

The States' Impact on Federal Education Policy Project: New Perspectives on Research and the Historical Record

Transcript of Session 3: Improving Educational Opportunity: The Case of Students with Disabilities

Christopher Cross: The session this afternoon is on “The Case of Students with Disabilities” and “Improving Educational Opportunity.” I want to remind you, to begin with, that there are index cards on your table. I will ask you to write your questions on them and, as somebody said in a session the other day, you get extra points for legibility. If I can read them it helps a lot. Write them as we go on through the session so that we are not trying to collect them all at the end. Staff will circulate and pick up your cards, or just hold it up and somebody will come by and pick it up as quickly as possible. I think this will be a very interesting session because it focuses on a specific case in point; one that has great, I think, immediacy and relevancy to this topic around the state and federal policy.

We are very fortunate to have with us as our keynote presenter Tom Hehir, who is a Professor of practice at the Harvard Graduate School of Education. Tom was with the U.S. Department during, I guess, the entirety of the Clinton Administration, basically, wasn't it? Six of the eight years. And was very involved in the writing of the amendments to IDEA in 1997. His bio notes that you have in your package. About ninety percent of the reauthorization proposed by the administration was adopted. That's a pretty good track record in this town. It is a very good track record. Before coming to the Department Tom had been Associate Superintendent in Chicago for special education and student support services.

Our other two panelists I'll introduce now. You have their bios on them. I am not going to go into detail on them. On your center part, Tom's left, is Maggie McLaughlin, who is a Professor in the School of Education, specifically in the Department of Special Education, at the University of Maryland. Maggie and I had the fortunate opportunity to serve on a National Research Council panel six years ago, I guess it is now, on the representation of minorities and gifted in special education. It's a report I still find to be very topical and we still get quoted a lot from that report because of the data that is there and the issues that it addresses around the placement of students in special education, and the over- and under-representation as the case may be. One of the things that we recommended in that report was early identification and intervention and that, in fact, was adopted in the latest set of IDEA amendments.

On Maggie's left is Sandra Covington Smith who is a Research Associate with the National Dropout Prevention Center for Students with Disabilities at Clemson University. So Tom is going to have about twenty minutes to present. You have in your packet his PowerPoints. You might want to take them out to take notes on. Then we'll engage in a dialogue, then have the table discussions for twenty minutes or so, twenty-five minutes, and then do the questions and answers after that. So with that, Tom, please come to the microphone.

Tom Hehir: Good afternoon. It's always great to be speaking to people right after they have eaten lunch. I won't take any offense if some of you nod off. I will try to prevent that from happening. I want to talk today about the Individuals with Disabilities Education Act, the IDEA, in a sense like a case study of federalism. We've gone, as Lorraine said in her paper, and I thought it was a terrific paper. We've gone, Maggie and I are old enough to remember, and my former superintendent Bud Spillane is back there, he is old enough to remember as well when we were a separate categorical program. That's essentially what was encouraged by the legislation – separate funding streams, often separate places for kids with disabilities, with subsequent reauthorizations to being much more part of the mainstream of public education. I think all of that is good but, of course, I am biased in that view point given my role in the '97 reauthorization.

I think one of the things that people forget, and this is changing because of our place in the mainstream, because you have to disaggregate the performance of disabled kids on standards tests and so forth, that kids with disabilities are coming much more into the forefront of practice at the school level.

I was talking to some of my former colleagues at OSEP today and OSEP, which is the agency that implements IDEA, however, with the federal Department of Education, is segregated. It is off away from the main department and I think that that's a metaphor for how Washington has yet to learn the lessons that are readily available from IDEA as it relates to federalism. We have had, meaning special ed, we've had a long history now of thirty-plus years of implementing a federalized program in schools throughout the country with a relatively stable policy regime as it relates to IEPs, due process rights for parents, etc., etc. There's a lot that can be learned from that.

One of my doctoral students recently did his dissertation, in which he did a policy study about interviewing all kinds of folks here – lobbyists, people on the hill, and people in the agency. His name is Arun Ramanathan. This is published in the Teachers College Record, I think the last edition or the one before that, asking the question whether federal policymakers and advocates and so forth had used the experience of IDEA in crafting No Child Left Behind, because No Child Left Behind from a federalism perspective, at least from where I am in my age, represents a very radical departure as it relates to general education, I think, in terms of the federal role. [It] is much more expanded than it has ever been, and so his logical question: "Have the folks in Washington looked at the lessons learned from federal enforcement under IDEA, or other lessons learned in crafting of No Child Left Behind?" The answer to that question was, "Good question." It's amazing when you look at these transcripts, with a couple of exceptions, a couple of notable exceptions, the answer to that question is simply no. I think that's too bad because there's a lot to be learned from this story.

I love to use anecdotes. Lou Danielson is from OSEP. He has heard all my anecdotes. Probably not this one because it happened yesterday. I teach a course at Harvard called "Implementing Inclusive Education." The students in my class are largely people who are going to be principals, school administrators – general ed folks mostly – although there are some folks from the special ed world. I am fortunate to always in my class have significant numbers of students

who have disabilities themselves because it is one of the few courses in the university that deals with the disability topic. Several of my TFs are here, and they can attest to that.

