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ABSTRACT

Eight papers are presented from a July 1982 conference on assessment. S. Wood and F. Hertlein begin with "Integrating Remedial Education in Olympia Public Schools: A Consulting Service Model for Low Performing and Handicapped Students." They describe the model's staff development modules, instructional support strategies, and management procedures. T. Fairchild analyzes "The School Psychologist's Role as an Assessment Consultant," which covers such aspects as instrument selection, staff development, acting as staffing facilitator, and information synthesis. B. Ehler examines problems with the measurement of severe discrepancy in "Identifying Learning Disabled Students in Idaho." In "Social Behavior Survival: Preparing Handicapped Children for the Realities of Mainstream Classrooms," H. Walker and R. Hersh focus on the importance of teacher, social behavior standards and expectations. A model of assessment being implemented in American Samoa is described by C. Starlin in "Observation + Screening + Assessment: Determining Children in Need of Special Education Services." The Resource Specialist Program for handicapped students with limited English Proficiency (LEP) is briefly described by O. Martinez in "Issues in Assessment and Service Delivery to LEP and Bilingual Handicapped Children." In his "Legal Review of Assessment Issues," S. Rosenfeld touches on court rulings and regulatory actions since the enactment of P.L. 94-142, the Education for All Handicapped Children Act and Section 504 of the Rehabilitation Act of 1973. G. ImObersteg reviews case law as well as statutory and constitutional aspects in "Legal Considerations in the Assessment of Students Who Are Bilingual or Who Have Limited English Proficiency." (CL)

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Report from the July 1982 Assessment Conference

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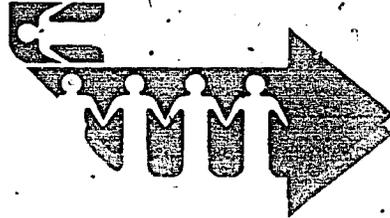
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Report

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REPORT FROM THE JULY 1982 ASSESSMENT CONFERENCE

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INTRODUCTION

The papers included in this publication were delivered at the Northwest Regional Resource Center's Assessment Conference in Eugene, Oregon, July, 1982. The topics represented in the papers were solicited based on the NWRRC region's expressed needs in the areas of assessment. Needs were determined by analysis of Letters of Agreement and a survey of states conducted in the Spring of 1982. The papers reflect the views and opinions of their authors and not necessarily those of the NWRRC. An attempt was made to provide a variety of information related to the topics of interest in order to stimulate thought and discussion among participants.

Because this conference was a first attempt both to meet states' needs and reduce costs, through a regional activity, the NWRRC was anxious to receive participant's reactions. (Participants included at least two representatives of each of the SEAs in the region, and one representative from another RRC.) They were asked to evaluate the utility, quality and application of the conference. Ratings indicated that it was successful in increasing knowledge, providing information on several assessment concerns, and allowing for an exchange of ideas and strategies among participants and presenters. The quality of the entire conference was ranked $\bar{x} = 4.29$ (on a scale of 1 = low, 5 = high). Thus, it appears that in this specific case, a conference addressing issues common among state and territories was an effective method of meeting awareness and information needs at the regional level.

This report provides a written record of the conference. Topics cover school psychologist roles, bilingual/bicultural issues in assessment, assessment systems, and legal issues in assessment. A list of presenters and a list of participants may be found at the end of this publication.

INTEGRATING REMEDIAL EDUCATION

IN OLYMPIA PUBLIC SCHOOLS:

A Consulting Service Model for
Low Performing and Handicapped Students

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and

Forest Hertlein

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INTRODUCTION

In September 1981 a series of steps and procedures were initiated for the purpose of more fully integrating remedial and special education programs within the Olympia School District. These steps were taken in response to a policy decision calling for movement away from an emphasis on district categorical programs which operate as independent entities toward an emphasis on such programs operating in an interactive, cooperative, and integrative manner. Rationale for this decision arose out of five basic observations:

1. Special Education has grown gradually over recent years, with Specific Learning Disabled (SLD) students contributing most to this growth.
2. SLD students, which comprise roughly 75% of the District's handicapped population, are not a substantially different population with respect to ability and/or skills than lower performing students typically served in Title I or other remedial programs.

3. Special Education and other remedial programs each have their own pools of resources and expertise which, if harbored within their own categorical programs will not be utilized to their fullest potential throughout the school system.
4. There are substantial differences in the per pupil cost of educating students in categorical programs; with Special Education programming being, by far, the most expensive.
5. Funding reductions for most, if not all, categorical programs appear imminent as a result of diminishing Local, State, and Federal resources.

Specific steps to achieve the goal of greater integration of remedial programs were taken in three general and interdependent areas: (a) Staff Development, (b) Instructional Support, and (c) Management Procedures.

Special Services Support Staff (Psychologists and Educational Specialists) were the primary recipients of Staff Development activities during School Year 1981-82. ~~However, a number of activities involving instructional~~ aides (regular and special) and regular classroom teachers were also carried out in the form of inservice and workshops. Staff development for support staff emphasized building and strengthening the knowledge and process skills deemed critical to consult effectively with regular classroom teachers about maintaining and teaching lower performing and handicapped students in their classrooms. For regular classroom teachers and instructional aides, staff development was directed explicitly toward techniques and strategies for more effectively teaching and managing lower performing and handicapped students in regular classrooms.

Instructional Support flowed logically from Staff Development activities. The principle emphasis of service delivery was to maintain, in the regular classroom, those lower performing students who would otherwise be referred to Special Services for comprehensive formal assessment. To maximize the chances of a student's success in the regular classroom environment, the classroom teacher was provided with Instructional Support by Special Services Support Staff via a Consulting Model.

Implementation of the Consulting Model required initiation of new or modified Management Procedures. These procedures allowed on-going monitoring of the Model, accountability, identification of problem areas, and assurance of appropriate service to students.

GOALS OF THE CONSULTING MODEL

In early September, two major goals for the Consulting Model were set forth:

1. to substantially reduce, from the 1980-81 total of 291, the number of students referred to special education who require formal assessment and programming into special education classes, while simultaneously,
2. maintain a greater number of lower performing and handicapped students within regular education classrooms through development and implementation of instructional support resources and strategies designed to assist regular education teachers.

Several instructional resources and strategies were subsumed under Goal 2. These included Special Services Support Staff:

- working, collaboratively, with individual regular classroom teachers to: (a) identify presenting problems regarding individual students or more general classroom concerns, (b) develop a workable plan(s) for resolving the problem, (c) implementing and reviewing the plan to determine its effectiveness, and (d) revising the plan if necessary.
- conducting workshops and inservices for regular teachers and teacher aides (as requested) on effective instructional techniques to use with Lower Performing Students.
- working cooperatively with other remedial resources available in each building to make more efficient use of personnel.

DESCRIPTION OF THE CONSULTING MODEL

In its broadest form, the Model had three points of emphasis: (a) consulting individually with regular classroom teachers, (b) conducting workshops/in-services with groups of teachers (and/or aides) at the building or district level, and (c) working cooperatively with other remedial personnel at the building level. As noted previously, however, consultation with individual teachers was the most critical, pervasive and unique aspect of the Model as well as the aspect which was central to its evaluation. Figure 1 presents each major activity involved in the consulting process when it was operationalized in its most comprehensive form with an individual teacher. For each activity listed in Figure 1, the activity which would be considered antithetical to it is also listed. To the extent that these latter types of activities are carried out prior to the first set of activities, and for the sole purpose of establishing eligibility for an subsequent placement in a special education class, the Model would have been violated. This would only be the case, however, for those students who did not have obvious and moderate to severe (in the professional judgement of the support staff member involved) handicapping conditions.

Figure 1: Comparison of the Consulting Model
and the Assessment/Referral Model

| CONSULTING MODEL | REFERRAL-ASSESSMENT MODEL |
|---|---|
| <ol style="list-style-type: none"> 1. Request for consultation. 2. Classroom observation. | <ol style="list-style-type: none"> 1. Focus of concern. 2. Parent notice of referral. |
| <ol style="list-style-type: none"> 3. Curriculum referenced assessment. 4. Consultation/problem solving with teacher. 5. Identification of resources. 6. Modification of student program in regular classroom 7. Monitor student program. 8. Steps 1-8 of assessment model, if necessary. | <ol style="list-style-type: none"> 3. Decision to assess. 4. Parent notice/decision to assess. 5. Formal assessment/determination of eligibility. 6. Parent notice student eligible/not eligible. 7. IEP meeting. 8. Placement in program. 9. Annual review. 10. 3 year reassessment. |

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Several important additional points should be made about Figure 1 and the Consulting Model. First, while Figure 1 was developed from the standpoint of an individual student, the Consulting Model was not this restricted. Regular classroom teacher concerns could relate to either individual students or to more general concerns such as curriculum issues, teaching techniques, or classroom management. Both types of concerns are embraced within the Consulting Model.

Second, Figure 1 represents a very simplified scenario of the way the Consulting Model would work if circumstances were ideally optimal. That is, the Consulting Model portrayed is just that, a model. Its actual implementation in the field would be expected to be a matter of adaptation to meet the circumstances and exigencies encountered.

Finally, by attending to the two models outlined in Figure 1, one can arrive at a clear understanding of what the Consulting Model is not. Casual scrutiny of the two models will lead one, for example, to the conclusion that while both are student-intensive, the Consulting Model is also instructional (or behavioral) strategy intensive. The referral-assessment model, on the other hand, is diagnostically and procedurally intensive; instructional strategy planning is only possible after eligibility has been established. Criteria for referral for formal assessment within the Olympia Model required demonstration that Consult activities were attempted and that modifications within the regular classroom did not meet the individual needs of a student. Unlike other models (e.g., Vermont Consulting Teacher) consultant service was initiated and maintained regardless of a student's eligibility for special education.

Consulting Process

Consultation with regular classroom teachers involved the following:

1. Regular Education Teacher Identifies Student(s) with Learning/Behavior Problem.

Written request for Consultation services is completed which briefly describes the student's problem(s). Requests for assistance involve mainstreamed handicapped as well as low-performing students.

2. Consulting Teacher Observes Student(s).

Direct classroom measures are obtained of specific teaching and learning behaviors. Classroom management and organization is noted.

3. Curriculum Referenced Assessment Completed.

Mastery of skills and progress in materials used within the classroom are assessed by consulting support staff person.

4. Consultation Meeting Conducted.

Consultant and regular education teacher meet for the purpose of sharing assessment results, agreeing upon areas of concern, identifying possible solution strategies, selecting a plan of action, identifying resources, and establishing follow-up/evaluation plans.

5. Corrective Plan Implemented.

Refer to Instructional Support, page 9.

6. Consultant Monitors Implementation and Evaluates Student Progress.

7. Referral for Formal Assessment (if necessary).

STAFF DEVELOPMENT

The primary audience for staff development activities in school year 1981-82 was Special Services Support Staff which included seven Psychologists and four Educational Specialists. The primary objective for staff development during school year 1981-82 was to implement a model of training that would enable special services support personnel to provide consultation to regular classroom teachers. This role represented a significant shift in duties and responsibilities for school psychologists. For educational specialists, the target for consulting expanded from eligible handicapped students to include students with learning and behavioral problems.

Content

Decisions regarding content of staff development focused upon variables related to effective classroom instruction and organization. Training sessions were developed, therefore, which enabled support personnel to:

- a. assess and diagnose student, instructional, and classroom variables related to learning and teaching;
- b. select appropriate instructional strategies;
- c. modify curriculum materials used within the regular classroom;
- d. identify efficient classroom management strategies;
- e. conduct problem solving meetings with classroom teachers;
- f. develop and implement consultation strategies; and
- g. evaluate student progress.

Format

Approximately 50 hours of staff training were completed with sessions conducted each Tuesday from 10:00 a.m. to Noon. Training sessions consisted of eight instructional modules or content areas. Each module required reading from assigned textbooks, journals, and supplementary materials. Each module included practice and application activities which required staff to work with a teacher, student, or with curriculum materials. Instructional modules included the following topics:

- Curriculum Based Assessment

Emphasis was placed upon the assessment of instructional practices relevant to instruction and learning. Topics included curriculum analysis, rate of instruction, teacher/student interaction, physical setting, etc., as related to overall management of handicapped and low-performing students.

- Concept Analysis

Strategies were reviewed to pinpoint requisite discriminations for mastery and generalization of learning. Emphasis was placed upon utilizing this approach in assisting teachers to plan appropriate educational programs and teaching routines.

- Consultation Techniques

Techniques of consulting were reviewed which facilitated positive staff interaction, problem identification, implementation strategies, and follow-up between regular and special education personnel.

- Direct Instruction: Math

Systematic procedures for teaching math and how these techniques can be integrated into a regular mathematics program to meet the needs of low-performing students was the topic of this module.

- Direct Instruction: Reading

Procedures were taught on how to evaluate, select, and modify reading programs to meet the needs of low-performing and handicapped students.

- Adapting Spelling Materials

Current research regarding approaches to increasing spelling accuracy was reviewed and applied to existing spelling programs within the district.

- Classroom Organization and Behavior Management

Strategies and solutions were identified for use in regular classroom environments to prevent behavioral problems from occurring and effectively managing those that do occur.

- Adult Learning

Factors that facilitate or hinder adult learning were identified and applied to situations in which consultants were involved in conducting training or staff development.

INSTRUCTIONAL SUPPORT

The Consulting Model provided diverse forms of direct and indirect support services for developing effective instructional programs and managing problem behaviors within the regular classroom. Direct services were defined as the consultant providing assistance to a teacher regarding a specific student(s) or classroom management problem. Indirect services were provided through consultant involvement in planning and conducting inservice training for teachers, administrators, aides, tutors, and other concerned persons. The primary objective of both direct and indirect support service was to train or motivate teachers to attempt alternate management or instructional approaches. Emphasis of the Consulting Model, therefore, attempted to shift the attention of special and remedial service from intervention to prevention.

The following are examples of the most frequent instructional support strategies implemented during school year 1981-82:

1. ADAPTING AND MODIFYING CURRICULUM MATERIALS (e.g., Adapting spelling program for more individual practice and review with peer partners or parents.)
2. INTRODUCING NEW CURRICULUM MATERIALS TO BUILDING SPECIALISTS AND TEACHERS (e.g., Introducing direct instruction materials to reading specialists and aides to be implemented with low-performing children.)
3. ESTABLISHING WORK AND BEHAVIOR CONTRACTS WITH TEACHERS AND PARENTS (e.g., Assignment sheets, positive reinforcement systems, and home-school slips between parents and teachers.)
4. ADJUSTING TEACHER EXPECTATION LEVELS FOR LOW-PERFORMING STUDENTS (e.g., Curriculum referenced and standardized test results shared and teacher's assignments and materials adjusted to fit students' current level of functioning.)
5. ADJUSTING STUDENTS' OVERALL SCHOOL PROGRAM BASED ON OBSERVATION AND ASSESSMENT (e.g., Changing middle school students' schedules and classes to fit their levels of functioning and teachers' abilities to meet their needs).
6. ESTABLISHING STUDY PROCEDURES FOR LOW-PERFORMING STUDENTS TO ASSIST THEM WITH THE REGULAR CURRICULUM MATERIALS (e.g., Washington State History study guides to be used in class or at home for students to preview or review chapters.)
7. ASSISTING INDIVIDUAL TEACHERS WITH DESIGNS FOR CLASSROOM ORGANIZATION AND MANAGEMENT (e.g., Specification of rules, contingency management, arrangement of students, etc.)
8. ASSISTING TEACHERS WITH INSTRUCTIONAL STRATEGIES FOR LOW-PERFORMING STUDENTS (e.g., Model, lead, test, practice, distribution, etc.)

9. ASSIST TEACHERS AT SECONDARY LEVEL WITH ESTABLISHING CONSISTENT BEHAVIORAL MONITORING (e.g., Specification of behaviors, consequences, rules.)
10. ASSISTING BUILDING ADMINISTRATORS WITH INSTRUCTIONAL LEADERSHIP RESPONSIBILITIES (e.g., implementing assertive discipline model, emphasizing positive reinforcement.)
11. ASSISTING BUILDING ADMINISTRATORS TRAIN AND SUPERVISE PARAPROFESSIONALS WORKING WITH LOW-PERFORMING AND MAINSTREAMED STUDENTS (e.g., Training and monitoring cross-age tutors, volunteers and aides.)
12. ASSISTING BUILDING PRINCIPALS DEVELOP AND IMPLEMENT STAFF DEVELOPMENT PLANS (e.g., Workshops and training regarding cover-copy-compare, study skills, behavior management.)

MANAGEMENT PROCEDURES

Adoption of the Consulting Model involved significant changes or modifications in certain operating procedures and the role of support staff personnel. The Director of Special Services, therefore, implemented a series of procedures and policies to prepare the school system for changes and to establish clear expectations for implementation of the Model. An evaluation system was also designed to determine the extent to which the two major goals of the Model had been achieved and to examine acceptance of the Model by district personnel in meeting the needs of individual students.

District Administration

During school year 1980-81 and 1981-82, the District Superintendent initiated a series of administrator's workshops which focused upon clinical supervision and maximizing teacher effectiveness. In Winter of 1982 the shift toward integrating special and remedial education was announced. The Consulting Model was introduced as a method to provide district wide classroom support and to assist teachers accommodate a wider range of student abilities and needs.

Referral Procedures

Referral procedures for formal assessment were modified to require documentation of consulting strategies. Determination that the student was or was not a candidate for formal assessment was made by the Director of Special Education, or designee, based upon a rigorous review of student progress with consultant services. The review would result in either referral for formal assessment or recommendation for additional or modified consultant support services. Exception to these procedures were referrals for moderate to severely handicapped and transfer students.

It was the responsibility of each special services support person to develop in cooperation with their assigned building principal a process for teachers to request consultant assistance. In addition, support staff were expected to conduct within the first month of school an informational session for building staff regarding the Consulting Model and the process of problem identification.

Staff Development

All support staff were responsible for attending and participating in staff development activities conducted each Tuesday for two hours. Absences were required to be excused and participation was monitored by the Director of Special Education. A clear priority for staff development was established and maintained throughout the school year.

In addition to attending staff development, support staff were required to submit a plan which demonstrated their involvement in conducting building or district-wide inservice training. Topics of inservice focused upon the Consulting Model and alternate strategies for instruction and classroom management.

Consultant Reports

At the conclusion of consultant activities a consultant report was required which documented initial teacher concerns, results of curriculum based assessment, solution strategies, and evaluation of student progress. The report became part of the student's cumulative file and provided accountability for consultant services.

Evaluation

An evaluation process was developed to investigate the following topics:

1. Climate for change at the building level.
2. Implementation and operation of the Model.
3. Participating teachers' perceptions of and feelings about the Model.
4. Support staff perceptions of and feelings about the Model.
5. Changes in referral practices.
6. Changes in the relationships of grade retentions and assessment referrals.
7. Effects of Model on changing teacher behavior.
8. Effects of the Model on student academic growth.
9. Relative costs and benefits of the Model.

Procedures involved the development and administration of a pre-post survey involving all district teachers and principals, teacher interviews regarding consulting strategies for specific students, review of student progress, and analysis of referral data.

SUMMARY

The Olympia Consulting Model was designed to provide appropriate services to low-performing and mainstreamed handicapped students. The rationale for a consulting model was based on the need to prevent learning problems and maintain a greater number of special needs and handicapped students within regular education classrooms. A consultant model was therefore designed to offer instructional support resources and strategies to regular education teachers.

During school year 1981-82, school psychologists and educational specialists were trained in consulting strategies and provided both direct and indirect services throughout the school system. The primary goal of these services was to assist classroom teachers adopt alternate instructional practices. Referral for formal assessment occurred only when consulting strategies were attempted and documented as not meeting the individual needs of a student.

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THE SCHOOL PSYCHOLOGIST'S ROLE
AS AN ASSESSMENT CONSULTANT**

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Considerable changes have occurred during the last century in the delivery of special services for exceptional children, and these changes have had a significant effect upon the delivery of school psychological services. Historically, the special education delivery system was a model whereby students unable to succeed in regular class programs were placed in self-contained special education classes. A means of identifying students who should be receiving special education services was needed, and, as a consequence, several potentially useful tests were developed. Students were perceived as having disorders, and once these were identified, they could be placed in a self-contained special class consistent with their "disorder."

In response to school districts' needs for testing to identify exceptional students, school psychologists emerged. Operating within a psychomedical model in which students are tested, classified, and then placed, school psychologists were able to provide a needed service to their consumers. Their primary role was testing. Students not succeeding in the regular class program were referred for a psychological evaluation; school psychologists administered a battery of standardized tests (often only an individual intelligence test), and, based upon the results, attached a label to a student. This label could then be matched with a special education classroom label, and the student could be placed. Due process and parent involvement were almost nonexistent.

Significant changes began to occur in special education in the 1970s. Common practices were seriously challenged from within and without the educational community. Many of the traditional procedures and policies originally viewed as acceptable were questioned, and criticisms of the traditional special education delivery system were being raised. The delivery system was viewed as inadequate because of its overreliance on the psychomedical classification system. It also was viewed as inadequate because of the criteria used in determining special class placement, and

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the effectiveness of special classes in meeting the needs of exceptional students. Vocal parent organizations, litigation, and as a consequence the implementation of Public Law 94-142 changed the traditional special education delivery system considerably. A broader range of services has evolved for serving exceptional students, services are provided based upon student needs rather than labels, individual educational plans are designed to insure that students receive an appropriate education, due process procedures exist, parents are involved in the decision-making process, and *comprehensive* assessments are required prior to designing programs for students.

The profession of school psychology also has undergone numerous changes since the "Binet minutemen" of the early 1900s. Although diagnostic testing consumed the majority of school psychologists' time during the first half of this century, additional and alternative services began to emerge in the 1950s. The impetus for change in the delivery of school psychological services has arisen from the deemphasis on testing for placement and planning purposes, and from consumers concerned about the value of school psychological services.

Consumers always have wanted more and continue to want more from school psychologists than just testing. School psychologists are considered the experts in the school regarding the educational and emotional needs of students; therefore, they are expected to provide a range of services to assist students directly in actualizing their potential and indirectly through interactions with teachers and parents.

Teachers want more information about students than just test scores. They want school psychologists who can assist them in designing instructional programs for children in regular as well as special programs. They want school psychologists who can effectively intervene in crisis situations. They want school psychologists who can assist them in designing behavioral management programs, and who can provide individual and group counseling services to students. They want school psychologists who can provide them with in-service training that will make them more effective in dealing with the academic and behavioral problems of their students.

Parents want school psychologists who will spend more time with them and attend to their concerns. They want school psychologists who provide parent counseling support groups and parent education. Parents and teachers want school psychologists who follow up to determine how helpful they have been. Many school psychologists are fulfilling these consumer needs by providing a range of services; yet, many others are providing only the historical diagnostic testing service. The school psychologist's survival in many districts will be contingent upon finding alternatives to testing, thus freeing up more time to provide the additional school services that consumers expect from a professional school psychologist.

