends, and issues growing out of research on special education. Preference will be given to articles that have a broad appeal, wide applicability, and immediate usefulness to administrators, other practitioners, and researchers.
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Letter From the Editor

There are some historical questions that keep resurfacing as we continue to contemplate what it means to be leaders and administrators of special education. Some of the questions involve the development of professional roles and identities; others more pragmatically inquire into actual job-related responsibilities for administrators of special education. Although there is no one answer in this dynamic and continually evolving profession, one only needs to observe current trends to notice increasing challenges. These challenges include changes in how we think about providing services to students with disabilities, not to mention paying for those services. In a time of dwindling revenues, the competition for resources has grown exponentially. Given these challenges, the questions continue, such as how do special education administrators embrace an identity that is uniquely theirs with other competing general education administration demands? How do administrators of special education remain grounded in their professional identities when their state does not offer a separate credential, as Boscardin, Weir, and Kusek ponder? Are there differences for those who train elsewhere and then migrate to states with less defined administrative credentialing requirements? Which contributes more to professional identity, the status of a title or the standards to which states hold administrators accountable? Similar themes covering the knowledge and skills for administrators of special education emerge in the following articles in this issue of JSEL: (a) Fall investigates how the training of administrators of special education affect the recruitment, training, and retention of prospective and current employees; (b) Ebermeier, Beutel, and Dugan contemplate the skills an administrator of special education needs to recruit special educators; and (c) Zirkel and McGuire explore more effective ways for administrators of special education to negotiate and mediate conflict. The career of an administrator of special education is one of tirelessly advocating for students with disabilities and their families while withstanding the pressures to do less with less.

These are all difficult questions for difficult times. If we take the glass is half full approach, though, lean times often present windows of opportunity not always open when resources are abundant. Although it is unclear how professional identities are shaped, it is clear there is an enduring commitment by administrators of special education to providing the services and support needed by students with disabilities and their families. Understanding how administrators of special education become is important to a field that will continue to grow and expand with time. Each of the articles in this issue suggests that we would benefit from continued investigation and debate as to what makes us who we are as a profession.

CASE is indebted to each of the authors who contributed important articles to this issue. The authors of the articles have provided us exciting material to provoke thoughtful discussion among our colleagues about the various forms and processes in response to enlarging the leadership umbrella. The hope is for a positive and lasting impact on the quality of special education services offered to students with disabilities and their families.

The CASE Executive Committee and I hope you enjoy this issue of JSEL.

Mary Lynn Boscardin, Ph.D., Editor
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A National Study of State Credentialing Requirements for Administrators of Special Education

Mary Lynn Boscardin, Ph.D., Kerry Weir, M.S., and Christopher Kusek, M.A.
University of Massachusetts Amherst

- Unlike data that show that all states require credentials for special education teachers, national data indicate that only 27 states require licensure/certification/endorsement as an administrator of special education.

- The titles used by states to identify the local director of special education include administrator of special education, director of special education, director of pupil personnel services or pupil special education, and director of exceptional needs.

- There was variation with regard to those state programs that incorporate the six Council of Exceptional Children (CEC) 2009 Administrator of Special Education Standards into their requirements.

- The great majority of the states requiring credentialing as administrators of special education also require a master's degree as the minimum degree requirement for special education administrators, and half of those states require specific course work in special education administration.

- Less than one-third of the states require a practicum/internship in special education administration, and only one state required that candidates pass a special education administration licensing exam.

- Most of the states requiring credentialing of administrators of special education reported having continuing education/professional development requirements for administrators to keep their credentials active.

Lashley and Boscardin (2003) found there is a severe shortage of appropriately trained administrators of special education. While some states have been quite rigorous, clearly defining competencies and expectations for special education administrators, many states remain vague, with no such definitions or guidelines. Instead, these states have elected to allow the administrator of special education role to be filled by administrators who are not trained in special education or special education administration. In addition, compounding this issue is a growing trend in which universities are discontinuing their special education administration programs by not replacing retiring faculty with this area of expertise, or by allowing faculty to be absorbed by other programs.

Following the passage of No Child Left Behind and with the advent of Race to the Top, all teachers are required to be highly qualified. However, little has been written about the qualifications of educational administrators, and administrators of special education in particular. This research study investigates credentialing requirements for administrators of special education.
administrators of special education in a climate of accountability and elevated expectations. Hypotheses are explored based on the data gathered.

Efforts to License Administrators of Special Education

At the 1962 annual meeting of the National Association of State Directors of Special Education (NASDSE) (a meeting that pre-dated Public Law (P.L.) 94-142, Education of All Handicapped Children Act of 1975) a committee was appointed to investigate (a) the training and experience expected of state directors and supervisors, and (b) the extent to which these expectations were being met in college and university programs accepting students under P. L. 85-926 (Education of Mentally Retarded Children Act of 1958), which provided fellowships for advanced preparation of directors and supervisors.

Milazzo and Blessing (1964) used P.L. 87-276 (Teachers of the Deaf Act of 1961) (a law that emphasized the need for adequate preparation for administrators and coordinators of programs of special education in state and local school systems) as the basis for their investigation of the availability and content of training programs in institutions of higher education (IHEs), including both colleges and universities. In a survey of 12 states, Brabandt (1969) found that only Illinois had certification or credential requirements that promoted standards for special education administrators. In their national certification survey, Kern and Mayer (1970) found that only 12 of 38 responding states reported any specific certification requirements for the position of director of special education.

Marro and Kohl (1972) found that certification of special education administrators varied from state to state, based on national data gathered from 1066 usable questionnaires out of 1146 received questionnaires from local administrators of special education. The data indicated that very few administrators (32%) held special education administrator’s certificates, and only four out of every ten had experienced an internship. The position titles varied, with the most frequent being director of special education, coordinator of special education, supervisor of special education, and director of pupil personnel services. At the time of this study, the latter title appeared to be gaining in popularity. Over one-third of the group belonged to the Council of Administrators in Special Education (CASE).

Twenty-three states required neither certification nor endorsement as a director of special education or education administrator.

(Forgnone and Collings, 1975)

Forgnone and Collings (1975) investigated the availability of training programs for administrators of special education in institutions of higher education and the availability of director of special education certification within each of the 50 states. Data indicated that 23 programs in the country were producing leadership personnel to fill the increasing number of administrative positions in the field of special education. However, only six states required certification that demanded some level of competency and only three states had approved training programs. Twenty-three states required neither certification nor endorsement as a director of special education or education administrator.

In a 1979 study by Whitworth and Hatley, data were collected from 50 states regarding certification of special education administrators and supervisors. It was found that 20 states had no licensure, certification, or endorsement requirements for administrators of special education, two states awarded certificates in general administration, two states awarded special education administrative approvals, eight states gave a special education administrative endorsement, 15 states provided a special education supervisory endorsement, and three states certified individuals as special education administrators and supervisors. This study also found variations in degree prerequisites for state certification/approval/endorsement: nine states required a master’s degree, three states required additional credit hours in special education beyond the initial certificate, five states required credit hours in educational administration, seven states required completion of an approved program, 11 states required previous teaching experience, three states required additional certification besides special education, one state required practicum experience, and two states required additional hours in another area of special education.

Prillaman and Richardson (1985) found 26 states had a separate certification/endorsement for special education administrators, compared with six states in 1975.
In a 1980 study completed by Stile and Pettibone, 12 of the 50 states plus Washington, D.C. required special education coursework for general administration certification. A separate special education administration credential was offered by 26 states, while 20 of those states included special education authorization as part of the general education administrator’s certificate. Four of those states offered candidates a choice between a separate certificate or authorization as a director of special education as part of the general education administration certificate. Stile and Pettibone (1980) found training programs in special education administration available in 26 states and Washington, D.C., but in seven of those states, separate special education administration credentials were unavailable. Six of the states offering separate special education administrative certification had no training programs. One state reported that a training program was under development.

Prillaman and Richardson (1985) found 26 states had a separate certification/endorsement for special education administrators, compared with six states in 1975. In addition, only four states and the District of Columbia did not require special education or general education administration certification/endorsement for special education administrators. This finding contrasted markedly with the 23 states requiring no state certification in 1975. Prillaman and Richardson (1985) reported that, in 1985, 20 states had a general education administration certification requirement for special education administrators, which was a slight increase from 18 states with a similar requirement in 1975. Perhaps a more significant finding was that nine of the 26 states that required certification/endorsement in special education in 1985 had no certification requirements in 1975. They also found that nine of the 18 states that required only a general education administration certificate in 1975 now require a special education administration certification/endorsement. They also found that 11 of the 20 states that required a general education administration certificate in 1975 had no special education or general education administration requirements for special education administrators. Total results indicated that 38 of the 51 respondents had increased their requirements for administrators of special education programs since 1975 (Prillaman & Richardson, 1985).

Stile, Abernathy, and Pettibone (1986) reported on the results of a 5-year follow-up study of training and certification of special education administrators. The data from the 50 states plus the District of Columbia indicated that since 1979, the greatest change occurred in the number of states requiring special education coursework work or demonstration of competency in special education as part of the general administration credential. In 1984, 16 states reported requirements as opposed to 12 in 1979. Eighteen states included authorization in special education as part of the general administration credential and two states were developing authorization requirements. Twenty-three states offered a separate special education administration credential while six offered a similar certificate at the supervisory level. Nineteen states had at least one formal training program leading to a degree in special education administration: three states had programs leading to a degree in special education supervision, and respondents at an additional two state offices knew of programs leading to a special education supervision certificate. Although seven states with special education administration credentials reported no formal training program leading to a degree, all reported that special education administration coursework was available within the state. Two certification offices did not know of any formal programs leading to a degree in their state, but they did report the availability of special education administration coursework. Forty-six states reported that special education administration coursework was offered.

... since 1979, the greatest change occurred in the number of states requiring special education coursework work or demonstration of competency in special education as part of the general administration credential.

Stile, Abernathy, and Pettibone (1986)

Valesky and Hirth (1992) found that 32 of the 50 states offered an endorsement as an administrator of special education but did not report a distinction among states that required separate certification. They also reported that 28 states required administrators of special education to be
knowledgeable of special education law. Interestingly, at the time of this study, Valesky and Hirth (1992) found that the number of due process hearings in states had no relationship to state endorsement requirements.

There has been a decline in the number of endorsements since Whitworth and Hatley’s 1979 study that found that 25 states had separate approval or endorsement requirements for special education administrators, and Stile and Pettibone’s 1980 study, which found that 20 states included special education authorization as part of general education administrator’s certificate. In the Stile, Abernathy, and Pettibone’s 1985 study, 18 states included authorization in special education administration as part of the general administration credential. With the decline in endorsements, there was a rise in dedicated special education administration certificates and licenses. For example, Forgnone and Collins (1975) reported that six states required separate certification as an administrator of special education. Three years later, Whitworth and Hatley (1979) detected a decline in certification of administrators of special education from six to three states, but Stile and Pettibone (1980) found a return to 1975 levels, with six states offering a separate administrator of special education certificate. On the other hand, Prillaman and Richardson (1985) noted that 26 states offered a separate certificate or endorsement for administrators of special education, but did not offer a distinction between these two designations. Stile, Abernathy, and Pettibone (1986) found that 23 states offered a separate special education administration credential.

The purpose of this investigation is to provide an update to the number of states offering licenses/credentials/endorsements as administrators of special education. In addition, this study is also designed to gather information related to the credentialing process, including titles associated with that position, competency requirements, experience requirements, practica/internships, degree and course work requirements, credentialing examinations, and continuing education requirements. This information will offer insight into how states ensure the development of highly qualified administrators of special education who are expected to support students with disabilities, their families, and the instructional staff who are responsible for their educational outcomes.

Collecting State Data

Procedure

An initial introductory e-mail was sent to the State Directors of Special Education (SEAs) of the 50 states and Washington, D.C. asking them to participate in a survey about the credentialing requirements for administrators of special education for their state. The participants were provided with Web site link to SurveyMonkey™ (e.g., an on-line data collection and analysis tool) in the introductory e-mail that directed them to the survey. Those SEAs not responding to the initial inquiry received follow-up e-mails similar to second contacts in earlier studies (Forgnone & Collins, 1975; Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone, 1986; Whitworth & Hatley, 1979), and follow-up telephone calls (Prillaman & Richardson, 1985; Valesky & Hirth, 1992; Whitworth & Hatley, 1979). In the follow-up communications, participants were given a choice of responding to the online survey, answering the questions by telephone, or receiving the survey via fax to be returned via fax or postal mail upon completion. When these attempts failed, other sources, such as members of the CASE board of directors and faculty representing the National Council for Accreditation of Teacher Educators (NCATE) accredited higher education administrators of special education programs were contacted to provide information. A 98% response rate was achieved.

The Survey

Like the previous studies (Forgnone & Collins, 1975; Marro & Kohl, 1972; Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone, 1986; Valesky & Hirth, 1992; Whitworth & Hatley, 1979), a survey was used to gather national administrator of special education credentialing data from state education agencies. To gather these data, a 17-item questionnaire was developed to ascertain the licensure requirements needed to hold the position of special education administrator. A group of 10 special educators, general education administrators, and special education administrators selected the 17 items using two sources: a survey used in a pilot study to ascertain the licensure requirements needed to hold the position of special education administrator. A group of 10 special educators, general education administrators, and special education administrators selected the 17 items using two sources: a survey used in a pilot study to ascertain the status of licensure, and survey items used in similar studies (Forgnone & Collins, 1975; Marro & Kohl, 1975; Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone,
From the pilot study, researchers found that states tended not to respond to lengthy, detailed questionnaires, so every effort was made to provide a focused set of questions that could be completed by a knowledgeable respondent within a 15 minute time period.

Items selected focused specifically on endorsement/certification/licensing of administrators of special education required by states. The questions examined various aspects of credentialing including the amount of previous teaching experience, the highest level of education attained, and the amount of continuing education a special education administrator would need to practice in a particular state.

The Participants

The National Association of State Directors of Special Education (NASDSE) and the Council for Administrators of Special Education (CASE) provided potential contacts for each of the 50 states and the District of Columbia. State directors of special education or their representatives (n = 51) served as the initial point of contact. Other sources included CASE board of director members (n = 2) and higher education faculty (n = 2) that represented an NCATE-accredited administrator of special education programs when state directors had not responded to initial and follow-up contacts.

Analysis

Responses were received and recorded using SurveyMonkey technology. Results of the research were analyzed for patterns and trends using Excel and Predictive Analytics SoftWare (PASW, 2010). Only data from states that reported requiring separate credentialing requirements and designations for special education administration were collected, analyzed, and reported.

The Credentialing of Administrators of Special Education

In this section, the results of the survey will be explored. Several follow-up questions were asked of those who indicated that their states offered a license/certificate/endorsement in the area of special education administration. The analysis of results includes whether states require the designation of administrator of special education (or some variation), and the titles associated with that position (see Table 1). In addition, competency requirements, experience requirements, practicum/internship requirements, degree and coursework requirements, credentialing examinations, and continuing education requirements (see Table 2).

State Requirements and Position Titles

Of the 27 states that have separate special education administrative credentialing, five of the states offer endorsements, 12 require certificates, seven require licenses, and three states require a hybrid license that combines general education administrator licenses with administrator of special education endorsements (see Figure 1). The titles used by states to identify the local director of special education include: administrator of special education, director of special education, director of pupil personnel services, director of pupil special education, and director of exceptional needs. Some non-descriptive titles, such as district educational specialist, PK–12 principal, supervisor of special education, and general education administrator with special education administrator endorsement, are used by a few states.