Last night I had...at the last class I have a group of kids from a local high school who have significant disabilities come and talk about their high school experiences and their school experiences, where they are going in the future, etc. This is a terrific high school. This school does a terrific job with these kids and they're presenting to my class about their kids with Down syndrome, autism, and various types of significant disabilities, about the importance of their participating in high school. Their likes and dislikes. The subjects they like. One talked about not liking Macbeth very much. The kids having these experiences really hit home to me about what I was going to be talking about today because I think that when you're my age and you started out in this field. . . I have always been in special ed my whole career, I wasn't mainstreamed until I went to Harvard as a faculty member. A lot of us, who went into the field when I entered the field, entered the field to prevent the institutionalization of children with mental retardation, which was a ubiquitous practice in this country, heavily supported by state policy and, to some extent, by culture. When I look at these kids who, if they were born thirty years before, may very well have been institutionalized, may not have even lived if they went to certain institutions, the care was so poor; I look at these kids who are teenagers with well developed thoughts about the future, preferences, and so forth; I am really struck by the fact that we clearly have made progress as it relates to kids with disabilities. There is good data that shows that we made progress about kids with disabilities. I think that progress, however, has not been easy and it has not been even. There are huge areas where we need to continue to improve, but when I look at the story of these kids and I look at the topic of what we are talking about today, which is the state federal relationships, I know that those kids wouldn't be there, in my view. The results that I was seeing in these kids in my class would not have been there without the hand of the federal government and without the Commonwealth of Massachusetts.

I think that the state and federal government...when things work the best, things can happen. Things can change in schools. I have a colleague who is very fond of saying that if Horace Mann came into the schools of Massachusetts today they would look like they did when he was around. Well, they don't as far as these kids are concerned. Horace Mann would not have seen a child with Down syndrome in one of those classrooms. But the actual changes that have taken place that enable that type of result to take place are not easy changes in schools. It's not just a matter of people saying, "let's put this kid in a classroom," because when IDEA was passed – and it had the same requirement that it has today, which is to serve kids in the least restrictive environment and thou shalt do that through a legal regulatory coercive approach, which has been part of the approach, in IDEA – we didn't know how to do it. We didn't know how to do it. We have learned how to do it. Now do all kids with those types of disabilities have those opportunities? The answer to that question is no, but many do.

I want to go through quickly first, this concept of the degree to which the states influence the feds, the other way around. Typically when you're at the federal level you think about, well, how do we tell the states what to do? Then the states say, "How do we tell the locals what to do?" Again I think Lorraine's paper did this very well. It's more like a marble cake. I think that that's the metaphor I picked up the most on. When 94-142 was passed, when the federal special education law was passed, there already were state models available. The vast majority of states

did not educate all their disabled kids, but some did, and there were some state models, particularly the model of Massachusetts where I'm from. There were whole sections of the Massachusetts law that were dropped into the federal law. Subsequent to that, in 1997, when there were significant amendments to IDEA, we could say, "Well, Kentucky has done this." That there are states that have, for instance, inclusive testing policies, so the notion that states influence the feds is, I think, from my perspective, quite strong.

I want to just go through a few things to just emphasize how much change has taken place over the life of IDEA. These are some of the positive things that have occurred. A lot of this data is taken from the National Longitudinal Transition Studies, of which there are two. There was data that was collected in 1987 that was reported on in 1993. A similar, almost exact same design was used again in 1997 and data was generated in 2003. So what you can see, even though I know the researchers in the group are going to say that they are not necessarily comparable populations, but blind kids are blind kids. Comparing what is happening with blind kids, I think, is useful.

What we have seen, and this is very consistent with what Mike just presented, what we have seen around attainment levels for children with disabilities, at least during the time of initial standards-based reform, have been significantly improved. Completion rates for kids with disabilities have improved and the dropout rate has gone down seventeen percent. With these changes, seventy percent of the kids with disabilities are finishing high school. Post secondary participation rates have gone way up for kids with disabilities in this country. Most of that has been at the two-year level but there have also been significant increases at the four-year level. There have been great increases in employment levels as well as income levels for kids with disabilities leaving high school. These are very significant changes in a short period of time.

Even for the population of kids for whom we are doing the poorest in this country, kids with emotional disturbance – we are doing terrible with kids with emotional disturbance in terms of outcomes and attainment – there has been some improvement. And there's been some interesting changes as it relates to gender and things like employment and so forth. However, almost all of the improvement that has occurred for kids with disabilities has been for middle and upper-middle income kids. By and large, looking at this study, the poor kids and kids of color have made only very, very small changes over this time.

So when we look at IDEA as a case study I think we can say that for the kids that I had in my class, who were largely middle class kids, last night, for those kids this law has been working pretty well. For poor kids and for kids of color we have to really question that. And if we add to this the problem that Chris and Maggie researched in that National Research Council study, the misplacement of the kids of color in special education, it's not a totally rosy picture. There's a good deal that we can learn.

