

Policy-to-Practice—A Portraiture Study of Special Education Implementations to Improve Student Outcomes through Mediation

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Abstract

Improving student outcomes for students with disabilities is the primary goal of the Individuals with Disabilities Education Act (IDEA). The IDEA charges school districts to collaborate closely with parents to design and execute an individualized education program (IEP) that allows students to make appropriate academic progress. However, when there is disagreement regarding the actual implementation of an IEP in the classroom, conflict can lead to a communication breakdown that results in adversarial litigation. This paper analyzes multiple portraitures of special education students to identify policy-to-practice exemplars that improve special education student outcomes. The study concludes that using mediation at the first onset of conflict greatly benefits the special education student, helps districts accept the educational responsibility of improving the academic progress of students with disabilities, and creates a positive parent-school climate.

Keywords

Dispute Resolution, Mediation, IEP, Special Education

1. Background

Historically, children with disabilities received unequal treatment in the U.S. public education system. In the fight for equity, almost twenty years after the *Brown v. Board of Education* (1954) decision, the legal rights of students with disabilities emerged. This ultimately led to a Free Appropriate Public Education (FAPE) in Section 504 of the *Rehabilitation Act* (1973) and the federal enactment of the *Education for All Handicapped Children Act* (EAHCA) (1975). These two statutes provide children with disabilities rights within the school

system. State courts argue that the intent of the EAHCA and its successor, the [Individuals with Disabilities Education Act \(IDEA\) \(1990\)](#) (including its subsequent amendments in 1997 and 2004), ensure that disabled students have access to public education. Still, they do not guarantee any level of education. Parents of students with disabilities rightfully argue that access to public education is not enough because education is about learning, not just about having admittance to a school building. The [Every Student Succeeds Act \(2015\)](#), which replaced the [No Child Left Behind Act \(2002\)](#), extends advocacy to provide an equal opportunity for *all* students, in particular, students with disabilities. Today, the goal of affording students with disabilities an equitable education continues, and mediation can serve as an effective tool towards facilitating these critical conversations.

One integral component of FAPE is providing special education students with an individualized education program (IEP) that meets federal requirements ([Individualized Education Program, 34 CFR](#)). IEPs are structured in collaboration with the school and the student's parent or guardian. The purpose of an IEP is to set reasonable academic goals and ensure that a student receives services appropriate to a student's disability ([OSERS, 2000](#)). In 2017, Chief Justice John Roberts, upon delivering the unanimous opinion of the Court in the *Endrew F. v. Douglas County School District* decision, held that “[T]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances” (2017, pg. 11). Further, the U.S. Supreme Court established a two-part requirement for determining whether a district has provided the student with a FAPE: 1) the district must comply with the procedural requirements of IDEA, and 2) the district must design and implement a program reasonably calculated to enable the child to receive an educational benefit (*Endrew F. v. Douglas County School District, 2017*). This second requirement is where much litigation exists because parents and schools do not always agree on what reasonable services a district must provide within an IEP for a student to obtain an educational benefit.

When parents of a student with a disability contend that a school district has denied their child with a FAPE, the parents carry the burden of proof to establish either a procedural or substantive violation of the IDEA. The IDEA provides three dispute resolution processes, and several states, like Texas, have added to these options ([Texas Education Agency \(TEA\), 2021](#)). The TEA includes procedures to initiate a state complaint, request a state IEP Facilitator, commence a formal adjudicative due process hearing, or opt for a voluntary mediation process. These alternative dispute resolution (ADR) methods are important for parents and educators to help provide special education students a meaningful education to make appropriate progress. However, these ADR methods are often underused, and delaying these options may result in adversarial actions.

2. Objective

The 1997 amendments to the IDEA provided voluntary mediation as a

non-litigation means for settling disputes between parents and district personnel. There are several reasons for using ADR processes like voluntary mediation, including the ability to help restore and preserve the intended collaborative environment, expeditiously address the student's special education needs, and save parents and school districts both time and money. The research objectives of this study focus on 1) effective IEP implementation practices within select Texas school districts and 2) how utilization of mediation efficiently helps resolve IEP conflict. The purpose of this study is to help school districts concentrate on improving student outcomes by identifying special education policy-to-practice implementations that can be enhanced via collaborative mediation practices.

3. Theoretical Framework

This qualitative study examines the praxis of special education policies and practices by implementing a unique lens to capture the individual experiences of special education students receiving educational accommodations. This inductive approach utilizes data from direct stakeholder interviews, classroom observations, and special education student artifacts to clearly define the problem and lead to a proposed change. Improvement science (Hinnant-Crawford, 2020) is the model of inquiry-based learning implemented in this study that serves as a framework to guide our continuous improvement process. Root-cause analyses are conducted along with the interviews to identify equitable and inequitable special education practices. Intentional focus is given to improving science methods to help districts modify practices for the benefit of the special education student.

4. Methodology

Drawing from both phenomenological and narrative backgrounds, the portraiture methodology incorporates qualitative inquiry of several personal stories to explore and understand, “hoping to capture more universal themes” (Lawrence-Lightfoot, 2016; p. 22). This study identifies effective IEP implementation practices and how utilization of mediation efficiently helps resolve IEP conflict within ten Texas school districts. To do this, the researcher will employ a triangulation approach of interviews, classroom observations, and special education student artifacts analysis. This approach ensures that the researcher has direct involvement with stakeholders who design and implement IEPs, direct interaction with students (and their teachers and families as well) to monitor academic progress throughout a mediation, and direct access to artifacts integral to the special education process. The ten Texas school districts selected to participate in this study will represent either an urban, rural, or suburban school setting and will also have a majority of economically disadvantaged students at over 50% that serve a high population of special needs students. Participants in selected school districts will be vetted by an education preparation program (EEP) and their local school district administrators and will commit to a fifteen-month study.