In response to changes in the special education delivery system and expressed consumer needs, the role and function of the school psychologist has evolved from a psychometrist to a broader service role that includes assessment, counseling, staff development, consultation, parent education, liaison, and evaluation. However, across the nation, differences exist

in the delivery of school psychological services ranging from the traditional rôle of "psychometrist" in some districts to the broader "consultant" rôle in other districts. School psychologists who provide primarily psychometric services and are not providing additional services or minimal additional services may be caught up on a testing rut for many reasons, singly or in combination, including: (a) training, (b) administrative expectations, (c) familiarity, (d) overwhelming case loads, (e) misunderstanding, and (f) lack of awareness.

Training. Some school psychologists received preservice training in a program that overemphasized a psychometric rôle model, so they spend the majority of their time doing what they are prepared to do. However, many still do not choose to get out of this rut through professional development and continuing education options.

Administrative Expectations. Whether they were narrowly trained as "psychometrists" or broadly trained as "consultants," some school psychologists find themselves providing primarily diagnostic services because many administrators consider that to be their only duty -- identifying exceptional children and making them eligible for special services.

Familiarity. It is important to recognize that some school psychologists provide only the psychometric service because it is the service with which they are most familiar. They have invested considerable time and energy in the provision of this service. They are knowledgeable about tests; they know how to administer, score and interpret them, so they are secure and confident in their abilities to provide these services. These school psychologists may have skills in other areas, e.g., designing academic/behavioral programs for students, providing counseling services, and conducting in-service education or parent training programs. However, they may not be willing to take the initiative, or may lack the competence or confidence needed to provide nonpsychometric services. The psychometric rôle affords more safety and security, and prevents them from being in a position of having their effectiveness questioned.

Overwhelming Case Load. Because of the large numbers of referrals for special services and in many districts prohibitive student case loads, some school psychologists find their job security is a function of trying to keep on top of the overwhelming numbers of students referred for assessments. The responsibilities of many school psychologists are compounded by serving in a dual rôle -- psychologist and special education director. After the paperwork and minimum assessments are completed, little time is left to provide alternative services.

Misunderstanding. Many administrators and school psychologists are confused regarding what services might be expected from school psychologists. They mistakenly assume that "testing" is the only legitimate service that school psychologists should be providing.

Lack of Awareness. Some school psychologists find themselves in a "testing" rut, because they are not aware of nontest assessment and service alternatives that they can provide to consumers of their services.

If services besides just "testing" are desired by consumers, then school psychologists need to discover means whereby they can minimize the amount of time devoted to primarily diagnostic assessment. One way school psychologists might free up more time for alternative services is to minimize their diagnostic function on the Child Study Team and become more of an assessment consultant.

Child Study Team Role

Two services emerge when consideration is given to the role of the school psychologist on the Child Study Team: (a) the diagnostic service, and (b) the assessment consultant service.

Diagnostic Service

The diagnostic service is a direct one that includes any form of assessment (formal standardized test administration, criterion-referenced testing, informal assessments, diagnostic interviews, observations, etc.) conducted by the school psychologist as part or all of a comprehensive assessment. The diagnostic service has received the most attention and emphasis by practicing school psychologists. Being directly involved in the diagnostic assessments of students has been a primary responsibility of school psychologists since the specialty of school psychologists began. The diagnostic service has been, and will continue to be, an important service provided by school psychologists. Their background and training in the area of assessment makes them a logical choice for assuming some diagnostic responsibilities as a Child Study Team member. However, a change of emphasis could be occurring here in order to be more responsive to consumer needs. School psychologists could focus less on traditional testing and test batteries, and focus more energy on alternative forms of assessment that are equally valid and more appropriate for decision making. They could become "assessors," rather than "testers." Rather than administering a standard battery of tests, or a selected group of tests to each student referred for a comprehensive assessment, their assessment responsibility should vary from none to a large majority, depending upon the reason for referral and the nature of the student's difficulties.

Assessment Consultant Services

Rationale. In order to maximize their effectiveness, school psychologists need to develop a viable service alternative for the Child Study Team other than that of primarily diagnostician. One suggested service that could be provided by a school psychologist would be serving as an assessment consultant to the Child Study Team. This might be considered the primary Child Study Team service responsibility, and conducting diagnostic assessments a secondary service responsibility. This would require a change in attitude on the part of consumers, since school psychologists then might become a last resort rather than a first resort in the systematic assessment process.



Most school psychologists are overwhelmed by diagnostic responsibilities. Their time is consumed by conducting assessments on never-ending numbers of referrals, and then reassessing at the time of the annual review. Although there are numerous alternative services that most school psychologists can provide to more appropriately meet the needs of consumers of their services, school psychologists typically are expected to provide diagnostic services first, and alternative services as time permits. Too often, time does not allow for the delivery of alternative services. School psychologists need to make time or reallocate their time in order to free themselves up to provide other services to their consumers. One way to accomplish this is by reducing the amount of time spent directly in conducting diagnostic assessments, thus freeing time for indirect service in this area by serving as an assessment consultant.

Services. Shifting the emphasis from diagnostician to assessment consultant does not mean abandoning direct diagnostic services by the school psychologists, because the importance of some direct service in this area cannot be overlooked. It also does not minimize the importance of school psychologists having good diagnostic skills, because they are critical to being an effective assessment consultant. However, it does mean shifting assessment responsibilities so that, rather than school psychologists being expected to carry the majority of the load, assessment responsibilities would be equitably distributed among qualified Child Study Team members. The types of services that an assessment consultant could offer to a Child Study Team are: (a) instrument selection, (b) training Child Study Team members, (c) staffing facilitator, (d) information synthesizer, (e) development of systematic assessment processes, (f) develop/implement minimum assessment procedures, (g) develop/implement district eligibility criteria, (h) evaluation of the Child Study Team, and (i) development of a record keeping system.

Instrument Selection. One of the school psychologist's responsibilities as an assessment consultant would be to assist in the selection of various assessment instruments. The psychologist's background in statistics, test construction, and test administration would enable him/her to analyze critically the potential usefulness of any assessment instrument. His/her responsibilities would include: (a) making a critical analysis of existing instruments being used by the Child Study Team, (b) reviewing materials being used in other districts, (c) ordering specimen sets from publishers and evaluating their potential usefulness, and (d) keeping abreast of current developments in the assessment field (via the professional literature, publisher catalogs, workshops, etc.) and introducing more useful instruments to the Child Study Team as they are discovered.

A critical analysis of an assessment instrument requires: (a) determining the appropriateness of the instrument or portions thereof for assessing various problem areas of students, (b) determining the usefulness of the instrument in making service delivery decisions, and (c) determining the usefulness of the instrument in designing instructional/behavioral programs.

Training Child Study Team Members. The school psychologist serving as an assessment consultant should be prepared to provide training to Child Study Team members in the following areas: test utilization, test interpretation, and nontest assessment.

- (1) Test utilization -- While conducting an analysis of existing and potential instruments for use during comprehensive assessments, the school psychologist might discover either some inappropriate uses of a frequently used test, or a completely new instrument that they would like the Child Study Team to consider incorporating as part of the comprehensive assessment for certain students. The Child Study Team or specific team members would benefit from training in the appropriate use of such tests.
- (2) Test interpretation -- Test information is often misinterpreted and misused. Subtest scores and total or composite scores often receive more emphasis than they legitimately should. The value of assessment observations, error analysis, and accounting for discrepancies among scores is minimized. In many instances, test scores are accepted at face value without considering other important variables, such as the ones mentioned above and the tests' ability to measure the characteristics or behaviors the Child Study Team is attempting to measure. An assessment consultant can provide an invaluable service here by training Child Study Team members in interpretation of test data, how to complement test data with test observations, and error analysis.
- (3) Nontest assessment -- Child Study Team members should recognize the importance of nontest assessment as an integral part of a comprehensive assessment of a student. Nontest assessment techniques, such as diagnostic interviewing, observational techniques, and sociometrics, can provide valuable information for Child Study Team decision making. The importance of good observational data to the total comprehensive assessment process cannot be emphasized enough. All team members should be skilled in observational techniques, so a large pool of observational information can be made available at the Child Study Team meeting. This pool of information assures that the Child Study Team does not become too reliant on test data alone when assessing a student's current level of functioning. If Child Study Team members are unfamiliar with nontest assessment techniques, an assessment consultant could assist them in the development of skills in these areas.

Staffing Facilitator. The school psychologist's training in assessment and interpersonal communication skills provides him/her with the background to assist the Child Study Team by serving as a facilitator. This does not imply that s/he is the administrator, chairperson, or leader, although s/he might be; but rather, s/he assures that the Child Study Team meeting is a smoothly flowing, shared experience. S/he assures that due process considerations have been attended to; s/he advises in areas of expertise; and s/he assures that decision making is a shared experience, with all members contributing their ideas. S/he plays an important role with parents in the Child Study Team process, making sure that parents understand

their rights and what will occur in the Child Study Team meeting. S/he assures that time is taken to explain assessment results thoroughly to parents, that parents understand the recommendations of the Child Study Team, and have an opportunity to have their questions answered, as well as an opportunity to share their thoughts and feelings. If district procedures (e.g., amount of time allocated for Child Study Team meetings) or content of the assessment results (some data may be more appropriately shared with parents without a full Child Study Team needing to be present) prevent parent involvement and participation, the school psychologist would be an appropriate resource person for conducting a parent conference prior to the formal Child Study Team meeting. This assures that parents have a forum at which to voice their concerns.

Information Synthesizer. When serving as an assessment consultant for the Child Study Team, the school psychologist should be well versed in the state or district rules and regulations, especially minimum eligibility and assessment criteria. One of the services that can be provided to the Child Study Team is information synthesis. This requires pulling all of the data together from a variety of assessment techniques and synthesizing them into meaningful information for team decision making, and including the synthesis of this information into a communicable written report that summarizes the student's current level of functioning, and includes specific recommendations.

Development of Systematic Assessment Processes. One of the most important services that could be provided by a school psychologist serving as an assessment consultant to the Child Study Team would be to assist in the development of a systematic process for assessing students. If a systematic procedure were developed, it could minimize the amount of time that the school psychologist spends directly conducting assessments, and it might also make it unnecessary for him/her to participate in each Child Study Team meeting. Whether by choice or expectation, school psychologists often assume far greater diagnostic responsibility than they need to, and often mistakenly assume that it is essential for them to participate in each Child Study Team meeting. Development of a systematic assessment process could help minimize unnecessary school psychologist diagnostic time and reduce the amount of time spent in Child Study Team meetings. This is not to suggest that their participation in Child Study Team meetings is not desirable and useful, but rather that in many cases, the diagnostic information can be gathered and the decision making can be done without them. This would free up time to provide additional services to consumers by requiring their participation on the team only if they had conducted part of the diagnostic assessment themselves, or in situations where their assistance may be requested to synthesize the information and facilitate the decision-making process.

Development of systematic assessment processes requires preparation of two assessment delivery models: (a) a screening model, and (b) a comprehensive assessment model. The school psychologist as assessment consultant can assist the team in developing these two assessment models so that the process results in meaningful decisions and programs for students.

The time spent by the Child Study Team is usually so occupied with specific referrals that districts often do not have a good screening or early identification assessment program in place. The school psychologist can assist in the development of a good screening program by reviewing existing programs, reading the professional literature, evaluating potentially useful assessment instruments or approaches, and then sharing all this information with the Child Study Team to initiate and implement a systematic process for screening and early identification.

The school psychologist as an assessment consultant could probably contribute the most to the Child Study Team and individual students by assisting in the development and implementation of a systematic assessment process for treating individual referrals. If the district is using the criteria outlined in their State Department's Special Education Administrative guidelines or one developed by their own district, the school psychologist can help assure that the process is being implemented appropriately.

A systematic assessment process implies that a similar assessment procedure will occur with all students, although specific components may vary within the process for certain types of children or for certain referral concerns. This suggests that a packaged diagnostic battery for all referrals is clearly inappropriate when consideration is given to individual differences among students. What is appropriate is an assessment based upon referral need and possible exceptionality (in harmony with minimum assessment and eligibility criteria).

One way to determine if a Child Study Team has a systematic assessment process in place is to ask the following questions:

- (1) Is there a referral procedure that clearly identifies specific parent/teacher concerns about the student's learning/behavior?
- (2) Does the assessment process focus on the specific referral concern and represent an array of assessment approaches?
- (3) Is instruction/intervention based upon information collected during the assessment process?
- (4) Does the review process ascertain how successful instruction/intervention has been in changing specific behaviors?

If Child Study Teams develop and implement a systematic assessment process for students, their time can be spent more effectively. Unnecessary and redundant assessments can be avoided, and programming will be more appropriate, and, as a result, more effective. The following are some considerations that the Child Study Team may need to discuss in the development of a systematic assessment process:

- (1) Referral -- The more information that is available to the Child Study Team, the more efficient they can be. If a referral process is developed that includes a form designed to solicit:
(a) specific information about the student's behavior and background, (b) what questions the teachers/parents want answered, and (c) what teachers/parents have attempted so far, assessment decision making is facilitated. A diagnostic interview with the referral source is essential to further clarify referral concerns.
- (2) Assessment -- The specificity of the referral and information gathered during the diagnostic interview, coupled with available cumulative record information, enables the Child Study Team members to begin to make preliminary assessment decisions regarding what academic/behavioral areas need to be assessed, what assessment instruments and procedures might be employed, and what Child Study Team members are responsible for conducting particular portions of the assessment. The assessment procedures conducted should vary for each exceptionality, and should consist of more than just "testing." Additional types of assessments should be conducted to complement any formal diagnostic assessments, and since, in some situations, formal diagnostic tests may not have any utility, alternative assessment procedures should be explored. Since State Departments typically delineate minimal assessment procedures, the school psychologist, serving as an assessment consultant, can play a major role here. Specific assessment procedures can be developed for each category of exceptionality in more detail, so decisions are based upon systematic information collected on students.
- (3) Instruction/Intervention -- The program designed for the student should follow logically from the assessment information. For example, if a child was referred for reading and social problems, both reading and social problems should have been assessed. If the assessment confirms that there are problems in both areas, then both should receive attention when intervention decisions are being made. Too often intervention occurs only in academic areas.
- (4) Review -- If there has been continuity from referral to assessment to intervention, the review process is simplified. The Child Study Team's decision may range from no additional assessment information needed, to conducting a complete reassessment. For most students, conducting another formal diagnostic assessment is unessential, yet usually occurs. Here is another opportunity for Child Study Teams to minimize their diagnostic activities. Remember, it is not an issue of avoiding diagnostic testing, but rather one of conducting diagnostic testing only when the information clearly will be useful in decision making and planning, and using alternative assessment procedures whenever possible.

Develop/Implement-Minimum Assessment Procedures. Systematic assessment procedures will occur more easily if a Child Study Team is following State Department guidelines for assessing particular categories of exceptionality and using similar diagnostic procedures for each student within a category of exceptionality in cases where the State has not specified procedures. Since some State Department guidelines are only recommended minimums and intended to provide districts with assessment flexibility, the school psychologist, serving as an assessment consultant, can provide a very valuable service here. S/he can assist the district in the development of specific assessment procedures that must be followed for assessing various exceptionalities. Using a standard assessment procedure will help assure that decisions are based on appropriate assessment information, and will also help the Child Study Team to evaluate the utility of the procedure for the particular category upon which it is focusing.

Develop/Implement District Eligibility Criteria. The school psychologist as an assessment consultant can help the district and Child Study Team by developing and implementing district eligibility criteria in order to make accurate decisions about students. The Child Study Team needs to determine what characteristics and behaviors are indicative of certain exceptionalities and then operationalize these by attaching specific eligibility criteria to them. These eligibility criteria could be based on any type of assessment procedure, not just diagnostic tests.

Evaluation of the Child Study Team. This is not to be confused with the Annual Review process conducted by the Child Study Team to ascertain the effectiveness of the students' IEPs, although this would provide excellent evaluative data on team functioning. Essentially, it is the effectiveness of the Child Study Team's operations being evaluated here, not specific student programming. As the systematic assessment procedure is employed for more and more students, eligibility criteria can be re-evaluated and changed as needed. Changes would be based upon a pool of information regarding the helpfulness of the criteria in identifying and serving exceptional students. There might also be a need for changing the district's assessment procedures consistent with any changes in the eligibility criteria. Even if the eligibility criteria do not change, a new diagnostic instrument or assessment procedure might be employed because the Child Study Team feels it would be a more appropriate assessment tool than the one currently being used.

Evaluation also would include determining the effectiveness of training provided to the Child Study Team members and the effectiveness of parent communications (via an interview or questionnaire procedure). Evaluation might focus upon satisfaction of team members, and the overall efficiency and utility of the Child Study Team process.

Develop/Implement Record Keeping System. One final service that an assessment consultant can perform is to assist in the development of an efficient record keeping system for the district. Storing, maintaining, retrieving, and disseminating information gathered by the Child Study Team needs to be handled in a manner consistent with the laws, due process procedures, and professional codes of ethics. The record keeping system should be tailored to building needs, but continuity should exist around the district (e.g., standard forms and policies).

IDENTIFYING LEARNING DISABLED STUDENTS IN IDAHO

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Many students show differences between their levels of ability and actual achievement. However, in order for a student to be considered eligible for special education programs and services under the category of specific learning disabled, one of the criteria which must be met is that the discrepancy between ability and achievement functioning must be a severe one. This section focuses on the two approaches, recommended by a statewide task force group, to determine severe discrepancy for learning disabled students. A general discussion of the problems with measurement of severe discrepancy and the serious technical inadequacies of many of the approaches now used throughout the state are also presented.

DETERMINING SEVERE DISCREPANCY

Severe discrepancy is indicated by a marked difference between a student's ability level and achievement level in one of seven areas: oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematics calculations or mathematical reasoning. This difference must be statistically significant and have educational importance as determined by the Child Study Team.

Commonly Used Approaches for Identifying Severe Discrepancy

1. Constant deviation from Grade Level

This approach defines a severe discrepancy as a predetermined, fixed number of years between the child's grade placement and the

grade level at which he or she is functioning academically. For example, functioning two years below grade level might be the criterion used for students at all grade levels. This approach fails to control so many variables that its use does not appear to be viable. First, it totally ignores level of intellectual functioning. An assumption is made that intelligence falls within the normal range; students whose levels of functioning are between 90 and 110 are treated the same even though the achievement expectations for these students would, in fact, be much different. Second, since the same achievement discrepancy is used across all grade levels, functioning two years below grade level is treated as being equally critical for students at the third and eleventh grade levels, for example. Also, the student's chronological age and the number of years the student has spent in school are ignored. It does not account for the fact that functioning two years below grade level would be much more serious for a student who had been retained twice or entered school at age seven than it would be for one who had entered school at five and had never been retained.

2. Graduated Deviation from Grade Level

This approach varies the number of years of deviation from grade level needed to constitute a severe discrepancy, with a greater degree of difference required at higher grade levels than at lower grade levels. For example, in second grade only half a year below grade level may be required while at the tenth grade a difference to four years may be necessary before the discrepancy is considered to be severe. As with the constant deviation approach, differences in level of intellectual functioning are typically ignored, as are differences in chronological age and number of years the child has spent in school.

3. Percentage Lag

The percentage lag approach requires that a student's grade level or age level functioning fall a certain percentage below that of his/her peers. This lag may be expressed in either age or grade levels. For example, using a 30% lag, a 7.5 year old student would have to demonstrate a lag of 2.25 years, i.e., functioning at or below the 5.25 year level, before he/she would be eligible for service. Likewise, a student at the 6.0 grade level would have to have a 1.8 grade level lag or functioning at or below the 4.2 grade level before he/she would qualify. For younger children, age level lag is more likely to be used while grade level lag is typically used for older students. Since this approach is a variation of graduated deviation from grade level, it shares the problems of that approach.

4. Expectancy Formulas

Several expectancy formulas, some simple and some complex, have been developed in an attempt to qualify discrepant achievement. Although the critical problems vary from formula to formula, they typically ignore both the age at which the student enters school and the number of years that the student has spent in school. For examples of such formulas, see: Bond and Tinker (1957); Johnson and Myklebust (1967); Harris (1970); Kaluger and Kolson (1969); Danielson and Bauer (1978); and/or Algozzine et al. (1979).

Statistical Problems Shared by Commonly Used Approaches for Identifying Severe Discrepancy

Three additional statistical considerations -- regression toward the mean, error of measurement and standard units of measurement -- should be taken into account when discrepancies are measured. None of the above procedures does so.

1. Regression Toward the Mean¹

Technically, regression effect means that when a dependent variable (such as academic achievement) is predicted from a correlated measure (such as an Intelligence Quotient or IQ), the predicted value of the independent variable will, on the average, regress toward the mean. Examples of this phenomenon are noted in everyday life. Two extremely tall parents will probably have children who are shorter than they are. A Heisman Trophy winner in football is rarely the basketball league's most outstanding player. Likewise, achievement scores can be expected to regress toward the mean. Child Study Teams dealing with determining severe discrepancies should be aware of the regression effect since the same levels of intellectual functioning and academic achievement would not be expected for students except when IQ equals 100. For IQ's above 100, one would expect slightly lower achievement than ability scores. For IQs below 100, one would expect slightly higher achievement than ability scores. Table II examines this effect for certain ranges of scores.

¹This material is adapted from: Considerations for Identifying School Age Children and Youth with Specific Learning Disabilities in Michigan: A Final Institute Report, September, 1980.

| <u>IQ Range</u> | <u>Mean Educational Quotient² Expected</u> |
|-----------------|---|
| 130-139 | 123.6 |
| 120-129 | 118.4 |
| 110-119 | 109.1 |
| 100-109 | 103.0 |
| 90- 99 | 95.1 |
| 80- 89 | 89.6 |
| 70- 79 | 83.9 |

These figures, based on simulated data provided by McLeod (1979, p. 325), show the educational quotient (EQ) that is likely to be expected for each of the indicated IQ ranges. It is easy to see that in all cases, except for the norm range of 100, the expected educational quotient has regressed toward the mean.

For statistical reasons alone, more students with above average IQ's will be "underachievers" or learning disabled, than students with below average IQ's. Logically then, students with higher IQ's have a much greater chance of being selected as learning disabled than students with lower IQ's.

While it is not possible to provide precise guidelines with respect to the regression phenomenon, it would be beneficial to keep its effects in mind. For example, if a Child Study Team is comparing the ability and achievement levels of a student with superior cognitive abilities, it is important to know that the achievement levels will not always be exactly consistent with the ability level. Slightly lower achievement scores should be expected.

A related, though opposite situation may exist for students with below-average abilities. Their measured achievement levels may be above their actual below average cognitive abilities. Both situations require some thoughtful judgment on the part of the Child Study Team.

2. Error of Measurement

All scores obtained from tests are merely estimates of one's "true" score. That is, due to test error, there is always some difference between an individual's "true" score and his or her obtained score. Test error may be systematic (consistent) or random (inconsistent) (Salvia & Ysseldyke, 1978). Such factors

$${}^2\text{Educational Quotient (EQ)} = \frac{100 \times \text{Expected Educational Age (EA)}}{\text{CA}}$$

If regression towards the mean did not exist, then expected educational age (EA) would equal mental age (MA).

as test length, test-retest interval, guessing by examinee, variations within testing situations, and examiner's skill, will affect the reliability of tests and, consequently, the amount of test error.

