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Access to Achievement: The Changing Landscape of FAPE

By *Jonathan P. Read, Partner*

This article is in preparation for the Collaborative's Fall Meeting entitled "The Emerging Redefinition of FAPE: Preparing Students with Disabilities for Post-Secondary Success"



Jonathan P. Read

Remember 1982? Football player Dwight Clark made "The Catch", proving that a fingertip reception that stretched the limits of his physical capabilities could catapult an entire team, the San Francisco 49ers, from insignificance to dominance.

On the other side of the country, the United States Supreme Court was seemingly making the opposite call, interpreting the right to a "free, appropriate public education" as not requiring public school districts to stretch the potential of each student with a disability, but as the safe pass – a guarantee of access to the benefit of public education enjoyed by the students' general education counterparts.

The *Rowley* court found that a FAPE, as provided by the Education of All Handicapped Children Act of 1975 (EAHCA), ensured a "basic floor of opportunity" consisting of access to specialized instruction and services that were designed to meet each student's unique needs and were reasonably calculated to provide educational benefit. "The intent of the Act was more to open the door of public education to handicapped children on appropriate terms than to guarantee any particular level of education once inside."

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Systematic Change for Secondary Schools: An Inclusive District's Five-Year Process



By Cara Lucas-Richt (Left)
and Julia Allen (Right),
Omaha Public Schools

While it is rare for a district to focus on making its practices more inclusive at the secondary level, Omaha Public Schools is working to achieve this goal. With the largest Special Education Program in Nebraska—more than 8,000 students—the district has embarked on a course to become more inclusive in its middle and high school services. This article profiles the district's change process—key strands of work, outcomes, and next steps. The process has involved thoughtful planning, an intense focus on professional development (PD), a careful look at current practice, and innovation. Today, the district is seeing some very big returns on its investment in inclusive practices.

Charting the Course. From Fall 2005 through Spring 2006, a team from Omaha attended *Developing Inclusive, High Performing Middle and High Schools: A Leadership Institute* sponsored by the Urban Special Education Leadership Collaborative. During the Institute, the team worked with districts nationwide to examine urban secondary school systematic

change. Back home, the team shared the Institute's ideas with Central Office administrators. Together, district leaders created a five-year strategic plan to increase co-teaching and make services more inclusive. Discussions with Institute facilitator Dr. Lisa Dieker helped solidify their goals. Over the next three years, the district carried out the following key strands of work targeted to achieve the goals of the strategic plan.

Building Learning Communities Focused on Inclusion. In Fall 2006, leaders redesigned the district's building-based PD to focus on inclusive practices and access to general education classes for students with special needs. They refined the five-year plan and with the support of Dr. Dieker—who served as the trainer—designed and delivered a four-day *Co-Teaching Leadership Institute*. To create a groundswell of support for the initiative, the Institute created building leadership teams. Each team included a building administrator English, social studies, and special education teachers (co-teaching or preparing to co-teach), and other staff (e.g., school counselors). On the last day, each team developed a building plan to increase co-teaching and inclusive practices with goals and activities for Years 1, 3, 5, and 10. The second and third Institutes—September 2007 and November 2007—followed this same pattern. On the last day of each Institute, teams revisited prior participants' work on the building plans and honed the plans, and the November Institute ended with

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members of the first two cohorts joining with the third cohort to revisit the plans. Central Office Administrators, including curriculum and special education supervisors, participated in all three cohorts. They provided support, on-site consultation, and PD as buildings worked to implement the plans from the Institutes. As the plans were well set by the 2008 *Co-Teaching Leadership Institute*, it focused on bringing veteran staff that had not signed up for previous Institutes as well as new staff up to speed on co-teaching and differentiation strategies from which all students benefit.

“A focus on inclusiveness, in education as well as in all other business or social enterprises, is an absolute and essential element for success now and in the future.”
Dr. John Mackiel, Superintendent, Omaha Public Schools, *Administrative Bulletin* (May 18, 2009)

In 2007 and 2008, the district received Comprehensive System of Personnel Development grants from the Nebraska Department of Education that enabled it to provide an array of PD to advance its goals. Core area teachers and staff (e.g., data processors that create schedules) in at least half of the secondary schools took part in PD focused on inclusive practices and co-teaching. All secondary principals participated in training that furthered their understanding of inclusive practices and gave them time to brainstorm and share solutions strategies. Other PD included a training for foreign language teachers on inclusion, co-teaching, and differentiation; a book study with principals/Central Office administrators; and building-based sessions at more than half of the 20 secondary schools. The district’s

PD efforts gained momentum, the amount of district-level PD focused on inclusive practices and co-teaching increased significantly, and more than 300 teachers and administrators were ready to support schoolwide systemic change to increase inclusive practices.