One of the things – again this is a theoretical proposition that I guess people can start putting some research against. From my perspective, as a practitioner predominantly (that's been what I've done most), and as someone who has done some research, it is very difficult in the policy world, we all know this, to make causation arguments around policy changes. It's virtually impossible to do, but when we look at what has happened in this country as it relates to

improving what's happening for kids with disabilities, one of the things I think we need to acknowledge as a culture is that we have vastly improved attitudes. That's a cultural change that may have been influenced by law. I think it probably was, but we have much improved attitudes. May be some of the employment gains that kids with disabilities have enjoyed over the last ten years may be due to the Americans with Disabilities Act. We don't know. I think that improved attitudes matter.

When we look at schools that do a really good job with disabled kids, when we look at case studies of schools that do a really good job with disabled kids, attitude is big. It's very big and it comes from the principal. It comes from teachers. These kids belong here. We are accountable for these kids, etc.

The other thing that I think is important is improved educational practice. This is where the state-federal interaction, I think, has been so important, that there are practices that we engage in in American schools today for kids with disabilities that did not exist thirty years ago. A lot of those practices have been supported at the federal level through Funding Part D of IDEA, which is the discretionary programs. One of the things that I think that the people who constructed IDEA, I think were right to do, was to recognize that in order to do the massive change that IDEA has envisioned for the country, that we have to show people how to do this. We have to show people how to do this.

So improved educational practice is part of that as well. This takes place within a rights-based environment. IDEA is a very rights-based piece of legislation. It was designed that way, and it was designed that way to cure quickly the ills of exclusion of disabled children from school, in other words, giving parents an implementation vehicle that enabled them to have some power that they previously didn't have over the decision making of school districts. A lot of my friends in school districts wish that that went away. I think one of the things, and again this goes back to Lorraine's paper, one of the things I think it's important to recognize is that this is not going to change. This is unlikely to change. I happen to think it is a good thing but that's my value system. Not everybody agrees with me.

So when you look at this improved practice within a rights-based environment one of the things, going back to those kids who were in front of my class last night, that came home to me was the inclusion of kids with significant disabilities, in and of itself, is an important case study. The notion that kids with significant cognitive disabilities would be in general education classrooms in every state in this country, and they are, was far out in 1985. That was far out. That was something that we didn't know how to do, and some people said you couldn't do it.

One of the strategies that was employed at that time (first promoted by Assistant Secretary Madeline Will, who was Assistant Secretary under Ronald Reagan, and supported by the Congress through appropriations) were called system change grants that states could apply for, where states worked with university partners and parent groups to help develop the practices that enabled kids with significant disabilities to be included in typical environments. That interacted with this rights-based environment that IDEA has already had, in that once these practices were developed and they became known by parents of kids, the courts started finding in favor of parents seeking more inclusive education for their kids. In other words, what the courts found,

and for instance the Oberti decision, is that if one school district can do these practices then all schools districts should do these practices. So they entered into this rights-based structure that exists in IDEA. In other words knowledge development, learning new practices, interacted with this rights-based environment, which has really significantly changed what's happened in schools.

When I first went to Washington I gave a talk to a group of parents and a parent advocate came up to me who I know very well and respect deeply and she said, "Thank God you're here, Tom. Now you can start beating up on the states." And I said, "Ooh. That is not exactly the role I want," because a week before that the State Director for Illinois, Gail Lieberman, was, in a sense, monitoring me. So getting to these different levels. But one of things that changed the way I looked at these issues was the way in which the State Director, Gail Lieberman, who is a very talented leader, the way in which Gail dealt with massive non-compliance in the Chicago public schools around the issue of integration of kids with disabilities. What Gail had said to me was, "You know, we have this OSEP program in Illinois called the system change grant. We have these people working at universities in Illinois who really know how to do this. Tom, let me connect you with them." So, on the one hand she was saying to me, "You must do LRE," and she had to do that. That was her role. On the other hand she was able to say, "We have some vehicles available to you to help you do that."

Since that time – again this influenced the way I thought – and granted there were times when I certainly had to take some strong enforcement actions with states, but it wasn't our preference and I don't think it ever is the preference. The federal government rarely does that. So that's another given. The federal government really rarely will do punitive actions against states. It very rarely happens. It happens in the extreme end. So what we need to be looking at even to a greater degree, I believe, in the future, is ways in which the federal government and states can work together to develop capacity in local schools so that fundamental change can occur. I think that's come across with many people here.

So there are a number of things that have happened since then that are things that I think people should be looking at in terms of research and archiving these efforts. The systems change grants as it relates to severe disabilities. If any of you archival people are here, start getting that data because there has been very little that has ever been written about that. I think it has been one of the most successful federal-state efforts that has ever occurred.

The state and the federal government. There have been regional resource centers and technical assistance providers that have worked with the states in which the states say, "This is what we need," in which there has been much more of a collaborative effort between the states and federal government.