Of the 27 states that have separate special education administrative credentialing, five of the states offer endorsements, 12 require certificates, seven require licenses, and three states require a hybrid license that combines general education administrator licenses with administrator of special education endorsements …

The Integration of CEC Administrator of Special Education Standards by States

Among those states that require licensure/certification/endorsement as an administrator of special education, there is variation with regard to those that incorporate the six CEC 2009 Administrator of Special Education standards. Program development and organization (n = 15), evaluation (n = 14), and professional development
Table 1: States requiring licensing/certification/endorsement requirements for administrators of special education

<table>
<thead>
<tr>
<th>State</th>
<th>State Licensing Requirements</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Alaska</td>
<td>Certification</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Arizona</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>License</td>
<td>Curriculum/Program Administrator</td>
</tr>
<tr>
<td>California</td>
<td>Certification</td>
<td>Pupil Personnel Services Credential</td>
</tr>
<tr>
<td>Colorado</td>
<td>Endorsement</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Connecticut</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>Certification</td>
<td>Director of Special Education</td>
</tr>
<tr>
<td>Dist. of Columbia</td>
<td>Not Reporting</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
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<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td>Certification</td>
<td>District Education Specialist</td>
</tr>
<tr>
<td>Idaho</td>
<td>Endorsement</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Illinois</td>
<td>Endorsement</td>
<td>Director of Special Education – not mandated/local control</td>
</tr>
<tr>
<td>Indiana</td>
<td>License</td>
<td>Director of Exceptional Needs</td>
</tr>
<tr>
<td>Iowa</td>
<td>License/Endorsement</td>
<td>PK–12 Principal/PK–12 Supervisor of Special Education</td>
</tr>
<tr>
<td>Kansas</td>
<td>License</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Certification</td>
<td>Director of Special Education</td>
</tr>
<tr>
<td>Louisiana</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td>Certification</td>
<td>Special Education Administrators/Director</td>
</tr>
<tr>
<td>Maryland</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>License</td>
<td>Administrator of Special Education</td>
</tr>
<tr>
<td>Michigan</td>
<td>None of the Above</td>
<td>Director/Supervisor of Special Education</td>
</tr>
<tr>
<td>Minnesota</td>
<td>License</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Mississippi</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>License/Certification/Endorsement</td>
<td>Director of Special Education</td>
</tr>
<tr>
<td>Montana</td>
<td>License/Endorsement</td>
<td>—</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Certification</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Nevada</td>
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<td></td>
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<tr>
<td>New Hampshire</td>
<td>Certification</td>
<td>Special Education Administrator</td>
</tr>
<tr>
<td>New Jersey</td>
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<td></td>
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<tr>
<td>New Mexico</td>
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<tr>
<td>New York</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>Certification</td>
<td>Exceptional Children Director</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Certification</td>
<td>Special Education Director</td>
</tr>
<tr>
<td>Ohio</td>
<td>License</td>
<td>Director Pupil Personnel Services or Special Education</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Certification</td>
<td>Special Education Supervisor</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Certification</td>
<td>Administrator or Special Education</td>
</tr>
<tr>
<td>South Carolina</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>None of the Above</td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td>None of the Above</td>
<td></td>
</tr>
</tbody>
</table>
and ethical practice \((n = 13)\) are the standards most frequently incorporated into state standards for administrators of special education (see Figure 2). Collaboration and research and inquiry are included in the standards of eleven states.

**Degree and Coursework Requirements**

The great majority of states require the master’s degree as the minimum degree for special education administrator credentialing (see Figure 3). Twenty-two states require a master’s degree and one state requires a master’s degree plus an additional 30 credits. For one state, credit hours are waived based on service, which was not defined. Another state requires that the graduate program leading to the master’s degree be approved by the state board of education for a director or supervisor program for special education administration. One state awards an initial license upon completion of the master’s degree, but requires an educational specialist or doctoral degree for full licensure. Completion of a postbaccalaureate program in lieu of a master’s degree is permissible for one state with the majority of candidates meeting the master’s degree requirement.

In terms of course work, 20 states require specific course work in special education administration, with 15 of these states also requiring courses in educational administration. Fourteen of these states require course work in special education, special education administration, and educational administration. One state requires course work in only special education administration. Although some states did not require course work in special education administration, five did require course work in both special education and educational administration.

**Internship and Practicum Experiences**

Fourteen of the states have internship and/or practicum requirements of varying lengths of time for prospective administrators (see Figure 4). Four of the states require a paid internship experience, while 10 states require practicum experiences. One state requires a practicum experience but does not specify whether participants are paid. For one state, neither practica nor internships are a requirement but the respondent indicated that most of the universities require a practicum/internship experience. The practicum/internship experiences range from 30 to 320 hours in length. Five states require a practicum/internship to be at least 300 hours in length. Two states require completion of a one course equivalent for the practicum/internship and another state only requires a practicum/internship if the applicant does not complete the requirement at a university or college.

**Licensure/Certification/Endorsement Examinations**

Six of the states reporting require special education administrators to pass a general education examination for credentialing, while four states require applicants to pass an examination specific to special education. Three states reported having an
<table>
<thead>
<tr>
<th>State</th>
<th>CEC Standards</th>
<th>Minimal Degree Requirements</th>
<th>Prior Teaching Experience</th>
<th>Prior Special Education Teaching Experience</th>
<th>Practicum or Internship Experience</th>
<th>Coursework Requirements</th>
<th>General Education Administration Examination</th>
<th>Special Education Administration Examination</th>
<th>Continuing Education Unit Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>—</td>
<td>Master’s</td>
<td>Yes</td>
<td>Yes</td>
<td>—</td>
<td>SP/SPA</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
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**KEY:** — = Don’t Know/Cannot Determine.

LP = Leadership & Policy; PDO = Program Development & Organization; RI = Research & Inquiry; E = Evaluation; PDEP = Professional Development & Ethical Practice; C = Collaboration; O = Other; SP = Special Education; SPA = Special Education Administration; EA = Educational Administration.
exam for director of special education. Seven states reported no data for this question, while reporters for three of the states said they were unsure if any exam was required.

**Prior Teaching Experience**

Prior teaching experience required for licensure/certification/endorsement was explored two ways: one question inquired about general education teaching experience requirements, and a second question asked about special education teaching experience requirements. Of the 23 states for which there were responses, 18 require prior teaching experience for credentialing as an administrator of special education. Thirteen states of the 23 require that the teaching experience involves students with special needs (see Figures 5 and 6). Three of the fourteen states provided a qualified response noting that teaching was loosely defined to include any of the related service personnel who work with students with special needs. Of the states that do not require teaching experience, one requires a license in the area of special education and another offers two tracks for credentialing as an administrator of special education—one with teaching experience and one without.
Of the 23 states for which there were responses, 18 require prior teaching experience for credentialing as an administrator of special education. Thirteen states of the 23 require that the teaching experience involves students with special needs …

**Continuing Education/Professional Development Requirements**

Nineteen states reported having continuing education/professional development requirements for administrators to keep their credentials active (see Figure 7). Some states offered additional comments. One state requires professional development credits to be specific to special education. These state professional development hourly requirements range from 42 to 180 hours completed within a range of 2 to 5 years, with 5 years being the norm for a completion cycle. One state requires 42 hours of leadership credit every 2 years, which is equivalent to 105 hours over a 5-year period. Two states require 60 hours or four graduate credits over 5 years. One state requires anyone holding professional certification to complete 175 hours of professional development during the 5-year validity period of their professional certification in order to maintain that certification. Another state requires 125 clock hours of professional development to be completed during a 5-year period. Another state requires 180 renewal points, rather than CEUs, over a 5-year period. Two states required college, university, or regional education agency credits for renewal, one requiring four credits and the other six credits. The state requiring six credits enacted a *grandfather clause* requiring no additional credits to maintain certification for those who were awarded licenses prior to 2004. Those who received licenses after 2004 are required to complete a 3 to 5 year professional development plan.

**Discussion**

Since the enactment of the Education of All Handicapped Children Act of 1975 (P.L. 94-142) 35 years ago, the state of special education
administration licensing/certification/endorsement requirements has changed dramatically. There has been a gradual rise in the number of states requiring separate special education administration certificates or licenses. In this study, 27 states require a special education director license or certificate, as compared to six states requiring that license or certificate between 1975 and 1980 (Forgone & Collins, 1975; Stile & Pettibone, 1980). Inversely, the number of states requiring special education administration endorsements in this study is in stark contrast to the earlier studies (Stile, Abernathy, & Pettibone 1985; Stile & Pettibone, 1980; Whitworth & Hatley, 1979), down from a high of 25 states (Whitworth & Hatley, 1979) with only five states making this a requirement in 2010. The findings of this study were most closely aligned with those of Prillaman and Richardson (1985) and Stile, Abernathy, and Pettibone (1986), although it is difficult to make a distinction between certificates and endorsements in the data examined in those studies. Unlike this study, where only one state requires special education as part of the general education administration license, 18 states included authorization in special education as part of the general administration credential in the Stile, Abernathy, and Pettibone (1986) study. This shift in licensing practices is in concert with current national policy trends that demand greater accountability and a highly qualified workforce.

...title or licensing erosion not only creates confusion and threatens the stability of a profession, but it also has the potential to affect the educational outcomes of students with disabilities. While most states use the title of director of special education or administrator of special education, there is some variation among the states requiring licensure/certification/endorsement. There is much confusion concerning the tasks associated with the role of administrators of special education, and that a broad knowledge base is required in understanding the needs of exceptional children. Based on the findings of Finkbinder (1981), titles are an integral component to those assuming professional identities. Titles are symbolic, representing the ethos and culture that define the essence of the embodiment of a discipline or profession. Given the importance of their roles of ensuring that students with disabilities are provided a free and appropriate education in the least restrictive environment, it is interesting that none of the states awarded licenses to administrators of special education at the level of the superintendency. In many districts, being relegated to the level of director places administrators of special education at the same level as the principals, constraining their ability to fully advocate for the needs of students with disabilities. It would then stand to reason that title or licensing erosion not only creates confusion and threatens the stability of a profession, but it also has the potential to affect the educational outcomes of students with disabilities.

Whitworth and Hatley (1985) noted that one of the basic problems with certification of any type (and particularly that of the special education leadership position) is the need for agreement across states. Credentialing often resembles a maze of various titles, labels, guidelines, and stipulations through which one must wander in search of understanding. Examining the Council for Exceptional Children (2009) publication, What Every Special Educator Must Know: Ethics, Standards, and Guidelines for Special Educators, it is evident that special education does not suffer from a lack of standards and categories, but instead needs to reconcile the national titular and professional standard ambiguities that dictate licensing requirements.

Administrators of special education with strong professional identities are considered to be essential to ensuring the delivery of high quality evidence-based special education programs in increasingly inclusive schools (McLaughlin & Nolet, 2004; Schulman, 2005). These leaders are the standard bearers—the ones who set expectations of what it means to be a professional. Without this model of professionalism, there is a risk of ambiguity and erosion that challenges role identities.

The national standards (CEC, 2009) provide administrators of special education with the knowledge, skills, and dispositions that form the foundation for professional identities, as well as a framework for developing professional identities. Not all states that require endorsement/certification/licensing fully incorporate the CEC administrator of special education standards into their state credentialing requirements. The standards least frequently included are collaboration and research
and inquiry. This is understandable in a field that demands proficiency in the laws and regulations (Valesky & Hirth, 1992), particularly laws that require ongoing program evaluation and annual accountability for student progress. Similar findings in recent studies have been noted that the knowledge items within the collaboration and research and inquiry standards were ranked low (Boscardin, McCarthy, & Delgado, 2009).

Mechanisms that are thought to aid in the development of professional identities include pre-service training anchored by professional standards and a predictable course of study. Schulman (2005) has referred to a predictable course of study for a profession, such as medicine or law, as signature pedagogies. It is Schulman’s (2005) belief that signature pedagogies are another component that contributes to strong professional identities. Finkbinder (1981) suggested that, rather than following the practice of borrowing faculty from general education, pre-service training programs for special education administrators could provide core administrative courses and field experiences delivered by special education faculty. Prillaman and Richardson (1985) suggested the following in their study: (1) a post-master’s degree in administration that would include appropriate coursework in educational administration; (2) 3 to 5 years of teaching in at least two areas of exceptionality; (3) an internship in special education administration; and (4) cognate or support coursework in such related areas as personnel management, sociology, psychology, and organizational theory.

Mechanisms that are thought to aid in the development of professional identities include pre-service training anchored by professional standards and a predictable course of study.

According to Billingsley (2005), professional teachers and administrators who complete accredited pre-service programs that prepare them well in their disciplinary area, and who then work in educational environments that continue to support evidence-based practices, are more likely to remain in their chosen profession and be more effective. In the best of all worlds professional standards would be integrated into pre-service signature pedagogies, work-related experiences, and ongoing professional development and engagement.

Continuing education is a noticeable addition to credentialing requirements for administrators of special education since the passage of No Child Left Behind.

Many of the studies did not investigate prior teaching experience (Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone 1985; Stile & Pettibone, 1980; Valesky & Hirth, 1992), practicum/internship requirements (Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone 1985; Stile & Pettibone, 1980; Valesky & Hirth, 1992), or continuing education requirements (Forgnone & Collins, 1975; Prillaman & Richardson, 1985; Stile, Abernathy, & Pettibone 1985; Stile & Pettibone, 1980; Valesky & Hirth, 1992).

Only Forgnone and Collings (1975) and Whitworth and Hatley (1979) investigated prior teaching and practicum experience requirements. Forgnone and Collins (1975) found that, of the five states requiring certification/endorsement, four required special education teaching experience and practica. In the Whitworth and Hatley (1979) study, eleven states required prior teaching and one state required practicum experience. The importance of previous teaching experience (Milazzo & Blessing, 1964) and internships (Finkbinder, 1981; Marro & Kohl, 1972; Milazzo & Blessing, 1964) to the training of administrators of special education was noted in earlier studies. Teaching and internships are growing trends, but surprisingly, have not grown to the extent that might be expected at this writing.

Continuing education is a noticeable addition to credentialing requirements for administrators of special education since the passage of No Child Left Behind. All of these experiences, paired with the knowledge base, contribute to skill acquisition and induction into the field of special education leadership and administration in a way that course work alone cannot achieve. This ensures the development of evidenced-based leadership practices that, in turn, are linked to improved instructional practices by teachers, and translate to increased educational outcomes for students (Boscardin, 2007, 2004; Leithwood, et al., 2004).
Concerns and Needs for Future Research

The above discussion begs the question about the relationship between administrator of special education shortages and the quality of credentialing. While it is difficult to ascertain from the data offered by Arick and Krug (1993) and the 26th Annual Report to Congress (U.S. Department of Education, 2006) how state credentialing requirements might be related to shortages of administrators of special education, it is possible to identify areas in need of further investigation. Arick and Krug (1993) found in a national survey that 789 of the 1468 special education directors were currently experiencing a 10% special education administration personnel shortage. A need for 858 new or replacement administrators/directors (15%) was reported in the next three years, in addition to the 10% shortage reported by Arick and Krug (1993). Of the special education directors surveyed by Arick and Krug (1993), one-third did not possess certification in special education or appreciable experience in teaching special education.

As suggested by Leithwood, et al. (2004), the relationship between special education administrative practices and improved instructional practices of teachers and the educational outcomes of students with disabilities warrants further investigation.

The 26th Annual Report to Congress (U.S. Department of Education, 2006) is the most recent Office of Special Education (OSEP) report containing administrator data. This is a concern because the four-year absence of unreported data could be seen as a growing trend of benign neglect in the category of special education administration. At the same time, the Office of Special Education Programs has made the administration of special education a priority in the Personnel Leadership Grant competitions over the past 11 years.

According to the 26th Annual Report to Congress (U.S. Department of Education, 2006), the number of special education administrators and supervisors in local education agencies (LEAs) and school systems nationwide increased by 25%, from 14,604 in 1999 to 18,241 in 2006. In addition, a steady five percent of in-service special education administrators are not fully certified. This suggests uncertainty about the comprehensiveness of licensure requirements for special education administration and showcases the need to more fully prepare more leaders in special education. At the state level, the number of special education administrative personnel in state education agencies (SEAs) increased by 9%, from 1080 in 1999 to 1178 in 2006. The increasing number of SEA employees, most of whom are fully licensed (all but 0.018%), suggests the imperative of special education administration at the state level in setting the direction and vision, and providing oversight for compliance.

The need for well-trained and fully licensed special education administrative personnel at the LEA and SEA levels has increased as the population of American children of diverse status has expanded, and as districts and states are becoming increasingly accountable for meeting achievement targets of students with disabilities. There is a need to investigate whether gaps exist in the licensing requirements of special education administrators. It is equally important to understand how state requirements ensure that administrators of special education are “highly qualified” to coordinate the equitable delivery of services to students with exceptional needs. As suggested by Leithwood, et al. (2004), the relationship between special education administrative practices and improved instructional practices of teachers and the educational outcomes of students with disabilities warrants further investigation. Future research would do well to investigate the comprehensiveness of the credentialing requirements with regard to addressing the national standards for administrators of special education.

At a time when the cry is there is a national crisis in school leadership, it seems to make sense that states would require separate credentialing for administrators of special education, rather than combining the credentialing with the general educational administration. Future research that more closely investigates the general education administration credentialing requirements of those states not requiring specific licensure in special education administration would help clarify the relationship between credentialing practices and special education leadership effectiveness. Additionally, research is needed that investigates the career paths of special education directors in states...
without separate credentialing for special education administrators. It is important to understand the relationship between the numbers of special education directors who gravitated toward other areas of administration that are unrelated to special education. These data may provide a better understanding about how commitment to and longevity in the field of special education administration is influenced by state credentialing structures.