Gauging the Inclusiveness of the District’s Practices. In 2007, the district completed two audits that improved services for students that needed additional support. The registration audit of students receiving special education services and transitioning from elementary to middle school or middle to high school determined if recommended special education classes would move students into more inclusive settings. The audit also analyzed students’ schedules to ensure schools followed recommendations. In the event of a discrepancy, the administrator, principal, assistant principal, and special education department head met to pinpoint the cause and ensure they met the student’s needs in the least restrictive setting. The district now conducts the audit each year. A second audit focused on students in the Alternate Curriculum and Behavioral Skills Programs. This audit ensured that the students’ participation in general education was at the highest level possible.

Making Use of Expertise. The partnership the district formed with Dr. Dieker in its planning phase grew stronger over the years, and her support proved to be invaluable. In 2007, she began to provide on-site consultation to more than half of the district’s 20 secondary schools. She observed and analyzed co-taught classes, modeled effective co-teaching, interviewed students, and engaged in problem-solving with co-teachers and administrators. In 2008, her

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“A focus on inclusiveness, in education as well as in all other business or social enterprises, is an absolute and essential element for success now and in the future.”

*Dr. John Mackiel,
Superintendent,
Omaha Public
Schools,
Administrative
Bulletin
(May 18, 2009)*

Collaborative Spring 2009 Meeting: “Improving the Achievement of Students with Disabilities Through Data-Based Decision Making”



Participants were welcomed by Michael Remus, Director of Student Support Services, Deer Valley Unified School District and Dr. Shari Dukes, Director of Student Support Services, Kyrene School District

The Collaborative’s 2009 Spring Meeting on “Improving the Achievement of Students with Disabilities Through Data-Based Decision Making” was held May 6-9 in Phoenix, Arizona. Approximately 220 attendees representing 63 member school districts participated in the meeting, which featured keynote speaker Dr. Elizabeth City, Director of Instructional Strategy at the Executive Leadership Program for Educators at Harvard University, and a plenary session with Dr. City and Dr. Margaret McLaughlin, Associate Director of the Institute for the Study of Exceptional Children at the University of Maryland. This meeting also included seventeen concurrent sessions, in which member districts led presentations on a wide variety of issues and strategies related to the implementation and scaling-up of effective data-based decision making, and two size-alike sessions on the topic of the American Recovery and Reinvestment Act (ARRA).

Meeting attendees were welcomed to Phoenix by representatives of the two host member districts: Shari Dukes, Director of Exceptional Student Services for Kyrene School District, and Michael Remus, Director of Special Education Services for Deer Valley Unified School District. Deer Valley is comprised of the northwestern section of Phoenix and several nearby towns and cities, such as Glendale. Kyrene includes the southeastern section of Phoenix, the city of Tempe, and a number of other adjoining municipalities. Combined, these two districts are responsible for the education of more than 50,000 students in the Phoenix area. Given that both host districts cover large geographic areas, include multiple municipalities, and have diverse student populations, the effective use of data was a very appropriate topic for a meeting in this location.

Education practice has become increasingly data-driven under the requirements for No Child Left Behind (NCLB) and the Individuals with Disabilities Education Act (IDEA 2004), so it is important for administrators and educators to know how to use data effectively. Dr. Elizabeth City spoke on this topic in her keynote address: “Moving from All to Each in Student Achievement: Using Data to Drive Decisions and Actions”. Dr. City started by identifying a number of serious barriers to data-based decision making in schools and districts, including such things as having the wrong data for a particular use, lacking the necessary skills, time and resources to analyze data, and lacking the social norms and strategies to use data in

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driving decision making. She then provided three important tips for how schools and districts can improve their practice around data-based decision making: 1) cultivate vision, hope and ideas, 2) think big, but act small, and 3) repetition helps.