The problem of test error is compounded when one compares data from two different tests. For example, to determine whether a severe discrepancy exists, the typical procedure is to compare the scores obtained from intelligence tests with scores from achievement tests. But when scores from two different tests are compared, the discrepancy score is usually less reliable than the single scores from either test alone (McLeod, 1978; Salvia & Ysseldyke, 1978). In other words, when scores are compared from tests which are not perfectly correlated, the amount of test error accelerates. The data provided by McLeod (1978, p. 14) and presented in Table III in slightly modified form clarifies this point.

| | <u>Observed Scores</u> | <u>"True" Scores</u> | <u>Standard Error of Measurement</u> |
|-------|----------------------------|--------------------------|--|
| IQ | 100 | 91 - 109 | 9 |
| EQ | 90 | 81 - 99 | 9 |
| IQ-EQ | 10 | -3 - +23 | 13 |

Table III demonstrates that while the standard error of measurement for both the IQ and EQ (achievement) scores is 9 points, the error measure increases to approximately 13 points when the two scores are compared. In this case, it is difficult to determine if a severe discrepancy exists between the student's IQ and EQ since, due to the test error factor, the difference may be either nonexistent (-3) or relatively severe (+23).

3. Comparability of Units of Measurement Lacking

When scores are compared, it is important that they are based on the same units of measurement or else the process becomes analogous to comparing apples and oranges. The commonly used approaches to severe discrepancy typically violate this assumption. While more intelligence test scores are based on an equal interval scale, achievement test scores are often reported as grade level equivalents or percentiles, both types of measurement being types of rank order scales. With rank order scales, there is no way to know whether the differences between

scores are equal. Is the difference between achieving at the 4.3 grade level and the 4.4 grade level the same as the difference between achieving at the 8.3 and the 8.4 grade level? Likewise, the difference represented between achieving at the first and the fifth percentiles is much different than the difference represented by achieving at the 95th and the 99th percentiles.

Recommended Approaches for Identifying Severe Discrepancy

The only approach for determining severe discrepancy that adjusts for both the well-documented phenomenon of regression toward the mean and error of measurement is regression analysis. However, at the present time, even though this approach may be the procedure of choice, it is not possible to implement because of the lack of the statewide standardized group intelligence and achievement data needed to develop regression tables.

Since regression data are not available, two approaches for determining severe discrepancy are recommended: standard score comparison and the federal formula (1976), with the standard score comparison being preferable. The discussion which follows will include both an explanation and example of how each approach is used.

A. Standard Score Comparison

As mentioned above, when comparing scores from two tests, it is important that they are based on the same units of measurement. When one attempts to compare grade level scores from one achievement measure (scores which are based on a ranking type of measurement) with deviation scores (scores which indicate in a consistent manner how different the student's performance is from that of his or her peers), the comparison cannot logically be made.

An approach that avoids this problem is the standard score comparison. Standard score comparison involves converting the scores that each test yields to normalized standard scores. This simply means that all scores are converted to the same measurement scale -- a scale which reflects how different the performance of the student is from that of his or her peers. Once the standard scores are obtained for all measures, the scores can easily be compared with each other through subtracting one from the other.

There are many types of standard scores (e.g., Z scores, T scores, normal curve equivalents, etc.). The use of normalized standard scores based on a distribution with a mean of 100 and a standard deviation of 15 is recommended since many tests of ability and achievement use this distribution. For example, a Full Scale IQ of 112 on the WISC-R is actually a standard score based on this distribution. Likewise, the PIAT standard scores for the total test and for individual subtest are based on this distribution. The tabling of data converting percentile ranks and

normal curve equivalents (e.g., as used with Key Math and the Woodcock) to standard scores makes the standard score comparison procedure easy to implement for many widely-used tests.

Some tests are based on a distribution other than one having a mean of 100 and a standard deviation of 15. This information is available in the individual test manuals. For such tests, scores must be converted to standard scores which are based on a distribution having a mean of 100 and a standard deviation of 15.

Once standard scores for the two measures to be compared are known, one can be subtracted from the other to see if the difference is significant. As a general guideline, a discrepancy is severe when the standard score difference is at least 15 points. A discrepancy is probably severe when the difference between measures is 13-15 points, and possibly severe when the difference falls between 10-12 points.

Example of a Standard Score Comparison³

A fourth grade student has been referred for not succeeding in reading and math skills. All steps of referral to placement leading up to confirmation have been followed.

1. The P.I.A.T subtests related to the referral are administered to the child along with the Key Math and Woodcock Reading Mastery Test. The results are as follows:

| <u>P.I.A.T.</u> | <u>Raw Score</u> | <u>Grade</u> | <u>%</u> | <u>Standard Score</u> |
|-----------------------|------------------|--------------|----------|-----------------------|
| Math | 24 | 2.2 | 8 | 79 |
| Reading Recognition | 25 | 2.2 | 10 | 81 |
| Reading Comprehension | 28 | 2.9 | 22 | 88 |

Woodcock Reading

Total 2.8

Standard Score 78

Key Math

Raw Score 100

Standard Score 85

2. A.WISC-R is administered to the student. The results are:

Full Scale IQ = 103

3. Analysis: The I.Q. test indicates the child is of normal ability, but is below grade level in reading and math skills. Do the scores represent a severe discrepancy between the child's ability and achievement levels?

³From Idaho Falls School District #91, "District Standards for Placing LD Students" (Memo: Jan. 18, 1982).

4. Standard Score Discrepancy Method:

Math (P.I.A.T.)

| | |
|----------------|------------|
| I.Q. | 103 |
| Standard Score | <u>-79</u> |
| | -24 |

Math (Key Math)

| | |
|----------------|------------|
| I.Q. | 103 |
| Standard Score | <u>-82</u> |
| | -21 |

Reading (P.I.A.T.)

| | |
|------------------|------------|
| I.Q. | 103 |
| Standard Score | <u>-81</u> |
| (Reading Recog.) | -22 |

| | |
|-----------------|------------|
| I.Q. | 103 |
| Standard Score | <u>-88</u> |
| (Reading Comp.) | -15 |

Reading (Woodcock)

| | |
|----------------|------------|
| I.Q. | 103 |
| Standard Score | <u>-78</u> |
| | -24 |

5. Rx: Achievement differences from the ability measure are considered severe at 15 points, probably severe at 13-15 points, and possibly severe at 10-12 points.

The child has a marked discrepancy between achievement/ability in reading and math skills.

B. Federal Formula (1976)

This formula was designed to identify those students whose achievement in one of the seven identified areas listed in the definition is at or below 50% of the child's expected achievement level when intellectual ability and chronological age are considered. The following method is used to establish a severe discrepancy.

1. The team determines the chronological age of the child and his or her intellectual ability stated in terms of an intelligence quotient.
2. The intelligence quotient is divided by 300 and the result is added to seventeen one-hundredths (0.17).
3. The result of this computation is multiplied by the chronological age of the child.
4. From this figure is subtracted 2.5.
5. The resultant figure is the academic achievement level at or below which the child must achieve in one or more of the seven areas listed previously in order for a severe discrepancy to exist.

6. The method of computation described above is expressed mathematically as:

$$(C.A.) \left(\frac{IQ}{300} + 0.17 \right) - 2.5 = \text{Severe Discrepancy Level}$$

CA = chronological age (make sure months are converted to decimal form; see Table IV that follows).

IQ = intelligence quotient.

This formula determines the grade level that a student must be at or below for a severe discrepancy to be present.

Tables IV and V have been provided to assist with calculating the severe discrepancy level using the Federal Formula.

TABLE IV⁴: CONVERSION OF MONTHS TO A DECIMAL EQUIVALENT

| Mo. | Equiv. | Mo. | Equiv. | Mo. | Equiv. |
|-----|--------|-----|--------|-----|--------|
| 1 | .083 | 5 | .417 | 9 | .750 |
| 2 | .167 | 6 | .500 | 10 | .833 |
| 3 | .250 | 7 | .583 | 11 | .917 |
| 4 | .333 | 8 | .667 | 12 | 1.000 |

TABLE V: $\frac{IQ}{300} + 0.17$ FOR IQ LEVELS BETWEEN 80 AND 125

| IQ | | IQ | | IQ | | IQ | |
|----|------|-----|------|-----|------|-----|------|
| 80 | .437 | 92 | .477 | 104 | .517 | 115 | .553 |
| 81 | .440 | 93 | .480 | 105 | .520 | 116 | .557 |
| 82 | .443 | 94 | .483 | 106 | .523 | 117 | .560 |
| 83 | .447 | 95 | .487 | 107 | .527 | 118 | .563 |
| 84 | .450 | 96 | .490 | 108 | .530 | 119 | .567 |
| 85 | .453 | 97 | .493 | 109 | .533 | 120 | .570 |
| 86 | .457 | 98 | .497 | 110 | .537 | 121 | .573 |
| 87 | .460 | 99 | .500 | 111 | .540 | 122 | .577 |
| 88 | .463 | 100 | .503 | 112 | .543 | 123 | .580 |
| 89 | .467 | 101 | .507 | 113 | .547 | 124 | .583 |
| 90 | .470 | 102 | .510 | 114 | .550 | 125 | .587 |
| 91 | .473 | 103 | .513 | | | | |

⁴Tables from Garden Valley #71 District "Learning Disabilities Minimum Eligibility Criteria".

Example of Use of the Federal Formula

This student is 9 years, 5 months, has an I.Q. of 94, and is placed in the fourth grade. He is performing at the 2.9 grade level in arithmetic. Does he have a severe discrepancy?

$$(C.A.) \left(\frac{IQ}{300} + 0.17 \right) - 2.5 \quad // \quad (9.417)(.483) - 2.5 = 2.084^5$$

The child does not have a severe discrepancy. His achievement would have to be at or below 2.084 before he could be considered to have a severe discrepancy.

A*Comparison of the Recommended Approaches for Determining Severe Discrepancy

Table VI (following page) compares some critical features of the standard score comparison and the federal formula as approaches for determining severe discrepancy. Users should take into account the liabilities of each when selecting an approach both for district-wide use and for Child Study Team use in making decisions about individual students.

Determining Severe Discrepancy for Non-norm-referenced Assessment Measures

Both the Standard Score Comparison and the Federal Formula approaches to determining severe discrepancy require the use of norm-referenced tests. Norm-referenced tests indicate how an individual's performance compares to that of a reference group. In some cases the use of a norm-referenced test is not possible. Some students are so unlike the population group on which the test was normed, that the use of that test is not appropriate. For such students, criterion referenced evaluations may be more appropriate.

In addition, adequate norm-referenced tests are not available for all achievement areas listed in the definition of learning disability. When the Child Study Team feels that the available norm-referenced tests cannot provide a reliable assessment for a student in a given area, then it must rely on other information. The results of informal and criterion referenced assessment as well as observation data, classroom work samples and other available data may be useful in determining whether a severe discrepancy exists in that area. In such cases the team must document the procedures used, the results, and the criteria that is applied to determine whether or not a severe discrepancy was present.

⁵Table IV provides the equivalency 9 years, 5 months equals 9.417.

Table V provides the equivalency $\frac{94}{300} + 0.17 = .483$

TABLE VI. COMPARISON OF RECOMMENDED
APPROACHES TO DETERMINING SEVERE DISCREPANCY

| Critical Considerations | Standard Scores | Federal Formula |
|--|--|--|
| Is the approach easy to implement? | Yes, if standard score values are tabled. | Yes, if some values are tabled. |
| Are errors of measurement controlled? | Yes, to the greatest extent possible. | No, this approach identifies more students on some tests and subtests than on others because of uncontrolled differences in measurement error. Students are more likely to be identified falsely as having severe discrepancies because of measurement error. |
| Are scores based on like scales so that scores are comparable? | Yes, scores can be converted so they meet this standard. | No, intelligence test scores are typically from equal-interval scale; grade level scores are not from an equal-interval scale. |
| Is this approach consistent in identifying similar numbers of children at different age levels and at different IQ levels? | Yes. | No, this approach is more likely to identify children below 8 years-old and to identify children in the 80-90 IQ range than it is to identify older children or children in the average and above-average range. |
| Does the approach take into account the number of years in school? | No. | No. |
| Are regression effects controlled? | No. | No. |

DETERMINING ELIGIBILITY, PROGRAMS AND PLACEMENTS

The Child Study Team must make the final decision regarding a student's eligibility for special education. Since most students screened and/or referred for possible identification as learning disabled are having difficulties in specific curriculum areas, the Child Study Team has an added responsibility for considering all the possible ways in which a student's needs can be met. The purpose of this chapter is to provide some general guidelines for Child Study Team members in procedures for summarizing and analyzing all available evaluation information, and making decisions regarding eligibility, programs and placements.

Summarizing and Reviewing Evaluation Information

When assessment, evaluations and observations have been completed, as required by Administrative Rules and Regulations for Special Education and district policies and procedures, Child Study Team members are ready to summarize and review all available evaluation information regarding a student being considered as learning disabled. The information which should be summarized and considered includes:

1. the source and reason for referral, including instructional or management interventions which were tried before making the referral;
2. input from the student's regular teacher(s) and assigned observers about the student's learning strengths, and difficulties, as well as any learning style which may be inferred from other information available to the Child Study Team;
3. specific test outcomes which determine the existence of a severe discrepancy through use of either the standard score approach or the federal formula approach recommended earlier in this paper; and
4. social history and cumulative school records.

Forms which summarize these evaluation results may be useful. Another workable approach may be to expect each individual evaluator to provide a written summary for consideration at the team meeting when decisions are to be made.

Making Decisions Regarding Eligibility

As noted earlier, no student may be identified as learning disabled unless a severe discrepancy exists between ability and achievement in at least one of seven specified areas. The two approaches for determining severe discrepancy recommended for use are the standard score comparison, and the federal formula.

The existence of a severe discrepancy determined by either approach is only one of the eligibility criteria which Child Study Team members must consider. Other criteria established in Idado's Administrative Rules and Regulations for Special Education require that a student may not be diagnosed as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of a visual, hearing or motor handicap, mental retardation, emotional disturbance, or environmental, cultural or economic factors.

A further source of information which must be considered for all students prior to identification as learning disabled is a required written report. The written report integrates broader assessment findings with information about severe discrepancy. The more general information which must be addressed in the written report includes:

- a) relevant behavior noted through observations;
- b) relationship of observed behavior to the student's academic functioning; and
- c) whether assessed educational needs can be met in the regular classroom.

Integrating Other Assessment Outcomes with Severe Discrepancy Information

The Child Study Team's decision-making role becomes critical when considering evaluation information about a student. A variety of information must be considered to provide a whole perspective on the student's needs. For example, severe discrepancy may be found to exist for a student, yet additional information may show that the referring teacher had not tried other instructional approaches and that an observed negative classroom situation may be involved in the child's poor performance. Given these variables, team members might decide that additional efforts should be made to meet the student's needs in the regular classroom, even though a severe discrepancy has indeed been established.

No single evaluation or assessment outcome should be used in isolation when determining eligibility for special education. Integration of all assessment outcomes, reasons for referral, severe discrepancy information, observation findings, and least restrictive environment considerations can be addressed in many ways.

Programming Considerations

Assessed educational needs of a student dictate the general goals which will be identified. In formulating goals, Child Study Team members need to assure that there is direct linkage between the reasons for referral

and the goal areas, including the development of goals for affective/behavioral areas and for related services which may be needed. If the identified instructional goals for a student can be carried out in the regular classroom, through consultative assistance, the Child Study Team may decide not to recommend the student for special education, even though the student is eligible.

Placement Consideration

Once the tentative goals have been identified for a student, Child Study Team members must review the placement(s) in which the goals will be carried out. Questions of "who," "where," and "when" will need to be discussed.

To some extent, a Child Study Team has the responsibility to "direct traffic" to building and/or district classes, services and alternate sites where goals can best be carried out. The final consideration of placement may include Title I rooms, combinations of regular classrooms and resource rooms, self-contained rooms or non-district placements.

Alternate placements for students with only marginal qualifications as learning disabled and/or documented behavioral problems may include: placement in other sections of the same course or grade; cross-age tutoring; and services of a counselor or psychologist in the existing placement to work with the student, child, teacher and others who may benefit. Educational placements for these students should be in the least restrictive setting and be appropriate for the instructional objectives/services which may be involved.

Increasing use of special education personnel as consultants to regular teachers represents a "best practice." Intervention in a teaching approach, adoption of instructional materials, or modification of a classroom management program may make pull-out placements unnecessary. Child Study Team members are in an ideal position to recommend such consultation as an alternative to placements outside the regular classroom.

Developing the Individual Education Program

Individual Education Programs (IEPs) need to be developed only for students placed in special education after the Child Study Team has considered possible goals, objectives and alternative placements, in that order. Progress may need to be monitored for students who do not qualify for special education or for whom alternative plans appear to be appropriate.

Before an IEP is to be prepared, planning and informal discussion between school personnel and parents should occur, since input from parents often provides valuable direction for the Child Study Team. The Child Study Team meeting at which a student's IEP is prepared and approved need not be lengthy to be effective. The preparation of an agenda gives all participants, especially parents, a way to anticipate what will be presented for consideration.

Ongoing Team Monitoring of Programs and Placements

One of the advantages of regularly scheduled Child Study Team meetings is that student progress (or lack of progress) in special education can be monitored. Any person may request a team review of a student's progress. Program and placement modifications are to be expected and, by meeting regularly, the response of the Child Study Team to such requests can be timely. The task of conducting annual reviews is also lessened if the team has periodically kept in touch with individual placements.

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SOCIAL BEHAVIOR SURVIVAL: PREPARING HANDICAPPED CHILDREN

FOR THE REALITIES OF MAINSTREAM CLASSROOMS**

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There can be little doubt about the merits of mainstreaming as a general educational strategy and as a goal for special education programming. However, there are some massive logistical barriers that impinge upon the task of making effective mainstreaming a reality for the majority of handicapped children enrolled in less restrictive settings. These include (a) the technical competence required of regular educators in order to accommodate the special needs of handicapped children, especially severely handicapped children; (b) the provision of sufficient diversity, specialization, and individualization of educational programming to accommodate the needs of handicapped children within the context of the regular classroom; (c) the task of persuading regular educators that a mainstreamed handicapped child is their responsibility and that many handicapped children will require and are entitled to the investment of extraordinary amounts of time, energy, and specialized assistance just to achieve what is for them a normal rate of progress; and (d) the task of expanding the tolerance levels or limits of regular teachers for forms of child social behavior they are not used to seeing and/or are not willing to accept. These by no means represent the only barriers to mainstreaming. However, their resolution appears to be of crucial importance to its eventual success.

In our opinion, barriers (a) and (b) above will be far easier to overcome than will barriers (c) and (d). The introduction of increasingly specialized forms of instruction into the regular classroom, direct supportive services provided to regular educators, and both inservice and pre-service training in the technology of special education programming will all contribute to the resolution of barriers (a) and (b). Barriers (c) and (d), involving attitudes, expectancies, and standards taught to regular educators in university training programs and reinforced by long established school practices, will likely prove highly intractable.

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Special educators who supervise the mainstreaming process at district levels and those who provide either direct or indirect supportive services to regular teachers consistently report that the greatest obstacle to mainstreaming is the social behavior(s) displayed by handicapped children in mainstream settings. Regular teachers are unaccustomed to contact with children who (a) frequently engage in tantrums, (b) bite themselves and/or engage in head banging, (c) utter nonsense syllables to themselves and others, (d) masturbate openly, (e) make excessive demands of the teacher, (f) hit other children, (g) are incontinent, and (h) do not listen to teacher's instructions or comply with them. Such children place severe burdens upon the management skills of most regular classroom teachers. These and other similar social behaviors can seriously impair a handicapped child's development by (a) reducing his/her responsiveness to supervising adults and peers and (b) competing directly with the instructional process. Teachers are accustomed to demanding a certain level of behavioral appropriateness before dispensing instruction, especially direct instruction of which many handicapped children are in critical need in order to acquire academic skills. Significant numbers of handicapped children will fall far short of their teachers' behavioral standards on this dimension, and their development and school adjustment will be concomitantly impaired. The long term consequence of this situation can be very serious for some handicapped children who are and will continue to be mainstreamed.

The usual school district response to this situation has been to proceed with the mainstreaming process and to deal with problems as they emerge on a case-by-case basis. The postures of receiving regular classroom teachers and those of consulting special education personnel, who provide supportive services, have been somewhat antagonistic in the process of accommodating the handicapped child in mainstream settings. That is, special educators are placed in the position of serving as advocates for handicapped children while attempting to obtain the best services available for them within such settings. Teachers in mainstreaming settings, on the other hand, are and continue to be highly reactive to the demands imposed by handicapped children's needs (Hunter, 1978). The conflict between these two perspectives is nowhere in greater evidence than in relation to the social behavior repertoires of mainstreamed handicapped children. The majority of regular teachers have very low tolerance levels for such social behavior -- even from handicapped children! As a result, regular teachers may conclude that a handicapped child, who is perceived as having an unacceptable social behavior repertoire, does not belong in a mainstream settings and cannot succeed within it. Even though such may not be the case, the teacher's attitude may make it a self-fulfilling prophecy! Further, regular teachers often argue that the child's social behavior (a) is disruptive of classroom atmosphere, (b) disturbs other children, and (c) deprives other children in the class of needed teacher time and attention. The extent to which these teacher arguments actually reflect reality (with respect to the handicapped child's behavior) varies from case to case. However, the simple possession of such attitudes will have a profound impact upon the way in which teachers respond to handicapped children and accommodate their needs (Anderson, 1971; Beez, 1970; Brophy & Evertson, 1981; Brophy & Good, 1970, 1974; Meichenbaum, Bowers & Ross, 1968; Rist, 1970; Rubovits & Maehr, 1971).

How should the educational community respond to this situation? One approach would be to appeal to the professionalism of regular educators in an attempt to change their attitudes and to broaden their tolerance levels and expectations in relation to handicapped children. To date, only meager efforts to change teacher attitudes and expectations have been reported in the literature. The success of these efforts is not at all clear and we have no information on whether changed attitudes are correlated with changes in teacher behavior with respect to mainstreaming. This is a laudable goal and one that will probably eventually be achieved. However, it has only minimal functional utility in the short run (i.e., within the next 10-15 years). Much stronger, more immediate, and more direct measures are required to cope with the situation as it exists currently. In our opinion, there are some needs or tasks in this area that are of critical importance and which must be responded to in the process of developing strategies for coping with this problem.

First, the social behavior standards and expectancies of regular educators must be taken into account systematically in the mainstreaming process. Procedures must be available for assessing these standards across teachers (i.e., to establish normative criteria and limits which exist in natural settings). Further, the specific and idiosyncratic standards of individual receiving teachers must also be assessed, as part of the placement/integration process. This procedure would have the effect of (a) providing for the systematic assessment of potential mainstream settings and (b) communicating to receiving teachers that their social behavior standards will be attended to and taken into account in the mainstreaming process. Several researchers and scholars have called for the development of such measures to assess the behavioral demand level(s) within mainstream settings (Forness, 1977; Grosenick, 1971). However, such measures do not appear to be currently available.