The trend to combine administrator of special education licensing with general education administrator credentialing may have an effect on the decline in the number of special education administration graduate programs, particularly where university programs have a linear relationship with available state licenses. Of related interest are the alternate paths to credentialing outside of traditional higher education routes that states have made available to those seeking licensure/certification/endorsement as administrators of special education. It is important to understand the qualitative differences between accreditation requirements for universities and colleges offering licensing credentials and the requirements by states for those seeking licensing as administrators of special education through alternate paths. By investigating the presence of differences, it may be possible to better understand the affects of credentialing practices on the quality of service delivery and educational outcomes for students with disabilities.

It is difficult to train and supply personnel that contribute to the leadership of special education at the national, state, and local levels without the availability of state-of-the-art training programs. In a March, 1996 letter to Dr. Leonard Burrello, Professor of Educational Administration at Indiana University–Bloomington, Dr. Thomas Hehir, then the Director of the Office of Special Education Programs, emphasized the need for pre-service training programs that addressed both the dearth of training programs for special education administrators and the quality given the continual high demand by those in the field for qualified personnel. Understanding how faculty shortages (Castle & Arends, 2003; Smith, Pion, & Tyler, 2004) have affected university special education administration program viability, coupled with the limited resources attached to tenure track positions and special education program priorities, is another area that warrants investigation.

Summary

In the current educational climate of high accountability that includes all educators being highly qualified, it would seem reasonable to expect rigorous state credentialing requirements for administrators of special education. Unlike data that show that all states require licenses for special education teachers, national data from this study indicate that only a little over half of the states require licensure/certification/endorsement for administrators of special education. The titles used by states to identify the local administrator of special education are not commensurate with the responsibilities reflected in the national CEC Administrator of Special Education Standards (2009). State credentialing of administrators of special education, whether through universities or alternate paths, should reflect the same high standards of excellence. Continuing education/professional development is one avenue for maintaining high standards and excellence in the administrator of special education profession.

References


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Recruiting and Retaining Highly Qualified Special Education Teachers for High-Poverty Districts and Schools: Recommendations for Educational Leaders

Anna-Mária Fall, Ph.D.
University of Texas at Austin

- Teacher turnover disproportionately impacts high poverty districts, where teachers hold fewer professional credentials and working conditions are more challenging.
- The disparities in teacher quality and working conditions likely contribute to teacher turnover and workplace instability as well as limit students’ opportunities to learn.
- Recommendations for finding, supporting, and keeping highly qualified special education teachers in high poverty districts and schools are provided.

The No Child Left Behind Act (2001) has pushed discussions of teacher quality into the spotlight. Attention to teacher quality has also been driven by a growing body of research suggesting that access to highly qualified teachers is paramount to student learning (Clotfelter, Ladd, & Vigdor, 2006; Darling-Hammond, 2000; Darling-Hammond, Holtzman, Gatlin, & Helig, 2005; Sanders & Rivers, 1996). Yet, educational leaders continue to experience difficulties staffing classrooms with highly qualified special education teachers (SETs). Districts nationwide report critical teacher shortages and the shortage of SETs has been described as severe, pervasive, and rising (McLeskey, Tyler, & Flippin, 2004). For example, Boe and Cook (2006) found that the shortage of fully certified SETs has increased from 7.4% in 1993–1994 to 12.2% in 2001–2002. Most recent data available from the U.S. Department of Education (USDOE, 2006) revealed that in 2006–2007, 11.25% (N = 44924) of SETs of students aged 6–21 were not highly qualified. Shortages of highly qualified teachers are most severe in high-poverty urban districts (Fall & Billingsley, 2007; Lankford, Loeb, & Wyckoff, 2002). General education teachers who transfer leave schools with a higher proportion of low-income students, and move to more affluent schools (Hanushek, Kain, & Rivkin, 2004; Lankford, et al., 2002).

While some degree of teacher turnover in schools is both beneficial and inevitable, the exodus of large numbers of teachers has negative consequences for both districts and students. First, turnover may diminish teaching quality because administrators in high poverty districts may have to deal with shortages of qualified teachers by hiring substitutes or uncertified teachers and expanding class size (Fall & Billingsley, 2007). Second, turnover carries substantial financial costs associated with recruiting, hiring, inducting, and professionally training replacement teachers. For example, the National Commission on Teaching and America’s Future (NCTAF) estimated that the national cost of public school teacher turnover could be over $7.3 billion a year (Carroll, 2007). Additional costs of turnover include “the decline of organizational stability, coherence, and morale” (Smith & Ingersoll, 2004, p. 686). In special education the costs of high rates of turnover compromise the sustainability of inclusive practices. For example, Sindelar, Shearer, Yendol-Hoppey, and Liebert (2006) reported that as faculty who had worked for inclusive reform left, new teachers who had less understanding of and acceptance for inclusion replaced them. Consequently, faculty commitment to inclusion deteriorated and as a group “faculty grew less
knowledgeable about including students successfully and less enthusiastic about trying” (p. 329).

Thus, there is a need to understand why schools serving low-income students struggle to get and keep teachers and how educational leaders might address these problems. This article builds upon three earlier studies using data from the Study of Personnel Needs in Special Education (SPeNSE) to compare early career special educators in low- and high-poverty districts. The first study examined teachers in these two types of districts on a number of teacher quality indicators, including credentials, pre-service preparation, self-efficacy, and induction (Fall & Billingsley, 2008). The second study considered variations in working conditions, comparing high- and low-poverty districts on variables such as district supports, school supports, and work manageability (Fall & Billingsley, 2011). The third study explored the effects of teacher characteristics and qualifications, district level of poverty, and working conditions on teacher commitment (Fall, Billingsley, & Williams, 2009). Overall, these studies point to the inequalities that exist in the education of students with disabilities in high poverty districts. A key intent of the present paper is to draw on findings from these previous studies that have implications for educational leaders as they respond to the challenges of staffing high poverty districts with highly qualified SETs.

In the following section I consider five recommendations for policymakers and educational leaders seeking to remedy the situation and ensure that all students are taught by highly qualified and committed teachers.

**Increase the Supply and Quality of SETs for High Poverty Schools**

Teachers who are fully certified for their main assignment and have preparation in pedagogical and subject matter are more likely to positively influence student achievement (Darling-Hammond, 2000; Wilson, Floden, & Ferrini-Mundy, 2001). However, we found that early career SETs in high poverty districts were less prepared on a range of teacher quality indicators than teachers in more affluent districts. While 30% of special educators in high poverty districts lacked full certification, 14% of their counterparts in more affluent districts lacked this credential. Similarly, 24% of early career teachers in high poverty districts held an emergency certificate, compared to only 2% in more affluent districts. Teachers from high poverty districts also held master’s degrees less often than those in low poverty districts (36.6% and 19.8%, respectively). Furthermore, teachers in high poverty districts graduated from less selective institutions, completed fewer weeks of student teaching, and took required certification tests more than once to pass (Fall & Billingsley, 2008).

Addressing the teacher quality gap requires strong recruitment strategies that can help high poverty districts attract highly qualified SETs. Grow-your-own SETs is one strategy for assisting districts or schools to become competitive in the job market. District leaders need to search for individuals who are active and contribute to their schools (e.g., paraprofessionals, parents, or community members) and encourage them to become fully-certified teachers. A successful example is “Grow Your Own Illinois” (www.growyourowntechners.org) which seeks to identify, prepare, and employ school employees, parents, and community members active in education in their low- and moderate-income communities as fully-certified teachers. Additionally, educational leaders can begin recruitment efforts in high school classrooms and through extracurricular activities to encourage students who are inclined to work with children with disabilities to pursue careers in special education. For example, The College of New Jersey’s Urban Teacher Academy (UTA) offers a two week intensive summer program to outstanding high school juniors interested in pursuing careers in urban education and/or in high shortage subject areas such as special education, math, and science. Students are selected by their schools based on grades and writing skills, awarded a scholarship to the academy, and paid for participating in the two-week program. During the program students are exposed to curriculum and practicum experiences that focus on teaching and learning (see the UTA website at www.tcnj.edu/~educat/urban/index.html).

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Another strategy to recruit and retain teachers in high poverty districts is to use targeted financial incentives. Financial incentives can take many forms, including yearly bonuses, salary increases, annual additional fixed pay, and one-time bonuses in exchange for teaching in high-poverty schools. Further incentives may include forgivable loans and scholarships in exchange for a specified number of years of service in high poverty schools ‘‘allocated both on the basis of academic merit and indicators of potential success in teaching, such as perseverance, capacity and commitment’’ (Darling-Hammond & Sykes, 2003, p. 34). One successful initiative is the North Carolina (NC) Teaching Fellows program. Funded by the state legislature since 1986, the Fellows program provides a $6,500 per year scholarship for four years to 500 outstanding NC high school seniors who enroll in intensive four-year teacher education programs throughout the state. In exchange, recipients of these fellowships must teach for at least four years in NC schools.

School districts may also consider marketing their districts. Educational leaders may choose to educate the public and develop a positive and attractive image of their programs by using promotional materials (e.g., high quality brochures, websites, newsletters), organizing job fairs, and sending recruitment letters to educator preparation programs (Billingsley, 2005).

Provide Responsive Induction to Address the Needs of Teachers in High-Poverty Schools

While recruitment strategies may attract new teachers to high-poverty schools, such incentives will not necessarily keep them there. Educational leaders need to recruit SETs and develop support programs for them. Most of the teacher supply problem in the United States is actually a problem of retention. Attrition is highest in the early years of teaching; about 30% of early career teachers leave the classroom within the first three years of teaching, and 40% to 50% leave within five years (Ingersoll & Smith, 2003).

A promising strategy to address the serious and increasing shortage of SETs is to provide well-planned induction support for early career teachers (Billingsley, Carlson, & Klein, 2004). Although teachers in high- and low-poverty districts report similar induction opportunities (Fall & Billingsley, 2008, 2011), it is likely that teachers in high poverty districts need more intensive supports given that many of these teachers lack basic credentials for teaching and may teach in more challenging settings.

School and district leaders should ensure a range of supports tailored to address the challenges new teachers face in high poverty contexts. The Santa Cruz New Teacher Project (SCNTP) is a teacher induction program that has resulted in increased job satisfaction and reduced retention rates (Gless & Moir, n.d). Established in 1988, this mentor-based teacher induction model focuses on building partnerships between the early career teacher and the new teacher advisor, an exemplary veteran teacher. As full time advisors, veteran teachers mentor fourteen first- and second-year teachers with whom they are matched according to grade-level and subject matter expertise. To build a strong and trusting relationship advisors meet weekly with each early career teacher for approximately two hours before, during, or after school. In the classroom advisors teach demonstration lessons, observe, coach, co-teach, videotape lessons, or assist with problems as they arise. Outside the classroom, advisors help with planning, gathering resources, providing emotional support, and facilitating communication with principals. Additionally, online tools such as e-mail and Web sites provide additional opportunities for advisors and early career teachers to share questions and concerns and extend their relationships beyond face-to-face interactions. Further, early career teachers receive release days for observing other teachers, curriculum planning, and self-assessment. A monthly seminar series serves as a network for early career teachers to share their accomplishments and challenges in a learning community of peers (see www.newteachercenter.org).

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Leaders may consider partnering with institutions of higher education to provide support to early career SETs. Strong partnerships between universities and school
districts benefit both agencies (Rosenberg, Griffin, Kilgore, & Carpenter, 1997) and “have the potential to provide in-service teachers with the knowledge and skills to implement culturally responsive and effective instructional practices and to provide pre-service teachers with real-life preparation in the schools most in need of their expertise and energy” (Harry & Klingner, 2006, p. 177–178).

**Improve Working Conditions in High-Poverty Districts**

Supportive working conditions positively influence teachers’ ability to deliver effective instruction and their intent to remain in teaching. These conditions include supportive principals and colleagues, opportunities for teachers to make decisions about their classrooms, manageable workloads, and access to sufficient resources and materials (Johnson & Kardos, 2008). Our research revealed significant differences in perceived school supports across districts with varying levels of poverty. Teachers working in high-poverty districts viewed their principals and colleagues as less supportive, perceived less involvement in school decisions, and reported having fewer materials. Furthermore, teachers’ average caseloads differed significantly across districts. Teachers working in high-poverty districts served on average 22 students, while teachers in low-poverty districts served 18 students ($F(1642) = 4.99, p < .05$) (Fall & Billingsley, 2011).

Challenging working conditions in high-poverty schools compromise teachers’ satisfaction with their work and contribute to turnover and workplace instability. Our findings suggest that support from the principal and other teachers in the school positively influence teacher commitment (Fall et al., 2009). Previous research findings also suggest that SETs were more likely to be committed to the profession when they felt supported by principals and colleagues (Cross & Billingsley, 1994; Gersten, Keating, Yovanoff, & Harniss, 2001).

To create a welcoming and positive school environment the principal should increase the level and quality of leadership and support. Principals should engage in the daily life of school, be a visible presence, and responsive to the needs of teachers, support staff, and students. They should trust and treat teachers as professionals, and maintain open communication so that teachers are simultaneously informed and led in the right direction and supported in their efforts to improve student learning.

Educational leaders can **strengthen the working conditions by promoting the development of professional learning communities (PLCs)** (Little, 1982; McLaughlin & Talbert, 2001). PLC can be defined “as a group of people across a school who are engaged in common work; share to a certain degree a set of values, norms, and orientation towards teaching, students, and schooling; and operate collaboratively with structures that foster interdependence” (Achinstein, 2002, p. 421–422). Research confirms that participation in professional communities impacts teaching practices and improves student learning (Vescio, Ross, & Adams, 2008). Educational leaders interested in building and sustaining PLCs in their schools need to assure that particular conditions are in place, including increased opportunities for collaboration, a clear focus on student learning, teacher authority or empowerment, and continuous teacher learning (Vescio et al., 2008).

Collaboration is one central element of a PLC that leaders need to foster. To ensure that teachers have ongoing opportunities for collaboration, educational leaders need to remove the organizational and structural barriers that isolate teachers and create and sustain structures that allow sufficient time for productive collaboration with colleagues. According to Louis and Kruse (1995) the principal can set a positive tone for adult interactions and make collaboration possible by (1)
providing adequate time for teachers to meet and exchange ideas; (2) locating teachers physically closely to one another so that they can observe and interact with peers; (3) creating school-wide communication structures, including regularly established meetings devoted to teaching, learning, and other professional issues; and (4) employing methods of team teaching.

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Another element of a successful PLC is teachers’ focus on student learning as they collaborate. To build a culture of reflection and inquiry geared toward continuous school improvement, leaders must assure that certain structural conditions—time to meet and examine student work collectively and physical proximity—are present. For example, the Academy for Educational Development (AED) is collaborating with two urban schools to improve the quality of instruction “through a continuous, comprehensive, and critical review of student work”. AED involves the entire school staff in determining their priorities for student learning and “assists faculties to review student work in a regular and rigorous manner thus forming a foundation for planning and implementing instructional improvements”. Reviews of student work are conducted once or twice a month by small interdisciplinary teams of teachers “to identify what they value in student work, refine approaches to assessment and instruction, and determine the effectiveness of their support for all students in reaching agreed-upon standards” (see AED at http://scs.aed.org/rsw/rsw.html).

Teacher authority, the opportunity for shared decision-making, collective action regarding school policies, and reflection on broader school governance issues, is the third central element of a PLC. To empower teachers, principals should establish formal and informal opportunities to garner teacher input on the design and implementation of school and district policies and procedures; provide opportunities for teachers to collectively examine and make decisions about curriculum development, school policies, and school reforms; and encourage the inclusion of teachers in community, school, district, and state level discussions related to school improvement.

Continuous teacher learning is the last element of a PLC. Educational leaders need to foster the development of schools where opportunities for adult learning are plentiful, through formal programs (e.g., induction programs, professional development days, and courses) or, more informally, through day to day work with students and colleagues (e.g., classroom observations, joint planning and development, and team teaching) (Stoll, Bolam, McMahon, Wallace, & Thomas, 2006).

Assure a Good Match between the Teacher and the Teaching Assignment

Good matches between teachers and their assignments are vital to teacher effectiveness, job satisfaction and retention (Johnson, Kardos, Kauffman, Liu, & Donaldson, 2004; Liu & Johnson, 2006). Our analyses suggest that appropriate matching of teacher preparation and classroom assignment positively influenced teachers’ commitment to remain in teaching (Fall et al., 2009).