During the plenary session “Moving from Compliance/Reporting Mode to System’s Improvement Mode”, Drs. City and McLaughlin gave meeting attendees an opportunity to practice one tool for supporting systems change related to data usage: the Questions Formulation Technique. This tool is comprised of three basic steps and is designed to help guide discussion among decision makers. The steps in this process are: 1) to brainstorm and write questions related to the issue at hand, 2) to prioritize the questions in terms of their relative importance to the issue, and 3) to take the most important question and brainstorm additional related questions. The process can be repeated as many times as needed until the team feels that they have thoroughly examined the issue and identified all major concerns. Meeting attendees applied the Questions Formulation Technique to case example related to the use of data in schools, and had the opportunity to explore how this tool supports both the technical and social aspects of systems change.

The topic of data-based decision making was expanded further by a number of excellent concurrent sessions that illustrated how data can be used to drive systems reform, support instructional practice, facilitate effective student evaluation and monitoring practices, and even support students in monitoring their own progress.

Eight of the concurrent session presentations looked at data as a tool for driving systems reform. In particular, these districts are using data-based decision making to improve policies and

procedures, training and professional development, staff deployment patterns, and collaborative practice among teachers and service providers. The following presentations addressed issues of systems reform:

Indianapolis Public Schools (IN):

“The Full Purpose Partnership: Whole-School Reform through the Study of Data”

North East Independent School District (NY): “Improving Student Achievement through Collaborative Leadership and Systemic Change”

School District of Philadelphia (PA): “District and State Collaboration: Using Data to Drive a School Intervention Model Special Education Performance Grant”

Deer Valley Unified School District (AZ): “The Right Staff for Student Achievement”

Metropolitan School District of Wayne Township (IN): “Adapting Speech Therapy Service Delivery Models through Data-Based Decision Making and RtI”

National Dropout Center for Students with Disabilities (SC): “Using Data-Based Decisions to Increase School Completion Rates for Students with Disabilities”

Metropolitan School District of Warren Township (IN): “Eight Great Things...”

Another important theme in the concurrent sessions was the use of data in supporting instructional practice. As school districts work on implementing Response to Intervention and other tiered systems that enable more-and-more students with disabilities to access the full curriculum, teachers have had to become more sophisticated in the ways they use and understand student and class data. Five member districts presented on ways in which they are using data to

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Districts are also becoming more sophisticated in how they manage data for special education referrals, evaluation and progress monitoring.

Collaborative Initiatives

Unlocking the Power of District Data to Improve Student Outcomes



The focus of the Collaborative's Spring 2009 meeting in Phoenix was *Improving the Achievement of Students with Disabilities through Data-Based Decision Making*. There was much excitement and interest generated during the stimulating and highly interactive keynote and plenary session. Attendees were challenged to think about data, and the questions these data can be used to answer, in new ways. Attendees were also informed about a project that the Collaborative and the University of Maryland have initiated. The project - "Unlocking the Power of District Data for Improving Special Education" - is designed to help districts build capacity to analyze data using large-scale data sets and use what is learned to make real and measurable improvements in outcomes for students with disabilities. The Collaborative offered the opportunity for member districts to apply to be one of the ten districts to participate in the first cohort. These ten districts will be provided the opportunity become engaged in a community of practice focused on exploring innovative ways to look at and use the data sets they have on

hand. Participants will be guided on how to refine their questions, particularly those around the 14 IDEA Part B indicators, and get answers that guide decision-making. Participation includes 2-day hands-on session with project staff in late September.

The districts who applied and were selected to participate in the initial cohort are:

- Austin Independent School District
- Broward County Public Schools
- Cincinnati Public Schools
- Montgomery County Public Schools
- Norfolk Public Schools
- San Antonio Independent School District
- San Diego Unified School District
- St. Paul Public Schools
- Washoe County School District
- Worcester Public Schools

All our member districts will have multiple opportunities to learn and benefit from the project via CollabNews and other Collaborative publications, presentations at future Collaborative meetings, and online discussions.

For more information on this initiative, contact Ron Felton at rfelton@edc.org

Collaborative's "Meet Green" Initiative

This past spring, the Collaborative pledged to become more eco-friendly within the educational community. Our first initiative was integrating green items into our member meetings. We started by using paper from sustainable forests, buying tote bags and lanyards that were made from recycled materials, and working with the hotel where we hosted our meeting to ensure they were doing what they could to be conscious of our desire to create an environmentally sustainable event.