Second, procedures must be developed that will provide for a one-to-one correspondence between the social behavior concerns of receiving regular teachers and the social behavior repertoires of mainstreamed handicapped children. At present, child study team assessment procedures and data frequently bear only a general relationship to programming efforts for the handicapped child. In many instances, these data are geared toward certifying the eligibility of the handicapped child for services rather than serving as a basis for instructional programming (Walker, 1978). General, global assessments of this nature will not be sufficient for the task of remediating the maladaptive, inappropriate and/or injurious social behaviors of mainstreamed handicapped children.

Third, once a receiving teacher's social behavior standards and expectancies are reliably identified, procedures must be established to (a) assess the handicapped child's behavioral status with respect to these standards; (b) reduce and/or eliminate specific social behaviors the teacher views as unacceptable in the regular classroom (e.g., masturbation, hitting, biting, etc.); and (c) teach the child those positive social behaviors (e.g., compliance with specific instructions, working on assigned tasks, cooperating with others) that the teacher may consider essential to a successful adjustment within his or her classroom. Essentially, the

handicapped child is trained (prior to reintegration whenever possible) in a social behavior repertoire that will contribute directly to a successful adjustment within mainstream settings.

Fourth, once reintegration occurs, the handicapped child's social behavior must be monitored carefully and frequently within the mainstream setting to insure that (a) the child exhibits an appropriate social behavior repertoire and (b) if difficulties are encountered, support personnel are in a position to respond to them. These assessments would provide direct information to the regular teacher on the quality of the child's social behavior -- a judgement teachers do not always make accurately when relying on subjectively derived information (e.g., anecdotal impressions gathered over time).

Finally, once the handicapped child has adjusted successfully to the mainstream setting and his or her behavior pattern has stabilized within the teacher's range of tolerance or acceptability, procedures must be implemented to train the regular teacher to manage the child's behavior successfully with only minimal consultant support or a complete lack of it. This is an extremely crucial component of any strategy designed to contribute to the long term satisfactory maintenance of handicapped children within less restrictive settings.

These five elements, in our opinion, are the minimal components necessary in a strategy that would be effective in coping with the social behavior problems of handicapped children in mainstream settings. A validated and replicated service delivery model of this type would prove extremely valuable to special educators in facilitating the mainstreaming process. Further, it could be a highly cost effective model and would fit easily into the service delivery systems of most school districts.

The development and validation of this model would have direct benefits to the following groups of individuals: (a) mainstreamed handicapped children across a broad range of handicapping conditions and levels of severity; (b) receiving regular classroom teachers; (c) special educational and other school personnel who provide supportive services (direct or indirect) to regular teachers in the mainstreaming process; and (d) child study teams who must determine appropriate placements for handicapped children vis-a-vis the mainstreaming process, evaluate the relative accommodability of such settings to the handicapped child, and estimate the child's chances of survival within them. Handicapped children exposed to this strategy would be in a position to acquire a behavior pattern which could produce the following outcomes: (a) increase their social responsiveness to adults and other children, (b) directly facilitate academic performance and the consumption of instruction, and (c) contribute to a satisfactory social-emotional-behavioral adjustment both within and outside the school setting. In effect this model would increase the probability of a handicapped child's survival within the educational mainstream through the direct teaching of social behavior skills and competencies judged essential for satisfactory performance within it.

We are currently involved in some research on the mainstreaming process that is designed to develop and test a model service delivery program of this general type. The model measures teacher expectations and social behavior standards in relation to specific classes of adaptive and maladaptive child behavior and assesses the teacher's tolerance level in relation to behavioral characteristics frequently associated with handicapping conditions. This information is then used to select potential placement settings and to determine the minimal behavioral requirements a handicapped child must meet in order to gain entry into the setting.

Our focus is not upon differential performance expectations that teachers hold for children in their classroom but instead upon the social behavior standards and tolerance levels that teachers hold for children in general. As used in this context, social behavior standards and expectations refer to the relative importance or demand level that teachers place upon different classes of appropriate child behavior (e.g., complying with teacher requests, making assistance needs known, following established classroom rules) and the degree to which teachers are or are not accepting of maladaptive forms of child behavior in the classroom (e.g., child disturbs or disrupts the activities of others, refuses to share, ignores teacher warnings, etc.). Similarly, tolerance levels refer to the extent to which teachers would resist placement of a child who manifested conditions or characteristics often associated with handicapping conditions (e.g., child cannot write, is enuretic, has limited self-help skills, etc.). These standards/expectations and tolerance levels may be equally powerful determinants of teacher behavior, classroom ecology, and child outcomes as are performance expectations for academic achievement. To date, a methodology has not been developed for providing direct measures of them or for identifying their behavioral effects.

We have developed and are in the process of validating some indirect and direct assessment instruments for measuring these variables with respect to the mainstreaming process. The primary instrument used to measure teacher social behavior standards and expectations is a 107-item inventory entitled the SBS Inventory of Teacher Social Behavior Standards and Expectations by Hill M. Walker and Richard Rankin (1980). The instrument is divided into three sections. Section I contains 56 overt descriptions of adaptive appropriate child behavior(s). The items describe both teacher-child and peer-to-peer skills/competencies relevant to classroom achievement and adjustment. The teacher is asked to make one of three rating judgments in relation to Section I items. These are (a) critical, (b) desirable, or (c) unimportant. This rating dimension assesses how importantly the teacher views possession of the skill or competency to a successful adjustment in his or her classroom. Some sample items and the Section rating format are presented below.

| | <u>Critical</u> | <u>Desirable</u> | <u>Unimportant</u> |
|---|-----------------|------------------|--------------------|
| 1. Child is flexible and can adjust to different instructional situations, e.g., changes in routine, teachers, settings, etc. | () | () | () |

| | <u>Critical</u> | <u>Desirable</u> | <u>Unimportant</u> |
|---|-----------------|------------------|--------------------|
| ___ 2. Child listens while other children are speaking, e.g., as in circle or sharing time. | () | () | () |
| ___ 3. Child seeks teacher attention at appropriate times. | () | () | () |

Section II contains descriptions of 51 maladaptive, inappropriate child behaviors that disrupt classroom adjustment and interfere with social development. Teachers rate each of these behaviors along an unacceptability dimension. For each item, the teacher indicates whether the behavior is (a) unacceptable, (b) tolerated, or (c) acceptable. Tolerated means that although the rater would prefer to see the behavior reduced in frequency and/or replaced by an appropriate behavior, he or she is willing to "put up" with it (at least temporarily). Sample items from Section II and the rating format are presented below.

| | <u>Unacceptable</u> | <u>Tolerated</u> | <u>Accepted</u> |
|---|---------------------|------------------|-----------------|
| ___ 1. Child whines. | () | () | () |
| ___ 2. Child tests or challenges teacher-imposed limits, e.g., classroom rules. | () | () | () |
| ___ 3. Child disturbs or disrupts the activities of others. | () | () | () |

Section III measures the teacher's technical assistance needs with respect to items rated critical and unacceptable in Sections I and II, respectively. For critical items, the teacher is asked to indicate whether the skill or competency must be mastered prior to or after integration and whether technical assistance is required by the teacher in developing it. Similarly, for items rated unacceptable, the teacher indicates whether the child must be within normal limits on the behavior prior to or following integration and, if following, whether technical assistance is needed in remediating it. Information produced by this instrument can be extremely valuable in selecting placement settings, in preparing handicapped children for entry into them and in determining teacher assistance needs for specific child behaviors.

In developing the inventory, whose content deals with child behavior of a social nature, it became apparent that a second instrument was needed to assess teacher tolerance levels in relation to conditions and characteristics often associated with handicapping conditions. A checklist of Correlates of Child Handicapping Conditions (1980) was constructed to assess this variable. A checklist of 24 items was developed with teacher instructions to indicate which items would cause him or her to resist placement of a child manifesting that condition or characteristic. Some sample items are presented below.

- (1) Child has severely disfluent speech and/or impaired language.
- (2) Child requires specialized and/or adapted instructional materials to progress academically.
- (3) Child has deficient self-help skills, e.g., dressing, feeding, toileting.

Once the teacher has responded to each item, he or she is asked to review the items checked and to indicate whether the provision of technical assistance ranging from an aide to a special education consultant would cause any responses to be changed, i.e., placement not resisted because of that item.

The content of these items defines correlates of child handicapping conditions that require special provisions in the classroom setting and often, special teaching skills as well. The items in this list can be used to negotiate with teachers in mainstream settings over the conditions and logistical demands of mainstreaming. It could also be used in conjunction with the SBS inventory to eliminate certain teachers from consideration as potential placements for handicapped children.

These two instruments were administered on two occasions six weeks apart during the 1979-80 school year to an initial validation sample consisting of 50 regular teachers and 22 special education teachers of children in the elementary age range. Analysis of this data base is producing some interesting findings that are summarized below.

Teacher social behavior standards and expectations appear to be very stable among both regular and special education teachers. Test-retest correlations of inventory scores over a six-week period were .82 for regular teachers and .86 for special educators. Regular and special education teachers are very similar in the level and degree of importance they assign to adaptive classroom behavior and the degree of tolerance they show for maladaptive, inappropriate behavior. Regular and special education teachers are also very similar in the actual adaptive behaviors they rate as most and least important in Section I of the inventory and similarly the least and most accepted maladaptive behaviors in Section II.

For example, the content of the highest rated ten adaptive items by regular teachers deals almost exclusively with classroom control, general discipline, and compliance with teacher directives, instructions, and commands. Special educators agree on six out of ten of these items in their ratings. Those four remaining high-rated items by special educators also deal with classroom control, discipline, etc. Children who do not exhibit these behaviors/competencies at a sufficient rate or frequency would be labelled problematic or deficient by most teachers.

The lowest rated items in Sections I, i.e., the least important of the 56, have a heavy peer social behavior content. That is, they describe adaptive, appropriate social behaviors that either occur between peers or are peer oriented. Special educators agree on 8 out of 10 of these low rated items. It appears from these data that teachers do not assign a great deal of importance to social relations among peers, at least in comparison to child behaviors relating to discipline. However, peer social behavior, to a significant degree, is a determinant of social competence as measured by sociometric instruments. Low sociometric status, as noted earlier, predicts such pathological outcomes as (a) lowered academic achievement, (b) school dropout, (c) low self-esteem, (d) the development of delinquency, and (e) appearance on community psychiatric registers in adulthood.

The highest rated items by regular teachers in Section II (maladaptive behaviors) are interesting in that they deal exclusively with child behaviors that are (a) of high magnitude or intensity and (b) occur at an extremely low frequency in most classrooms. A child exhibiting any of these behaviors, even once, would likely be labelled inappropriate or deviant by a majority of both regular and special education teachers. One reason they may be rated so highly could relate to teachers' feeling incompetent to deal with them when they do occur.

The lowest rated items in Section II, i.e., the most acceptable maladaptive child behaviors, have a heavy peer-to-peer social behavior content thereby replicating the content of the least important Section I items. This suggests that for both regular and special teachers, deviant or deficient peer relationships are of comparatively less concern and importance than high magnitude, low frequency behaviors that conflict with teacher standards of normalcy and appropriateness.

It is apparent from an analysis of individual teachers' responses on the SBS instruments that teachers differ dramatically in their tolerance levels and standards-expectations vis-a-vis child behavior in the classroom. Appendix A presents a profile of regular teachers from the initial validation sample who scored differently from each other on the SBS Inventory and Checklist.

The scores for the teachers in Appendix A are for nine of the fifty regular teachers who participated in the study. Section I of the inventory contains fifty-six items that must be rated as either Critical, Desirable or Unimportant. Similarly, the fifty-one items in Section II must be rated as either Unacceptable, Tolerated or Acceptable. Inspection of the distribution of frequencies in Appendix A reflect a tremendous degree of variation among the teachers in this sample on the Inventory.

A similar effect was noted on teacher responses to the twenty-four item SBS Correlates Checklist. A checked item means a teacher would resist placement of a child who manifested that condition or characteristic. If the item is then circled, it means appropriate technical assistance would ameliorate the indicated placement resistance. Teachers showed the same extreme forms of variation on the checklist as the inventory.

A similar pattern of extreme variation has been found in all subsequent teacher samples who have responded to the instruments to date (approximately ten in number). The ability of the instruments to detect such extreme differences among teachers on these variables could be of significant value in the placement-integration process.

There appears to be a relationship between the way teachers score on the SBS Inventory and the manner in which they teach and manage children in their classroom. For example, high and low scoring teachers on the inventory tend to differ on the following categories of teaching and management behavior as determined by observational data recorded in the classrooms of 43 of the 50 regular teachers in the validation sample.

High scoring teachers on the SBS Inventory have a higher rate than low scoring teachers of (a) providing affirmative feedback to student academic performance; (b) gaining attention before dispensing instruction; (c) using initiating teacher commands, e.g., to involve students in the learning process; (d) dispensing positive verbal responses; (e) asking product questions; and (f) dispensing instructional responses in the teaching process. They have a lower rate than low scoring teachers of (a) asking neutral questions and (b) providing minimal responses to student requests for assistance. We are not able to say, at this point, that children in the classes of high scoring teachers are better taught, learn more, are better behaved, etc. However, these results do indicate that scores on the SBS Inventory seem to allow one to say something about the way teachers teach and manage children. These results have important implications for the placement process.

Intern teachers, student teachers, and pre-student teaching practicum students' responses on the instruments look very similar to those of experienced regular and special education teachers. This result suggests that standards and expectations in this area may be already well formed and quite stable before students begin their formal preparation as teachers.

Data on 196 teachers and teachers in training were factor analyzed to identify a factor structure for Sections I and II of the inventory. A three-factor and two-factor solution was conducted for inventory Sections I and II, respectively. In Section I, items that load on Factors One, Two, and Three appear to describe respectively (a) a student with excellent work habits who is organized and efficient (Factor One); (b) a student who exhibits self-control, is responsive to the teacher, and serves as a behavioral model for others (Factor Two); and (c) a student who is socially skilled and positive with peers (Factor Three). In Section II, items loading strongly on Factor One are those that describe child maladaptive behavior specific to the child and which do not challenge the teacher's authority (e.g., child is easily distracted from the task at hand) or that describe maladaptive social interactions with peers (e.g., child is unable to initiate conversation(s) with peers). In contrast, items loading on Factor Two deal almost exclusively with child behavior disruptive of classroom atmosphere or the instructional process and that challenge the teacher's control and authority.

The factor solutions for Sections I and II account for 45% and 30% of the variance, respectively. Coefficient alpha for Section I items is .96 and .94 for Section II items. If this structure replicates on additional teacher samples, it may be possible to develop teacher profiles using factor scores that would provide information about the teacher's management style and how he or she may respond to child behavior in general. If reliable and sufficiently predictive, this information would be extremely useful in the mainstreaming process.

A great deal of additional work remains to be completed on these instruments before they can be used effectively in the placement-integration process. Federal funding is currently being sought to extend this assessment work to a large sample of regular teachers (N = 150) in order to examine empirical relationships that may exist between (a) teacher social behavior standards and expectation, (b) teacher instructional and management behavior, and (c) child outcomes in the areas of classroom behavior and achievement. It is hypothesized that teacher standards and expectations may act as a powerful mediator of teacher behavior and subsequently affect child outcomes. These relationships and behavioral effects will be investigated both at a classroom level and at an individual teacher-student interactive level.

This research would have implications for the general educational process in the following areas. First, it would develop knowledge and information that could contribute to a greater understanding of teacher behavior and its subsequent effects on child outcomes. It would relate teacher expectations to (a) teaching style, (b) general classroom ecology, and (c) specific child outcomes. A variety of programmatic implications for classroom practice would emerge from the discovery of strong relationships among these variables. Second, the data would have important implications for the design of teacher inservices. Third, the research would relate a variety of teacher demographic variables to social behavior standards and expectations and identify important relationships in this area. Fourth, the methodology provides the capability of evaluating demand levels and behavioral requirements in specific educational settings for use in placement decisions. Finally, the methodology could have powerful implications for teacher selection, the teacher training process and evaluation of teacher training programs.

Implications of this research for teaching effectiveness from our findings to date are as follows:

1. We may be able to separate out unacceptable from acceptable receiving teachers as placement settings for handicapped children.
2. For acceptable teachers, we will know which adaptive skills must be taught to children before and after integration in regular classrooms and which unacceptable maladaptive behaviors must be remediated.
3. We know that teachers are not sufficiently concerned with peer-to-peer skills and will need additional training in this area.

4. The methodology tells us specific areas in which teachers need inservice training in the area of classroom management.
5. Results suggest that teachers in preparation may need to be more actively engaged in the clarifying of their own social behavior standards/expectations.
6. The methodology has great implications for teacher selection since teacher expectations appear to be well formed prior to the student teaching experience.
7. We have no idea what it takes to produce changes in these teacher standards and whether such changes maintain over time. But, the measures would be potentially valuable as program evaluation criteria vis-a-vis training in mainstreaming.

The assessment methodology described here can provide a structure for the placement-integration of handicapped children that does not appear to exist currently. It could also facilitate integration of technical assistance for child behavior problems with other types of needed services as advocated by Stedman.

We are currently developing and testing a social skills curriculum that special education teachers can use in preparing handicapped children to enter less restrictive settings and to meet their minimal behavioral requirements. This curriculum, along with accompanying contingency management procedures would be used to (a) teach critical skills and competencies that the receiving teacher indicates must be taught prior to integration, (b) reduce or eliminate unacceptable social behaviors that the receiving teacher says must be remediated prior to integration, and (c) build in behavioral mastery of peer-to-peer social skills that contribute to the development of social and interactive competence.

Each child to be mainstreamed would be taught a standard set of peer-to-peer social skills designed to improve social competence and hopefully acceptance by peers. Three of these skills, i.e., knowledge of how to make friends, distributing and receiving positive social behavior from others, and referential communication, have been empirically related to social competence as measured by sociometric instruments (Gottman, Gonso, & Rasmussen, 1975). In addition each child would be instructed in and brought to a mastery criterion on each of five adaptive skills and competencies appropriate to academic settings. These five pinpoints were rated highest by the sample of 50 regular teachers on Section I of the SBS Inventory.

The assessment process also makes it possible to individualize the instructional procedure for specific teachers and settings. For example, all critically rated items in Section I of the Inventory for a given teacher would be targeted for instruction. Similarly, all unacceptable items in Section II would be targeted for elimination or reduction in frequency to within the normal range. It is hoped that this integrated assessment and instructional package will improve the mainstreaming process and provide for a more equitable sharing of the burdens represented by handicapped children between regular and special education.

An initial tryout of the curriculum was conducted in the spring of 1981. Thirty handicapped children in the elementary age range representing a variety of handicapping conditions and severity levels were randomly assigned to one of the three groups: (a) control (Group 1), (b) social skills training only (Group 2), and (c) social skills training plus contingency management procedures (e.g., prompting, coaching, feedback, praise, and activity rewards) applied within classroom and playground settings (Group 3). A behavioral role play test, teacher ratings, and behavioral observation data were used to assess effects of the curriculum package.

Results indicated that both Groups 2 and 3 produced a significantly higher number of skills taught on the criterion role play test than did the control group. Teacher ratings of social skills and critical classroom behaviors showed clear differences favoring Group 3 over Groups 1 and 2. Finally, observation data recorded on social interactions in free play settings and in a classroom academic period showed that Group 3 subjects engaged in significantly less inappropriate social behavior on the playground than did Groups 1 and 2 and similarly engaged in more on-task behavior in the classroom.

The curriculum is currently being rewritten and packaged for formal field testing during the 1981-82 school year. Teaching and contingency management procedures are also being revised to make the overall package more effective. A number of additional studies are planned on the total SBS assessment curriculum package to determine its feasibility and effectiveness when used in the placement-integration process.

The overall purpose of this procedure would be to foster the entry of handicapped children into less restrictive settings under conditions designed to maximize their social survival and adjustment to the behavioral demands within them. If teacher standards/expectations are systematically taken into account in this process and honest efforts are made to prepare children to meet them, the mainstreaming process, at least in a social-behavioral sense, may become a more positive experience for both teachers and handicapped children.

Policy Implications

The title of this paper reflects our view that expectation concerning mainstreaming and its outcomes have been lofty but perhaps somewhat naive. This conference is an attempt to translate those great expectations into a more probable reality.

P.L. 94-142 was based, in some respects, upon an idealized view of the school system and what it could and would accommodate in relation to the needs of handicapped children. A number of assumptions were made about schools, teachers, and children by the framers and advocates of this law. Some of the more pivotal of these assumptions were the following:

1. Since research evidence suggests there is no difference in effectiveness for handicapped children placed in regular versus special education settings, handicapped children should be exposed to the normalizing influences and benefits of less restrictive settings. In particular, gains were expected for mainstreamed handicapped children in the areas of social development and interactive competence as a result of placement in less restrictive settings.
2. Regular teachers were expected to be able to accommodate handicapped children effectively with the support of appropriate preservice and inservice training combined with direct technical assistance provided by special educators.
3. Handicapped children would acquire more adequate social behavior repertoires via exposure to and interaction with non-handicapped normal children in less restrictive settings.
4. No incentive system, such as reduced class size, would be required, to motivate receiving teachers and to compensate them for the added burdens and special skills associated with the accommodation of handicapped children.
5. The logistical and financial burdens of P.L. 94-142 would not prove overwhelming to an already highly stressed school system.

As the previous papers have indicated, these assumptions have been far more sanguine than functional. One could make a persuasive case that each of them has proven to be in error, although hindsight provides a relatively easy but costly access to wisdom. However, there appear to be at least two paths we could pursue during the 80s and beyond in dealing with the problems posed by P.L. 94-142 and their implications for the schooling of handicapped children.

Path One. This approach assumes that what we have is basically good and that we need more of the same while striving to make the same better. This is a conservative, conventional approach wherein we continue to operate on the above assumptions as if they were true and assume that our major problem is a failure of existing technology and not a more fundamental one.

Policies implied at this level would require (a) an enhanced program of pre-service education as best exemplified by Howsam; (b) a more efficacious and intensive program of inservice training to include, for example, a major focus on teacher expectations and child social behavior as described in this paper; and (c) greatly improved parent advocacy and parent training efforts. The authors would argue that there is nothing basically wrong with this approach -- just that it is probably a necessary but in no way sufficient, condition for making mainstream education an effective reality for the broad range of handicapped children. We suggest that more fundamental issues, problems, and questions must be addressed to achieve this goal.

Path Two. A second approach points directly to the more fundamental and structural dimensions of schooling. We suggest that mainstreaming cannot be significantly more successful for handicapped children until schooling is made effective for all children.

The review of literature by Glass, Howsam, and the present authors all point to an urgent need to question the conditions under which we expect teachers and students to be successful. This is not to suggest that we mean to "de-school" society, but rather to urge that we attend to the structural characteristics of schooling that the literature of the last 10 years suggests determine classroom effectiveness. Some of these school-wide characteristics are: (a) high teacher expectations; (b) high sense of efficacy; (c) clearly communicated rules for social behavior, i.e., discipline and order; (d) strong administrative leadership; (e) parent support; and (f) an instructional technology that maximizes student work.