Principals and educational leaders have an important role to play in assuring a good match between teachers and schools. To increase the probability that appropriate matches occur, Liu and Johnson (2006) emphasized the importance of “supportive hiring practices” and made several suggestions. For example, to facilitate a strong teacher–position match hiring decisions should be both school-based and district-based. Changing the balance between district centralization and school autonomy empowers principals and gives them opportunities to evaluate the extent to which the applicant’s abilities, experiences, and dispositions match the position and culture of the school. Additionally, hiring processes should be information-rich. Information-rich hiring relies on an array of activities, where promising candidates are interviewed with a wide cross-section of the school community (e.g., current teachers, department chairs, students, or parents) and asked to
teach a brief demonstration lesson. Finally, districts can improve human resource practices by starting the recruitment and hiring process early and utilizing a Web-based portal to collect, store, and view candidates’ applications.

Create Manageable Work Assignments for Teachers in High Poverty Districts

We found that teachers working in high-poverty districts served significantly more students in a typical week than those working in more affluent districts. However, when the workload, paperwork, and caseloads were manageable, teachers were more likely to be committed to their schools (Fall & Billingsley, 2011). A manageable teaching assignment is critical for early career teachers when one considers the many challenges that these teachers face as they start teaching (Billingsley, Griffin, Smith, Kamman, & Israel, 2009; Johnson & Kardos, 2008). Problems with teachers’ work manageability create stress and dissatisfaction (Cross & Billingsley, 1994), and have negative implications for the quality of education students with disabilities receive (Russ, Chiang, Rylance, & Bongers, 2001).

Conclusion

Previous studies that compared early career SETs in high- and low-poverty districts emphasize the critical need to address the disparities in teacher quality and working conditions between low- and high-poverty schools. Remediying the situation will require action and sustained commitment at all levels of the system, including federal and state policy makers, university faculty, and district leaders. In sum, policy makers and educational leaders concerned with fostering teachers’ commitment to the profession should recruit teachers to districts and schools where they are needed most, invest considerable resources to provide early career teachers a variety of induction and support programs, develop supportive work environments, foster a collegial school culture, increase principal support, create manageable work assignments, and assure a good match between the teacher and assignment. Implementing these suggestions has potential for improving student learning and diminishing teacher attrition. These changes are not easy to make, but they deserve careful consideration if schools are to find, support, and keep highly qualified teachers that serve the needs of all students.

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An Employment Interview Instrument for Special Education Teachers

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The purpose of this study was to develop and field test an employment screening instrument for special education teachers.

The instrument developed demonstrated good reliability and concurrent validity.

Both principals and special education administrators could effectively use the instrument.

The instrument shows promise for helping administrators identify effective special education teachers for school classrooms.

The Importance of Selecting Effective Special Education Teachers

The selection of staff members is one of the most important tasks in which school administrators engage (Applegate, 1987; Caldwell, 1993). Indeed, no other single activity is as critical to operating an efficient and effective school. Errors made in the selection process have direct and far-reaching consequences for students, administrators, other teachers, and the functioning of the school as a whole. For example, Engel and Erion (1984) found that school administrators believed hiring high-quality staff members was central to the academic success of their schools, and recent evidence from the teacher effects literature supports principals’ contentions (Odden, Borman, & Fermanich, 2004; Rowan, Correnti, & Miller, 2002).

Historically, the mainstay of the staff selection process has been the interview (Cohen & Gump, 1984). For example, more than 85% of educational administrators regard the employment interview process as a vital factor in the selection of teachers (Vornberg & Liles, 1983). The interview has been the primary part of the hiring process (Eder, 1999) and is the most commonly used method to gather data about prospective employees. Because of the reliance on the selection interview, many researchers have investigated the components of the interview process. In the past five decades, there have been nine notable published reviews of the general literature and many more modest efforts (Arvey & Campion, 1982; Eder & Buckley, 1988; Hakel, 1989; Harris, 1989; Mayfield, 1964; Schmitt, 1976; Ulrich & Trumbo, 1965; Wagner, 1949; Webster, 1982). Later studies utilizing meta-analysis have considered both published and unpublished validation research and concluded that the interview process is a valid selection tool for identifying quality candidates (Conway, Jako, & Goodman, 1995; Cronshaw & Weisner, 1989; McDaniel, Whetzel, Schmidt, & Maurer, 1994).

While the employment interview is well entrenched as an administrative tool in school districts and its use enjoys some support from the research literature, interview practices and instruments for specialized school employees—such as special education teachers—are lacking. Indeed, currently there are no commercially available instruments specifically designed for special education teachers. Districts typically use the same employment interview instruments they use for regular education teachers in spite of the obvious differences in job duties and responsibilities. Role differences between general and special education teachers, however, make it inappropriate to use the same interview tools in gauging the skill levels of both. “Effective special education teachers process information about students with disabilities differently than do general education teachers,” and address varying student needs across a wide range of learning environments (Stough & Palmer, 2003,
p. 206). The need for a specific employment interview tool to assist school personnel in determining the quality of a special education teacher candidate is clear.

The effectiveness of employment interviews depends on the experience and expertise of individuals implementing them. A common assumption is that experience leads to expertise, as manifested in more knowledge of the selection task, superior processing of information about applicants, and higher quality judgments. Experts appear to achieve high levels of performance due to their ability to perceive and recall large patterns of events, the quickness with which they can “size up” a task and execute solutions, superior short-term and long-term memory, their use of general principles to organize knowledge, and self-motivational skills that allow continuous improvement (Glaser & Chi, 1988). Thus, based on research comparing experts and novices on structured tasks, one could expect experienced interviewers to have knowledge structures that are more detailed, complex, and organized, and that they will make better selection decisions (Graves, 1993). One would expect then, that special education administrators would make better selection decisions than less experienced and less knowledgeable building principals, given that most building principals lack specific preparation in special education, have seldom taught children with special needs, and are generally unfamiliar with many of the teaching methods employed in special education classrooms.

Clearly, many of the effective practices employed in the general education classroom are of similar usefulness for special education teachers; thus they should be considered in the domain of desired behaviors that should be incorporated into an employment screening instrument.

This study addressed two goals. The first was the development of an employment interview instrument designed specifically for special education teachers that was reliable and possessed good validity. To achieve this initial goal, the essential components of the special education teacher’s job were identified from the existing literature, recent studies, legal mandates, state certification requirements, and recommendations from national associations. Once identified, these components were translated into employment selection interview questions that could be used by trained principals and other school personnel to help identify effective special education teachers. The set of questions were then field tested to estimate their reliability and concurrent validity.

Second, because building principals and other non-special-educational personnel often are charged with the responsibility of conducting these initial employment interviews, the second goal of this study was to determine if these individuals would make better decisions about prospective special education teacher candidates than administrators with high levels of expertise and experience in special education.

### Needed Competencies for Special Education Teachers

#### Effective Teaching Practices in General

Sound teaching practices in general have been extensively examined through the process–product research conducted over the last 40 years (For reviews of this material see: Brophy & Good, 1984; Clearinghouse of the Panhandle Area Educational Consortium [CPAEC], 2002; Dunkin & Biddle, 1974; Good, 1998; Good & Brophy, 1974; Good & Brophy, 2007; Porter & Brophy, 1988; Richardson, 2001). It is beyond the scope of this paper to comprehensively review this broad research base other than to provide an overall summary within the context of special education. Clearly, many of the effective practices employed in the general education classroom are of similar usefulness for special education teachers; thus they should be considered in the domain of desired behaviors that should be incorporated into an employment screening instrument.

Three primary clusters of behaviors developed from the literature review define effective and ineffective teacher. The first centers on the teacher’s knowledge of the student. The extent to which a

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1 Excellent teaching encompasses many behaviors that occur out of the classroom setting in addition to teacher beliefs and skill sets. The focus here is on teaching behaviors since these skills have the greater potential for academic achievement. Principals obviously need to be concerned with the teacher as a whole, not just with their classroom performance.
teacher can customize the curricular and instruction program to match the developmental level and interests of the student depends on his or her knowledge of the student’s abilities, knowledge background, experiences, and prior mastery experiences. Teachers who have an understanding of these issues tend to make more effective curricular and instructional choices that are more appropriate for the individual child. In addition, interactions between the student and teacher are enhanced when the teacher has an understanding of the personality and background of the student. Appropriate communication of attitudes, ideas, concepts, beliefs, etc., which may interfere with the learning process, are directly related to the teacher’s knowledge base of individual students and a general appreciation of behaviors and beliefs of children of that grade or ability level.

Second, there is no substitute for the teacher’s knowledge of the academic content he or she teaches. Not only does such knowledge dictate what is taught, but how it might be conveyed. Teachers with sound content knowledge possess insight about what is important for students to learn, the best sequence in which to order the presentations, activities that are appropriate for the content, collateral enrichment activities, transfer of learning opportunities to other subject fields, and the depth in which the content should be covered. Content knowledge also influences teacher–student interactions. Teachers with good content knowledge can skilfully address student questions and expand on student ideas by referencing additional content not included in teachers’ guides or the given curriculum.

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The third cluster of behaviors that separate effective from ineffective teachers is pedagogic knowledge, which the literature commonly further subdivides into five domains: planning, organizing and developing instruction, delivery of instruction, establishing a positive classroom climate, and assessment. Planning, the extent to which teachers develop schemata that guide lesson formulation and delivery, plays an important role in subsequent decisions in all aspects of their classroom behavior and, consequently, on the nature of the learning that results. The thinking, planning, and decision-making of teachers constitute a large part of the context of instruction, for it is within this context that curriculum is interpreted and acted upon which serves as one of the bases for subsequent action. Teachers’ plans serve as scripts for carrying out instruction in the classroom and exert such a strong influence that teachers tend not to deviate from them once instruction has begun (CPAEC, 2002). They significantly influence the content of instruction and the sequencing of topics, as well as the time allocations to subject matter (Clark & Peterson, 1986). Other functions of teacher planning include instructional time allocation for individuals and groups of students, study and review of the content of instruction, organization of daily weekly and yearly schedules, meeting administrative details, and a host of communication needs. Taken together, teacher planning has a direct connection with variables studied in the general literature of research on teaching such as structuring, opportunity to learn, and time-on-task.

Organizing and Developing Instruction, the second subdivision of knowledge of pedagogy, consists of at least three components: efficient use of time to focus on academic tasks; skilled management of the teaching functions to avoid prolonged non-academic learning time; and skill in utilizing classroom interactions to maintain high involvement, provide motivation, focus on previously defined objectives, and diagnose student comprehension. Abundant research (Berliner, 1984) demonstrates the importance of academic learning time in the attainment of academic goals. Research findings also demonstrate the importance of skillful management of the normal routines in the classroom in terms of saving academic learning time and to ensure that the lesson flows in an uninterrupted fashion with minimal distractions and maximal focus on the intended learning outcomes. Lastly, the qualities of the interactions between the teacher and students have consistently been linked to not only academic achievement but affective goals as well. The interactions serve many functions: as feedback to the teacher and student regarding the quality and correctness of the student’s work, as a vehicle for academic praise to maintain
The expectations of teachers and administrators can permeate a school, creating a total climate and producing markedly different outcomes.

Establishing a Classroom Culture, the third category, can be described in terms of classroom environments that lead to achievement. Four such factors seem particularly important: the communication of academic expectations; the development of a safe, orderly and academically-focused environment; the construction of quick, fair, and sensible routines for the management of deviancy; and the development of cooperative environments for learning (Berliner, 1984). The voluminous literature on expectancy effects in education consistently shows that there are powerful effects on performance when teachers communicate their goals for performance to students and set high but attainable standards (Cooper & Good, 1983). As Berliner (1984) states, the communication of expectations does not just create a classroom climate. The expectations of teachers and administrators can permeate a school, creating a total climate and producing markedly different outcomes. Furthermore, the beneficial effects of high expectations have impact in other areas as well. Classroom management is fundamentally a process of solving the problem of order in classrooms rather that the problem of misbehavior or student engagement. These latter issues are not insignificant, but they are not primary targets of teacher energies (Doyle, 1986). The management of student conduct consists of at least four types of performance. The first set of activities focuses on establishing an academic climate where the subject matter is the focus of interest as opposed to social concerns students or the teacher might bring to the classroom. Establishing the primacy of the content matter and the expectation that academic engagement and inquiry are the primary purposes of the school greatly assists with the management of student conduct.

Instructional Delivery entails two types of performance: presentation (either direct or indirect) of content, and interaction with students. The presentation dimension is directly related to the quality of instruction and has been the focus of intensive research for the last twenty years (See Brophy & Good, 1984; Good, 1979; Rosenshine & Stevens, 1986). The second dimension of instructional delivery centers on the verbal and nonverbal interaction among the students and the teacher. Because much of the school’s ability to transmit knowledge is bound in its ability to communicate ideas and beliefs effectively, the skill of the teacher in promoting understanding, clarifying student misconceptions, and exchanging ideas is crucial to learning. With communication, teachers define, interpret, explain, describe, question, explore, direct, praise, criticize, and counsel. The study of interaction...
patterns is primarily rooted in the early studies of Flanders (1970) who categorized the types of questions the teacher asked and the types of student responses. Subsequent work has examined the type of questions asked, the complexity of the questions, the difficulty of the questions, the clarity of the questions, the selection of the respondent, the wait time afforded incorrect answers, the range of questions asked, the teacher’s reaction to various student responses, and the types of students that teachers called on for responses to differing types of questions. (See Cazden, 1986 for an extensive review.)

The last cluster of teacher behaviors, Monitoring Student Progress, directly impacts basic learning and includes those behaviors that relate to student assessment. It is through the assessment process that teachers obtain empirical evidence about the effectiveness of their instruction, students come to know how they are doing in a course and what they need to learn, and that the joint impact of the curricular and instruction program can be assessed. Although knowledge of proper test construction practices is important, the teacher must also know how to plan, administer, and interpret the tests and resulting data. They need to prepare students for the test by not only covering the test’s content, but by teaching the knowledge and skills of test-taking. Finally, the use that teachers make of the assessment data is a significant aspect of instruction for it provides both formative and summative feedback to students and the teacher.

**Literature-Based Professional Competencies for Special Education Teachers**

The research base clearly identifying the qualities of exceptional special education teachers is not strong. Stough and Palmer (2003) explain this by stating that the complex role of the special educator makes the determination of those desired qualities difficult to ascertain. Many of the desirable characteristics identified predictably demonstrate considerable overlap with those of general education teachers. For example, researchers have surveyed teachers and administrators to identify important qualities and/or competencies of teaching candidates and newly hired special education teachers (Boser & Wiley, 1990; Natter & Kuder, 1983; Rubba & Becker, 1985; Smith, Montello, & White, 1992; Smolen & Newman, 1992). Administrators identified interpersonal skills as an important quality for teaching candidates in order to work effectively with students, parents, and colleagues (Rubba & Becker, 1985; Smith et al., 1992). Additionally, administrators reported that they valued recommendations from other respected education professionals (Boser & Wiley, 1990; Smolen & Newman, 1992), evidence of skills in classroom management (Anderson & Hendriekson, 2007; Gilberts & Lignugaris-Kraft, 1997; Smith, 2006; Smith et al., 1992; Smolen & Newman, 1992; Soodak, 2003), evidence of subject knowledge (Brownell et al., 2009; Smith et al., 1992; Rubba & Becker, 1985), and the ability to use a variety of instructional strategies (Boser & Wiley, 1990; Cole & Leyser, 1999; Conderman & Katsiyannis, 2002; Drecktrah & Chiang 1997; Gagnon & Maccini, 2007; Whinnery et al., 1991.).

... knowledge of educational practices and student characteristics; the ability to assess student behavior, attention levels and state of mind; knowledge and use of instructional strategies, classroom-wide behavioral management and individualized behavior strategies; and a strong focus on academic, behavioral and emotional outcomes for students with disabilities were foundational skills and attributes of the “expert” special education teacher.

Stough and Palmer (2003) observed, interviewed, and videotaped 19 nominated special education teachers in five different school districts to determine what constituted an “expert” special educator. The teachers were nominated by their supervisors and administrators based on their high levels of demonstrated skills and expertise in special education. The findings indicated that knowledge of educational practices and student characteristics; the ability to assess student behavior, attention levels and state of mind; knowledge and use of instructional strategies, classroom-wide behavioral management and individualized behavior strategies; and a strong focus on academic, behavioral and emotional outcomes for students with disabilities were foundational skills and attributes of the “expert”
special education teacher. Mitchell and Arnold (2004) pointed to the importance of behavioral management skills at the classroom and individual level and understanding of the psychological and developmental levels of their students as critical. Similarly, Frey and Fisher (2004) identified the core skills as: the understanding of how students learn; the methodology to increase student learning; the use of classroom management skills; and the ability to involve the community.