In our everyday work, we are researching ways to make our office more environmentally conscious. We use recycled paper, reduced lighting, and refillable water bottles. Moving forward, the Collaborative plans to

keep up with current trends in the green community and continually invest in products that are recycled and/or come from sustainable resources. Changing work styles to incorporate green choices can be difficult if taken on all at once. That is why the Collaborative is making one positive decision at a time to ensure a clean, healthy, and sustainable environment for generations to come.

We encourage all our member districts to think about how you can be more eco-friendly within your schools and brainstorm ideas for discussion on our online member boards. By working together and continually following green ideas and trends, we, as an educational community, are joining a worldwide mission to be more environmentally friendly.

Collaborative Initiatives



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support instructional practice:

Brockton Public Schools (MA): "A Tool Kit Approach to Using Data: (Prevention + Intervention + Identification) = RtI"

Washoe County School District (NV): "Problem Solving in a Response to Intervention System of Service Delivery"

Chesterfield County Public Schools (VA): "Data-Driven Decision Making to Improve Achievement and Address Disproportionality"

Orange County Public Schools (FL): "The Use of Data Triangulation to Drive Instruction and Staff Development"

Districts are also becoming more sophisticated in how they manage data for special education referrals, evaluation and progress monitoring. Three member districts presented on systems they have implemented to manage student data with the

ultimate goal of educating students in the Least Restrictive Environment:

Clark County School District (NV): "Behavior Change: How to Track it and Make Decisions"

St. Paul Public Schools (MN): "Enhancing Accountability: Implementation of a District-Wide Electronic Special Education Referral System"

Montgomery County Public Schools (MD): "From Your Kids to Our Kids: System-Wide Changes through Data-Based Decisions"

As schools and districts build their capacity to manage data, some are actively including students in this process. In particular, two member districts led sessions showing how effective data systems can enable students to self-monitor their progress on academic, behavioral and social goals:

Kyrene School District (AZ): "Using Instructional Technology to Increase Student Achievement"

Metropolitan School District of Washington Township (IN): "Data Does It!"

In addition to this wide variety of sessions on topics related to the effective use of data in schools and districts, meeting attendees also had the opportunity to discuss their plans for using ARRA economic stimulus money in size-alike groups. In groups of small, medium and large member districts, participants shared their plans for using funds from the stimulus package, examined challenges they are facing in accessing and using the money, and discussed questions and concerns they still have around issues of allocation and accountability. This conference on the topic of data-based decision making was a very appropriate setting for the size-alike discussions, as districts are beginning to move forward with their plans to implement systems reform and build staff capacity to improve the achievement of students with disabilities.

Fall 2009 Meeting



education, the conceptualization of Free Appropriate Public Education (FAPE) is changing. FAPE is more frequently being viewed now with an eye on outcomes and not solely the provision of a basic floor of opportunity for students with disabilities. As a result, effective transition planning and IEPs designed to allow students to make meaningful progress towards being prepared for postsecondary education, employment, independent living, and community participation are becoming increasingly prominent in the assessment of a school district's compliance with FAPE provisions.

We invite all Members, Associates, and representatives from non-member districts to join us in this district-to-district sharing opportunity. For more information on the meeting and how to register, please visit: www.urbancollaborative.org

The primary focus for our Fall Meeting is “**The Emerging Redefinition of FAPE: Preparing Students with Disabilities for Post-Secondary Success**”. At this meeting, we will be exploring how, as a result of recent due process and court decisions as well as increased federal involvement in establishing higher expectations for outcomes in public

Fall 2009 Meeting Keynote Speaker: **Dr. Mitchell Yell**



Mitchell L. Yell, Ph.D.

Our keynote speaker this fall will be Mitchell Yell. Yell is the Fred and Francis Lester Palmetto Chair in Teacher Education and a Professor in Special Education in the College of Education at the University of South Carolina (USC) in Columbia, South Carolina. Prior to coming to the University of South Carolina, Dr. Yell was a special education teacher in Minnesota for 16 years. During this time he taught in elementary, middle, and secondary classrooms for students with mild mental retardation, learning disabilities, emotional and behavioral disorders, and autism. He received his Ph.D from the University of Minnesota in 1992. His professional interests include special education law, evidence based interventions for children and youth with disabilities, school wide positive behavior support, and progress monitoring.