In the 1997 amendments to IDEA, one of the things that I think, again, something that is worth researching as well as archiving is the incorporation in that piece of legislation of what's called the state improvement grant program. This largely came from NASDSE, the National Association of State Directors of Special Education, who were largely supportive of the very significant changes that occurred in 1997 around including kids in accountability systems, including kids in the general education curriculum, access to the curriculum. I remember Martha

Fields, who was the Executive Director at that time, meeting with me and saying, “You know Tom, we are on board for all this stuff but we need the capacity to do it.”

The state improvement grants came about from those conversations. And these are grants that go to the states – relatively small grants, but the vast majority of states have sought these and have put their own resources into them – that seek to improve the ability of...primarily the ability of teachers and administrators to do their jobs. In other words, to build capacity at the local level. And again one of the things that these longitudinal studies show very clearly is that between the first study and the second study there has been an enormous amount of effort that has gone on throughout this country in training general education teachers about the needs of kids with disabilities.

In the first study, the number of teachers who had received training, or even information about the kids with disabilities in their classes, was very small. The second study very large. I think these things, I think the state improvement grants, have been part of that. There’s also been built into this, and again this came from the states – one of the problems that we have in Washington, one that you all have...I am not in Washington anymore. I get back into this hotel, I think I am almost back to my old office. I have spent a lot of time in this hotel – one of the things is that the pressure is so great to get the federal money down to the schools that there often isn’t money for innovation. If schools are going to do things differently there has to be some resource commitment to learning how to do something differently. One of the things that took place in the ‘97 amendments to IDEA is allowing states to retain some money of the increase in federal money that they receive, to use that money for one year for local capacity building grants. And I know in Massachusetts where I hang out now, those grants have been used very, very well by local school districts to help address some of the issues that are persistent in the achievement gap between disabled and non-disabled kids.

So that’s pretty much...I could go on and on as you probably all know. Again I think it’s important...Given when Gordon talked to me about coming to this conference and talked about the notion of how do the states influence the federal government, not the other way around, it really made me think in some very important ways about how that relationship, coupled with the same way of thinking between locals and the states, can be extremely productive. Thank you.

Christopher Cross: Thank you very much for a very good presentation. [adjusting microphone] I think, there we go, alright. It takes a little time to get warmed up. Special education really is an interesting case study and, I think, one that tells us a lot about these relationships and a lot about the influence of states on federal policy. It’s always been my thesis that because Massachusetts and some other states have done it well, the federal government saw an opportunity to go in, fill the vacuum, and make everybody do it. In many ways we have seen that happen; in bilingual education, we have seen it happen in NCLB, and other areas where the federal government has said, “Oh, everybody should do the same thing.” So I know both Sandra and Maggie have some comments on this. I would like to start with Sandra and give us your perspective.

Margaret McLaughlin: (Inaudible)

Christopher Cross: I am sorry. Maggie you are going to go first.

Margaret McLaughlin: I will go first.

Christopher Cross: Alright.

Margaret McLaughlin: Doesn't matter.

Christopher Cross: I thought you changed the order on me. Go ahead.

Margaret McLaughlin: Thank you Chris, and thank Gordon and all the other organizers of this for having this session on IDEA and special education policy. I totally agree with Chris and with Tom that this is an excellent example, a case study of the federal-state relationship and the uneasiness and tension in that relationship.

I would like to take a few minutes to kind of revisit this morning's presentation, which was a lot about metaphors, but I think they were excellent metaphors, both from Lorraine's paper, Jeff's comments and Kathryn McDermott's comments. What struck me reading Lorraine's paper and listening to the comments this morning about the struggles with federalism, and what we'll call the general education environment, it's almost an opposite. Same things happened with respect to special education policy, but it is just upended. And by that I mean that this whole idea of venue shopping. Prior to the late 1960s that is definitely what parents and advocates for children with disabilities were doing. They were looking for influence anywhere they could find it.

There was a very active federal lobby that tried to get children with disabilities recognized in ESEA in 1965 with limited success. They got a small program there. We got some teacher training, federal money, but at the same time these various advocacy groups and entities were working within their states. We talked a lot about levels of governments. We didn't talk a lot about branches of governments. Where things really began to change in terms of venue shopping was after the *Brown* decision – after the successful argument that education is a protected right, it's an individual right under the Fourteenth Amendment – when the venue shopping shifted to the courts. And in essence the advocates said, "You know, we don't need, really, to push on...you know, I might need education for my daughter tomorrow, and I will work on that," but the big movement moved to the courts.

I was going to tell Gordon, I don't know where he is sitting, but there were many fine state superintendents, former state superintendents, including yourself, that are memorialized in our history because of some of the cases that have been landmark cases that defined special education federal policy. That's where most of the action did take place until we reached the late '60s and early '70s.