We are not suggesting that these approaches are mutually exclusive or that we should pursue one over the other. Both should be pursued simultaneously with the recognition that path two involves political and economic issues as much as educational ones. In this context, the audiences to which we should perhaps be addressing ourselves are school boards, teacher associations, administrators, and parents -- groups who have the power to mandate changes in long established school practices.

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APPENDIX A
Profiles of Teachers' Scoring
on the
SBS Inventory and Checklist

SBS Inventory

Section I

| | <u>CRITICAL</u> | <u>DESIRABLE</u> | <u>UNIMPORTANT</u> |
|-----------|-----------------|------------------|--------------------|
| Teacher 1 | 0 | 36 | 20 |
| Teacher 2 | 47 | 9 | 0 |
| Teacher 3 | 15 | 40 | 1 |

Section II

| | <u>UNACCEPTABLE</u> | <u>TOLERATED</u> | <u>ACCEPTABLE</u> |
|-----------|---------------------|------------------|-------------------|
| Teacher 1 | 51 | 0 | 0 |
| Teacher 2 | 8 | 42 | 1 |
| Teacher 3 | 28 | 22 | 1 |

SBS Checklist

| | <u>NUMBER OF ITEMS CHECKED</u> (✓) | <u>NUMBER OF ITEMS CIRCLED</u> (O) |
|-----------|---------------------------------------|---------------------------------------|
| Teacher 1 | 18 | 0 |
| Teacher 2 | 20 | 18 |
| Teacher 3 | 0 | 0 |

OBSERVATION + SCREENING + ASSESSMENT

Determining Children in Need of Special Education Services

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INTRODUCTION

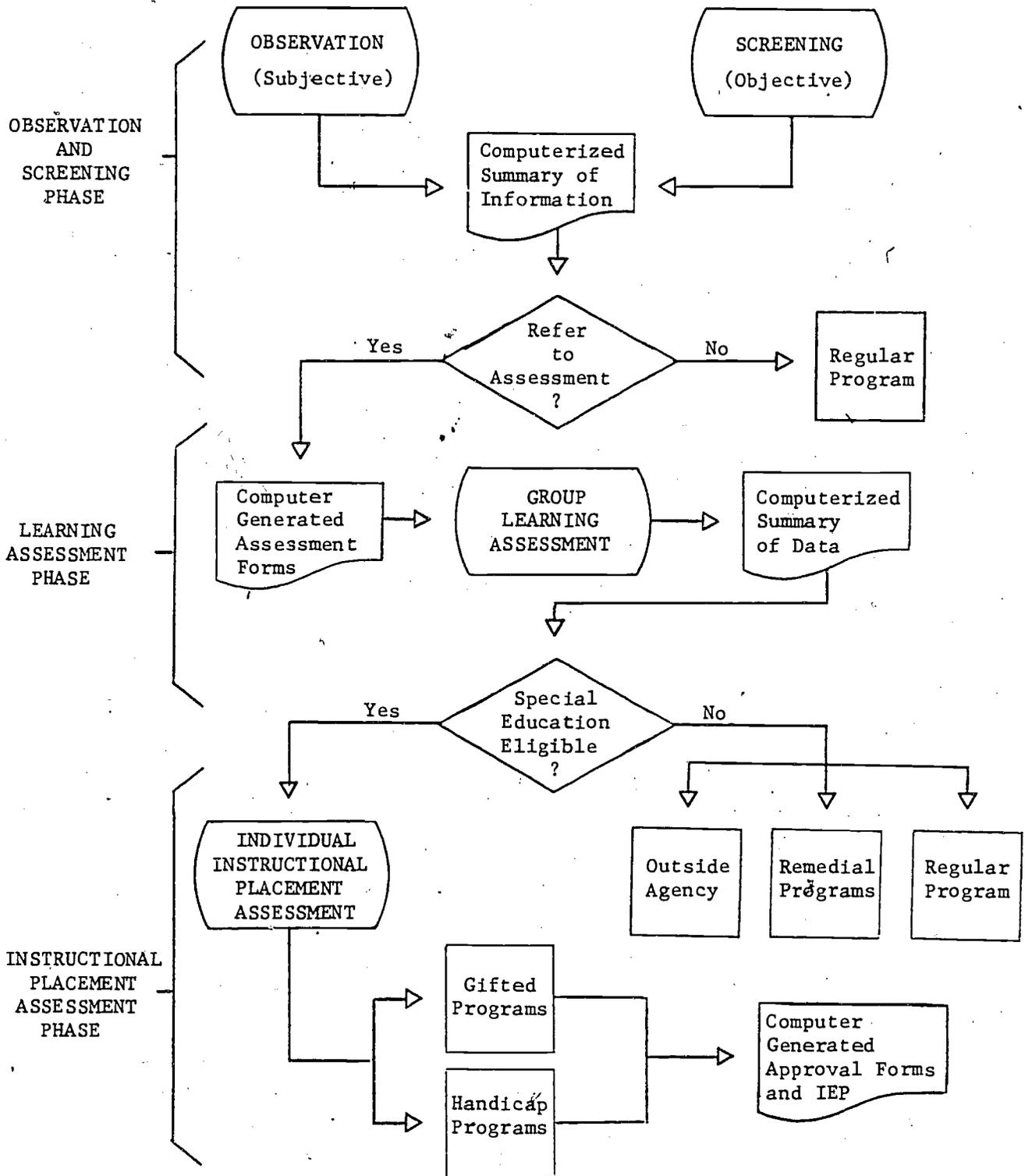
Since the early 1900's, Western cultures have followed a basic pattern in developing tests to determine which children were "significantly" different from "normal". These tests were an attempt to quantify abstract concepts (e.g., intelligence, grade level, verbal, performance, cognitive, affective and motor behavior) by: (1) selecting test items presumed to measure components of the abstract concepts, (2) establishing a "normative" basis for the test items through various sampling procedures, and (3) extrapolating from the scores on the test items to a score representing the abstract concept.

In hindsight, this practice has created confusion and a good deal of suffering. As Stephen Gould emphasizes in his important book, The Mismeasure of Man (1981), there is a fallacy in the attempt to convert abstract concepts into fixed and quantitative entities. For example, there is not a single measurable entity of intelligence. Yet the effort to define and measure such an entity persists. Other cultures (individuals and groups who are not represented by the normed populations) are particularly discriminated against when such tests are used in educational decision-making.

The shortcomings of traditional testing are acutely evident in American Samoa. Figure 1 depicts a model which is designed to remedy these problems in testing practices. Although designed for use in American Samoa, the model is flexible enough to accommodate the unique aspects of individual districts and different cultures. Through computerization¹, a system based on this model can maintain current demographic, performance and learning data.

¹The use of computerization is fundamental to the maintenance of such a dynamic and flexible system. I predict that within ten years, the micro-computer will be as prevalent and indispensable as the pocket calculator is today.

FIGURE 1: DIAGNOSTIC MODEL FOR SPECIAL EDUCATION



Description of the Model

There are two phases involved in establishing that a child requires special education services. The first phase is observation² and screening. The second phase is assessment.

The observation and screening phase is intended to efficiently determine those youngsters who have a high probability of needing special education or remedial programs. There are two components to this phase.

The observation component involves the collection of pertinent subjective interpretations of a parent, teacher or other professional who has had frequent contact with the child. Usually a standard rating scale or checklist is used to collect this information.

In the screening component, a few representative behaviors are objectively measured for all children in a given population. The purpose of screening is to develop a relative ranking of student performance from the lowest performer to the highest performer. The complementary nature of subjective observations and objective screening facilitates appropriate referrals to assessment.

The assessment process is designed to determine which children are in need of remedial and/or special education programs. There are two levels of assessment. The first level is a group learning assessment which ranks students from the slowest performers and learners to the highest performers and learners. The second level of assessment is individual instructional-placement assessment. This level precisely identifies what behaviors to emphasize and what procedures and materials to use for instruction. This second level leads directly to the writing of an Individualized Education Program (IEP).

Variations in Model Focus by Age Categories

The three age categories of Table 1 follow the administrative organization found in American Samoa. The department of Public Health is responsible for monitoring the birth to three year old population. The Department of Education's Early Childhood Education program works with three to five year old children.³ The public schools are responsible for children aged six and up. Table 1 shows that the focus of screening and assessment depends on the age of the children. Variations in age groupings and the selection of what to measure may change with different administrative arrangements in different districts.

²The term identification was used in the Samoan documents (NWRRC, 1980a, 1980b, 1980c). However, the term observation is recommended because it is more descriptive.

³The Early Childhood Education program provides kindergarten services in American Samoa.

| RESPONSIBLE AGENCY | OBSERVATION (subjective checklist) | | | | SCREENING (objective direct performance measures) | | | ASSESSMENT (objective direct performance and learning measures) | |
|---|---------------------------------------|----------------------------------|--|--|--|---|--|--|--|
| | Physical | Motor | Cognitive | Personal-Social | Physical | Motor | Cognitive | | |
| Public Health BIRTH TO THREE | Health Vision Hearing | Fine Motor and Gross Motor | Speech and Language | Self-care Skills Interpersonal Skills | Health Vision Hearing | rolling over* ↓ walking | grasping* ↓ ? | Speech and Language* Babbling ↓ Speaking in sentences (e.g., tell favorite story) | Behaviors to Assess Determined From Observation and Screening Process |
| Early Childhood Program THREE TO SIX | Health Vision Hearing | Fine Motor and Gross Motor | Pre-Academic (e.g., read or write alphabet, numbers) | Self-care Skills Interpersonal Skills | Health Vision Hearing | -touch body parts -touch circles -write e's | Pre-Academic -counting 1-10 | Behaviors to Assess Determined From Observation and Screening Process | |
| School System SIX TO TWENTY-ONE | Health Vision Hearing | Fine Motor and Gross Motor | Thinking Math Writing Reading Home and Living Vocational | Interpersonal Skills Community Skills | Health Vision Hearing | ? | Graded Oral Reading Graded Basic Math | Behaviors to Assess Determined From Observation and Screening Process | |
| | | | | | | *indicates still in development | | | |

TABLE 1: LISTING OF ASSESSMENT AREAS BY DIAGNOSTIC STAGE AND AGE LEVEL

REFER EXAM

The remainder of the paper will explore the OBSERVATION, SCREENING, and ASSESSMENT stages as they are being developed in American Samoa.

OBSERVATION

Observation checklists and rating scales are a common format for identifying children who may require special education programs. Two checklists are used in American Samoa to record observations for children birth to three years and three to six years of age.

For the younger population, the checklist orders items developmentally. The person completing the checklist indicates whether or not the child can perform the behavior listed. For example, items range from "watches own hands" and "turns head to sounds" to "throws a ball" and "marches to music."

For the three to six year old population, the person completing the form also judges the child's performance of listed behaviors. On this checklist, however, behaviors are grouped by major function area (i.e., vision, hearing, social, motor and speech/language). Items include, for example, "Are his/her eyes red?" and "Does the child squint?" for vision; "Is the child unable to string flowers?" and "Does the child have limited use of fingers/hands/arms?" in the motor area. Criteria are provided on the forms to indicate when referral for assessment is appropriate.

Since the observation and screening processes are designed to be complementary, it is desirable to design a form which includes both the observation and screening information. This also reduces clerical overload and facilitates computer storage of information (the American Samoan Project is working toward this goal). An example of such a form is presented in Figure 2. This is the face sheet from the REFER instrument (Kunzelmann and Koenig, 1981), which as indicated on Table 1, is the instrument recommended for screening children from three to six.

Using the form shown in Figure 2, the teacher fills out the teacher opinion (observation) section, in the lower right hand corner, for all children the day before the screening occurs. Filling out the opinion section for all children helps find potentially handicapped as well as potentially gifted students. Filling out the opinion section prior to the screening guarantees that the observation information is not influenced by the results of the screening.

Figure 3 displays an example summary of teacher opinion ratings on two students. Note the "average of those rated" below each summary. For student "A" this score is 1.8, indicating consistent ratings of "below average" or "poor." For student "B", this score is 5.2, indicating consistent ratings of "above average" or "excellent." Based on these ratings (a subjective point of view), student "A" might be potentially handicapped and student "B" might be potentially gifted.



PURPOSE

The purpose of this screening device is to find individual young children who need detailed diagnosis. Early detection of academic problems leads to early intervention and a better school life for the young pupil. This device takes seven to eight minutes to administer, score, and determine if a problem exists for the child.

CONTENT

| Task | Learning Channels | SKILL AREA |
|---------------------|-------------------|---|
| A. Write Loops | See-Write | Beginning penmanship, Quickness |
| B. Touch Body Parts | Hear-Do | Listening skill, Gross motor skill |
| C. Count From 1-10 | Think-Say | Thinking-expressive ability, Beginning math skill |
| D. Touch Circles | See-Do | Eye-hand coordination, Fine motor skill |

ADMINISTERING

1. Always use the tape to administer REFER.
2. If a student does not understand the verbal instructions, always demonstrate and/or give guided practice to try to guarantee the student is not confused about how the task is performed.
3. If there is any doubt where a sample began and ended, place long slash marks at the beginning and end.
4. Use prompts such as the following to keep students performing (e.g., pointing, "keep going," "go on").
5. If something interrupts a practice or screening session, rewind the tape and start over.

SPECIFIC TO TOUCHING CIRCLES AND WRITING LOOPS

1. If a student does not begin when you ask him to begin, point to place for student to start.
2. If student does not spontaneously move from left to right, or is very slow, point at each item to help maintain pace.
3. To assist students in beginning new row, point to the first item in the row (i.e., first item on student's left).
4. Make sure pencils used do not have erasers (if student wants to correct merely say "that's ok" and tell him to go ahead).
5. "Start over" on the bottom of the Touch Circle sheet is a signal to have the student start the page over if he finishes before the time is up.
6. Steady the booklet for the student if necessary.

INSTRUCTIONS FOR FILLING IN BOXES

1. Student Name Indicate student's first and last name. Left justify each name
2. Grade O = None, P = Preschool, K = Kindergarten, 1 = 1st grade.
3. Semester Indicate F (Fall—August through December) or S (Spring—January through June)
4. District Enter standard code from state, county, or parish.
5. Building Enter standard code from state, county, or parish.
6. Sex Mark X for male (M) or female (F)
7. Birthdate Write date like the following: 17 APR 76; use 0 in front of single digit (e.g., 01)
8. Special Education Placement Indicate Y for yes or N for no
9. Ethnic Indicate: A = Anglo S = Asian
I = BIA Native American B = Black
N = Native American O = Other
H = Hispanic
10. Bilingual Indicate Y for yes or N for no.
11. Date Write in date screening takes place in day/month/year form (e.g., 18 APR 76). Use 0 in front of single digit (e.g., 01).
12. Performance Boxes Write correct performances for screening session in designated boxes. Right justify.
13. Absences Write "ABS" in first performance box if a student was absent.
14. No Response If student fails to respond to a skill, write "000" in the performance box for that skill.
15. Teacher Information Fill in your name, social security number, and building name if more than one pupil is screened in classroom, complete this section only on the top booklet (first booklet in alphabetical order).

INSTRUCTIONS FOR RETURNING SCREENING FORMS

1. Alphabetize the booklets by classroom.
2. Count number of booklets in each classroom and write the number in a circle on the first booklet (e.g., 26).
3. Staple each classroom set in upper left corner.
4. Send booklets in envelope provided.

1 STUDENT NAME

FIRST MI LAST

2 GRADE 3 SEMESTER 4 DISTRICT 5 BUILDING

6 SEX M F 7 BIRTHDATE DAY MONTH YEAR 8 SPECIAL ED PLACEMENT Y/N 9 ETHNIC 10 BILINGUAL Y/N 11 SCREENING DATE DAY MONTH YEAR

12 PERFORMANCE BOXES WRITE LOOPS A TOUCH BODY PARTS B COUNT 1-10 C TOUCH CIRCLES D

13 NOTE: IF STUDENT IS ABSENT, WRITE "ABS" IN FIRST BOX

14 NO RESPONSE—WRITE 000

15 TEACHER INFORMATION

TEACHER NAME FIRST MI LAST SOC. SEC. NO.

XL BUILDING NAME

TEACHER OPINION

Please indicate how the student rates most of the time using this scale (rate all items)

| | | |
|-----------------|--------------------------|-----------------|
| 1 Poor | 3 Slightly Below Average | 5 Above Average |
| 2 Below Average | 4 Slightly Above Average | 6 Excellent |

Gross Motor Development

Fine Motor Development

Motor Coord

Creativity

Attention Span

Work/Study Habits

Self Motivation

Attitude Toward School

Observance of School Rules

Peer Group Participation

Attitude Toward Peers

Leadership

Self Concept

Maturity For Age

Reaction To Stress

Attitude Toward Adults

Poiteness

Body Care

Clothing Care

Safety Awareness

Responsibility

Family Relations



FIGURE 3: EXAMPLE SUMMARY OF "TEACHER OPINION" SECTION ON REFER FORM FOR TWO STUDENTS

| AREA | Teacher Rating Student "A" | | | | | | | Teacher Rating Student "B" | | | | | | |
|----------------------------|----------------------------|----|---|---|------------|---|---|----------------------------|---|---|----|------------|----|---|
| | N | 1 | 2 | 3 | 4 | 5 | 6 | N | 1 | 2 | 3 | 4 | 5 | 6 |
| GROSS MOTOR DEVELOPMENT | | X | | | | | | | | | | | X | |
| FINE MOTOR DEVELOPMENT, | | X | | | | | | | | | | X | | |
| MOTOR COORDINATION | | X | | | | | | | | | | | X | |
| CREATIVITY | | X | | | | | | | | | | | X | |
| ATTENTION SPAN | | X | | | | | | | | | | | X | |
| WORK/STUDY HABITS | | X | | | | | | | | | | | | X |
| SELF-MOTIVATION | | X | | | | | | | | | | | | X |
| ATTITUDE TOWARD SCHOOL | | X | | | | | | | | | | | X | |
| OBSERVANCE OF SCHOOL RULES | | X | | | | | | | | | | | | X |
| PEER GROUP PARTICIPATION | | | | | X | | | | | | | | X | |
| ATTITUDE TOWARD PEERS | | | | | X | | | | | | | | X | |
| LEADERSHIP | | X | | | | | | | | | X | | | |
| SELF-CONCEPT | | X | | | | | | | | | | | X | |
| MATURITY (FOR AGE) | | | | | X | | | | | | | | X | |
| REACTION TO STRESS | | | X | | | | | | | | | X | | |
| ATTITUDE TOWARD ADULTS | | | | | | X | | | | | | | X | |
| POLITENESS | | | | | | X | | | | | | | X | |
| BODY CARE | | X | | | | | | | | | | | | X |
| CLOTHING CARE | | X | | | | | | | | | | | | X |
| SAFETY AWARENESS | | X | | | | | | | | | | | X | |
| RESPONSIBILITY | | X | | | | | | | | | | | | X |
| FAMILY RELATIONSHIPS | | X | | | | | | | | | | | | X |
| TOTALS | 0 | 16 | 1 | 0 | 8 | 2 | 0 | 0 | 0 | 0 | 0 | 3 | 12 | 7 |
| PERCENT | 0 | 73 | 5 | 0 | 14 | 9 | 0 | 0 | 0 | 0 | 14 | 55 | 32 | |
| AVERAGE OF THOSE RATED: | | | | | <u>1.8</u> | | | | | | | <u>5.2</u> | | |

In a discriminative analysis of the 22 categories of this teacher opinion list, only the following seven items were found to have a significant relationship to student performance (Koenig, 1982):

- (1) Self-motivation
- (2) Motor Coordination
- (3) Fine Motor Development
- (4) Work Study Habits
- (5) Politeness
- (6) Maturity for Age
- (7) Creativity.

The complexity of the REFER teacher opinion checklist, as well as observation checklists like those used in American Samoa and elsewhere, may be unnecessary. What seems fundamental is the formal indication of suspected exceptionalities. If this is true, observation checklists as abbreviated as the seven items above might be completely adequate. Of course, until this question is answered empirically, it is important to have some objective screening data to complement subjective observation ratings. The complexity of observations checklists requires further investigation.

SCREENING

Screening is a quick sorting process which empirically compares all age-peers, in a given population, on relevant and representative behaviors. The purpose of screening is to determine which children have a high probability of needing remedial or special education (including gifted) services.

Below are listed ten factors which are essential to an adequate screening instrument and program:⁴

1. Brief -- takes fewer than ten minutes per pupil to administer.
2. Simple -- does not require special materials or equipment. With one day of training, can be reliably administered by teachers, aides and/or volunteers.
3. Relevant Behaviors -- sample behaviors from various classes as relevant to survival in home, school and community environments. (Content Validity)

The screening instruments discussed in this section are in accord with these ten factors. (SST, 1972, 1973, 1974; Kunzelmann & Koenig, 1981).

4. Representative Behaviors -- samples behaviors from various classes of behavior (e.g., motor, cognitive, visual). Performance on the skills chosen should predict students in need of special services. (Predictive Validity)
5. Relevant Curriculum -- screen children in curriculum they are required to respond to in the regular classroom.
6. Developmentally Sensitive -- as a group, younger children should score lower and older children should score higher.
7. Correct Frequency -- frequency (responses/time), a basic datum, is the most sensitive and direct measure of human performance (White and Haring, 1980). Because of the strong positive correlation between correct and error performance (SST, 1972, 1973, 1974) it is only necessary to use correct scores in the screening rankings.
8. Reliable -- the instrument ranks children in the same, or close to the same, position when the test is given repeatedly (test-retest reliability). The scoring or rating stays the same when different individuals score or rate a response (inter-rater reliability).
9. Entire Population -- the entire population of concern (e.g., all 2nd graders, all 4 year olds) should be screened in order to determine those most in need of help. (Note: screening does not require parent permission because all children receive the same treatment.)
10. Regular Education Function -- because entire populations are screened, the administrative responsibility for screening falls under regular education, not special education.

Screening in the areas of health, vision and hearing has been a standard practice for a number of years. Since these are familiar procedures, they will not be repeated here. Information regarding how these procedures have been adapted to American Samoa is available in the Samoan screening documents (NWRRC, 1980a, 1980b, 1980c).

Screening in motor and cognitive areas is much less common. As indicated in Table 1, the motor and cognitive screening for birth to three is still in development. However, the behaviors listed are likely the appropriate representative behaviors for screening.

The REFER instrument (Kunzelmann and Koenig, 1981), shown in Figure 2, is used in screening the motor and cognitive areas in the three to six year old population. The four skills included are: (1) touch circles (fine motor, a "see-do" skill), (2) counting one to ten (beginning math, a "think-say" skill), (3) touch body parts (gross motor, a "hear-do" skill), and (4) write see (beginning handwriting, a "see-write" skill).