Also frequently mentioned in the literature is the need for special education teachers to be able to manipulate various pieces of equipment needed by students, and the ability to modify curriculum mandates and instructional processes frequently to meet individual student’s needs.

Other more specialized roles of special education teachers seem to center on coordination activities with parents, paraprofessionals, general classroom teachers, and the school administration. For example, when given an opportunity to respond to a survey of Kansas special educators, 341 current teachers of students with disabilities listed: co-delivery of instruction with a general educator, allocating resources for student support, supervising paraprofessionals, case coordination, advocating for students with disabilities, completing paperwork, developing IEPs, consulting with building administration and general educators, collaborating and consulting with parents, and scheduling various events as essential skills needed by special education teachers (Kaff, 2004). Also frequently mentioned in the literature is the need for special education teachers to be able to manipulate various pieces of equipment needed by students, and the ability to modify curriculum mandates and instructional processes frequently to meet individual student’s needs.

Professional Organizations’ Recommendations for Special Education Teachers

The primary work of identifying professional standards for special education teachers can be found in the document titled What Every Special Educator Must Know (Council for Exceptional Children [CEC], 2004) which has served as the de facto standard for many state departments’ teacher certification standards. As the largest professional organization of special educators, CEC has advocated for well-prepared and high-quality special education professionals for over 75 years. In 1989, CEC published the original standards, which were based on materials from the literature; state, provincial, and local governments; and institutions of higher education. A subcommittee then identified and organized thousands of competencies into major categories and determined the importance of each by surveying a large number of CEC members. Eventually this list was reduced to 107 competencies. CEC adopted these validated statements, which became “The CEC Common Core of Knowledge and Skills Essential for All Beginning Special Education Teachers,” published in the fall 1992 issue of Teaching Exceptional Children (Swan & Sirvis, 1992). These original competencies were revised in 1996 and 2000, and now are composed of 10 domains that are well integrated into the Interstate New Teacher and Assessment and Support Consortium’s (INTASC) compendium of standards used by many states for establishing certification standards. The last review and update of these CEC standards took place in 2003 and includes standards addressing knowledge of basic foundational understanding of differing philosophies, laws, history, and human issues influencing education; development and characteristics of learners; individual learning differences; instructional strategies; learning environments and social interactions; language development; instructional planning; assessment; professional and ethical practice; and collaboration. CEC states that these professional standards for teacher quality have been rigorously validated, informed by research, and pedagogically grounded by thousands of special education teachers (CEC, 2004).

The second set of recommendations concerning the job qualifications and responsibilities of teachers can be abstracted from the Praxis Test for Special
Educators (ETS, 2005). This national exam serves as one criterion for certification in special education for many state departments of education. It is composed of 60 multiple-choice questions covering three areas: Understanding Exceptionalities (25 to 30% of the exam), Legal and Societal Issues (15 to 20%), and Delivery of Services to Students with Disabilities (50 to 60%). The Understanding Exceptionalities section focuses on human development and behavior, characteristics of students with disabilities, basic concepts of special education (such as category definition and classification), and the influence of exceptionalities on normal life functions over an individual’s life span. Topics in the section dealing with Legal and Societal Issues include federal laws and legal issues related to special education; the schools’ connection with families, employers, and communities of students with disabilities; and historical movements and trends affecting the connections between special education and the larger society. The last section, Delivery of Services to Students with Disabilities, has considerable overlap with the desirable behaviors of general education teachers discussed previously but is more focused on special education students and their exceptionalities. Commonly included items in this section deal with understanding the students, integrating best practice, instructional delivery practices, various types of curricular programs, teaching strategies, instructional formats, teaching technology, assessment, and student placement.

Synthesis of Research and Professional Recommendations

From examination of the compendiums of proficiencies needed by special education teachers suggested by the extant literature, CEC, and the ETS’s Praxis exam, there appears to be substantial consistency. Figure 1 provides a synthesis of this work. General skills needed by all teachers (general and special education) are indicated in regular type while italics are used to suggest competencies more uniquely suited to special education teachers. Note that two additional categories (Collaboration Skills and Knowledge of Professional Practice) have been added to the basic list of skills needed by general education teachers. In addition, some of the original categories needed by general education teachers have been supplemented with competencies more attuned to teaching students with exceptionalities. Figure 1 represents a brief overview that provides a reasonable digestion of the various recommendations.

How the Study Was Conducted

This study addressed two goals. First was the development of an employment interview instrument designed specifically for special education teachers that was reliable and possessed good validity (Phase 1). Second, because building principals and other non-special-educational personnel often are charged with the responsibility of conducting these initial employment interviews, the second goal of this study was to determine if these individuals would make better decisions about prospective special education teacher candidates than administrators with high levels of expertise and experience in special education (Phase 2).

Instrument Development

Special education teacher roles, responsibilities, and skill sets served as the focus for the development of the employment interview questions. The essential elements of a special education teacher’s role were based upon the states’ standards, principles set forth by professional organizations, and current research and university programming as described in the previous section and presented in Figure 1. These essential elements were originally translated into 47 interview questions with a three-point scoring rubric for each question. With one exception, the questions were developed to measure each of the five major themes included in Figure 1. The Knowledge of Content category was not developed for two reasons: 1) given the diversity of subjects taught by special education teachers, identifying generic questions appropriate for all candidates would have been difficult, and 2) previous research (Ebmeier & Ng, 2006; Reik, 2007) indicated that questions measuring Knowledge of Content are not as predictive as those covering other job-related areas.2

Figure 1 represents a brief overview that provides a reasonable digestion of the various recommendations.

2 Knowledge of content questions are predictive of principal ratings of the teachers but are not nearly as strong as questions assessing knowledge of teaching or knowledge of students.
describes the scales on the instrument and the themes they measure.

To check content validity, the employment interview tool with the original 47 questions was shared with five current and former directors of special education and one human resource director, who served as content area experts. Each individual was asked to provide feedback on the content of the questions, the scaling and content of the answers, and the overall instrument. First, they performed a Q sort to see if the initial grouping of the questions by the developers matched their own grouping patterns, and then rated each question based on quality and the ability of the question to provide adequate knowledge about the interviewee. Based on this initial review, selected questions were revised and placed in different thematic areas as needed. Seven different special education directors then served as

**1. Knowledge of the Student**
Developmental needs in general and needs of particular cases of exceptionalities
Interests, background, culture, personality, and prior mastery experiences
Exceptionalities of all kinds including cultural, social, genetic elements, and their interaction with families and society

**2. Knowledge of Academic Content**
Subject specific knowledge
Application knowledge to students' interests and abilities

**3. Knowledge of Instruction**
Planning
- Content selection
- Sequencing
- Time allocations
Organizing and developing instruction
- Efficient use of time
- Management of teaching functions
- Utilizing classroom interactions
- Diagnosis of student comprehension
Establishing a classroom culture
- Communication of expectations
- Development of safe and orderly environment
- Construction of routines
- Development of cooperative learning environment
- Respect for diversity issues
Instructional delivery
- Presentation of content
- Interaction with students
  Mastery of specific learning strategies associated with particular exceptionalities
Monitoring student progress
- Proper assessment construction and measurement theory
- Interpretations of various kinds of assessments
- Test-taking preparation
- Instructional adjustments based on assessments

**4. Knowledge of Professional Practice**
Foundations
- Development of IEPs and other legally-mandated processes
- Knowledge of philosophies, principle, theories, laws, history, and influences on special education
Professional and ethical practice
- Respect for students and families, and protection of privacy
- Advocacy for special education students and their families
Knowledge of conceptual approaches to service delivery for special education students
- Knowledge of placement practices, accommodations, transitions, and assistive technology

**5. Knowledge of Collaboration Skills**
Knowledge of various communication or language development skills; ability to enhance student language development skill
Working with families, administration, other teachers, community resource people
Service as a resource for others about laws, policies, instructional methods of special education
Note: items in italics indicate competencies uniquely suited to special education teachers.

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**Figure 1. Summary of basic competencies of special education teachers**

<table>
<thead>
<tr>
<th>1. Knowledge of the Student</th>
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<tbody>
<tr>
<td>Developmental needs in general and needs of particular cases of exceptionalities</td>
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<th>2. Knowledge of Academic Content</th>
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<td>Subject specific knowledge</td>
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<tbody>
<tr>
<td>Planning</td>
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<tr>
<td>- Presentation of content</td>
</tr>
<tr>
<td>- Interaction with students</td>
</tr>
<tr>
<td>\textit{Mastery of specific learning strategies associated with particular exceptionalities}</td>
</tr>
<tr>
<td>Monitoring student progress</td>
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<tr>
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</tr>
<tr>
<td>Note: items in italics indicate competencies uniquely suited to special education teachers</td>
</tr>
</tbody>
</table>
Figure 2: A Description of the four scales on the employment interview instrument

| Knowledge of Students | questions assessed the interviewee’s understanding of disability and its impacts on student progress in the general education curriculum. These questions also focus on types of common disabilities and the issues these disabilities present for students across all learning environments encountered in a school day. The understanding of typical and atypical growth and development and the implications of these patterns with regard to student learning are elicited. Understanding student behavior and its impact on student learning are also determined. |
| Knowledge of Collaboration | questions focus on working with teachers and other school personnel in a collaborative manner directed toward success for students with disabilities. Particular focus on empowering parents as educational partners is centered on participation in student Individualized Education Programs (IEPs). The understanding of the role of the special education teacher as student advocate and instructional strategist is elicited. |
| Knowledge of Instruction | questions focus on skills resulting in student independence and demonstration of mastery through the use of learning strategies, interventions, and generalization of learning. Knowledge of task analysis, functional assessment, and classroom measurements and the translation of those instructional results to the development of specialized learning plans and IEPs are cornerstones to this skill area. The implementation of instructional and behavioral plans and the collection of data to demonstrate student learning are additional skill areas under this heading. Questions are also included that evaluate the candidate’s understanding of the curricular structures of schools as well as the demands of all learning environments. The modification and adaptation of curricula to meet student needs is a focus. |
| Knowledge of Professional Practice | questions focus on the candidate’s understanding of special education processes, federal and state laws outlining the provision of special education services, the historical foundations of special education, and the role of the special education teacher. The development of IEPs and the duties of special education case management are addressed in this section. The articulation of a personal philosophy of special education is also elicited. |

The simulated interviews were conducted via phone by an independent interviewer with extensive experience in the field of special education, no prior knowledge of the rating of each of the 40 special education teachers, and who did not participate in the development of the instrument. Before beginning the interviews, the interviewer was trained extensively in the administration of the interview instrument. Five simulation interviews were conducted with one of the authors of this study in which both individuals independently rated each previously videotaped interview and then compared scoring. One hundred percent inter-rater reliability on scoring for each of the simulated training interviews was attained before the interviews began. After the reliability training was completed, the interviewer was given a packet for each teacher participant to record scoring on each of the questions, a script to introduce the study interview, and a statement to be read ensuring participant anonymity. Interviews ranged from 25 minutes to an hour in length. After each interview, each participant’s direct special education supervisor was asked to complete a five-question Likert scale instrument rating the teacher participant’s abilities in the domains outlined by the
interview tool. These supervisors had no knowledge of the interview rating previously obtained. An overall score was obtained by a simple summation of the supervisor ratings for each individual and correlated with the individual’s score on the interview instrument itself.

As indicated in Table 1, statistically significant correlations were evidenced between the supervisors’ ratings and all the subscales and totals found on the instrument. There were also high correlations among the various scales, which illustrated that the scales were not orthogonal, which was to be expected. Data related to the interview participants’ years of experience in special education were collected at the time of interview. A participant’s experience teaching special education was found to be negatively correlated with performance on the interview tool (−0.242). However, the correlation was not statistically significant.

Phase 2: Can Principals Accurately Use the Developed Interview Instrument?

Evidence from the preceding study indicated the utility of the developed employee interview instrument for identifying quality special education teachers. Although the instrument proved effective, all the interviews were completed by an experienced special education district administrator. While special education specialists often participate in initial employee interviews, the building principal plays an equally important role in the selection process. The purpose of this second study was to assess if a non-special-education administrator could use the developed instrument and produce judgments similar to those of a special education administrator. This was accomplished by having both building and special education administrators view a series of randomly presented video clips showing candidates interviewing for a special education teaching position and comparing their evaluations of the responses given to the individual questions. These video clips were constructed using actors with prepared scripts demonstrating high, moderate, and low level quality answers. The quality of the answers was verified by two graduate students and two professors with backgrounds in special education and followed almost exactly the intent of the three-point scoring rubrics. That is, actors were instructed to construct a video episode that displayed a high, moderate, or low level response to a given question. Approximately 60 video segments were constructed displaying an equal
number of high, moderate, and low level responses to a random sample of questions from the original instrument.

General education, building-level administrators ($n = 22$) from a large middle class suburban school and special education administrators ($n = 22$) from metropolitan Kansas City school districts individually viewed 20 of these specially constructed video clips of teachers interviewing for a special education position employing the questions and rubrics from the previously developed instrument (Phase 1). The administrator listened to the interviewer asking the question while watching a video of the candidate on the computer screen. Next to the candidate on the screen were scoring rubrics and the question. The questions and quality of the candidate’s answer (high, medium, and low) were randomly presented to each candidate.

Before comparing the results between the special and general administrators, it was important to make sure that any differences were not due to initial differences in gender, age, experience, grade level assignment, or educational preparation across the two groups. Thus, as part of the computer program that presented the video clips, information about these background demographic variables were collected. Results indicated no significant differences were initially present other than obviously a more extensive education and experience in special education for the group of special education administrators. Correlations of each of these background variables with the overall accuracy score from viewing the video clips did not yield any significant results. Thus, gender, age, experience, grade-level assignment, or educational preparation did not seem to influence the administrators’ scoring of the prepared video clips. Similarly, when the average percentage correct (defined by what the video clip was designed to portray) from evaluating the 20 video clips was compared across the two groups via a $t$ test, no statistical difference was discovered. The number of occasions in which the response matched the intended quality designation (high, moderate, or low) were very similar (principals = 83%, special education administrators = 85%), and the overall probability of differences being present was less than $p < .54$.

**What Was Learned About the Interview Instrument**

The purpose of the developed instrument was to provide an improved interview device for identifying effective special education teaching candidates. To that end, the instrument seems very suited. The validity correlations were very high for selection instruments. Indeed, the correlations were higher than common standardized tests used for admission into colleges and various postgraduate professional schools (Kuncel et al., 2005; Julian, 2005; Kuncel, Hezlett, & Ones, 2001; Stilwell, Thornton, & Pashley, 2005), and at the top end of the range typically reported for employment selection interviews in the literature (McDaniel, Whetzel, Schmit, & Maurer, 1994). These findings are also supported by prior work of Ebmeier and Ng (2006); Shirk (1997); Evans (2003); Allshouse (2003); Longenecker (2005); Covens (1999); and Emly and Ebmeier (1997) who all used similar methodologies and instruments to identify effective general education teachers. Collectively, these studies combined with the present study support the notion that selection instruments based upon job-related criteria and containing clear scoring rubrics can be very useful.

Not all scales and questions on the instrument were, however, equally effective. The Knowledge of 

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total Instrument Score</th>
<th>Knowledge of Students</th>
<th>Knowledge of Instruction</th>
<th>Knowledge of Professional Practice</th>
<th>Knowledge of Collaboration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisor Rating</td>
<td>.489**</td>
<td>.458**</td>
<td>.337*</td>
<td>.545**</td>
<td>.516**</td>
</tr>
<tr>
<td>Total Score for Instrument</td>
<td>.917**</td>
<td>.879**</td>
<td>.890**</td>
<td>.863**</td>
<td></td>
</tr>
<tr>
<td>Knowledge of Students</td>
<td>.739**</td>
<td>.750**</td>
<td>.812**</td>
<td>.812**</td>
<td></td>
</tr>
<tr>
<td>Knowledge of Instruction</td>
<td>.748**</td>
<td>.623**</td>
<td></td>
<td></td>
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<tr>
<td>Knowledge of Professional Practice</td>
<td></td>
<td></td>
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</tbody>
</table>

Note: $N = 40$. **$p < .01$, *$p < .05$
Professional Practice scale clearly had the highest correlation with the supervisors’ ratings, followed by the Knowledge of Collaboration and Knowledge of Students scales. Knowledge of Instruction, ironically, proved to be the least-correlated scale, although it was still statistically significant. Given the outcome criteria used by this study (special education supervisors’ ratings) these results might have been predictable. Special education supervisors are more likely to have contact with special education teachers in administrative settings (IEP meetings, conferences, internal discussions about policy, parent complaints, student discipline issues, etc.) rather than through classroom observations and substantive discussions centered upon teaching. Special education directors likely form opinions about the quality of the teacher through these meetings and not through direct observation of teaching practices. Following district professional practices and maintaining healthy relations with students, other staff members, and the principal are likely to be more important for forming judgments about teaching quality than actual classroom performance. If other measures of effectiveness were selected, it would be reasonable to believe that the order of scale predictability might change. Clearly, the definition of teacher effectiveness plays an important role in determining which set of questions are the best predictors.