At that point we began to move into, to borrow Manna's "borrowing strength" metaphor. It is a little overlooked fact that at the time that we were trying to develop this federal legislation, the chief state school officers, governors, and others were as equally interested in this federal law as were the advocates for some different reasons. One of the reasons, of course, was they wanted federal money because they saw that they were going to have to do this. There were state

precedents, the seven states, in addition, they were coming on board and their hope was, of course, that the federal government would fund the full cost of this, which never has happened. There was another piece of this interesting dynamic that never really gets discussed and I think this is part of our history that, from an archival point of view, needs to be addressed both with the state and the federal level. That is that many of the state officials hoped that the federal government would put some parameters or boundaries on what their obligations would be in special education. Massachusetts had a very far reaching Chapter 766. My state, Maryland, had birth through twenty-two. Michigan had birth through twenty-seven, I believe. They said, “Look, if the federal government can start to constrain some of this as well as give us funding, we’re on board.” So it is a very interesting, nuanced history.

So yes, we had that and then we reached a very strong and very prescriptive federal law that is part civil rights law – the procedural safeguards, the kinds of paperwork that people talk about – and part education law. What happened after that, I think, reflects this kind of tension between states and locals. I agree with whoever brought up the question in the first session about where are the LEAs in all of this. That is this issue that we had and continue to have, a very top-down, very prescriptive set of federal policies that have become increasingly prescriptive over time. Having found the venue that will respond, meaning Congress and the federal government, those who advocate – and it isn’t just “parents and advocates;” it’s all the special interest groups, the state directors of special education, and the local directors of special education, people who really believe in the education of children with disabilities – find and have found strength as well as receptivity in Congress.

So what we have done over time with this law, in my view, is put things in place that we don’t necessarily have the capacity to do. The federal government has responded and Congress has responded, of course, through that law with this broad array, certainly never enough money, but a broad array of discretionary programs: building teacher quality, research, technical assistance, the systems change models, I mean a very rich array of supports to states and ultimately to local districts to implement what is an increasingly difficult lot to implement. One of the areas, just to illustrate, is the IEP where parents and other – not so much I would say, perhaps, the groups that represent schools as much as those who are perhaps more child focused – see the IEP as a way to change their child’s education on a day to day basis.

So I have written in the past about the federal government’s reach exceeding its grasp where you have these very strong policies that we clearly do not have the capacity to implement. The only thing I want to say about capacity, because I know Sandra is going to address that, is that I would like to add to our list of capacity factors, knowledge. I think we have talked resources, we have talked human capacity, organizational and institutional capacity, other sorts of political capacity; but I think one of the things that we really need to acknowledge, and I am going to speak in my own area, my own field, but I believe it is endemic, and that is: do we really have the technical knowledge to do the kinds of things that we are asking schools to do, whether it’s getting all children with disabilities to a specific standard, performance standard on the state assessments, getting all children with disabilities to be employed at the same rate, at the same level of employment and attend higher education at the same level, etc.? So with that I have stayed within my time and now here is Sandra.

Sandra Covington Smith: Tom, first, thank you once again for a very good presentation. And I just wish that more of my colleagues, more of my generation, could have heard you from that perspective. And in saying that, I like to set the stage because for me, as I look back starting with 1975, starting with this particular law, I think about where was I and what was I doing? Where were my colleagues and I? How would this have impacted us then? How has this impacted us now? It definitely has done that because we cannot know where we are going to go, where we are going end up, and what we want to do in the future, what impact we want to make, and what changes that we have got to bring about until we know from where we have come and where we have been. So as we start to look at the area and research, how has this been an impact on states? How has this been an impact on the LEAs? Great presentation. They would have thoroughly enjoyed your point of view, so thank you for that.

But I have seen change. I have seen outcomes. Especially when we look back, in 1975, only seven states were providing those services for students with disabilities, only seven. I look now, when we discussed the reauthorization of No Child Left Behind, we look at maybe increased flexibility and what that will do for some states and how SEAs will respond to that. But at the local level where we are actually seeing impact, where we are actually seeing some change, where we are actually seeing outcomes are being very positive, especially for students with disabilities, we are seeing definitely a change in attitudes. We are definitely seeing a change in practices.

So also for students with disabilities their in-school experiences at times have been negative, so we are changing also in-school experiences, and if we are changing those in-school experiences in line with instruction, in line with overall relationships with those students, and in line also with how you end it, with knowledge. Do we know exactly how to include those students into each of those classrooms? Are we bringing effective instruction, evidence-based practices? Teachers, educators are asking for that information. Once again, as that is part of the federal mandate and they are being asked to make certain that all students are succeeding, that all students are excelling, we know that they must be taught how do we bring about this change.

So we know that if we are going to look at students as being successful, how do we operationally define success? It will not look the same for all students. Look at that as a contextual fit. It would not look the same for all states. We also know that within that vacuum, that success is success, but it will look very different based on the disability, based on the individual student, based on gender, and then based on that student once they leave high school.