Dr. Yell has published 80 journal articles, 3 textbooks (*The Law and Special Education*, 2nd edition, *Evidence-based Practices for Educating Students with Emotional and Behavioral Disorders*, and *No Child Left Behind*, both in their 1st edition, published by Pearson/Merrill Education), 12 book chapters, and has conducted numerous workshops on many aspects of special education law and the education of students with mild disabilities. He is currently working on three additional textbooks: *Nature and Characteristics of Children and Youth with Emotional and Behavioral Disorders* (with Michael Rozalski) and *Preventing Disruptive Classroom Behaviors: Strategies for Teachers* (with Stephen Smith and T. Rowand Robinson), and *Using Sound Instructional Practices: A Key to Student Learning and Classroom Management* (with Geoff Colvin).

National Dropout Prevention Center and Urban Collaborative Continue Partnership

The Urban Special Education Leadership Collaborative and the National Dropout Prevention Center for Students with Disabilities (NDPC-SD) at Clemson University will continue their five-year partnership through at least 2014. Funded by the U.S. Department of Education's Office of Special Education Programs (OSEP), NDPC-SD will build upon its history as a successful provider of technical assistance, leveraging its work with state and local education agencies (SEAs and LEAs).

The focus of the next five years is to assist SEAs and LEAs in: (1) implementing and evaluating effective, comprehensive dropout prevention, re-entry and school-completion models and practices for students with disabilities; (2) developing and improving data collection systems to track at-risk students; (3) designing training activities for policymakers, administrators and practitioners on dropout prevention, re-entry and school completion strategies; and

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National Dropout Prevention Center for Students with Disabilities



The National Dropout Prevention Center for Students with Disabilities *is pleased to announce a telephone seminar on . . .*

Building Positive Relationships to Prevent Drop-Out and Other Negative Outcomes

Presenter:

Dr. Melissa Stormont

Associate Professor of Special Education at the University of Missouri

Wednesday, October 28, 2009

12:00 noon – 1:30 p.m. EST

SEMINAR CODE: 12242

Factors that are associated with successfully transitioning into adulthood include staying in school through graduation, avoiding teenage pregnancy, remaining drug and alcohol free, and obtaining linkages to postsecondary education, living, and employment. These tasks are accomplished through learning the social and academic skills needed to successfully navigate life demands within and outside of school settings. For children and youth with disabilities, building positive relationships are integral in this process. This teleseminar will include specific examples of research-based strategies for enhancing students' relationships with teachers and peers. Strategies for fostering collaborative relationships with families to enhance positive interactions at home will also be presented. Finally, the importance of outreach to specific groups of students with disabilities who have very negative outcomes, including youth who are in foster care and those who are homeless, will be discussed.

To learn more or to register, please visit <http://www.ndpc-sd.org> or call 1-800-775-7654

“...the implementation of the Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.”

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Now, close to three decades later, judges, scholars, and educators are struggling with the question of whether *Rowley* still applies. Why? Well ... take a look around and then take some credit. Special education has improved. It is no longer housed in a portable classroom, set so far in the back of a playground to ensure no meaningful interaction with typically-developing peers or the general curriculum. Rather, it consists of integrated learning centers, data-driven behavioral interventions, state of the art technology, and goals based on state academic standards that have pushed students with disabilities from the periphery of public education into the mainstream.

Either as a cause, effect, or both, special education law has followed suit. In 1982, the *Rowley* court operated off of a model of education historically based on state and local control. It did not have a federal government that imposed standards for teacher training or consequences for varying levels of achievement. It looked at a federal government that simply guaranteed constitutional protections such as due process and equal protection of the law. Now, some argue, we have a federal statutory scheme that holds schools accountable based on specific academic results. Thus, the question: should the FAPE standard now be based not on access, but on achievement?

To illustrate this perspective, look back to 1954. In *Brown v. Board of Education*, the Supreme Court rejected the notion of “separate but equal”, declaring, “Today, education is perhaps the most important function of state and local governments.... It is required in the performance of our

most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.” The Supreme Court identified values far more expansive than the test results that we emphasize today. Even more important, it identified those values as being under the exclusive control of state and local governments. It is not surprising that the *Rowley* court would interpret that EAHCA as being almost entirely devoid of a substantive standard for FAPE; the purpose of the EAHCA was to prevent discrimination, not usurp the authority of state and local educational institutions to define an appropriate education.