Not all scales and questions on the instrument were, however, equally effective. The Knowledge of Professional Practice scale clearly had the highest correlation with the supervisors’ ratings, followed by the Knowledge of Collaboration and Knowledge of Students scales. Knowledge of Instruction, ironically, proved to be the least-correlated scale, although it was still statistically significant.

Results from the second study indicate that both general education building-level administrators and special education administrators can reliably rate the answers and overall quality of a special education teacher based on the developed structured interview. Without any prior training or familiarization with the developed interview instrument, both groups were above 80% accuracy compared to the intended rating of each of the video clips. Our experience indicates that this overall accuracy rating can be improved to well above 90% with 2 to 3 hours of training. Thus, experience and expertise does not seem to play an important role in evaluating responses from special education candidates. Building principals are just as accurate as special education administrators.

While these results seem contrary to common sense, they are consistent with the extant literature. For example, while Dipboye and Jackson (1999) concluded from their review of the literature that, while experienced interviewers appear less lenient, more confident, more satisfied by the task, and more positive toward interviews as selection procedures than do inexperienced interviewers, there are only minimal differences between experienced and inexperienced interviewers’ final judgments. This lack of difference seems to be explained by two factors. First, as individuals gain experience in the interviewing process and knowledge of special education, they build cognitive structures that allow them to understand rather complex events and ideas in relatively short time periods. While these biases are very functional in most cases, the tendency to generalize can also interfere with sound judgments about special education teaching candidates. It also increases the possibility that the interviewer will ignore or overlook specific guidelines inherent in the interview process. That is, often they will substitute their own judgment for the protocols necessary for the interviewing instrument to properly function. Second, most of the research has been conducted with highly structured interview instruments that discourage deviation from prescribed procedures and, thus, can minimize the role experience might play. The inclusion of standard questions and well-defined rubrics probably reduces the variance allowed between experienced and inexperienced interviewers. Dipboye and Jackson (1999) speculate that greater differences might be more pronounced if unstructured interviews were employed.
Although good results were obtained from this study, the correlations estimates probably underestimate the true concurrent validity of the developed instrument for two reasons. First, there was unavoidably some error variance introduced by the lack of precise definitions of teaching effectiveness employed by the special education supervisors when rating the teachers. Adding to this error was the lack of training provided to the raters, which could have served to increase inter-rater reliability. Second, there was an unavoidable sampling ceiling effect when the special education teachers were selected. Teachers who failed the initial employment process or were released for poor performance were not included in the sample. These situations either introduced undesirable error variance or limited variability, which likely dampened the correlations. Similar problems haunt statisticians working with the LSAT, GRE, and GMAT.

Certain limitations should be considered when interpreting results from the special education interview instrument. Although this study did not detect any statistically significant correlations of the interview instrument with teacher age, prior studies with similar instruments designed for regular education teachers, paraprofessionals, school counselors, and psychologists indicated there may be an inherent relationship with age where older employees score lower. This issue seems far from resolved, as other studies (Massy, 2010) have not detected any relationship between age and employment interview scores. Thus, care needs to be taken when assessing interview scores from older candidates. Also, it is important to be cognizant that the developed instrument was designed to identify teachers considered effective by special education administrators. It was not constructed to predict other possible definitions of teacher effectiveness such as residual gain on standardized tests, parent satisfaction, student satisfaction, or career longevity.

Lastly, it is not suggested that the process for selecting school special education teachers be reduced to a single, 36-question structured interview (or the shorter versions available from AASPA3). On the contrary, what was examined was a piece of a very complex puzzle. All of the data about an applicant should be considered within the context of the merit of each piece of the application puzzle. This effort was designed to improve the quality of one piece of the applicant’s portfolio of information so that, taken in total, a clear picture of his/her competence can be fairly and accurately assessed. The employment interview described in this paper seems to possess good reliability and validity estimates, but it should, however, be only one piece of information upon which employment decisions are made.

References


3 Versions designed for use in schools can be obtained from the American Association of School Personnel Administrators (www.aaspa.org). University-based researchers can obtain versions of the instrument to be used for additional investigations from howard@ku.edu.


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This article maps out the similarities and differences among the various routes to Individuals with Disabilities Education Act (IDEA) and Section 504 dispute resolution, including those not widely and well known to special education leaders.

For IDEA-eligible students, the alternative avenues consist of not only the impartial hearing procedures and the state education agency’s complaint investigation/resolution process but also the routes of legal recourse under Section 504.

For students eligible under Section 504 alone, the alternative avenues amount to not only the complaint investigation/resolution process of the Office for Civil Rights but also the required grievance and impartial hearing procedures, which are subject to considerable confusion and—in light of the IDEA’s intersecting exhaustion requirement—complexity.

The various parts of this roadmap range from basic points for the new special education leader to more nuanced or advanced points for the experienced special education leader, with ample documentation of the specific legal sources.

Michael Garza is a third grader with severe autism, but in his special education class last year, he showed unexpected improvement in his communication skills. This year, however, with a different teacher, Michael’s skill levels appear to have reached a plateau. Mr. and Mrs. Garza are dissatisfied with his new classroom environment. At the latest IEP meeting, they even hinted at recommending a private residential placement—150 miles away—that specializes in autism.

Michael’s sister Jennifer, a fifth grader who excels in all her classes, has a severe food allergy to peanuts, which, according to her physician, could result in anaphylactic shock. Although she has not experienced an anaphylactic episode in her current elementary school, her parents are concerned about her safety upon the upcoming transition to the much larger middle school campus. The middle school cafeteria director has promised the Garzas to provide peanut-free meals to Jennifer but was reluctant to do so for the menu of the entire school. Based on the success of the informal arrangements during elementary school and the assurance of the cafeteria director, combined with the homeroom teacher’s commitment to educate Jennifer’s future classmates on their proactive responsibilities, the middle school principal opines that Jennifer does not qualify for or need a 504 plan. In any event, the principal is unwilling to grant the Garzas’ request for a complete ban of peanut products on the campus.

1. What legal avenues are available to the Garzas to obtain what they regard as an appropriate program and placement for Michael?
2. What legal avenues are available to them if they seek to challenge the school's position with regard to Jennifer's allergy?

The Individuals with Disabilities Education Act (IDEA), which Congress most recently amended in 2004, and Section 504 of the Rehabilitation Act (§ 504), which Congress most recently expanded with the Americans with Disabilities Act (ADA) Amendments, each entitle every child with a disability to a “free appropriate public education” (FAPE). This article maps out the various administrative routes of legal recourse available to parents when they have a dispute, such as a perceived denial of FAPE, about their child with a disability when this dispute has not been resolved by more informal means. The roadmap traces the available avenues under the IDEA regulations and § 504 regulations, but does not extend to either the
prior informal or alternative means of dispute resolution (Mueller, 2009a), such as individualized education program (IEP) facilitation (Mueller, 2009b), or the ultimate resort to court action. Using the opening case as an illustration, the end of the article shows the Garzas’ alternatives for advantageously navigating on behalf of each of their children.

The due process hearing, the most traveled of these available avenues of legal dispute resolution, is also the one that the professional literature most frequently covers. Professional journal articles typically focus on a particular aspect of IDEA hearings, such as burden of proof (Conroy, Yell, & Katsiyannis, 2008), expert witness fees (Yell, Katsiyannis, Ryan, & McDuffie, 2008), or hearing officer impartiality (Maher & Zirkel, 2007). They also include qualitative case studies (e.g., Bateman, 2007; Olivos & Ochoa, 2008) as well as quantitative studies of frequency trends (e.g., Zirkel & Gisclair, 2008) and outcome trends (e.g., Zirkel & D’Angelo, 2002).

However, these hearings are by no means the only avenue of IDEA dispute resolution worth the attention of educators and parents alike. With relatively limited exceptions (e.g., Suchey & Huefner, 1998; Zirkel, 2008b), the professional literature has not at all addressed, much less usefully mapped, these alternate routes available under not only the IDEA but also § 504 and its sister statute, the ADA. Entirely absent in the literature thus far, the interrelationship of these avenues is subject to confusion among district and parent representatives. The aim of this article is to fill a conspicuous gap in the literature by offering a comprehensive roadmap of these various routes, as demonstrated by the Figure of the dispute resolution maze displayed in this article.

The respective outer limits of this roadmap are the informal alternate means of dispute resolution at one end and the full court proceedings at the other end. The boundary between the IDEA and § 504 routes is a dotted line rather than a solid one, because the availability of each path depends upon whether a child is double-covered—i.e., under both the IDEA and § 504—or protected under § 504 only.

As markers for these routes, the rest of this article cites successive primary sources of law. More specifically the IDEA and § 504 regulations, which have citations to sections starting with 300 and 104, respectively, serve as the first source of law. Second, the Office of Special Education Programs (OSEP), the federal agency that administers the IDEA and issues its regulations, provides supplementary guidance for interpreting these laws in the form of policy letters and “Questions & Answers” documents. Similarly, with regard to § 504 implementation, the Office for Civil Rights (OCR) issues policy letters, and in response to individual complaints, “letters of findings.” Finally, federal court decisions and state
special education laws provide the other cited primary sources for this article. Secondary sources are included only where necessary to provide information not available in a primary source.

The IDEA Dispute Resolution Options

IDEA Impartial Hearing Officer: Administrative Adjudicative Route

The obvious place to start a discussion of the IDEA dispute resolution process is with the administrative adjudicative route, because it is the most well known. School officials typically call this route “due process,” because this path to dispute resolution culminates in a hearing of the same name, overseen by an Impartial Hearing Officer (IHO). As explained later under “State Structure,” the state education agency (SEA) may share responsibility for this route with the local education agency (LEA). However, the hearing is by no means the only stop worth noting along this route. What follows here is the step-by-step process from complaint to hearing, with brief mention of mediation and judicial review.

Initiating Step. Although an LEA may request a due process hearing, especially if a parent unilaterally changes a child’s placement (OSEP, 2009) or requests payment for an independent educational evaluation (IDEA Regulations, § 300.502(b)(2)(i)), parents account for the overwhelming majority of due process complaints. For purposes of this discussion, unless otherwise indicated, our summary presumes that a child’s parent is the filing party.

According to the IDEA regulations, except for two prescribed circumstances, a parent must file a due process hearing complaint within 2 years of the time when the parent first knew or should have known of the alleged violation (§§ 300.511(3)-(f)). This timeline, more commonly known as a statute of limitations, is not necessarily the same in all states: The IDEA permits individual states to adjust the statute of limitations in either direction via state law. Thus in Texas, for example, the statute of limitations is only 1 year (Due Process Hearings, 2009). Moreover, the IDEA regulations, tracking the IDEA 2004 legislation, add a second related time limit by specifying that the alleged violation must have occurred within 2 years prior to the date when the parent had the requisite knowledge of it (§ 300.507(a)(2)). This provision arguably extends the limitation period for a remedy, such as compensatory education or tuition reimbursement. The courts thus far have largely limited their interpretation of this new limitations language to two exceptions (e.g., A.B. v. Clarke County School District, 2009; D.G. v. Somerset Hills School District, 2008) and have not yet clearly addressed issue of the 2- versus 4-year limit for compensatory education.

Resolution Session. The LEA must hold an initial resolution meeting within 15 calendar days of the filing of the complaint, and OSEP interprets the regulations as requiring a new resolution meeting every time the complaining party amends its due process complaint (OSEP, 2009). The resolution meeting starts another clock ticking; the LEA has 30 calendar days to resolve the complaint, whether through the resolution process or through mediation. However, if the LEA is the filing party, there is no resolution meeting; instead, OSEP “expects that LEAs will attempt to resolve disputes with parents prior to filing a due process complaint [emphasis added]” (OSEP, 2009, p. D-2). The IDEA regulations for resolution sessions discourage—without prohibiting—the participation of attorneys, in two ways. First, a prevailing parent who uses an attorney for the entire process may not recover attorney’s fees for the resolution phase (§ 300.517(c)(2)). Second, if the parent opts not to bring an attorney to resolution meetings, the LEA may not have legal representation there (§ 300.510(a)(ii)).

If the resolution phase results in an agreement, the parent and the LEA representative must reduce this agreement to writing, signed by both parties. This agreement is “binding,” or in other words, enforceable in state or federal court (§ 300.510(d)), unless a party proves extenuating circumstances that would ordinarily invalidate a contract—for example, if the agreement violates public policy, or was signed under duress. However, if the resolution phase is unsuccessful in producing an agreement within 30 days, a due process hearing is the next step.

… the most recent IDEA regulations require the availability of mediation before, not just after, a party has filed a due process complaint (§ 300.506).
Mediation Option. Mediation serves an important function as another preliminary part of this route. Indeed, the most recent IDEA regulations require the availability of mediation before, not just after, a party has filed a due process complaint (§ 300.506). The reason is that early mediation may be even more effective than would the same mediation entered into after a parent has become so dissatisfied as to request a due process hearing. Nevertheless, although an SEA or LEA may establish procedures for a disininterested party to explain and encourage mediation, participation must be mutually voluntary (§§ 300.506(b)(1)–(2)); either the parent or the LEA may decline this option. Moreover, the recent version of the IDEA regulations, which were issued in 2006, expressly incorporate for mediators the impartiality requirements that have long applied to hearing officers. (§ 300.506(c)), which has caused revised institutional arrangements in some states (e.g., Chester, 2008).

State Structures. The IDEA regulations allow each individual state to choose between two structures for this administrative adjudicative process: 1) a one-tiered system, limited to an impartial due process hearing at the LEA or SEA level, or 2) a two-tiered system, with an initial impartial hearing at the local level and an impartial review officer (or panel) at the SEA level. The trend has been in favor of a single-tier structure. More specifically, in the decade from 1991 to 2000, nine states made the switch from a two-tiered to a one-tiered system (Ahearn, 2002). The current total for one-tiered systems is 40 states and the District of Columbia, with a gradual movement toward full-time administrative law judges as the hearing officers (Zirkel & Scala, 2010).

Legal Boundaries. IHOs have broad-based jurisdiction with regard to identification, evaluation, placement, and FAPE of children with disabilities under the IDEA (§ 300.507(a)(1)). The exceptions are very limited, including 1) where the parent did not provide written consent to initial services (§ 300.300(b)(2)); 2) where the parent disputes the services or lack of services, beyond child find, for a child whom they have placed in a private school where reimbursement is not the issue (§§ 300.140(a)–(b)); and 3) per the recent amendments to the regulations, where the parent provides but subsequently revokes consent (§ 300.300(b)(4)). Moreover, although the regulations only expressly grant IHOs the remedial authority for tuition reimbursement (§ 300.148(c)), the remedies that are implicitly available to them are very broad, including declaratory and injunctive relief, such as compensatory education and even, depending on state law, disciplinary sanctions—but generally not attorneys’ fees or money damages (Zirkel, 2006a).

... for FAPE, which is the issue in the vast majority of cases, the IDEA requires what may be considered a harmless-error approach for procedural violations, with one specified exception—where the district “[s]ignificantly impeded the parent’s opportunity to participate in the decisionmaking process regarding the provision of a FAPE to the parent’s child” (§ 300.513(b)).

IHOS differ widely from state to state in terms of institutional arrangements (e.g., part-time independent contractors vs. full-time administrative law judges) and training (Zirkel & Scala, 2010). Nevertheless, for FAPE, which is the issue in the vast majority of cases, the IDEA requires what may be considered a harmless-error approach for procedural violations, with one specified exception—where the district “[s]ignificantly impeded the parent’s opportunity to participate in the decisionmaking process regarding the provision of a FAPE to the parent’s child” (§ 300.513(b)).

Final Steps. The IHO’s decision must issue within 45 days after the expiration of the resolution phase or the prescribed adjusted starting point (§ 300.510(c)), and, in two-tiered states, the subsequent time limit for the review officer stage is 30 days (§§ 300.515(a)–(b)). However, it is not unusual to encounter decisions issued markedly beyond the 45-day and 30-day periods, given the express exception for extensions of the respective deadlines at the discretion of the IHO or review officer and at the request of either party (§ 300.515(c) and the aforementioned harmless-error approach that most courts have applied to such violations (e.g., Heather S. v. Wisconsin, 1997).