Cognitive screening in the school-age population involves sampling performance on a basic math skill and on an oral reading skill. The materials selected for use in American Samoa are listed in Table 2, below. The materials selected for different districts will vary depending on the sequence in the math and reading curriculum and how rapidly skills are introduced.

| TABLE 2 | | |
|--|--|--|
| LISTING OF SKILLS BY GRADE LEVEL FOR SCHOOL-AGE COGNITIVE SCREENING | | |
| GRADE | MATH SKILL | ORAL READING SKILL |
| 1 | write numerals, 1-5 | sheet of common pictures Grade Level Reading Passage (from materials in use in classroom) |
| 2 | add facts, sums 0-9 | |
| 3 | add facts, sums 10-18 | |
| 4 | two place addition, regrouping | |
| 5 | two place subtraction, regrouping | |
| 6 | multiplication facts, x1 to x9 | |
| 7 | division facts, divisor 2 through 9 | |
| 8-12 | composite sheet of basic processes covered in previous grade levels. | |

Three factors should guide the selection of school-age screening materials:

- (1) a basic math skill and an oral reading skill should be used as they have been found to be the best predictors of students who will require special education (SST Project, 1972, 1973, 1974);
- (2) screening materials should be developed from curriculum actually in use in the classroom; and
- (3) all age-peers should be screened on the same screening materials.

The personal and social area has not been included as a screening category for the following reasons: (1) the time involved in obtaining empirical data on personal and social behavior conflicts with the criteria of brevity in screening, (2) personal and social information is included in the observation checklist and can also be observed during the screening sessions and (3) a positive correlation exists between poor cognitive performance and inappropriate personal and social behavior (SST, 1972, 1973, 1974).

Once the screening is completed, the correct frequency scores are placed on a summary sheet, such as the one in Figure 2. Of course, the performance boxes would indicate reading and math for the school-age population and a motor and language behavior for the birth to three year olds. The information from the summary sheet is key-punched into a computer system and the data is processed and printed out. The printout presents a ranking of N students from the lowest overall performer (rank of one) to the highest overall performer (rank of N).

Figure 4 presents a truncated example of a district-wide ranking using the REFER instrument. This example shows the top five ranked students and the bottom five ranked students from a total of 1018 kindergarten children. Under each skill is the correct frequency score (SCR), the rank within the skill (RNK) and the district percentile (DPL). The "+" next to the student number indicates that the teacher's average rating for that child was 5 or greater on the "teacher opinion" section. The "-" indicates the average rating for the student was 2 or less. At the bottom of the ranking is a summary which indicates: district and state means and standard deviations for each skill screened and the number of students screened.

Printouts are available by classroom, school and district. Thus there are data returned for decision making at each administrative level. The organization of the printouts and ranking procedures for all levels are the same as discussed for Figure 4. An additional summary received from the computer shows students who were absent or who had insufficient data -- due to refusal to respond, a clerical error in reporting the data, etc.⁵

Ideally, the observation and screening process for all areas (e.g., vision, hearing, health, cognitive, motor) should be conducted annually in late September or early October when students and teachers are settled into the school routine. With the use of computers, the turn-around-time for result summaries should be less than one week. Thus by mid-October a decision could be made regarding referral to assessment.

⁵Although the programs are written and operational, the computerization of the screening is not presently in place in American Samoa. The goal is to have this completed by November, 1983. Consequently, up to this point, only demonstration screenings have been done.

TANGIPAHOA REFER SCREENING SUMMARY MARCH, 1981

ALL
ALL
K

| STUDENT NAME | SEX | STUDENT NUMBER | AGE IN MONTHS | WRITES LOOPS | | | TOUCHES PARTS | | | COUNTS 1-10 | | | TOUCHES CIRCLES | | |
|--------------|-----|----------------|---------------|--------------|------|-----|---------------|------|-----|-------------|-----|-----|-----------------|------|-----|
| | | | | SCR | RNK | DPL | SCR | RNK | DPL | SCR | RNK | DPL | SCR | RNK | DPL |
| M | | 001+ | 73 | 75 | 979 | 96 | 30 | 1009 | 99 | 118 | 981 | 96 | 46 | 982 | 97 |
| F | | 002+ | 69 | 75 | 979 | 96 | 30 | 1009 | 99 | 120 | 991 | 98 | 47 | 965 | 96 |
| M | | 003 | 72 | 91 | 1006 | 99 | 27 | 928 | 93 | 106 | 939 | 92 | 84 | 1018 | 99 |
| F | | 004 | 66 | 88 | 1003 | 99 | 29 | 991 | 98 | 120 | 991 | 98 | 42 | 874 | 90 |
| F | | 005+ | 71 | 84 | 996 | 98 | 27 | 928 | 93 | 110 | 955 | 95 | 45 | 949 | 94 |

FIGURE 4

| | | | | | | | | | | | | | | | |
|---|--|------|----|----|----|---|-----|----|---|-----|----|---|-----|-----|----|
| F | | 006- | 66 | 0* | 98 | 1 | 4* | 9 | 1 | 9* | 52 | 5 | 20* | 96 | 9 |
| M | | 007- | 67 | 0* | 98 | 1 | 6* | 17 | 1 | 0* | 19 | 1 | 21* | 112 | 11 |
| M | | 008 | 67 | 0* | 98 | 1 | 10* | 56 | 4 | 0* | 19 | 1 | 18* | 73 | 7 |
| F | | 009 | 69 | 0* | 98 | 1 | 5* | 12 | 1 | 10* | 64 | 6 | 13* | 36 | 4 |
| M | | 010 | 64 | 0* | 98 | 1 | 8* | 28 | 2 | 0* | 19 | 1 | 0* | 3 | 1 |

| | | | | | |
|---------------------------|---|-------|-------|-------|-------|
| PEER AVERAGE (MEAN) | = | 28 | 20 | 57 | 33 |
| NUMBER SCREENED (N) | = | 1018 | 1018 | 1018 | 1018 |
| PEER AVERAGE (MEAN) | = | 31 | 23 | 71 | 37 |
| STANDARD DEVIATION (S.D.) | = | 22 | 7 | 35 | 9 |
| NUMBER SCREENED (N) | = | 12897 | 12897 | 12897 | 12897 |

75

SCR = NUMBER OF CORRECT RESPONSES
 RNK = RANK
 DPL = DISTRICT PERCENTILE

+ = STUDENTS W/AVERAGE RATING > 5
 - = STUDENTS W/AVERAGE RATING ≤ 2
 * = SCORE IS 1 S.D. BELOW MEAN

REFERRAL TO ASSESSMENT

Armed with the screening printout and the results of the observation scales, the committee responsible for "referral to assessment" decisions can convene. Below are listed some guidelines regarding which children to at least discuss and possibly consider for assessment:

- (1) All students in the bottom 20% of the screening ranking. (The SST project 1972, 1973, 1974, found that 20% of the students do not learn under regular classroom conditions.)
- (2) All students in the top 5% of the screening ranking (based on a preliminary analysis of some Louisiana screening data).
- (3) All students not included in 1 or 2 above who have been rated particularly high or particularly low on the observation scale.

When the screening data correspond with the observation ratings, as with James, Keandra and Amy, and Ester and Milton in Figure 4, one has maximum confidence of the need for assessment. Kunzelmann and Koenig (1981) have found this correspondence occurs 90% of the time. When a discrepancy exists between observation and screening (the other 10% of the time) the professional judgement of the committee is more heavily relied upon.⁶ Realistically, the number of students recommended for assessment, and subsequently placed in special education programs, is dependent on available staff, space and funds, and not on proposed incidence figures or recommended percentages. However, the above guidelines can be considered some ideal parameters.

The committee must set the time, location and staff for conducting the assessment, obtain parental approval, etc. However, the most difficult decisions regard the selection of what behaviors to assess for each child, and what materials and/or situations to use.

The behaviors chosen may include some covered in the observation and screening phase and/or different behaviors. (The selection of 3-5 behaviors is sufficient for the initial phase of assessment.) The materials and situations used in assessing these behaviors should be among those found in the child's home, school and community.

ASSESSMENT

Assessment, as defined here, has two basic functions. One function is to determine program placement (i.e., which students belong in special education programs, which students belong in remedial programs and which students can stay in the regular classroom with an individual program). The second function is to define the specific instructional program for those students in need of special education services.

⁶ Since no screening information exists in the social or personal area, the observation scales and professional judgement of the committee determine referral.

These two functions are accomplished through a two level assessment process: (1) learning assessment and (2) instructional-placement assessment (refer to Figure 1). The remainder of the assessment section is devoted to a discussion of these two levels.

Learning Assessment

Learning assessment⁷ is an extension and expansion of the performance screening process. It involves taking repeated measures of performance over a period of two weeks. The behaviors identified for each child, by the "referral to assessment" committee, are sampled for a short period (e.g., one minute for cognitive skills and up to a half-hour for personal-social skills) each day for ten consecutive school days.⁸

This process provides two pieces of information -- the learning rate index and a final performance score. Using these two measures, a student may fall into one of four groups, corresponding to the following programs:

| <u>GROUP</u> | | <u>PROGRAM</u> |
|---|---|---|
| Group 1) high performer, rapid learner | = | special education gifted programs |
| Group 2) high performer, slow learner | = | return to regular classroom with individualized help |
| Group 3) low performer, rapid learner | = | remedial programs |
| Group 4) low performer, slow learner | = | special education handicapped programs |

The crux of discriminatory testing concerns rests in the difference between groups 3 and 4. How discriminatory testing practices evolved and how they are resolved is detailed in the scenario below:

- 1) Children from lower socio-economic environments and/or from cultures with different values, characteristically have less opportunity to learn school-relevant behaviors.
- 2) A disproportionate number of minorities (as defined by a Western white majority) come from lower socio-economic and culturally different groups.

⁷Learning Assessment is one approach to "formative evaluation." It is analogous to Learning Screening (Kunzelmann and Koenig, 1981). Due to the time and complexity of this process, it fits more appropriately under the assessment area. It also provides a logical complement and extension of performance screening.

Learning Assessment is not included in the American Samoa assessment manual (NWRRC, 1981) due to the present limitations of financial, staff and computer capabilities.

⁸We need from 7-9 days to obtain a valid learning index (Koenig, 1972). By aiming for 10 days we have some leeway for absences.

- 3) Consequently, minority children learn fewer school-relevant behaviors. (Not because of their minority membership but due to their difference in cultural values and/or the restrictions poverty imposes on the opportunity to learn.)
- 4) I.Q. tests, achievement tests, diagnostic tests and criterion referenced tests (including the screening system discussed in this paper) characteristically measure performance in school-relevant behaviors.
- 5) Consequently, if you have had limited opportunity to learn school-relevant behaviors, your performance on these tests will be consistently low.
- 6) As long as the local community views the skills taught in school as relevant, it is important to identify those children who perform significantly lower than their peers on these skills. (The observation-screening process serves this purpose.)
- 7) However, because a child is a low performer does not mean he is a slow learner. In the past this assumption was made and many of the children in group 3 (many of them minority children) were inappropriately labeled and placed in special education programs.
- 8) Including a measurement of learning in the assessment process complements the performance information and allows identification of the difference between groups 3 and 4.⁹

Materials and situations used in learning assessment should be those presently in use in the home, school and/or community. If continued assessment is recommended in the math or reading areas, materials prepared for screening (e.g., Table 2) should be used. The reading passages can also be used in writing assessments and in checking comprehension.

The basic tool skills are fundamental to the performance of all school subjects. Limited or no learning in these areas will impact all other cognitive performance. Thus initial "learning assessment" in these areas is vital in setting the stage for "instructional-placement assessment."

Learning in the social and personal areas is assessed by designating a certain period of time each day to observe and record behaviors of concern. The SST project (1972, 1973, 1974) found that children who show extreme variability in basic skills performance over the 10 day learning assessment were frequently called "disturbed" by their teachers. Such variable performance may signal the need for further assessment in social or personal areas.

Ideally, classroom teachers conduct any of the ten day learning assessments that can be done in a group (e.g., math, spelling). Other

⁹Koenig (1972) verifies that performance and learning measures are independent (i.e., they measure different factors). The learning index is the only measure I am aware of which is truly "non-discriminatory (non-biased)". (See Kunzelmann and Koenig, 1981.)

support personnel (e.g., special education, Title I, counselors) may conduct those learning assessments requiring individual attention (e.g., reading, observation of: social and personal behavior or simulation activities).

An example of a face sheet for summarizing learning assessment information is presented in Figure 5. This particular sheet summarizes performance in math, spelling and reading. As in the screening area, this information is computer key-punched and a printout of the results is provided.

Each student's final performance (the tenth day) and learning rate is quantified and given a rank for each skill assessed. These ranks are combined to determine the most and least proficient students, within and across skills. Figure 6 is an example of a truncated printout for math, spelling and reading. For each skill, five values are displayed:

- (1) PRE -- the final correct performance score;
- (2) RANK (under PRE) -- the rank for the student's performance score;
- (3) LRN -- the learning rate index¹⁰;
- (4) RANK (under LRN)-- the rank for the student's learning index;
- (5) SKILL RANK -- a rank which combines the final performance score and the learning index ranks for each skill.

Students are listed on the printout by combining ranks for all the skills assessed. A rank of one represents the least proficient performer and learner, while a rank of "N" represents the most proficient student.

As noted earlier, 20% of those students screened can be considered "low performers." SST (1972, 1973, 1974) found that 17% of those screened are low performers but higher rate learners, while 3% are low performers and low rate learners. These correspond, respectively, to group 3 (remedial programs) and group 4 (special education handicapped programs). Of the higher performers (top 5%), a preliminary analysis suggests that 2% will be high performers and high learners (Group 1) and 3% will be higher performers and slower learners (Group 2). Consequently, one should expect to refer approximately 5% of the students on to special education "instructional placement assessment" (i.e., 2% to gifted assessment - Group 1, and 3% to handicapped assessment - Group 4).

¹⁰The learning index has either a "x" or ":" sign. The "x" sign indicates an increase in performance over the ten days. The ":" sign indicates a decrease in performance. A learning index of x1.0 means no learning occurred (i.e., when we multiply something by one it remains the same). Performance increasing at 20% per week = learning of x1.2. An increase of 100% per week = x2 (e.g., over the 10 days correct performance,

improved from $10 \xrightarrow{\times 2} 20 \xrightarrow{\times 2} 40$. A decrease of 20% or 100% per week = ÷1.2 and ÷2 respectively.

LEARNING ASSESSMENT Tabulation Sheet

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USE NO. 2 PENCIL DO NOT FOLD

①

| | | | | | | | | | | | | | | | | | | | | | |
|-------|--|--|--|--|--|--|--|--|--|----|------|--|--|--|--|--|--|--|--|--|---|
| FIRST | | | | | | | | | | MI | LAST | | | | | | | | | | ② |
|-------|--|--|--|--|--|--|--|--|--|----|------|--|--|--|--|--|--|--|--|--|---|

STUDENT NAME

GRADE

③ SEMESTER

④ DISTRICT

⑤ BUILDING

⑥ SEX

⑦ BIRTHDATE

| | | | | | | | | | |
|----------|----------|--|----------|--|---|---|-----|-------|------|
| SEMESTER | DISTRICT | | BUILDING | | M | F | DAY | MONTH | YEAR |
|----------|----------|--|----------|--|---|---|-----|-------|------|

⑧ SPECIAL ED PLACEMENT

⑨ ETHNIC

⑩ BILINGUAL

⑮ TEACHER INFORMATION

| | | | | | | | | | | | | | |
|----------------------|--------|-----------|--------------|-----------|--|--|--|--|--|--|--|--|--|
| SPECIAL ED PLACEMENT | ETHNIC | BILINGUAL | TEACHER NAME | | | | | | | | | | |
| Y/N | | Y/N | INITIALS | LAST NAME | | | | | | | | | |

⑪ DATE FIRST MONDAY

SOC. SEC. NO

SCHOOL BUILDING NAME

| | | | | | | | | | | | | | | | |
|-----|-------|------|--------------|--|--|----------------------|--|--|--|--|--|--|--|--|--|
| DAY | MONTH | YEAR | SOC. SEC. NO | | | SCHOOL BUILDING NAME | | | | | | | | | |
|-----|-------|------|--------------|--|--|----------------------|--|--|--|--|--|--|--|--|--|

⑫ PERFORMANCE BOXES ⑬ NOTE: IF STUDENT IS ABSENT, WRITE "ABS" IN EACH BOX FOR THAT DAY ⑭ NO RESPONSE—WRITE 000

| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY |
|----------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| MATH SKILL | NUMBER CORRECT: | | | | | NUMBER CORRECT: | | | | |
| | <input type="text"/> |
| SPELLING SKILL | NUMBER CORRECT: | | | | | NUMBER CORRECT: | | | | |
| | <input type="text"/> |
| READING SKILL | NUMBER CORRECT: | | | | | NUMBER CORRECT: | | | | |
| | <input type="text"/> |

INSTRUCTIONS FOR FILLING IN BOXES

- Student Name: Indicate student's first and last name. Left justify each name.
- Grade: 1 = 1st grade, 2 = 2nd grade, 3 = 3rd grade, 4 = 4th grade, 5 = 5th grade, 6 = 6th grade.
- Semester: Indicate F (Fall—August through December) or S (Spring—January through June).
- District: Enter standard code from state, county, or parish.
- Building: Enter standard code from state, county, or parish.
- Sex: Mark X for male (M) or female (F).
- Birthdate: Write date like the following: 17 APR 76. Use 0 in front of single digit (e.g., 01).
- Special Education Placement: Indicate Y for yes or N for no.
- Ethnic: Indicate A = Anglo, B = Black, H = Hispanic, I = DIA Native American, N = Native American, O = Other, S = Asian.
- Bilingual: Indicate Y for yes or N for no.
- Date: Write in date of first Monday screening takes place. Use day/month/year form (e.g., 18 APR 76). Use 0 in front of single digit (e.g., 01).
- Performance Boxes: Write correct performances for screening session in designated boxes. Right justify.
- Absences: Write "ABS" in performance boxes if a student was absent.
- No Response: If student fails to respond to a skill, write "000" in the performance box for that skill.
- Teacher Information: Fill in your initials and last name, social security number, and building name. If more than one student is screened in your classroom, complete this section only on top tabulation sheet (first sheet in alphabetical order).

INSTRUCTIONS FOR RETURNING SCREENING FORMS

- Cut along line to detach this tabulation sheet. Do not tear.
- Alphabetize the tabulation sheets by classroom.
- Count number of tabulation sheets in each class and write number in a circle on top sheet (e.g., 21).
- Staple each classroom set in upper left corner.
- Return tabulation sheets in envelope provided.

FIGURE 5

LEARNING ASSESSMENT SUMMARY

GRADE: 03
 CLASS: ALL
 BUILDING: ALL
 DISTRICT: BOSSIER

| COMB RANK | STUDENT'S NAME LAST FIRST | AGE CL X MON PL | ** MATH SKILL ** | | | ** SPELL SKILL ** | | | *** READ SKILL *** | | |
|-----------|------------------------------|--------------------|------------------|----------|-----------|-------------------|----------|-----------|--------------------|----------|-----------|
| | | | PRE BANK | LRN BANK | MATH BANK | PRE BANK | LRN BANK | SPEL BANK | PRE BANK | LRN BANK | READ BANK |
| 1 0% | D. | F 105 M | 21. X1.01 | 93 47 | 41 | 15. +1.10 | 11 15 | F | 11. X1.14 | 7 4 | |
| 2 1% | L. | M 101 M | 23. X1.03 | 80 62 | 43 | 17. X1.01 | | | . X1.13 | | |
| 3 1% | T. | F 124 M | 21. +1.04 | 61 32 | 32 | 28. X1.10 | 15 61 | L | 12. X1.47 | 4 17 | |
| 4 1% | C. | F 112 M | 20. X1.10 | 42 110 | 46 | 20. +1.03 | 27 165 | 46 | 15 28 | 14 | |
| | | | | | | | 17 42 | 8 | 36 30 | 41 | |

| | | | | | | | | | | | |
|----------|----|---------|-----------|---------|-----|------------|---------|-----|------------|-----|--|
| 375 99% | P. | F 102 M | 58. X1.31 | 366 103 | 367 | 134. X1.11 | 172 333 | | 121. X1.33 | | |
| 377 99% | J. | M 107 M | 53. X5.25 | 357 378 | 379 | 221. X7.51 | 379 377 | 379 | 346 335 | 342 | |
| 378 100% | M. | F 104 M | 60. X1.45 | 374 352 | 377 | 110. X1.11 | 174 319 | | 286 286 | 286 | |
| 379 100% | K. | F 109 M | 69. X1.36 | 371 328 | 374 | 110. X1.11 | 171 316 | | 367 341 | 359 | |
| | | | | | | | | | 155. X1.40 | | |
| | | | | | | | | | 373 354 | 375 | |

FIGURE 6

SUMMARY

| NUMBER OF | MATH SKILL | | SPELL SKILL | | READ SKILL | |
|------------------------|------------|-----------|-------------|-------|------------|-------|
| | PRE | LRN | PRE | LRN | PRE | LRN |
| STUDENTS INCLUDED: 379 | 90% | 45. X1.37 | 99% | X1.41 | 127. | X1.53 |
| CLASSES: 14 | 75% | 31. X1.29 | 90. | X1.25 | 114. | X1.40 |
| BUILDINGS: 4 | 71% | 31. X1.17 | 72. | X1.13 | 91. | X1.31 |
| DISTRICTS: 1 | 25% | 24. X1.09 | 54. | X1.04 | 70. | X1.24 |
| | 10% | 21. X1.01 | 38. +1.02 | | 50. | X1.17 |

Instructional Placement Assessment

There are four goals in instructional placement assessment:

- 1) Identify the behaviors which will comprise the student's instructional program (e.g., computing long division problems without remainders, initiating conversations with peers, use of correct verb tense in paragraph writing, operating a coin-operated washing machine).
- 2) Identify the level and type of materials and/or type of situations to be used in teaching the behaviors (e.g., variety of 5th grade long division practice sheets, half-hour simulation activity to facilitate peer conversations, 7th grade practice sheets on correct verb tense, a local laundromat).¹¹
- 3) Identify the specific teaching tactics to be used for each behavior (e.g., individual practice sessions, group practice sessions, reward-penalty arrangements and events, demonstrations, specific instructions).
- 4) Make recommendations regarding the staff, setting and special facilities or equipment needed to implement the instructional program.

Ideally, "instructional placement assessment" should incorporate learning measurements. To appropriately place a student instructionally, we need to know what materials, procedures and settings are most effective in creating rapid learning. However, without a "measure of learning," we cannot evaluate "learning." Using learning measurements also establishes a continuous measurement system that can be continued once the instructional program is started.

Although establishing learning rate measures in the assessment process is our goal, the financial and staff limitations in American Samoa presently prohibit realizing this goal. The process presently uses correct frequency ranges representing proficient, instructional and frustration performance levels (analogous to the levels of an "Informal Reading Inventory" system).¹² For example, if the student's behavior falls in the "proficient range," moving to the next higher instructional level would be indicated. Performance in the "instructional stage" demonstrates that the current instructional level is appropriate. Moving to a lower level to continue assessment is indicated when the student's performance is in the "frustration range."

¹¹The book Exceptional Teaching (White and Haring, 1980, pg. 140) describes a number of "Inventories of Direct Measurement Assessment Materials", which are ideal for the instructional placement process. There are literally thousands of possible curriculum slices ranging from handwriting exercises to science vocabulary to symbol identification.

¹²See the NWRRC (1981) Samoan assessment document for more detail.

With the completion of the instructional placement assessment, the special education diagnostic process is complete. This information is then used in the I.E.P. meeting to prepare a comprehensive Individualized Education Program.