Proponents of a new FAPE standard argue that during the last three decades, though, there has been a rapid movement towards the “federalization” of education – that the federal government has stepped comfortably into the role of defining substantive expectations for students, utilizing NCLB for general education students and the IDEA for special education students. In the 1997 amendments to the IDEA, Congress acknowledged as much, stating that since 1975, “this Act has been successful in ensuring children with disabilities ... access to a free appropriate public education and in improving educational results for children with disabilities.” However, Congress noted that “the implementation of the Act has been impeded by low expectations, and an insufficient focus on applying

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replicable research on proven methods of teaching and learning for children with disabilities.”

The 2004 amendments took it a step further. In IDEA 2004, Congress stated that the purpose of special education was not only to address students’ unique needs, as the *Rowley* court recognized, but to prepare students for “further education, employment, and independent living.” That language is the linchpin for proponents who argue that it is no longer sufficient for special education to ensure access – that the new definition of FAPE, the new federal mandate, focuses equally on actually achieving some level of preparation.

Take a look at any court decision regarding the legal standard of FAPE and you will likely find the court struggling with terms that arguably define the new standard, terms like “meaningful benefit”, “potential”, and “results”. Invariably, you will also find the court grappling with issues surrounding transition planning. The last two decades have seen a gradual increase in the IDEA’s reference to the notion of transition. In 1990, IEP teams were required to include transition planning as part of the IEP process. By 1997, IEP teams were required to adhere to more detailed “outcome-oriented” transition requirements. By 2004, following some specific criticisms by the President’s Commission on Special Education, Congress further defined transition planning while emphasizing its import. Now referred to as a “results-oriented” process, transition planning was no longer the last-minute afterthought to a late-running IEP meeting; it was to be the central focus of the IEP process as a student

reached high school age, mirroring, or, in some perspectives, replacing FAPE requirements in terms of assessment, the determination of strengths and weaknesses, the development of goals and objectives, and the provision of services. The ITP, or Individual Transition Plan, focused on facilitating “the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.” In determining “meaningful benefit,” could FAPE now be judged by whether the child actually achieved his or her potential with respect to those articulated results?

Why the change from “outcome-oriented” to “results-oriented”? Functionally, they are equivalent. However, the 2004 reauthorization of the IDEA came at the heels of the 2001 reauthorization of the Elementary and Secondary Education, commonly referred to as No Child Left Behind. Under NCLB, Congress essentially imposed IEP-like requirements on schools, forcing them to develop school-wide goals and objectives based on state standards. In measuring performance, NCLB mandated that schools be held accountable based on actual “results”, including the specific performance of students with disabilities. It stands to reason that Congress would impose the same “results-oriented” analysis on the students themselves; by being held accountable for individual results, school districts would ensure that group results demonstrated sufficient progress to avoid the harsh

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What about the students with disabilities for whom the acquisition of a regular high school diploma is not a real possibility? To them, “meaningful benefit” could include the increased focus on transition planning.

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consequences imposed by NCLB.

The evidence that a FAPE actually requires some level of achievement seems overwhelming, doesn't it? Not so quick. Remember Amy Rowley? She demonstrated the ability, despite her hearing loss, to move from grade to grade without the additional supports that she requested. In her case, the promise of special education was relatively minimal because she had access to and could reasonably be expected to obtain the ultimate benefit of a public school education, a regular high school diploma. For her, the Court found that "meaningful benefit" was defined within the context of that expectation. Thus, couldn't "meaningful benefit" and "access" mean the same thing?

Doesn't that diploma, for the general education community, signify that preparation for "further education, employment, and independent living" has been accomplished? To argue that a higher standard now exists would be to argue that the promise of special education now exceeds that of general education.

What about the students with disabilities for whom the acquisition of a regular high school diploma is not a real possibility? To them, "meaningful benefit" could include the increased focus on transition planning. Doesn't that change provide those students with access to the same benefit that typically-developing peers obtain through a regular high school diploma, preparation for "further education, employment, and independent living"? One could argue that spelling out the purpose of the preparation represents a more specific definition of transition

planning rather than an attempt to increase the FAPE standard.