Along with our technical assistance center, we go out and we work with SEAs and we work with LEAs. We're finding out that there are, again, those models, those top down models but also there are those bottom up models. We ask three questions. Are you ready? Are you willing? And are you able? All three have to be yes. It can't be yes, no, and yes. All three have to be yes. Then the charges form to lead forward, to go forward, saying we will not turn back, but as we go along the way, what are those benchmarks that look at success for each of those individual students based upon our past, based upon where we've been, and where we want to go? Specifically, approximately four years ago, every eight seconds a student was dropping out of school, every eight seconds. Last year that increased to every eleven seconds. So we've made some changes. We've made some improvements, but we still have a ways to go.

To talk about building capacity, when we go in and we work with SEAs and LEAs, they know what their charges are from a federal mandate, from a federal standpoint, but they want to know how to build capacity. So when we start from the top level how can we make certain that our efforts are not duplicated? How can we make certain our efforts are going to be sustained across the board? So I need you to come in and not only teach me but make certain that I can teach others, make certain that I can show others how to be effective in their practices as well.

So how are we defining capacity-building? How are we defining success? What does that look like for each individual student? How does that contextually fit within your SEA? How does that contextually fit within your LEA? Do we have the appropriate resources? Today we've defined resources in many different venues. We need the appropriate people. We need the appropriate funding. We need the appropriate time. Time is probably the number one resource that educators will always identify that we do not have enough of. After time it becomes funding.

So, once again looking at capacity-building, to continue to go from: this is where we were, once at seven states, now we have mandated and now we are all including students with disabilities across the board. Now we have capacity to reach out to regional resource centers, which is that cross-state collaboration that someone mentioned earlier this morning. We do have that capability. It is in the works, also reaching out to national technical assistance centers, using those resources that we have. But what I am seeing along the way, we were not making progress fast enough, but progress is progress. I am saying that I will take some success, a little success, over no success because it's happening, but I'm finding that the change is happening at the local level.

The greatest impact is happening at the LEA level, however, we are showing that it's coming down from the SEA level and that it's coming from the federal level as well, as it relates specifically to No Child Left Behind. Although there has been considerable controversy on the, I guess, the appropriateness of expecting the great majority of students with disabilities to meet the standards set for all students and the accountability for improved outcomes that necessitates meaningful and effective programs using scientifically based education interventions, we know that NCLB should continue this focus on equity for all students by requiring and adequately supporting the educational performance and academic achievement of all students, including those students with disabilities.

Christopher Cross: Thank you very much to both of you. We have about twenty-two minutes or so for table discussions. On the agenda and the policy guide are several discussions for your consideration. I want to remind you, again, about writing out questions. They can be individual questions as well as group questions, so don't feel that it has to be a consensus. If you have a question, get it down and pass it on. At 2:30 we will begin the consideration of questions. Thank you.

Question and answer period following table discussions

The first question was inadvertently cut from this recording.

Margaret McLaughlin: [beginning of response cut off] ...in Congress, the U.S. Congress, and so any time there was and is a problem in the implementation, or something isn't exactly what people hoped for in this legislation, they seek that change through the federal policies and I think it is extended to No Child Left Behind. The regs for the one percent alternate assessment and the two percent modified reflect a very strong view of what we hope will happen in classrooms, not just that they're there, but what children will be taught, how well they will learn, etc., that is reflected through a federal policy that will come down through the states in a very...almost rigid structure from state to local. There is a lot of tension there with this whole other general education, fragmented centralized policy context. So I think that we've layered on in the IEP an enormous amount of requirements that are put there with good intent. Hopefully it'll get kids jobs, it will get them this, it will get them that. We can't do that. The federal government, I don't believe, can do that, number one.

The other issue is, I think, there are expressions of hope through those that as I said before, we don't have the technical, scientific knowledge or know-how to achieve in some of those. My feeling is we need to step back, not away at all from a strong federal civil rights law, but to look at all of these requirements that have been layered or added over the years and to begin to say, "We have exceeded our capacity, we have exceed state and local capacity to implement these. Now what?"

Christopher Cross: Very interesting. I think one of the issues here is the federal legislation, because it is a venue that covers the entire country, becomes the vehicle upon which so much is attached to it, whether or not it's appropriate and thoughtful relative to federal policy or not, and it becomes something you can sort of put another little trailer on it, and it will take it off whether it happens to be NCLB or anything else. It's sometimes not necessarily with a lot of thought. Sandra I wanted to ask you, and then Tom to comment on a question from one of the tables about: has NCLB improved education for disabled students and what's the research about that?

Sandra Covington Smith: Improved education for students with disabilities?

Christopher Cross: Yes.

Sandra Covington Smith: It has held us accountable for educating students with disabilities. In my opinion it is too early to make that determination. However in being accountable for those students and being accountable for making certain that they are afforded the rights as all other students and that we continue to look at them with their own unique characteristics, but also not only as their disabilities, but also their abilities. So yes, definitely some great strides have been made. We definitely continue to progress but more than anything we have been made more accountable. We are accountable as educators. Parents are accountable as asking us to make certain that they are included, to make certain that they are receiving free, appropriate education in the least restricting environment, and to make certain that we are following through on each of those items that are listed and that should be provided to them under the safeguards of the law. So definitely we have made strides and I think we will get there but by no means have we taken

any steps back. We have not taken any negative steps but we definitely have transformed and we've moved forward.