Although the judicial process is not part of this roadmap, the connecting path from the due process hearing to court has three noteworthy features. First, the IDEA unusually provides for concurrent
jurisdiction: The party initiating review of the due process hearing may file in either state court or federal court (§ 300.516(a)). Second, the limitations period for filing is 90 days after the IHO decision unless state law provides for a different period for this specific purpose (§ 300.516(b)). Finally, the judicial review standard for an IHO decision is—as originally established (Board of Education v. Rowley, 1982, p. 206) and still applicable (e.g., Ashland School District v. Parents of Student E.H., 2009)—“due weight,” which is flexibly intermediate between traditional deference and de novo, i.e., starting anew, which amounts to no deference (e.g., Newcomer & Zirkel, 1999).

Before the parents of IDEA-covered children can have their case adjudicated in state or federal court, however, they must first “exhaust” the remedies available through the IHO and, in two-tier states, review-officer procedures (§ 300.516(e)). Futility and inadequacy are the notable exceptions to this requirement, but the courts have generally interpreted these exceptions rather narrowly. For example, although they have inevitably excused class action suits from exhaustion, the majority of courts have held that this requirement applies even if the parents are seeking a remedy not available through an IDEA hearing, such as money damages (e.g., A.W. v. Fairfax County School Board, 2008).

IDEA Complaint Resolution Process (CRP): Administrative Investigative Route

In contrast, the other IDEA route of administrative dispute resolution, which is neither well known nor well understood, is the SEA “complaint procedure” outlined in §§ 300.151–300.153 of the IDEA regulations. In accordance with the convention in some states (e.g., Connecticut State Department of Education, 2007) and for the sake of simplicity to avoid confusion with the administrative adjudicative—i.e., IHO—“complaint” procedure, we will hereafter refer to this administrative investigative procedure as “CRP” for complaint resolution procedure, or process.

Initiating Step. More specifically, the regulations require each SEA to implement a mechanism for parents to complain either to the state agency or, at the state’s option, to complain directly to the LEA with an SEA review of the local agency’s opinion (§ 300.151(a)(2)(i)(ii)). Most, if not all, states have chosen the former, one-tiered approach. As with due process complaints, the IDEA specifies a statute of limitations for CRP complaints—in this case, 1 year (§ 300.153(c)). However, in contrast to the IHO process, states may only increase—not shorten—the statute of limitations for CRP (OSEP, 2009).

Remaining Steps. When it receives a complaint, the SEA must investigate the allegations, allowing opportunities for the LEA to respond and the parent to amend the complaint. The SEA must also allow the LEA to make a proposal for resolution if it chooses to, and, as a new feature of the IDEA 2004 reauthorization, voluntary mediation must be available to the parties (§ 300.152(a)(3)(ii)). At the end of investigation and review, the SEA issues a written decision. Unless mediation or a like special circumstance delays it, the deadline for this decision is 60 days after the date of the initial complaint. Any state-level administrative appeal of the CRP decision is a matter of state law; for example, a New Jersey appellate court interpreted the state regulations not to allow appeal to the state board or commissioner of education (Lenape School District v. Department of Education, 2008).

For FAPE cases, the CRP often will be stricter than the IHO process about procedural violations, because there is no corresponding “harmless-error” prescription.

Differences and Similarities. The CRP differs from the IHO process in several other important respects as illustrated in Table 1. For FAPE cases, the CRP often will be stricter than the IHO process about procedural violations, because there is no corresponding “harmless-error” prescription. Similarly, the CRP usually has a more proximate institutional connection to the SEA compliance-review process, where procedures and guidelines are emphasized. In contrast, because the IHO process is, in terms of institutional arrangements and its individual orientation, relatively independent from compliance review, IHOS—like courts (e.g., Holmes v. Millcreek Township School District, 2000)—do not consider SEA guidelines at all binding. Conversely, the CRP in most states does not focus on the substantive side of FAPE, although OSEP opines that they should review and resolve these issues when the parent has not subjected them to the IHO process...
At another at least partial difference from the IHO process, the courts are split as to whether CRP is an “action or proceeding” under the IDEA in terms of the availability of attorneys’ fees for prevailing parents; for example, the answer is “yes” in the Ninth Circuit (Lucht v. Molalla River School District, 2000), whereas it is “no” in the Second Circuit (Vultaggio v. Board of Education, 2003).

Yet, similar to the IHO process, the SEA’s CRP decision must provide for remedial action “such as compensatory services or monetary reimbursement” as well as future services to meet the needs of the child (§ 300.151(b)(1)). Moreover, just like due process hearing decisions and resolution-session agreements, the SEA’s decision is enforceable in court (e.g., Beth V. v. Carroll, 1996; Mrs. W. v. Tirozzi, 1987); in contrast, the IHO does not have jurisdiction to review or enforce the outcome of CRP (Millay v. Surry School Department, 2010; Virginia Office of Protection & Advocacy v. Virginia, 2003). Finally, similar to appellate review of the IHO process, the IDEA regulations have no mechanism for OSEP review of CRP decisions (Anonymous, 2003), with the narrowly limited exception of private school complaints about the consultation obligations of the district of location for parentally placed private school children with disabilities (§ 300.136(b)(3)).

Interrelationship. The jurisdiction of CRP is broad and overlapping with that of the IHO, including, for example, IDEA provisions for student records (Anderson, 2008). Two of the three aforementioned exceptions to IHO jurisdiction also apply here, but complaints about parentally placed private school children, except child find, are exclusively reserved to CRP (§ 300.140(c)). Moreover, the jurisdiction for enforcement of an IHO decision is with CRP (§ 300.153(c)(3), not the IHO process (e.g., Wyner v. Manhattan Beach Unified School District, 2000). The other alternative, which does not require exhaustion of CRP (Porter v. Board of Trustees, 2002), is via a Section 1983 court action (e.g., Jeremy H. v. Mount Lebanon School District, 1996).

Although the IDEA regulations provide broad discretion to the SEA for CRP, they also establish “mandatory deferral,” which is perhaps the most important facet of the complaint procedure for the parties to understand. Mandatory deferral is a procedural formality that prohibits the CRP from addressing any due process complaint—or part of a complaint—that has been raised and is pending in a due process action (§ 300.152(c)(1)). As a related matter, after the due process hearing is over, the IHO’s decision is binding on the SEA’s CRP for any future complaints on that issue (§ 300.152(c)(2)). Note that this deferral procedure and binding effect is a one-way street; the IHO need not, and typically will not, exclude an issue that the parent has concurrently subjected to CRP, and a CRP decision has no analogous exclusionary or binding effect on a subsequent IHO proceeding (e.g., Donlan v. Wells Ogunquit Community School District, 2002). Finally, although the IHO route remains open to parents not only during but also after CRP, there is no federally guaranteed opportunity for judicial review of the CRP decision; the regulations do not address this issue, and OSEP opines that the issue of judicial review is, thus, a matter of state law (IDEA Final Regulation Commentary, 2006, p. 46,607).

§ 504 and the ADA

To understand the dispute resolution avenues under § 504, it is useful to understand the relevant differences—and key commonalities—between § 504 and the ADA on one side and the IDEA on the other. Although the comparison extends much more comprehensively (Zirkel, 2007), Table 2 provides an illustrative example. The basic pertinent pieces are that 1) unlike the IDEA, § 504 and the ADA are civil rights laws, providing no federal funding to implement their mandates; 2) the § 504 and the ADA extend beyond the
IDEA to most, although not all private schools (e.g., Zirkel, 2006b); 3) § 504 and the ADA definition of “disability” is—particularly after the January 1, 2009 effective date of the ADA Amendments (Zirkel, 2009)—significantly wider than the definition of “disability” under the IDEA; and — perhaps most importantly here — 4) the dispute resolution avenues under § 504 and the ADA consist of the required LEA grievance procedure in addition to the external IHO and OCR mechanisms.

Conversely, the first of the two key commonalities between the IDEA and § 504/ADA is that, with rare exception (e.g., Miller v. Board of Education, 2009), § 504/ADA applies to all children with IEPs under the IDEA, thus making them effectively “double covered.” Second, although not widely understood at least in terms of implementation, § 504 requires an impartial due process hearing, just as the IDEA does. As a result, the administrative enforcement routes outlined later apply as additional options for parents of double-covered students and as the only options for parents whose children covered alone by § 504.

§ 504 IHO: Administrative Adjudicative Route

Responsibility. Unlike the IDEA, § 504 puts the sole responsibility for due process hearings on the elementary or secondary program receiving federal financial assistance (§ 104.36). Thus, in the public school context, when the parent requests an impartial hearing—with the limited exception of the relatively few students with disabilities served directly by SEAs—the LEA must arrange for the impartial hearing. Moreover, relatively few states, such as Massachusetts, New Jersey, and Pennsylvania, have opened their IDEA IHO systems to claims under § 504 that are alternative to or instead of those under the IDEA. Connecticut illustrates another minority approach of allowing IDEA hearing officers to decide § 504 issues “only as necessary to resolve the claims made under the IDEA” (McQuillan, 2009, p. 2); this approach can rather easily result in a closed door (e.g., Clark County School District, 2002). However, one need not even knock at the SEA’s IDEA IHO door in the majority of the states; they entirely leave the responsibility for implementing the § 504 impartial hearing requirement to the LEA. Adding further complications, OSEP has opined that IDEA funds may not be used for § 504 hearings (Anonymous, 1997). OCR, which is a unit related to but separate from OSEP in the U.S. Department of Education has made rather clear that if any such funding restrictions or state policies bar IDEA IHOs from ruling on § 504 issues, the LEA “must establish a separate hearing procedure” (Anonymous, 1991).

Requirements. The only specification for the impartial hearing in the § 504 regulations, which date back to 1980, mirrored the original IDEA language requiring the opportunity for parental participation and legal representation. Additionally, the § 504 regulations clarify that compliance with the IDEA IHO process is one means of complying with this requirement (§ 104.36). In Appendix A accompanying the § 504 regulations, OCR re-emphasized that the IDEA’s IHO hearing procedures serve as only a recommended, not mandatory, model (Section 504 Regulations Commentary, 2009, ¶ 25).

### Table 2: Introductory Comparison of IDEA and § 504/ADA

<table>
<thead>
<tr>
<th></th>
<th>IDEA</th>
<th>§ 504</th>
<th>ADA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Coverage</td>
<td>LEAs</td>
<td>LEAs + private, (including parochial) schools (and colleges) that receive federal financial assistance</td>
<td>LEAs + private secular (not parochial) schools (and colleges) that have ≥ 15 employees.</td>
</tr>
<tr>
<td>Federal Funding</td>
<td>Yes (partial)</td>
<td>No</td>
<td>Same as § 504</td>
</tr>
<tr>
<td>Disability Definition</td>
<td>1) recognized classification and 2) need for special education</td>
<td>Any physical or mental impairment that 2) limits a major life activity 3) substantially</td>
<td>Same as § 504</td>
</tr>
<tr>
<td>FAPE</td>
<td>special education + related services</td>
<td>Regular or special education + related services</td>
<td>Same as § 504</td>
</tr>
<tr>
<td>Money Damages</td>
<td>No</td>
<td>Yes</td>
<td>Same as § 504</td>
</tr>
<tr>
<td>Attorney Fees</td>
<td>Yes</td>
<td>Yes</td>
<td>Same as § 504</td>
</tr>
<tr>
<td>Enforcement Mechanisms</td>
<td>IHO + CRP</td>
<td>IHO + CRP</td>
<td>Same as § 504</td>
</tr>
</tbody>
</table>
regulations do not provide timelines, IHO appointment procedures, or other such specific standards, OCR subsequently clarified that it uses the principles of fundamental fairness and reasonableness (Anonymous, 1991). As a result, in response to a parental complaint, OCR issued a letter of finding that ruled that a hearing procedure under § 504 that did not allow court reporters or cross-examination comport with the broad impartiality requirement of the § 504 regulations (Houston Independent School District, 1996).

The same § 504 procedural safeguards regulation requires a “review procedure” after the impartial hearing. Unlike the IDEA, this step appears to be for judicial review, not a second-tier administrative review (Board of Education of Valley Central School District, 2002; Mississippi State Education Department, 1984), and by a federal court without the concurrent option of state court. Also unlike the IDEA, this right of judicial review may not extend to school districts (Board of Education v. Smith, 2005).

**Judicial Factors.** Judicial review which the figure represents with references to state and/or federal courts at the right-side edge of the roadmap, presents four complicating factors for the administrative adjudicative route. First, § 504 does not specify a statute of limitations, which causes courts to infer the pertinent period by borrowing an analogous one, typically in state law. As a result, depending on the applicable analogy, the limitations period could be longer than that under the IDEA, and where the state’s personal injury law is the source, the plaintiff may have the added advantage of “tolling,” i.e., not starting the clock until the minor reaches the age of majority (e.g., Hickey v. Irving Independent School District, 1992; Bishop v. Children’s Development Center, 2010). However, the Third Circuit recently issued an unusual ruling that conformed § 504 to the IDEA statute of limitations, along with dicta that seemed to reject tolling (P.P. v. West Chester Area School District, 2009).

Second, § 504 does not contain an exhaustion requirement, which would require resorting to and completing the administrative adjudicative route before seeking judicial relief. The conundrum, however, is that there is a contingency clause embedded in the 1986 IDEA amendments that allowed parents of students with disabilities to file claims under alternate avenues, thereby reversing the Supreme Court’s interpretation they were limited exclusively to the IDEA (Smith v. Robinson, 1984). Specifically, “before the filing of a civil action under such laws seeking relief that is also available under [the IDEA], the procedures under subsections (f) [i.e., impartial due process hearing] and (g) [in states that opt to have a second tier, the review officer stage] shall be exhausted to the same extent as would be required had the action been brought under [the IDEA]” (IDEA, 20 U.S.C. § 1415(l)). As a result, the courts have rather consistently held that double-covered students must exhaust the IDEA’s IHO procedures even if their claim is limited to § 504 and/or the ADA (e.g., Cave v. East Meadow Union Free School District, 2008). However, some courts have even applied this exhaustion provision to students who are covered only by § 504 (e.g., Babicz v. School Board, 1998). Understandably, based on the language of this IDEA provision, the courts have focused on whether the relief sought is available via the IDEA IHO proceeding, but the aforementioned § 504 hearing jurisdictional issues pose problems for both parents and LEAs. For example, one of the open questions is whether a parent of a double-covered child who raised § 504 claims in an IDEA hearing only to have them dismissed as beyond the IHO’s jurisdiction has met the exhaustion requirement? Another is whether the parent in such circumstances or, even more problematic, when the child only is covered by § 504 is—in the courts’ view v. OCR’s view—entitled to an impartial hearing under § 504?

Third, most courts have interpreted § 504, not the IDEA, as providing for the remedy of money damages, although directly rather than via § 1983 (e.g., A.W. v. Jersey City Schools, 2007). However, the standard for liability is not uniform across the federal circuits, and the IHO does not share this particular area of remedial authority (Zirkel, 2006a).

Finally, § 504 has the added advantages to the plaintiff-parents of not having all the IDEA limits on attorneys’ fees (e.g., Lopez v. San Francisco Unified School District, 2001) and of allowing for expert witness fees (L.T. v. Mansfield Township School District, 2009).

§ 504 Complaint Processes: Administrative Investigative Route

Internal: Grievance Procedure. The first, otherwise much less imposing, administrative complaint avenue in the § 504 regulations is not well known to parents and often subject to noncompliance by LEAs. Specifically, the § 504 regulations require each recipient of federal funds with 15 or more employees to have not only a § 504 coordinator but also a disability-discrimination grievance procedure (§ 104.7). Yet, it is not uncommon to find LEAs—especially but not exclusively smaller ones—that do not have such a procedure for disability-related, as compared with employee collective bargaining or student/employee sexual harassment, grievances.

For compliance with this requirement, the § 504 regulations contain only the broad standard that the grievance procedure be “prompt and equitable” (§ 104.7). Thus, the grievance procedure may be entirely internal to the LEA. Additionally, OCR has required reasonable specificity and an investigative component (Hayward Unified School District, 1995). The typical models have multiple levels, ranging from informal communication with the § 504 coordinator to a formal administrative appeal, with reasonable deadlines at each step (Zirkel, 2004, Appendix 4). OCR has repeatedly made clear that LEAs may not require parents to exhaust this grievance procedure before resorting to the other two avenues under § 504 (e.g., Talbot County Public Schools, 2008; Walled Lake School District, 2004). Moreover, just as clearly, an LEA may not use the grievance procedure to serve as its § 504 impartial hearing process (e.g., Leon County School District, 2007).