And, finally, what about all those "results"? If you look at federal law as a whole, it is evident that we have increased expectations for all students and accountability for their progress; that is accomplished through NCLB. With the increased focus on outcome comes a more specific benefit to which special education students must be provided access – adequate yearly progress based on state standards. In other words, the individual entitlement provided by the IDEA is access to the group entitlement of achievement provided by NCLB. Reverting back to our original analogy, NCLB operates as the pass, stretching the limits of Dwight Clark's potential. FAPE more appropriately represents the equal opportunity that Mr. Clark had to be in that situation.

Whether you are for or against a new FAPE standard, the fact is that courts across the United States are being confronted with this issue. Even if they do not accept that *Rowley* is no longer relevant, the arguments undoubtedly affect the evidence to which they pay attention. It is undeniable that NCLB has raised the bar for general education, which in turn requires more from special education. Consequently, out in the field, school districts must not only look to data that allows them to reasonably calculate education benefit, but must also monitor data such that if the child is not obtaining the expected results, the IEP team can be quick to respond. Stay tuned.

For more information, contact Jonathan Read, Partner, Fagen Friedman & Fulfroft, LLP, San Marcos, CA at: jread@fagenfriedman.com

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consultation work accelerated, and she provided on-site consultations at nearly three-fourths of the district's secondary schools. As Dr. Dieker shared her findings with district leaders, they were able to fine-tune their plans and tailor activities to meet the emergent needs of staff.

Staying on Course. In Summer 2008, special education administrators met with school improvement teams to ensure students with disabilities would take part in the general education program as much as possible. Teams analyzed their inclusive practice strengths and needs—and reviewed relevant data and state and federal reporting requirements—to prepare for the 2008–2009 school year. Engagement of school improvement teams in the summer planning enabled each school to add an inclusion goal or area of focus to its improvement plan. The district found the process to be so beneficial that it made this summer “inclusion planning summit” an annual event.

Spreading the Word. Each year, the district selects a theme for the school year. Leaders infused all Central Office communications with schools, parents, and community members with the 2008–2009 theme, “Omaha Public Schools...An Inclusive Learning Community.” Bi-monthly newsletters for elementary and secondary administrators and teachers featured an update that focused on how to make practices more inclusive, shared effective instructional strategies, and spotlighted successful inclusive practices from throughout the district. Sending these strong messages to the community has profoundly impacted the culture of the secondary schools.

Cultivating Change Agents. In school year 2008–2009, the district saw a sizable return on its long-term investment in co-teaching PD. The district had 262 co-teaching teams, and many schools shifted to providing special education through the co-teaching model (e.g., five of the 11 middle schools). Two high schools had adopted the Facilitated Support model—support for teachers to meet the needs of students with disabilities in their classes—overcoming a challenge to do so. Changes in special education teachers' schedules made it difficult for general education teachers to receive support. Advance planning and communication between special education teachers and building administrators and special education teachers and general education teachers proved to be key.

In addition to the PD, the district's outreach to new teachers helped cultivate a staff that values inclusive practice. During the 2008 new teacher induction, special education administrators oriented 400+ new teachers to the initiative and lay the ground work for inclusive practices. Part of the work included engaging new teachers in a book study of *From Disability to Possibility* by Patrick Schwarz. As a result, new teachers understood the initiative's goals from Day 1 and were ready to use appropriate instructional strategies and inclusive approaches with students.

Taking Stock. By 2009, the district's schools were noticeably different. In January, leaders shared the district's gains in co-teaching, inclusive practices, and access to general education classes for students with disabilities with Omaha Public Schools Board of Education. The significant growth in co-teaching teams resulted in an

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Leaders infused all Central Office communications with schools, parents, and community members with the 2008-2009 theme, “Omaha Public Schools... An Inclusive Learning Community”

*Patrick Schwarz,
author of From
Disability to
Possibility, notes
that the real
world has no
self-contained
stores, hotels, or
health clubs. To
prepare everyone
to live together
successfully, we
must educate
everyone*

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increasing number of students receive special education services in general education classrooms. And, the dramatic decrease in the number of special education pull-out sections of core area classes in middle and high schools signaled that the district's efforts to be more inclusive were reaching the mark. Inclusive practices began to be deeply rooted within the schools and the culture began to change, as illustrated by these examples:

Just Friends Clubs, extracurricular clubs in every middle and high school, pair students who participate in an alternate curriculum with general education students. The clubs contribute to an increased climate of acceptance among students and between students and teachers.