SUMMARY

This paper has presented a dynamic and flexible model for determining children in need of special education services. The concepts summarized below provide the framework for this model:

1. All evaluations measure behaviors defined as relevant by local community and cultural standards (e.g., if "problem solving" is a relevant behavior, find a real problem to solve in the child's environment rather than inferring problem solving ability from performance on an analogies test).
2. All evaluations employ materials and/or situations presently in use in the child's home, school and/or community. (If the only materials available are inappropriate for the culture but are being used in school, they may still be used for evaluations until more appropriate materials can be purchased.
3. The basic datum for all evaluations is "correct frequency" (i.e., number of correct responses) standard time period
4. Repeated frequency scores, over a period of weeks, provides a measure of learning rate.
5. Incorporating the above four factors, the model sorts age-peers using relative ranking procedures.
6. The sorting process has three stages:
 - a) observation + screening = high probability of needing special help.
 - b) learning assessment = separating special education from remedial education students.
 - c) instructional placement assessment = determination of specific behaviors, materials, procedures and settings for a students' special education program.
7. Incorporating the use of micro-computer technology in the management of demographic and direct measurement data. (Computerization helps develop and maintain individualized programs. In addition, by reducing time spent with forms, more time is available for instructing children.)

The combination of an assessment system directed at culturally relevant behaviors and the management of information about student performance and learning is a prerequisite to culturally appropriate education. Although this model was developed to address special education program concerns, it can also provide the foundation for developing individualized programs for all children. The investment of time, money and especially organizational effort to bring about changes of this sort would be considerable, but it will surely take an effort of this magnitude in order to provide education which is sensitive to the variety of cultural values present in our society.

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ISSUES IN ASSESSMENT AND SERVICE DELIVERY TO LEP AND
BILINGUAL HANDICAPPED CHILDREN

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My experiences as a non-educator observing procedures used with bilingual students first revealed the significance of linguistic and cultural appropriateness of assessment procedures. I could see then that the role language plays, not only in assessment, but in remediation was critical. Unfortunately, however, in so many areas, issues of assessment tend to overshadow issues of placement and remediation. As an educator, I offer two observations of why this seems to prevail in special education circles:

(1) Dialogue and debate over testing and assessment can continue indefinitely because there are not satisfactory answers. Tests will always have some cultural or linguistic bias, psychometric problems or administrative difficulties. Psychologists and other assessment personnel are often reluctant to relinquish their "favorite" assessment tools, despite their limitations, and the availability of so-called non-biased or culture-free tests will always be suspect. Despite prolonged debate on this topic in California, there is still no generally accepted solution or resolution and the time and energy it has consumed has relieved the field of the necessity to address what is a far more pressing issue -- placement.

(2) Assessment continues to consume the attention of educators in part because its companion issue -- placement -- is far more difficult to grasp, let alone resolve. Practitioners complain, "How can one worry about placement when you're not really sure what the handicapping condition is?" The reality is, one is seldom "really sure" about the diagnosis of students who speak only English; that only performance and progress in the learning environment, continued observation, and further testing by the people who work with the student on a daily basis can really

tell the whole story. Placement of an LEP (limited-English-proficient) child who has exceptional needs is a much more puzzling problem. However one comes to a solution, it is the most perplexing aspect of working with SpedLEP* students.

Stated in its most simple form, bilingual education is teaching the child in the language he best understands, while he is learning English. For the SpedLEP student, struggling with a learning handicap, this consideration takes on a larger magnitude. Remediation of the child's handicap in a language understandable to the child, along with systematic ESL (English as a Second Language) is a logical conclusion, provided the district has bilingual personnel. Because many special education personnel are not familiar with basic bilingual education approaches, and because most special education personnel are not bilingual, it is essential to address attitudinal issues first. For example, offering bilingual special education classes does not mean you are giving the child yet another handicap! It doesn't mean you are less American, and it doesn't mean you have to replace or fire existing staff. But it does mean you must do some things differently. It means focusing on the student's language strengths, instead of his academic weaknesses. It means examining the school curriculum for its appropriateness, and it means re-examining the programs which have been designed for their cultural and linguistic appropriateness.

In the San Jose Unified School District, a standard process is followed for the SpedLEP student. This is referred to as the Resource Specialist Program. Any child with a language other than English is tested for language proficiency in English. If the child is determined to be limited English proficient, that child is offered a variety of services to meet his/her needs in language. Before a child is referred to Special Education then, he/she has had the opportunity to be successful in other school programs, such as a Bilingual classroom, ESL instruction, Reading Lab or Cross-age Tutoring.

When the LEP student is identified as an Individual with Exceptional Needs (IWEN), a school-wide process of program planning for that student is put into operation. The Team for the Special Education Student with Limited English Proficiency meets informally to plan the daily schedule and select the materials to be used for the educational program. For example, an identified LEP student has been receiving ESL instruction and bilingual aide instruction for approximately a year and a half. He has not shown progress academically and the classroom teacher refers him to the assessment committee which determines a need for further assessment. The child is referred on to the Resource Specialist.

The Resource Specialist and other team members evaluate students using the School Assessment Rating Scale (SARS). If eligible as an IWEN, the SpedLEP team meets to draft the IEP, incorporating their own services in the plan as needed, in order to meet the goals and objectives.

*Special Education Limited English Proficient.

The Resource Specialist Program is a valuable instructional model for the SpedLEP student in that it incorporates direct teaching using tri-sensory methods and/or a bilingual language-experience method. Either of these methods may be taught to and used by aides working with the SpedLEP student, in addition to being used daily in the Resource Specialist Program. These methods work equally well when used by the English-only or the Bilingual teacher.

Essential questions to ask are, "What steps need to occur once the LEP student has been properly identified and diagnosed for Special Education?", "How may services be delivered with a staff who does not speak the child's language?", and finally, "How can districts utilize existing resources for educating the limited English proficient handicapped student?" These are difficult questions but they must be asked and answered if students are to be fairly treated.

LEGAL REVIEW OF ASSESSMENT ISSUES

S. James Rosenfeld

Managing Editor
Education of the Handicapped Law Report

THOUGHT ON THE LIMITS OF
EVALUATIONS, DIAGNOSIS, AND PLACEMENTS

"Clinical psychologists and psychiatrists (who provide many useful or apparently useful services, particularly to the educated middle class and their children) have expertise only in the textbook sense of knowing the history of that somber speculation that give form to their disciplines. (Form, but not substance.) Their predictions of 'future violence' are in error at a rate of about 90%. Their internal agreement on diagnostic categories is no greater than we would find among professors of economics. Their theories are wanton and their opinions are self-congratulatory. Their methods are not more scientific than is pastoral counseling, or, for that matter, the late-night TV Sermonette."

"Since there is no settled body of fact, no settled and reliable methods of measurement, and not a single theoretical term that have ever been vindicated by accepted modes of scientific verification, clinical psychologists and psychiatrists cannot be said to occupy a space within which expertise can flourish. And, where there cannot be expertise, there cannot be 'expert testimony.'"

Daniel N. Robinson, Professor of Psychology at Georgetown University, "The Hinkley Decision: Psychiatry in Court," Wall Street Journal, p. 26 (June 23, 1982); and author of Psychology and Law: Can Justice Survive the Social Sciences?

DECISIONAL MATERIAL SINCE

ENACTMENT OF PUBLIC LAW 94-142 AND SECTION 504

For the most part, courts have refrained from delving into the merits of testing materials and their application, preferring to leave substantive questions for resolution by qualified professionals. Grkman v. Scanlon, 528 F. Supp. 1032, 3 EHLR 553:508 (W.D. Pa. 1981), is a good example of courts' attitude (if a bit extreme):

"In the case at bar the Court is again called upon unwillingly to function as a super-superintendent of schools. In that capacity, as Justice Robert H. Jackson noted, 'we act in these matters not by authority of competence but by force of our commissions.' Board of Education v. Barnette, 319 U.S. 624, 640 (1943). The question for decision is where an eight-year-old girl shall receive an 'appropriate' education as mandated by Federal law.

* * * *

"To determine what constitutes appropriate relief, the Court must in effect determine what constitutes an appropriate education.^{1/}

^{1/} If this is thought an unsuitable task for a court. . ., one may take comfort in the fact that sometimes the Pennsylvania legislature confers upon the Courts of Common Pleas, rather than the Public Utilities Commission, the power to regulate public utility service."

In another example, Winfield v. School Board of Fairfax County, Virginia, 3 EHLR 551:269 [1979-80 DEC.] (Cir. Ct. Fairfax Cty. 1979), however, court held not only that plaintiffs were entitled to an independent educational evaluation at public expense, but also that the evaluation should include consideration of the specific teaching methods and instructional materials to be used.

One court proceeding that involved a direct attack on evaluation and placement procedures, that is, New York State's criteria for determining the existence of a specific learning disability, was decided primarily on procedural grounds. The class action complaint alleged, among other things, that promulgation of a State regulation requiring that a learning disabled child "exhibit a discrepancy of 50% or more between expected achievement based on . . . intellectual ability and actual achievement" in order to qualify as handicapped violated Federal law and regulations. Plaintiffs contended that since Federal regulations require a showing only of "severe discrepancy," strict application of a quantitative test (which the State was allegedly applying) violated Federal requirements. Federal district court agreed and issued an injunction prohibiting the Commissioner of Education to cease enforcement of the 50% discrepancy test. Riley v. Ambach (ED NY 1980), 3 EHLR 551:668 [1979-80 DEC.].

The State appealed the case and won, but on procedural grounds. The U.S. Court of Appeals for the Second Circuit held that plaintiffs should have pursued administrative remedies available under the EHA and that their failure to exhaust these remedies was fatal. Riley v. Ambach (CA-2, 1980), 3 EHLR 552:410 [1980-81 DEC.].

The court's stated reasons for requiring exhaustion of administrative remedies are instructive:

"The questions in this case are difficult and technical ones. . . . [They involve] issues upon which the State experts should first have their say. If that say does not resolve the issue, the record created by the application of their expertise to those problems will certainly help the Federal court resolve the issue in a more informed manner.

There was conflicting evidence at trial on whether the 50% test was being applied strictly, as an absolute cut-off (as contended by the plaintiffs), or was being applied flexibly, primarily as a "base-line" (as contended by the defendants). In this regard, the court said:

"In such a vague area, where expert witnesses love to revel, we would prefer a concrete case coming to us after the plaintiffs have exhausted State administrative remedies. Such a case may never appear; the State experience may result in a virtual equivalency between these two amorphous standards. The 50% standard may in practice prove to be no more restrictive than the severe discrepancy rule. * * * Both the significance of the 50% rule and its deficiencies will be much more clearly focused when a particular child can show that application of the rule caused his or her ineligibility in circumstances where he or she would have qualified under the prior standard."

The lesson, I suggest, is reasonably clear; courts do not want to be intimately involved in the special education process for many reasons. These include:

1. Special education is outside courts' expertise;
2. Standards to be applied are not clear;
3. Responsibility for education generally rests with the States and, politically, is too "hot" for courts; and
4. Workload would overwhelm courts.

For more information on this issue, see EHLR Perspective, "Applying the Learning Disabilities Regulations," Supp. No. 12 (Nov. 16, 1979).

The Rowley Case

The Supreme Court's recent decision in the Rowley case underscores and re-emphasizes the importance of procedural safeguards and of judiciary's limited review role. The Court found that FHA, when read in light of its extensive procedural requirements and its definition of FAPE, shows Congressional intent to bring previously excluded handicapped children into the public school systems of the States, and to require adoption of procedures that will result in individualized consideration of and instruction for each child.

The majority found no language on the face of the statute prescribing a substantive standard for the level of education to be accorded handicapped children -- certainly not the one prescribed by the lower courts -- and no intent to achieve strict equality of opportunity or services. The majority found implicit in the objective of providing FAPE the requirement that the education be sufficient to confer some educational benefit on the handicapped child. It did this, essentially, by combining elements of FAPE, special education, and related services. But it did not state what test is to be applied to determine when all handicapped children are receiving sufficient educational benefits to satisfy the Act's requirements.

A State insures FAPE by providing personalized instruction with sufficient support services to permit a child to benefit educationally from that instruction (plus providing the instruction at public expense, following general educational standards, approximating grade levels in regular education, and following the IEP). If a child is mainstreamed, the IEP and personalized instruction should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.

REGULATORY ACTIONS SINCE ENACTMENT

OF PUBLIC LAW 94-142 AND SECTION 504

As might be expected, BEH/OSE/SEP and OCR have issued far more "interpretations" of substantive requirements and implementation procedures than have the courts, but many (perhaps most) of these actions have been less than helpful. The reasons include:

1. Lack of a clear objective in interpreting and applying the law and regulations. Particularly BEH/OSE/SEP does not seem to have had in mind an underlying philosophy or consistent rationale in interpreting and applying the regulations -- other than, perhaps, doing "what's best for the kids." Even acknowledging that special education decisions are unusually "individualized," the creation of a rational, consistent and self-enforcing system requires that the developers (in this case, the Federal government) have in mind pre-determined criteria for interpreting and applying the law. This seems to have been lacking.

2. Lack of a strong, well-defined constituency. Too frequently, BEH/OSE/SEP appears to interpret the law to satisfy the problem or constituency at hand ("oiling the squeaky wheel"). I think this occurs because no one interest group -- parents, State administrators, local administrators, etc. -- is strong enough to demand and enforce (through court action when necessary) rational and consistent interpretation and application of the law.
3. Unwillingness or inability to do more than recite requirements of regulations and law. This may be a result flowing from the previous two reasons, more than a reason in itself; it may also reflect poor quality or inexperienced staff.
4. Role perception. OCR, particularly, seems to see its job as stating that violations have occurred, rather than explaining why and how they can be remedied.

The preceding observations may be interpreted as an apology of sorts for the lack of clarity, decisiveness and direction contained in the following examples of BEH/OSE/SEP and OCR policy rulings.

Qualifications of Personnel

In Rupley (BEH-2/17/78), 2 EHLR 211:11, BEH was asked whether the regulations require a member of evaluation team to participate in the IEP meeting; it was suggested that if this was not the case, "any educator who can read a psychological and/or psychiatric report can claim that (s)he is 'knowledgeable.'" BEH's response: the determination of who is knowledgeable about evaluation procedures used and familiar with the results, which is the language used in describing qualifications of the IEP team, Reg. 300.344(b), is made by the local education agency in accordance with State education agency certification, licensing, or appropriate standards.

In Almie (BEH-3/7/78), 2 EHLR 211:14, a similar type of question was asked, i.e., was a certified school social worker an appropriate specialist to assist in the evaluation of a child with a suspected learning disability? BEH's response: in some States, such a person "might be considered to be an appropriate specialist," since although the person might not be fully certified, she/he would "clearly have knowledge and training in the area in question." A qualified learning disabilities specialist would clearly be appropriate under the regulations, Reg. 300.532, but the regulation is "broadly written to accommodate individual State standards." This general posture was formalized in DAS Bulletin No. 9 (4/19/78), 2 EHLR 203:02, which stated: "It is the position of the Office of Education that, . . . where an appropriate licensed, certified, or approved learning disability teacher or specialist is available, either [in the LEA or from elsewhere], he/she should serve on the multidisciplinary team." N.B. This didn't help LEAs in situations where such a person was not available to it.

A similar type of question was subsequently raised concerning the qualifications of service providers, i.e., what does "qualified" mean, and, not surprisingly, a similar type of answer given. In Jacobs (BEH-8/14/78), 2 EHLR 211:54, BEH said that EHA does not impose limitations on the kinds of personnel that may be used by a State to provide special education and related services, except that such personnel must be "qualified" as defined in Reg. 300.12. This means that they must meet State educational agency approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services.

Variety of Sources in Interpreting Data, Making Placement Decision

In an OCR complaint investigation, which alleged discrimination on the basis of national origin and handicap, OCR concluded that decisions to place students in SLD classes based solely on the results of Wechsler Children's Intelligence Test and a portion of the Peabody Individual Achievement Test violated Reg. 104.35 (Section 504), which requires that a variety of sources be used in interpreting evaluation data and making placement decisions. Powhattan (KS) Unified School District (OCR-4/6/79), 2 EHLR 257:32

A similar finding resulted when OCR concluded that a vocational school refused to admit a child on the basis of out-dated and incomplete information, Assabet Valley (MA) Regional Vocational High School (OCR-1/24/80), 2 EHLR 257:68. In this investigation, OCR found that the school's consideration of the child's application was based on assumptions about his capabilities, rather than on concrete, specific evidence of his strengths, weaknesses and special needs.

And, in a compliance investigation, OCR found a third similar violation where the school district's files revealed that, in 41% of the cases reviewed (but not all of the cases), the only test administered before placing a child in an EMR program was an IQ test. Rochester (NY) School District (OCR-1/29/80), 2 EHLR 255:09.

Components of Tests Used in Evaluations

As to exactly what the components of a mandated evaluation are, OSE has stated that the particular components for an individual child are not specified in the EHA regulations and that such decisions must be made on the basis of professional judgment in accordance with Reg. 300.532. Kelley (OSE-10/20/80), 2 EHLR 211:240.

Do children with minor speech problems require the same diagnostic examinations, evaluation and IEP procedures that would be provided to severely and multiply handicapped children? BEH response: EHA regulations, 300.532 and 300.533, provide that a mildly handicapped child may not need a complete battery of assessments, and that the Comment to Reg. 300.532 permits a qualified speech language pathologist, using appropriate procedures, to appraise speech and language disorders and, when necessary, make referrals for additional assessments that might be necessary. Porter (BEH-11/10/78), 2 EHLR 211:77. Similarly streamlined placement procedures are appropriate pursuant to the Comment to Reg. 300.533.

In what I personally have found to be one of the most interesting policy letters, BEH was faced with the problem of how to handle speech-impaired children whose handicap apparently does not affect their educational performance. Here, BEH was caught between the language of ~~the regulations, which require that the handicap affect educational~~ performance, and the interests of the constituency represented by the American Speech-Language-Hearing Association. In the background was a report by GSA that too many mildly speech-impaired children were being identified and served. GSA's contentions were that it is in the interests of LEAs to identify many mildly-speech impaired children for funding purposes because, in providing services, the LEAs are not required to spend as much as they receive. BEH response: In determining whether speech/language impairment is a handicapping condition, the impact of the child's communicative status on academic performance is not deemed the sole or even the primary determination; the judgment should be based on the child's performance on formal and/or informal measures of linguistic competence and performance, rather than placing heavy reliance on the results of academic testing. Dublinske (BEH-5/30/80), 2 EHLR 211:202. For a more extended discussion of this and related policy letters, I refer you to EHLR Analysis, "'Educational Performance' of Speech Impaired," Supp. No. 32 (September 19, 1980).

In conclusion, the Dublinske letter, particularly, illustrates the dangers I spoke of earlier concerning tailoring interpretation of the law to the problem at hand. Here, BEH was interpreting the law to include children who probably should not have been included primarily to ensure that they were served (a laudable purpose). However, such an approach makes a mockery of the procedural safeguards, which as I understand it are intended to prevent the mis-classification of children, and -- in the long run -- possibly undermines public support for special education programs (in view of shrinking financial resources). It is indefensible for schools to complain that they haven't the money to serve severely handicapped children while they are also "over-identifying" kids such as this.

Specificity With Which Tests Must be Identified in Order to Meet Notice and Consent Requirements

In Grimes (BEH-3/20/80), 2 EHLR 211:187, BEH was asked whether, in order to meet notice and consent requirements of the regulations, the educational agency must list the specific tests it proposes to use, or actually used, in evaluating a child for pre-placement evaluation, initial placement, and re-evaluation.

| <u>Requirement</u> | <u>Stage</u> | <u>Answer & Reasoning</u> |
|----------------------------------|--------------------------|--|
| Prior notice | Pre-placement evaluation | Specific listing not required. <u>Reason:</u> Reg. 300.505(a) (3) is concerned with tests that have already been given to a child and not with those that might be used in the future. |
| Consent | Pre-placement evaluation | Specific listing required. <u>Reason:</u> If agency plans to give a particular test to a child, then parents must be fully informed about that test. If specific tests are not known, describe the <u>general</u> kinds of tests that will be used. |
| Prior notice | Initial placement | Specific listing required. <u>Reason:</u> Reg. 300.505(a) (3) states, in effect, that written notice include a description of any tests the agency used as a basis for proposing that child be placed in a program. |
| Consent | Initial placement | Specific listing required. <u>Reason:</u> Required in order to fully inform parents of all information relevant to the activity for which the consent is sought. |
| Notice (consent not required) | Re-evaluation | Depends on why re-evaluation is being proposed. If merely to meet tri-annual re-evaluation requirement, no specific listing is required. If requested by parents, list this fact without any tests. If requested by LEA/staff, list tests, records, or reports that were used as a basis for the request. |

I think the lesson to be drawn from this policy letter is reasonably clear: if you know, tell; if you don't know everything, tell what you do know. Generally, I would agree with BEH's answer, but I would qualify it with the following observation concerning prior notice of the pre-placement evaluation. If the school has a pretty good idea of the types of tests that will be administered, they should probably be identified. As a practical matter, this will probably occur anyway because, as I understand it -- and as BEH suggested in its letter -- the documents providing prior notice and consent will probably be combined into one document and since the specific listing is required in order to meet the consent requirement, the notice will contain a specific list. To re-phase my general rule in a somewhat more "legal" vein, remember that "consent," in order to be valid, must be "informed." The information must come from the school.

Confidentiality of Testing Materials

A school psychologist told OSE that a parent had requested raw data, including figure drawings, WISC results, etc. The SEA (NY) told him that he had to release the raw data on Rorschachs, figure drawing, Bender-Gestalt, etc., but not on the WISC-R because this was a copyrighted test. He asked whether the Buckley Amendment (FERPA) exempted raw test scores or testing papers as personal notes more for personal use and shown to no one else. OSE's response: "It is highly improbable" that test protocols as usually administered and used (that is, created by two parties -- the test administrator and the student -- and used for purposes of evaluation, rather than as a memory aid for the test administrator) are "sole possession records;" therefore, they are subject to disclosure under FERPA. Moreover, once a test has been administered and, as is usually the case, the test results are maintained in personally identifiable form (e.g., with the child's file), they become "education records" of the student and must be disclosed. Kelley (OSE-10/20/80), 2 EHLR 211:240.

ETHICAL OBLIGATIONS

Various professional associations and societies adopt ethical standards for their members; however, very little consideration (that I know of) has been given to how these ethical obligation/standards are affected by Federal and state law.

As an example, the American Psychological Association (APA), the major membership association of psychologists in the U.S. since 1892, which has chapters or affiliates throughout the nation, since 1953 has maintained a set of ethical standards to guide the conduct of all psychologists. Failure to abide by the Code subjects APA members to disciplinary measures, including the possibility of expulsion from the Association. The Preamble

to the Code reminds psychologists that their major goals are to "respect the dignity and worth of the individual and honor the preservation and protection of fundamental human rights." The Code then prescribes nine basic principles encompassing Responsibility, Competence, Moral and Legal Standards, Public Statements, Confidentiality, Welfare of the Consumer, Professional Relationships, Utilization of Assessment Techniques, and Pursuit of Research Activities.