Christopher Cross: Ok, Tom in addition to that there is another question which is very related: to what extent did research and evidence influence the integration of special ed students and in other words “least restrictive environment” – into the general education program, going way back into 94-142 and subsequent reauthorizations? And to what extent was that policy or advocacy or a combination of both? And from your view point, what about the research on the effectiveness of NCLB on special ed kids?

Tom Hehir: Ok, as far as the original inclusion in the legislation of “least restrictive environment,” which is kind of like a legal concept, there was what I would describe as primitive research – I am not sure I would sign off on it as a doctoral dissertation – research that compared kids in segregated classes compared to kids who were integrated. Even back in 1975 the impact of segregation looked negative in the research that was there at that time. Do I think “least restrictive environment” may have ended up in the law otherwise? I think maybe, because again it was a strong advocacy position.

Primarily again, people, understanding the genesis of this law, really have to understand the group of parents that have had the most sway in this law have been parents of kids with mental retardation, for a couple of reasons. One, if you have a kid with mental retardation it really does change your life, as a parent, but secondly they are the largest population of kids with significant disabilities, so there's numbers. So you are talking about one in a hundred kids. So those parents were, when this law was passed, were reacting against institutionalization so that that was part of the “least restrictive environment” notion. In other words, if you are in an institution you are being completely restricted. So again that was inserted, I think, because of that, and it was in the Massachusetts law, frankly, and they took the Massachusetts law and they put it into the federal law. From my perspective, thank God.

Since that time, however, I think it's important to understand that...Lou Danielson who used to work at OSEP knows this stuff better than I do...is that subsequent studies continue to show the influence of integration as a positive impact, on average, for kids with disabilities. The research picture today is much more sophisticated than the research that existed when the law was first passed because just putting kids in regular classrooms without the appropriate accommodations and supports can be worse. So, again, integration is associated with better outcomes for kids quite a bit, in certain categories of disabilities the impact is quite a bit. In other categories it's relatively less. But integration is associated with better outcomes.

In terms of the impact of NCLB, again I think that's an open question. The data that I showed you is data about students who were in high schools in '97. Is that right Lou? In '98 when these kids were in NLTS2? They were in high school in 1998 and the follow-up data is 2003. In other words this is a cohort study looking at kids who were in high school at a particular time and what is their status as adults? Are they employed? Are they going to college? Whatever. So that's pre-NCLB. So again one of the things that I think is when we talk about federal role, one of the ones that I feel very strongly about – this kind of piggy backs on one of the things that Maggie said – is the importance of the federal government playing a knowledge development role. That

if Bill Gates doesn't fund it, it's the federal government, as far as significant research studies is concerned. No seriously; you take these big longitudinal studies. They cost a lot of money. We have been fortunate in special education that we have had a strong research program for a long time but it's peanuts compared to the need, in terms of what actually has come up in appropriations. I think it's been used extremely well by OSEP over the years to help develop knowledge. I am very chauvinistic about that. So again I think that these are researchable questions.

So when you get to No Child Left Behind, one of the things that would concern me would be some of the data that Mike showed this morning because generally the special ed data mirrors the general education data if there are big trends. It doesn't show as much gain. But anecdotally I think that standards-based reform has aided kids with disabilities. I think that if you look at that NLTS2 data, that's early standards-based reform data. These kids had been included in assessments and so forth. So I think that that's happened, and anecdotally, my friends who are special education directors say it's the best thing that's happened. They say that NCLB has brought attention to these kids like it's never existed before. It's making sure that kids are being taught the things that they should be taught. It's one of the reasons I believe, if you look at the positions that organizations have around the reauthorization of NCLB, one of the strongest support groups are parents with kids with disabilities. It's the disability lottery. There's no question about that so I think that says something about this. I still think it is something that needs to be researched.

One of the things that does concern me however, around NCLB, that I see in some of the research that I do in large urban school districts, is that within the choice environment, where there is a good deal of charter schools and so forth, it appears that significant numbers of those providers are doing everything they can to avoid enrolling disabled kids. I think that that may have to do with cost but it also may be No Child Left Behind. The city of San Diego where I have done some work, where they have a large number of charter schools, almost ten percent of the kids are in charter schools. There are two types of charters in San Diego: those that are kind of NCLB. A reconstruction charter is a school that goes from a traditional public school to a charter. I am not talking about those, but those that were developed out of whole cloth, which is a lot of them in the city of San Diego. They are enrolling about four percent of kids with disabilities compared to the district which is enrolling twelve.

For instance in all of those charter schools, twenty-something something of them, there are only three kids with mental retardation. Three. One, two, three, you know, Charlie, Rose, and Harry. It's that small.

Christopher Cross: [laughing] That would get you in trouble with FERPA for having named them.