In the Cross-Age Tutoring Club, students from middle and high schools—some of whom were struggling academically—were trained as reading tutors and paired with kindergarten or first grade students. From the club, tutors have gained a sense of success and improved academically.

Parents support the initiative. A survey of parents of students with special needs found that 82% agreed their children are included in general education classrooms as much as is appropriate, and 84% agreed their children receive appropriate special education services. The Superintendent's Special Education Advisory Committee—parents of students with special needs, community agency representatives, and administrators—meets monthly to address issues related to inclusion.

Student-Led IEPs have begun to prevail districtwide. Many students lead their entire IEP meetings; some handle

introductions, share strengths, and lead teams in discussing transitions.

Blazing New Trails. Patrick Schwarz, author of *From Disability to Possibility*, notes that the real world has no self-contained stores, hotels, or health clubs. To prepare everyone to live together successfully, we must educate everyone together. Omaha Public Schools has embraced this goal. As the district moves forward, it will continue to emphasize inclusive practices. Some activities will continue (e.g., the *Co-Teaching Leadership Institute*), along with new strategies. The district will launch a systemic approach to increasing inclusive practices at the elementary level—much like the *Co-Teaching Leadership Institute*—that will target staff that serve early childhood students, alternate curriculum elementary students, and those with significant behavior difficulties. The district will also work to enhance access to general education instruction for students who participate in the general curriculum but receive pull-out instruction with special education teachers. Some plans—addressing staff's differing beliefs about inclusive practice and co-teaching, increasing passing rates in co-taught sections, providing PD for new staff due to turnover—will continue for years. With these actions, step by step, teacher by teacher, school by school, day by day, year by year, Omaha Public Schools is weaving inclusive practices tightly into the fabric of its learning environments. In doing so today, the district is readying all students to thrive in their real-world tomorrows.

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(4) assisting SEAs in meeting their performance targets, as reported in State Performance Plans and Annual Performance Reports, for Indicators 1 and 2 (Graduation and Dropout). OSEP funded NDPC-SD at Clemson University in 2003 to learn more about evidence-based practices in dropout prevention and to support State educational agencies (SEAs) in their efforts to assist local educational agencies (LEAs) in implementing these practices. Through its efforts over the last 5 years, NDPC-SD has provided services along a continuum of technical assistance in all 60 states and territories and in scores of school districts and schools. The ultimate long-term outcome of the Center's efforts is to assist SEAs and LEAs in building and implementing sustainable programs and best practices that will produce positive results in dropout prevention, re-entry and school completion. NDPC-SD will achieve this outcome through a set of interrelated knowledge development,

technical assistance and dissemination, and collaborative leadership activities. Central to achieving that outcome is the Center's partnership with the Collaborative. Given the significant challenges that urban school districts confront in reducing the dropout rate of their students with disabilities, Collaborative Members can expect an even greater presence of colleagues from NDPC-SD at Collaborative meetings and, more generally, to benefit from the Center's products and services in even more tangible ways than they have over the past five years.

For more information about NDPC-SD, please visit www.ndpc-sd.org



9th Annual Inclusive Schools Week



ISN products are available for purchase online! Use these items, including Celebration Kits, posters, pencils and much more, to promote your 2009 Inclusive Schools Week celebration and to raise awareness about inclusive educational practices throughout the year. This year, ISN is delighted to be collaborating with the Federation for

Children with Special Needs, who will host the official online store for ISN products. To view these products, order online, or download a PDF order form, please visit our Products Page and Secure Online Order Form: <https://fcsn.org/inclusiveschools/orderform.html>



Please visit our website for more information: www.inclusiveschools.org



Urban Perspectives

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NEW COLLABORATIVE MEMBERS

The Collaborative currently links 107 school districts from 31 states plus the District of Columbia and the Virgin Islands. Six school districts have joined since March 2009:

Colorado Springs School District #11, CO

Anchorage School District, AK

Michigan City Area Schools, IN

Champaign Unit 4 Schools, IL

Williamson County Schools, TN

Tucson Unified School District, AZ

For a complete list of Collaborative members and enrollment information, please visit our Web site at
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