The deadline for an OCR complaint is relatively short: 180 days from the time when the parent first knew of the violation or, if the parent opts to use the LEA’s grievance procedure, within 60 days of the last act under this institutional process.

Thus, when the grievance procedure is in place, parents may, at their option, use it to resolve a dispute short of using the other formal § 504 mechanisms. On the other hand, if the district is not in compliance with this procedural requirement, the parents may use that failure as part of the basis for a complaint under the other, more imposing, § 504 administrative investigative route.

External: OCR Complaint Procedure. More specifically, for § 504 complaints, the much more frequently traveled nonadjudicatory administrative path is to file a complaint with OCR. The OCR website (http://www.ed.gov/ocr) provides a directory of the 10 regional offices throughout the nation, a complaint form, and the various options for submission. The deadline for an OCR complaint is relatively short: 180 days from the time when the parent first knew of the violation or, if the parent opts to use the LEA’s grievance procedure, within 60 days of the last act under this institutional process.

According to its latest Case Processing Manual and related materials (Zirkel, 2004, Appendix 10), upon receiving the complaint OCR then engages in various steps, starting with evaluation of the complaint and emphasizing early resolution. However, if necessary, OCR conducts an investigation, which may be administratively onerous for the LEA and time-consuming for the parent, resulting in a formal “letter of finding,” which declares whether there is “sufficient evidence to support a conclusion of noncompliance” and, if so, instructs the LEA to take corrective action. The corrective action may include, for example, a new policy, staff training, and/or compensatory education. If the LEA refuses to settle the case voluntarily or to comply with the directed corrective action, OCR has a complicated enforcement process that includes referral to the Department of Justice and possible funding termination.

Even more strongly than the SEA complaint process under the IDEA, OCR focuses on the procedural requirements of § 504 (e.g., New Milford Borough School District, 2006; Virginia Beach City Public Schools, 2006). A complicating factor for this focus is that although the § 504 procedural requirements are a streamlined version of those of the IDEA, the exception is the § 504 regulation that requires an evaluation upon any “significant change in placement” (§ 104.35(a)), thus exposing OCR enforcement LEAs that have complied with IDEA for children on IEP’s (e.g., Puyallup School District, 2006).
In contrast, policy for substantive issues, such as eligibility and FAPE, is—with the limited exception of “extraordinary circumstances”—to ensure that the LEA has provided the parent with access to a grievance procedure and has arranged for an impartial hearing upon the parent’s request (OCR, 2009). As an example of its exception, in a relatively recent letter of finding OCR identified a child’s potentially life-threatening peanut allergy as an extraordinary circumstance warranting its determination on the substantive issue of FAPE, including accommodations and related services, for the child (Gloucester County Public Schools, 2007).

For such infrequent FAPE determinations, OCR (2009) has clarified that it does not consider “reasonable accommodations,” which is explicitly part of the § 504 employment regulations, as the applicable standard, relying instead on the regulatory definition of FAPE—“regular or special education and related aids and services that are ... designed to meet individual educational needs of [students with disabilities] as adequately as the needs of [nondisabled students] are met” (§ 104.33(b)(1)). Although only at the interrelated periphery of our roadmap, the courts generally have not been as hospitable to parents’ procedural claims under § 504 (e.g., Power v. School Board, 2003), but they have provided some—although not clearly settled—support for this substantive FAPE standard of commensurate opportunity (e.g., Mark H. v. LeMahieu, 2008). Finally, this avenue under § 504 differs from the impartial hearing route in three other notable respects: 1) constitutional due process, such as confrontation and cross-examination of witnesses, do not apply to this investigatory process (Cunningham v. Riley, 2000); 2) the only appeal is internal within the agency (OCR, 2009); and 3) use of the OCR complaint process does not meet the overlapping exhaustion requirement under the IDEA (Avoletta v. City of Torrington, 2009).

Returning to the opening example of the Garzas’ case, here are illustrative options of formal legal recourse short of court action. Their particular path, of course, will depend on their specific circumstances and strategies, with possible advice of local counsel.

Michael
For their son, the Garzas have access to all of these avenues—both those under the IDEA and those provided by § 504—in whatever combination and sequence they carefully select. The primary benefit, to be weighed against the costs, is increased odds of success due to 1) individual differences among the respective adjudicators and investigators; 2) differences between adjudication and investigation; and 3) differences in the procedural and substantive elements under the IDEA and § 504.

The reason that the Garzas have such a wide choice is because Michael is a classic example of the dual-covered child. As a prerequisite for his IEP, the LEA has determined via the prescribed parent-participating process, that he has met the IDEA definition of autism and that, by reason thereof, he needs special education. Similarly, the parent would presumably have no difficulty proving that this impairment substantially limits one or more major life activities, which—according to the ADA Amendments—include, for example, not only learning but also reading, thinking, and concentrating. Rather than additionally provide Michael with a 504 plan, the school district is using his IEP as a permissable means of meeting the FAPE requirement under § 504 (§ 104.33(b)(2)).

For their IDEA options, the savvy parent attorney or advocate would probably advise the Garzas to use the CRP route before the IHO route. This approach, just as long as they adhere to the respectively applicable limitation periods for filing, will allow them, if necessary, “two bites at the apple,” whereas filing for an IHO before or concurrently with CRP will trigger the deferral process. Moreover, in light of the orientation and implementation of CRP, the primary but not exclusive focus of their complaint should be procedural, and they should be prepared for a telephone or direct interview with an SEA investigator. If the CRP settlement or decision is partially or wholly unfavorable, the Garzas may promptly proceed along the administrative adjudicative avenue, where the CRP outcome is not binding on the IHO. For the IDEA IHO route, the Garzas should carefully consider the mediation option that is available before or after filing, with a willingness to compromise. The advice of Martín (2007), a school district attorney in Texas, applies to both sides: “Mediation is not a forum where a party simply explains why they are entitled to every bit of relief pleaded in the due process hearing request and is able to obtain that relief without litigation” (p. 16). Moreover, if mediation is unavailing, the Garzas should recognize that the IHO will likely focus on the substantive side of the program/placement, where their best but still limited chance in relation to FAPE is the IDEA’s qualified requirement that the IEP’s provision for special education be based, if practicable, on “peer-reviewed research” (e.g., Zirkel, 2008a).
Additionally or alternatively on behalf of Michael, the Garzas can also access the § 504 safeguards. One strategy would be to request the district’s policy in terms of the institutional requirements, which include but are not limited to the grievance procedure (§§ 104.6–104.8). If the district’s policy complies with these requirements, the Garzas should consider using this institutional process. On the other hand, if the district is not in compliance, the Garzas can file an OCR complaint that emphasizes these deficiencies and any specified violations of the individual procedural safeguards (§§ 104.35–104.36) along with related substantive requirements (§§ 104.33–104.34).

Absent extraordinary circumstances, OCR will predictably defer the substantive issues for the § 504 IHO process. Both parties can anticipate a rather time-consuming process that will emphasize resolving the matter via a mutual settlement or the district agreeing to a “voluntary” letter of finding.

Yet, if the Garzas have reason to suspect that the district is not sufficiently knowledgeable and prepared with regard to the IHO avenue under § 504, they might initiate this route before filing their OCR complaint on behalf of Michael, thus strengthening its procedural basis. In any event, if the Garzas file for an impartial hearing under § 504 before or after the OCR complaint process, either party may encounter difficulties and opportunities depending on the state. In the few states that have IDEA IHO systems that are open to § 504 claims, the district will argue, with the odds in its favor, that the Garzas must timely raise these claims within their IDEA hearing. In the other minority of states that provide jurisdiction for IDEA IHOs for intertwined § 504 claims, the odds in favor of the district’s one-forum argument will depend on whether the Garzas can persuasively show that their § 504 claims are independently distinguishable from those under the IDEA.

In the majority of the states, where the IDEA IHO does not have jurisdiction for § 504 claims, a knowledgeable district can make the most of the aforementioned broad boundaries of impartiality applicable to such hearings by using the selection and payment process to its advantage. Finally, both parties must be ready to persuade the IHO in relation to the broad concept of discrimination under § 504 and the ADA, which are not necessarily identical to the corresponding district obligations under the IDEA.

Perhaps the most important implication of this roadmap of formal administrative dispute resolution short of but connected to judicial proceedings—both immediately and ultimately—is that the best avenues for parents and districts are 1) effective communication promoting trust and collaboration, and, 2) alternative, less formal and complicated means of dispute resolution.

Jennifer

In Jennifer’s case, however, the Garzas are limited only to the administrative avenues available under § 504, unless they can show that her food allergy, as an “other health impairment,” has an adverse effect that would require special education, such as adapted physical education. Her § 504 eligibility is rather clear; the ADA Amendments resolve the question as to whether her impairment (i.e., peanut allergy) limits a major life activity (i.e., eating or breathing) substantially, because they specify that for an episodic impairment substantial limitation refers to when the impairment is active (ADA Amendments Act, 2008).

The only differences with regard to the Garzas’ choice of one or more of the three avenues under § 504 for Jennifer, as compared with Michael, are 1) they are much more likely to be able to persuade OCR to extend its investigation and determination to the substantive side of her claims due to the life-threatening dimension of her peanut allergy; 2) OCR is likely to use the commensurate opportunity, rather than the reasonable accommodation, standard for this FAPE claim; 3) in any event, the odds are overwhelmingly in the parents’ favor that the OCR will find fatal fault with the district’s noncompliance with § 504’s procedural requirements in terms of evaluation and notice, in all probability also rejecting the principal’s procedural position that there is no need for a § 504; and 4) if the Garzas proceed to a hearing—except in the few states that have an IHO process open, without qualification, to IDEA and/or § 504 claims—the district will have to arrange promptly and properly for the IHO, where the Garzas may rely on other IHO § 504 decisions that support a much more extensive peanut-free policy and protocol (e.g., Mystic Valley Regional Charter School, 2004).

Finally, if the Garzas file a lawsuit on behalf of either or both children before completing the IHO process, they should anticipate a district motion for dismissal for failure to exhaust administrative remedies, which the court will almost be certain to grant in Michael’s case and which the court will likely grant in Jennifer’s case. If the Garzas get beyond the exhaustion requirement, the open questions that the court will face include 1) whether the procedural and
substantive standards of the IDEA and § 504 make any significant difference in the outcome of Michael’s case and 2) in Jennifer’s case, whether, as a result of the ADA Amendments, the principal is correct in maintaining that a § 504 plan is not automatically required for all students who meet the definition of disability under § 504 but do not meet the corresponding definition under the IDEA.

Perhaps the most important implication of this roadmap of formal administrative dispute resolution short of but connected to judicial proceedings—both immediately and ultimately—is that the best avenues for parents and districts are 1) effective communication promoting trust and collaboration, and 2) alternative, less formal and complicated means of dispute resolution. If, instead, the parties proceed to the ultimately adversarial administrative process, this relatively comprehensive overview makes obvious that each side can take advantage of close familiarity with the scope and sequence of these various paths of legal recourse.

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CASE IN POINT:
The Changing Face of Special Education Administration

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The articles in this issue of JSEL challenge readers to reflect on their own conceptions about what it means to be an administrator of special education and how the data fit with those perceptions. No matter the title—special education director, special needs director, or exceptional children’s program director—individuals who work in school districts to lead, supervise, and manage the provision of special education and related services for students with disabilities must possess a high level of technical knowledge and leadership skills. The daily work of special education administrators intersects with all aspects of a school district and demands a collaborative and inclusive style of leadership. Navigating through this intersection effectively has become the work of special education leadership because of the expanding challenges created by special education teacher attrition, the increasingly complex student population, and the ever-changing federal and state mandates for delivering special education services to students (Billingsley, 2003; Chalfant & Van Dusen Psy, 2007).

The convergence of administrative challenges and other trends and issues in the field of special education in recent years has changed the face of special education in general and special education leadership specifically (Tate, 2009). In addition to the complexity of meeting the needs of students with disabilities in the 21st century learning paradigm, special education administrators are facing drastic cuts in funding, increased focus on meeting adequate yearly progress targets, and a severe shortage of qualified special education teachers along with the always present stress of possible legal actions regarding efforts made to meet both the No Child Left Behind (NCLB) Act and the Individuals with Disabilities Education Act (IDEA) requirements. That an increasing number of special education administrators do not have a background in special education adds to the complexity of problem solving for these issues. Undoubtedly, the increased attrition of special education teachers limits the number who may move into a special education administrative role. Bays and Crockett (2007) state that the increased demand for special education administrators exceeds the supply of candidates who are well prepared to lead instruction for diverse students in effective, supportive, and inclusive ways.

The four articles presented in this issue provide information for addressing some of the persistent issues affecting special education administration. As with my dissertation study, collectively these articles serve as an example to inform the field of broader issues regarding special education administration. The articles extend beyond their own individual value to provide a thorough consideration of factors that are essential for effective implementation of special education.

The daily work of special education administrators intersects with all aspects of a school district and demands a collaborative and inclusive style of leadership.

Boscardin, Weir, and Kusek discuss the state of credentialing for special education administrators in this country. Even though the states have not seen fit to create consistent patterns in the licensure of special education administrators, their roles and functions at
their core seem to be relatively consistent. Local education agencies face the dilemma of filling vacant special education administrator positions in an era of increased focus and accountability for meeting the needs of students with disabilities. Aligning licensure requirements with knowledge and understanding of special education is critical for effective leadership. Special education administrators are primarily concerned with the oversight of services for students with disabilities. In addition, they must possess general administrative skills required of other district-level administrators such as budgeting; recruiting and supervising faculty and staff; and completing reports required by local, state, and federal agencies. Although credentialing may add to a special education administrators capacity to attend to the regulations, issues, and problems that schools face in educating students with disabilities, improving educational quality for the education of all students, including those with disabilities, will require school personnel to come together and break down the barriers to excellence and equity that exist within districts.

Zirkel and McGuire provide a roadmap for dispute resolution in all aspects of special education—IDEA, Section 504, and Americans with Disabilities Act—and certainly the effective management of disputes is on every special education administrator’s mind and agenda. It is to every special education administrator’s benefit to develop a thorough understanding of special education rules and requirements. Inadequate knowledge may result in decision making that could lead to time-consuming and costly legal battles. In the study of North Carolina special education administrators I conducted, legal issues were noted as a significant factor in leaving the field. Unlike many district administrative positions, virtually every decision local special education administrators make is subject to challenge. This article provides a very detailed justification for the steps in the dispute resolution process that administrators can use to structure district policies and processes and prepare personnel for avoiding when possible and participating in when necessary the myriad of disagreements that can occur as schools negotiate a free appropriate public education for students with disabilities.

Fall’s study of recruiting and retaining teachers to high poverty districts offers a description of the current state of the teacher shortage in these districts and recommendations to attract and keep special educators. One of the convoluted problems over the course of the implementation of IDEA and its predecessor, the Education for All Handicapped Children Act of 1975, has been that the teachers who work with the most difficult to teach students are often the least experienced and least prepared teachers in the school. Compounding this are the facts that poverty and disability are often closely linked and that schools are often organized by neighborhood, which results in large numbers of children from families in poverty going to school together. Finally, the schools these children attend are often underresourced and underserved. So, we have large numbers of students whose needs are the most complex being taught by teachers who are least qualified or able to educate them. Fall’s call for a major investment in these students, teachers, and schools is one that deserves considerable attention from policymakers, the public, and local administrators who are charged with improving educational outcomes for all students.

Providing further support to Fall’s position, Ebmeier, Beutel, and Dugan’s study addresses what many, including the authors, say is the most important function of administrators—choosing teachers. The authors provide us with a screening instrument that can be used for initial interviews with special education teacher applicants. They argue that their instrument can be used equally effectively by both experienced interviewers of special educators as well as those, like building principals, who are not as experienced or knowledgeable about special education. In addition, the clusters of teacher behaviors provided from the authors’ literature review provides an interesting set of structures for thinking about teacher capabilities, selecting teachers, and the professional development of special educators.

The four articles presented in this issue demonstrate significant issues facing the field of special education administration. Special education administrators should play a critical role in the continued evolution of special education in the 21st century. These articles provide concrete and practical considerations of effective special education leadership. Special education administrators play an important role in school districts and in the lives of students. The works of these authors help us to appreciate the complex nature of that role and support commonsense approaches for meeting the challenges that lie ahead.
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March 31, 2010