APA also has a uniform set of standards for psychological practice, called Standards for Providers. The purpose of these is to serve the respective needs of users, providers, third-party purchasers, and others with a legitimate concern with the accessibility, timeliness, efficacy, and standards of quality attending the provision of psychological services.

In addition, APA has developed guidelines for the four recognized specialties in professional psychology: ~~clinical, counseling, industrial-organizational, and school psychology.~~ Since the thrust of these guidelines is to implement the generic Standards for Providers, much of the language of the Speciality Guidelines tracks the generic standards. The intent of the Guidelines pertaining to school psychology is to improve the quality, effectiveness, and accessibility of school psychological services and to establish a uniformly acceptable level of such services. They reflect a consensus of university faculty, private practitioners, and public school employees.

The cases that we will be discussing involve at least two issues:

1. the right of a professional psychologist to deliver psychological services in a manner consistent with her parent body's ethical and professional standards as well as Federal and state law; and
2. the right of such a professional to state through oral and written communication her beliefs about the psychological well-being of individual children and the provision of services to them, and to disseminate scientific information within the area of her expertise without the risk of termination of employment.

In Ross v. Allen, 3 EHLR 552:431 [1980-81 DEC.] (S.D.N.Y. 1981), Suzanne Ross, a school psychologist sued the directors of the Henry Street Settlement and the Henry Street School, alleging that they had violated her constitutional and statutory rights by terminating her employment after she complained to the Board of Education about their suspension of one student at the school. The school was established and operates as a school for handicapped children through private charitable means. However, most of its students today are placed there by the New York City Board of Education, which retains the responsibility for the student's education and which monitors and regulates the school's programs. The school receives substantial government funding. The student in question had been informally suspended for an indefinite period because of behavioral problems, but had received no hearing. Ms. Ross informed a school official that, in her

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clinical judgment, it was in the child's best interest to remain in school; she also told him that the school had acted illegally and read him pertinent provisions of the law (unspecified). The school did nothing, and so Ms. Ross advised the student and her mother of their procedural rights and contacted the Child Advocacy Project in NYC. Two days later, the school reversed its position and reinstated the student and, on the same day, dismissed Ms. Ross. The reasons given were: (1) she had contacted an "outside agency", the Board of Education, about the school's allegedly illegal activities, and (2) she had assumed an inappropriate role as child advocate. Appeal of dismissal was unsuccessful.

Ross sued in Federal district court on three causes of action:

- (1) 42 U.S.C. Section 1983, for violation of her 1st and 14th Amendment rights;
- (2) Section 504; and
- (3) EHA.

On her EHA claim, court held that she lacked standing because she was not under a statutory duty to inform the student or her parents of their procedural rights and, because in the absence of Congressional or administrative guidance, the court would not imply an anti-retaliation intent.

On her Section 1983 claim, court held that Ross' dismissal might be the result of "State action" on the theory that the State's duty to provide for the educational needs of handicapped children, in this instance, arguably was being fulfilled by the LEA's contract with the private school. Accordingly, it rejected a motion to dismiss this claim.

On her Section 504 claim, court noted that Section 504 regulations incorporate by reference the anti-retaliation provisions of Title VI of the Civil Rights Act of 1964 and that Ross, as one who complained of an alleged violation of Section 504, is protected against retaliation. Since she is in the "zone of interests" meant to be protected by Section 504 and its regulations, and because she suffered injury in fact, she had standing to raise a claim. Thus, court rejected motion to dismiss this claim also.

A recent action by the U.S. Supreme Court may shed light on the Section 1983 claim in Ross v. Allen. Just a short time ago, the Court decided three cases concerning when private conduct can be considered "state action" for purposes of suits under 42 U.S.C. Section 1983. One case [Rendell-Baker v. Kohn (U.S. Sup. Ct. 1982), 50 U.S.L.W. 4825], involved a private school for problem high school students that receives over 90% of its funding from governmental sources and is extensively regulated by both state and local governments. Several teachers sued the school under Section 1983, alleging that they were discharged in violation of constitutionally protected speech and procedural rights.

Chief Justice Burger, writing for six members of the Court, said that the discharges are actionable under Section 1983 only if they are "fairly attributable" to the state. He considered four "factors" in arriving at the conclusion that, in this case, there was no state action:

1. The school's receipt of public funds does not make its personnel decisions acts of the state.
2. None of the concededly "extensive" regulation of the school involves regulation of personnel matters.
3. The fact that the school is serving a "public function" is not determinative: "That a private entity performs a function which serves the public does not make its acts state action."
4. No "symbiotic relationship" exists between the school and the state: "[T]he school's fiscal relationship with the state is not different from that of many contractors."

I don't know whether Ms. Ross' case proceeded to trial on the merits. However, you might want to think about the various steps she pursued; whether some of them were protected and some not -- and, if so, which; at what point did she "cross the line"? Did she exceed the obligations imposed her by professional ethical standards; if not, how can her dismissal be justified as a matter of law?

• The Forrest V. Ambach Decisions

Facts: Muriel Forrest is a school psychologist who was employed by the Edgemont Union Free School District in New York State in 1967. Beginning with the 1976-77 school year, however, the district began to voice dissatisfaction with her performance and, on May 8, 1979, it dismissed her. She appealed her dismissal through regular administrative channels, alleging that she was terminated in retaliation for her thorough evaluations of children suspected of having handicapping conditions which, she said, tended to expose the school's attempts to avoid its statutory duty. By firing her, she contended that the school prevented her documentation of its failure to properly identify children.

In the decision of the N.Y. Commissioner of Education, Matter of Forrest Decision No. 10237 (April 2, 1980), the Commissioner dismissed her appeal on two grounds:

1. as a part time employee, she was not tenured and therefore was subject to discretionary dismissal [an issue we will not consider further]; and
2. she didn't have standing to raise neglect of duty contentions because, under the relevant New York State law, she was not an aggrieved party; that is, she had failed to show how the district's alleged neglect of its statutory duties caused harm to her.

In Forrest v. Ambach (I), 3 EHLR 552:319 [1980-81 DEC.] (NY Sup. Ct. 1980); Justice Kahn found the Commissioner's determination a "Catch-22," arbitrary and capricious, in that there is not a rational basis. With regard to Forrest's professional obligations, he wrote:

"While a school board is in the position of an employer, those professionals employed by a school board do have a level of professional competence and standards which must be recognized and respected, not only for the profession itself, but the for purpose of rendering the best service to the school board and ultimately to the students they serve. The ethical standards of any professional employed by a school board cannot be cavalierly dismissed as irrelevant to the employer-employee relationship, and may indeed become quite relevant in certain circumstances. Petitioner herein alleges that respondent school board required her to violate not only her professional standards and ethics, but the law as well and that when she refused to comply with the illegal and unprofessional mandates of said school board, she was summarily dismissed. These are serious allegations which warrant a complete determination. If, in fact, petitioner was dismissed solely due to her attempt to adhere to statutory mandates and her own professional standards as a psychologist, then her dismissal by said school board would be arbitrary, capricious and unconstitutional."

Finding that Forrest had been prevented from establishing that her conduct was a substantial or motivating factor in the school board's decision not to rehire her, the Justice remanded the case to the Commissioner for further administrative proceedings on two issues:

1. the alleged neglect of statutory duties regarding handicapped children in the school district; and
2. if there was neglect, whether it resulted in the termination of Forrest's services for a constitutionally impermissible purpose.

The Commission, on remand (October 14, 1981), again dismissed Forrest's reinstatement request, finding that even if the school district was guilty of neglecting its duties as she asserted, she failed to demonstrate that her response to such alleged neglect motivated the decision to dismiss her [Matter of Forrest, Decision No. 10673 (October 14, 1981)]. Forrest went back to the N.Y. Supreme Court and Justice Kahn.

This time, in Forrest v. Ambach II, 3 EHLR 533:649 (NY Sup. Ct. 1982), Justice Kahn said that Forrest has to meet a three-pronged test in order to satisfy her burden, that is: (1) she was engaging in constitutionally protected behavior; (2) such behavior was a substantial or motivating factor in the school district's decision to remove her from her position; and (3) the school district would not have reached the same decision in the absence of the protected conduct. He found that while Forrest had met the

first prong of the test, e.g., she was engaging in protected free speech, the Commissioner had determined that she had not demonstrated that her "termination would not have occurred absent the protected conduct." Since the record showed that there was a rational basis for the Commissioner's decision, the court's review responsibility was terminated and her appeal was dismissed.

The entire tone and approach of Forrest II differs radically from that of Forrest I; it appears that something more than a simple failure of proof occurred between the two decisions. I have spoken with counsel in an attempt to find out whether this impression is correct, and they agree, but they were unable to find out what this was. Perhaps the decision reflects merely a belated recognition that delving too deeply would raise broad and important issues that the Justice simply didn't want to deal with.

LEGAL CONSIDERATIONS IN THE ASSESSMENT OF STUDENTS
WHO ARE BILINGUAL OR WHO HAVE LIMITED ENGLISH PROFICIENCY

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The public schools must establish procedures for fairly assessing all children who are bilingual or who have limited English proficiency (LEP). These assessment procedures must measure educationally relevant variables.

They must not assign children to remedial or handicapped programs on the basis of limited English proficiency but rather on the basis of educational need. When establishing procedures for assessment, schools should review the legal precedents in case law, the relevant Federal statutes and regulations, and the Constitutional bases for the rights of children in the assessment process. This paper provides such a review and offers a brief analysis of the practical implications of these legal concepts for schools.

- STATUTORY AND CONSTITUTIONAL BASES FOR
 RIGHTS IN THE ASSESSMENT PROCESS

The U.S. Constitution

The Fifth and the Fourteenth Amendments to the U.S. Constitution are the bases for rights in the assessment process, as well as for the general right to be protected against discriminatory actions.

• Fifth Amendment:

"No person shall...be deprived of life, liberty, or property, without due process of law...."

• Fourteenth Amendment:

"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Federal Statutes and Regulations

Three major Federal Statutes have impact on the design and application of assessment procedures. Title VI of the Civil Rights Act of 1964 prohibits discrimination in Federally supported programs on the basis of race, color or national origin.

- Title VI:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. 2000(d))

Section 504 of the Rehabilitation Act of 1973 expanded this civil rights concept to the handicapped. Note that the critical wording is identical to that of Title VI.

- Section 504:

"No otherwise qualified handicapped individual...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (29-U.S.C. 794)

Public Law 94-142, the Education for All Handicapped Children Act of 1975, extended the concepts of protection from discrimination to procedures in testing and evaluation. In order to qualify for assistance under the Act, each state must demonstrate that its testing and evaluation procedures are not discriminatory.

- Public Law 94-142:

"The State [must show that it] has established...procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child." (20 U.S.C. 1412(5)(c))

The Federal Regulations for P.L. 94-142 do not go beyond this Statutory language:

"Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory." (34 C.F.R. 300.530(6))

"Tests and other evaluation materials must be... provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so." (34 C.F.R. 300.352(a)(1))

The latter provision has been modified, although not substantively, in the Proposed Regulations for P.L. 94-142 (Federal Register, August 4, 1982):

"Testing and evaluation materials and procedures must be provided and administered in the language or other mode of communication in which the child is most proficient, unless it is clearly not feasible to do so." (Section 300.158(b))

CASELAW -- THE BEGINNINGS OF AN ARTICULATION OF STANDARDS

Litigation brought under the above constitutional provisions and statutes helps define the legal basis for fairness in testing and evaluation of LEP/bilingual students. Below are synopses of some major cases and a summary of the standards which can be drawn from them in the areas of racial discrimination in general, discrimination in education, and discrimination in assessment.

What Constitutes "Invidious Racial Discrimination?"

In three cases in which "invidious racial discrimination" was not found, the Courts delineated conditions which must be met to show such discrimination.

• Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040 (1976), involved a complaint that the Washington, D.C. Police Department discriminated against black applicants for entrance into the police training program. A test measuring verbal ability, vocabulary, reading and comprehension was used to select candidates for the program. A disproportionate number of black applicants failed to pass the test. The Court found that this practice did not constitute "invidious racial discrimination" because:

- no intent to discriminate was found (or claimed);
- the Police Department could show that the test correlated positively with success in the training program; and
- the test was not obviously discriminatory in design (whites also failed).

"[Disproportionate] impact," the Court said, "is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination." Washington v. Davis, 426 U.S. 229, 242. Intent to discriminate must also be shown.

• Village of Arlington Heights v. Metropolitan Housing Development Corporation, 429 U.S. 252 (1977), is a case in which the Village denied a petition from the Corporation to rezone a housing project from single family to multi-family units. The lower Court found intent to discriminate against poor and minorities in this action by the Village. The Appellate Court reversed that decision noting that the Corporation had failed to prove that discriminatory intent was a motivating factor in the Village's decision to deny rezoning.

The Court suggested that intent could be demonstrated through circumstantial and direct evidence, for example:

- a series of official actions taken for invidious purposes;
- a sequence of antecedent events of an invidious nature leading up to the decision;
- contemporary statements by decision makers, minutes of meetings; or reports which evidence invidious intent; or
- departures from the normal process of decision-making procedures.

• In Personnel Administrator of Massachusetts v. Feeney, 442 U.S. 256 (1976), was an appeal of a lower court ruling which found that a statute giving veterans preference in State employment discriminated against women. The statute required hiring any veteran who qualifies for state service over any non-veteran. On appeal, the Court found no intent to discriminate. Although the impact of the statute was foreseeable, it was not found to be "gender-based" because it gave preference to veterans of either sex over non-veterans of either sex. The Court noted that a finding of intent to discriminate would require a showing that the statute was passed because of its disproportionate impact.

The Standard for "Invidious Racial Discrimination"

Taken together, the decisions in the above cases suggest that both a differential impact and a demonstration of intent to discriminate are required to prove "invidious racial discrimination." Intent can be demonstrated by showing a stark pattern of discriminatory actions, by historical background on previous actions, antecedent events to the specific decision or contemporary statements of the official(s) involved which appear discriminatory, or by departures from the normal decision-making procedures in the specific case.

The primary defense against a charge of discrimination requires the state to demonstrate that without the "impermissible purpose" (the intent to discriminate), the decision or action would not be changed. One way to demonstrate this is to show that the criteria upon which the suspect decisions are based are valid. That is, the criteria are positively correlated with the allowable purposes of the decision (as in Washington v. Davis scores on the test were positively correlated with success in the training program).

Discrimination in Education: An Introduction

A finding of discrimination in education has generally not required the same demonstration of intent included in the standards above for invidious racial discrimination. In the landmark case of Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 691, 98 L. Ed. 873 (1954), the Supreme Court drew from the equal protection and due process clauses of the Constitution the notion of equal educational opportunity:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society.... In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms."

This concept was applied in two cases, one involving Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000(d), and the other, tracking of students based on assessment.

Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967), involved the impact of sorting, or tracking, of minority pupils. The court found that the operation of the school system, including the tracking of students at the primary and secondary levels, deprived Blacks and poor pupils of the right to an education equal to that afforded White, affluent students. This was found to violate both the equal protection and due process clauses. The tracks at issue placed students in various curricular groups, ranging from those for "gifted" to those for "retarded" children, the latter affording a rather limited basic education. This system was held discriminatory. The court relied upon the disproportionate number of Blacks in the lower tracks, the lack of movement among tracks in spite of purported flexibility, the failure to provide remedial programs for disadvantaged and emotionally handicapped, and the use in the referral process of standardized tests found culturally and racially biased. The decision ordered the abolition of tracking, but did not invalidate ability grouping as such. The attack was on group ability tests, which the court found "completely inappropriate":

"The evidence shows that the method by which track assignments were made depends essentially on standardized aptitude tests which, although given on a system-wide basis, are completely inappropriate for use with a large segment of the student body. Because these tests are standardized primarily on and are relevant to a white middle class group of students, they produce inaccurate and misleading test scores when given to lower class and Negro students."

Lau v. Nichols, 414 U.S. 563 (1974) involved Chinese students who charged that the San Francisco school system failed to provide bilingual language instruction to all children. Of approximately 2,800 students of Chinese ancestry who did not speak English, 1,000 received special instruction in English. The remaining 1,800 received no such instruction. The Court's decision relied solely on Title VI of the Civil Rights Act of 1964, and various regulations promulgated under that Act by the U.S. Department of Health, Education, and Welfare (45 CFR Pt. 80). The failure to provide English language instruction to students of Chinese ancestry who did not speak English denied them a meaningful opportunity to participate in public education.

The Court noted that programs receiving federal financial assistance are prohibited from discriminating in the availability or use of any academic or other facilities. "Discrimination is barred which has that effect, even though no purposeful design is present."

The Supreme Court recommended that a task force be created to set forth procedures to insure the proper use of educational programs and assessment techniques with bilingual or non-English-speaking students. An Office of Civil Rights (OCR) report recommended that information from a variety of sources be used to determine a child's predominant language (five classifications) and that this and other information be used to implement an educational program which meets the diagnosed needs of each child.

A Standard for Discrimination in Education

The Courts repeatedly stress equal educational opportunity as the key standard. By this they do not mean equal treatment. Equal opportunity, rather, is to be aimed at rectifying what barriers (linguistic or cultural) lie in the way of the student's ability to receive the benefits of education enjoyed by others who do not face such barriers (the white, middle class).

In Lau v. Nichols and Hobson v. Hansen, the courts clarify this standard with particular reference to assessment. With Hobson, the failure is in the assessment device primarily. The group tests measured and placed children based, in reality, on socio-economic class and race, factors which have nothing to do with innate ability, the Court said. In Lau, assessment,

per se, was not the issue. The court, however, set a firm standard for discrimination: it is any practice having a disproportionate impact on a particular racial or ethnic group. Continuance of such practices must be justified on the basis of compelling educational necessity.

Nondiscriminatory Assessments

Recent litigation has extended the concept of discrimination in education, specifically to assessment practices. Three cases help clarify the standards of disproportionate impact and the demonstration of intent based on past action. Two others deal directly with the validity of assessment practices, but with somewhat different results.

In Lora v. Board of Education of the City of New York, 456 F. Supp. 1211 (1978), the complaint was that student's constitutional and statutory rights were being denied by the procedures and facilities used for the education of children who had severe emotional problems. The "special day schools," it was alleged, were intentionally segregated "dumping grounds" for minority schools. The Court's decision re-affirmed foreseeable disproportionate impact as a discriminatory standard.

"The process of evaluating students to determine if they should enter the special day schools violated the students' right to treatment and due process. The extent that students were referred to largely racially segregated schools denied the students an equal educational opportunity. New York City's monetary problems did not excuse a violation of the students' rights."

In Debra P. v. Turlington, 474 F. Supp. 244 (1979), the Court based its decision on the history of past discrimination by the State of Florida. The action challenged the constitutional (equal protection) and statutory (Title VI) validity of Florida's student assessment test. The test was required for high school graduation and assessed "functional literacy." The Court specifically addressed the validity of the test. It found both the content validity (how thoroughly the domains match the State Board of Education's definition of functional literacy) and the construct validity (the extent to which the test measures what it purports to measure) to be high. On that basis, the Court noted that the test was "the state of the art" in educational management. It cautioned that good measurement is not to be equated with the constitutional standards for equal protection. The test, however, was found to bear a rational relationship to a valid state interest and is, therefore, constitutional. Some minimal cultural and racial bias was noted in some test items. In part because of efforts by the test publisher and the Florida Department of Education to study and limit test items for racial and ethnic bias, the Court judged the bias present to be minimal and unpervasive.

The state had a history of racial discrimination which prompted the Court to find that the Florida testing program carried forward the effects of past discrimination. No present intent to discriminate was necessary. Use of the test for a graduation requirement was thus prohibited for a period of four years to allow adequate prior notice to students.

Diana v. State Board of Education, Civ. Action No. C-70 37 RFP (N.D. Cal., Feb. 3, 1970) (consent agreement), involved an attack on individually administered intelligence tests. This action was brought on behalf of nine Mexican-American children who were placed in classes for the educable mentally retarded primarily on the basis of scores derived from the Stanford-Binet or WISC, all from homes having Spanish as the primary language. One of the student-plaintiffs, Diana, tested at a 30 IQ in English, but scored 49 points higher when re-examined by a bilingual psychologist, which brought her to several points above the cut-off score in California for placement in an EMR class. Similar results were obtained for eight other students. An out-of-court settlement resulted in major changes in California school law and regulation regarding assessment and placement of children in EMR programs.

Larry P. v. Riles, 343 F. Supp. 1306 (N.D. Cal. 1972) and 3 EHLR 551:295 (N.D. Cal. 1979), involved black children in the San Francisco elementary schools who were placed in EMR classes after scoring below 75 on one of several tests authorized by the State Department of Education. Evidence was produced that racial imbalance existed in these classes: black children constituted about 29% of all students in the school system, but 66% of the students in the EMR program. In the State as a whole, blacks comprised 9% of the school population, but 28% of all children in EMR classes. The Court enjoined administration of IQ tests for placement and determination of eligibility of blacks in EMR classes, finding that substantial emphasis was placed on the IQ tests which resulted in such disproportionality as to constitute denial of equal protection.

P.A.S.E. v. Hannon, 3 EHLR 552:108 (N.D. Ill. 1980), involved a challenge like that in Larry P., e.g., that the use of standard intelligence tests (WISC, WISC-R, and Stanford-Binet) for placement purposes was discriminatory because those tests are racially biased (not standardized) against blacks. Unlike the judge in Larry P., however, who essentially relied upon expert testimony to conclude that the challenged tests were, in fact, racially biased, Judge Grady examined all three tests question-by-question. He concluded that one item on the Stanford-Binet and a total of eight items on the WISC and WISC-R are culturally biased or at least sufficiently suspect that their use is inappropriate. He also concluded that these few items did not render the tests unfair and would not significantly affect the score of an individual taking the test. Accordingly, he held that the tests, when used in conjunction with the statutorily mandated "other criteria for determining an appropriate educational program for a child," 20 U.S.C. Section 1412(5)(c), do not discriminate against black children in the Chicago public school system.

THE PRACTICAL EFFECTS OF CASELAW ON THE
ASSESSMENT OF LEP/BILINGUAL CHILDREN

Taken together, the above cases provide some guidelines to protect schools conducting assessment programs from charges of racial discrimination. The following outline characteristics which have been favored by the courts in their actions on these cases:

- Equal treatment is not equal protection. Assessment must be equally relevant to the culture of the student being tested.
- Tests which have been examined for cultural or racial bias and for which content and construct validity have demonstrated, will be seen as less likely to discriminate.
- If alternative (multiple) measures for a particular skill or ability are available, they should be used.
- The assessment process should not rely too much on I.Q. tests or scores. Adaptive behavior, classroom observation, and other measures should be given substantial weight in placement decisions.
- Individual rather than group IQ tests should be used. Only trained (licensed) individuals should administer them. Clinical judgment with racially different students can be used effectively, but should be approached with caution.
- The assessment process should involve many professionals collecting and interpreting data, and should include clearly defined steps for making each decision.
- Adjustments (or "triggers") should be built into the review process to vary re-assessment for culturally different students (e.g., more than every three years, especially for minority populations).

With care and evident intent to protect students against bias in assessment procedures, and within the current state of the art, schools should be able to prevent racial discrimination in assessment.

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