Tom Hehir: [laughing] Oh geeze, you're right. I didn't give last names though. But I think, so again, this whole policy milieu that has become very coercive, much more so than what existed before under ISA for instance. People are really concerned about all these consequences. There could be some negative incentives built into that that are hurting kids with disabilities. I think that might be the case.

Christopher Cross: Thank you. All three of you are connected with universities in some way and there are several questions around special ed teachers. I will start with Sandra and just come around again. One is a question of: what's the state of preparation of special education teachers? And I think Sandra, you do a lot of outreach to special education teachers. You have a lot of day-to-day contact with classroom people. And then a couple of questions about why are people leaving the field of teaching in special education and what are some of the incentives or what are any incentives to keep them in? Sandra.

Sandra Covington Smith: The state of preparing teachers for special education. I would say that as far as preparing teachers for special education presently, and most recently, it's in a very good state from the stand point that teachers do feel as though they are being prepared. They feel as though it is an exciting time to be in the field. However, from time to time, there is some concern about the topics that we are discussing here today. There is some concern between collaboration with their general education peers when they actually enter into the school systems, when they enter into the districts. When we look at actual school preparation programs and the actual curriculum and how they are being prepared to enter into the schools, they feel adequate. However, when Tom shared some of the data about students with emotional disturbance, those students still are of greatest concern to them. Being prepared to adequately teach those students and deal with those challenges and those disruptive behaviors, those are the greatest concerns that I see. It centers solely around those particular students. In general, being prepared to go out into the field of special education I am receiving very good reviews and still seeing people that are very committed to the field of special education, being very committed to the students, being very committed to parents also, in general. What was part two of the question?

Christopher Cross: About people leaving the field and incentives, and we are going to have to move quickly on this.

Sandra Covington Smith: Ok. As far as leaving the field or incentives to stay, they are leaving the field, perhaps, due to lack of support, as far as any type of models or mentors as they enter. Once you are a first-year teacher and you are setting up your classroom, you are setting up your program, depending again on which students you are teaching, so again there are some programs that are more adequately equipped to prepare them to deal with certain groups of students. Again that would be those students with those challenging and more disruptive behaviors. So I see and speak with those teachers that are exiting the field first and foremost, that they are leaving quickly, and so we think we can plug in and provide more supports for those teachers and allow them to know that we can adequately support them.

Christopher Cross: Thank you. Maggie?

Margaret McLaughlin: I'll put both those questions together in one answer. First of all I have say if any of you report back to my department chair that I am going to make these remarks I am going to deny them.

Christopher Cross: [laughing] Maggie, Maggie who?

Margaret McLaughlin: [laughing] Maggie what? I am in a big department of special education that trains teachers. I think the best thing that has happened to teacher training, in special education – and hopefully it will in general education – is NCLB, and this notion that both now in IDEA and NCLB we have to have highly qualified teachers, and the fact that “highly qualified” doesn’t mean highly qualified to teach children to brush their teeth or take baths or to do functional skills. Highly qualified means teaching these kids meaningful academic, if we want to use that term, meaningful content. So having said that, the issue becomes: are our teachers being prepared to do that? And I would say they’re not. It isn’t just a special ed issue. It’s a general ed issue as well. We need to, one, I think, re-examine the role of special education people and resources in the school. We have to reconceptualize what is special education in the school and how does it serve to provide access to that curriculum to a whole array of children, from those with the most significant cognitive disabilities to children with reading disabilities, and whatever. We need to train our general and special ed teachers together in a much more unified, dare I say, way so that we don’t come out and, “It’s your kid; it’s your kid,” etc. If we do that and bring these special ed teachers more into the whole fabric of school improvement we won’t lose as many as we do, or any, because the number one reason that they leave in the first five years is isolation, the total lack of support and isolation in the schools. And as someone who was a special ed teacher of kids with behavior disorders in the schools I can tell you that there is nothing more isolating than, “Take your kids. Don’t let them go on the playground. Keep them in your room, and don’t bother us.”

Christopher Cross: Right, and, “Come out at the end of the day.”

Margaret McLaughlin: “Come out at the end of the day and put them on the bus.” So I think that if we look at that, do I think they are being well prepared now? Absolutely not, but I think higher ed is doing a disservice to them.

Christopher Cross: Ok, both of you talk about preparation and, particularly, mentorship and a kind of collegiality. Tom, we are running out of time but do you have anything to add on that part?

Tom Hehir: The only thing that I would add is, and this has to do with teacher preparation in general, the notion that teachers come to schools formed is absurd. Teacher preparation needs to be ongoing. It is in every other profession. It is in law. It is in medicine. The notion is that you learn most of work on the job. We haven’t internalized that in education enough. For special education teachers, this gets exacerbated by the isolation factor that they are not being supported as they go into these very difficult jobs and they are isolated. When they are supported and they’re not isolated they don’t leave.

Christopher Cross: Ok. We are out of time. I hope you will join me in thanking all of our presenters.