The first leg of the triangulation approach involves conducting focused interviews of special education directors, administrators, and teachers. These interviews are designed to assess how IEPs are implemented and how conflict is resolved when it arises. Further, a root-cause analysis is used with each interview to help identify the source of the controversy and the impact on the student's academic achievement. The root-cause analysis helps initiate critical conversations with key stakeholders and classifies how special education issues are resolved.

Secondly, classroom observations are conducted to capture the implementation of IEP accommodations. The researcher seeks to observe campus/district policies in practice within the classrooms. During the classroom observations, the researcher documents the teacher's implementation of IEP accommodations. The documentation includes anecdotal notes identifying how the curriculum is modified as outlined in the IEP and how the classroom accommodations are fulfilled. The researcher determines if there is a discrepancy between a policy and its practice and records it. These observations represent an extension of a *narrowly tailored equity audit* that identifies inequities in special education practices and hones in on microelements of a student's academic success (adapted from Skrla et al., 2009). The classroom observations are intended to depict both equitable and inequitable IEP implementations.

Lastly, special education student artifacts are collected and reviewed to construct a complete picture of each special education student's portraiture. These artifacts include examining a student's IEP, summary reviews of ARD meetings, and formal classroom observation reports. An IEP is a legal document used to memorialize a student's accommodations as part of that student's FAPE. The researcher conducts a historical analysis of each student's IEP. A timeline of each student's IEP accommodations is organized in chronological order by grade level. Further, the researcher examines the minutes of a student's ARD meeting to identify a student's actual progress and denote if the IDEA's ADR policies are offered when there is a disagreement between parents and the district regarding a student's FAPE. A special education student's cumulative record review permits the researcher to assess the fidelity of IEP implementation as evident within the student's academic record throughout the student's academic career.

5. Data Sources and Evidence

For this study, the data sources include interviews, classroom observations, and student artifacts from ten Texas school districts. The researcher uses the triangulation of these data sources to assess 1) effective IEP implementation practices and 2) the implementation of mediation for efficient IEP conflict resolution. Before an interview, each school district identifies a *highly-highly at-risk* special education student and facilitates data collection throughout the school year. A *highly-highly at-risk* special education student is defined as a student reading two levels below grade level, has historically never met a satisfactory standard on a state assessment, has excessive absences, is economically disadvantaged, or

displays multiple behavioral issues. Once the district identifies the *highly-highly at-risk* special education student, the researcher interviews the student's director, principal, and teacher/s using a ten-item questionnaire in conjunction with a root-cause analysis protocol. The questionnaire is administered within an interview setting to engage a critical conversation about special education services. The root-cause analysis is used to create a dialogue about the *highly-highly at-risk* special education student's lack of academic progress. This circular interview inventory digs deep to unveil both equitable and inequitable practices within the translation of the policies affecting practices that help or hinder the student's success. This protocol helps identify the underlying cause of the student's lack of educational progress and the use of mediation to solve these issues.

The classroom observations are conducted throughout the school year by the researcher within the highly-highly at-risk special education student's classroom. The researcher has the educational interest of the special education student as the researcher is a faculty member of each respective district and complies with all Family Educational Rights and Privacy Act (FERPA) regulations. Each classroom observation lasts a minimum of 45 minutes and occurs four times throughout the school year. The researcher utilizes the district/campus classroom observation instrument to gather the classroom data. Next, the researcher compiles a list of observed practices aligned to federal, state, and local special education policies and includes procedures that are not aligned to policy.

The student artifacts include each special education student's IEP, ARD minutes, and each student's cumulative record. The researcher analyzes each of the three collected data sources and creates a timeline of IEP accommodations, conflict resolution offered during any ARD meeting minutes, and student's academic success as evidenced within the student's cumulative record.

6. Results

After aggregating the data and examining the collected artifacts as individual student portraits, the researcher worked to “document what's strong and worthy, in great detail...to figure out ways of transporting...that goodness...to other settings and transforming them as well” (Lawrence-Lightfoot, 2016: p. 20). One of these “goods” or equitable practices that emerged from the data triangulation is that IEP accommodations should be actively reviewed for effectiveness every school year based on student performance, classroom observations, and ARD deliberations. The findings also correlated lack of student improvement to inequitable IEP practices. In other words, students who had the same IEP accommodations for three or more years (if not longer) did not make progress as evident within their IEP goals. On the other hand, student goals were met and progress was made when student accommodations were adjusted annually based on current student needs. The interviews also revealed that administrators must conduct ongoing classroom observations to ensure that the policy of an IEP accommodation is effectively implemented as agreed to within the ARD. Effective

modifications increase student achievement; ineffective accommodations contribute to regression or stagnation of educational progress.

Another positive finding is that educators agreed that district personnel should promptly advise parents of voluntary mediation when conflict arises within an ARD deliberation. The interview findings reveal that educators firmly believe that mediation services should be offered early at the onset of conflict to ensure no delay in special education services. One of the most important reasons that IDEA identifies mediation as an effective ADR option is because mediation provides the platform to encourage all stakeholders to work on behalf of the student. In this study, using a mediation process to engage in critical conversations helped resolve conflict earlier, allowed for timely intervention, helped preserve a working relationship, and led to student academic improvement. Mediation is an effective ADR method in helping parents and schools become partners in education and collaborate towards designing an IEP that improves student progress. These mutual agreements generally result in higher satisfaction for all parties because the parties themselves decide the outcome. Additional benefits of mediation are that it is less formal, less costly, and less time-consuming than the other dispute resolution processes. TEA's mediation program has been very successful at resolving special education disagreements. In fact, TEA cites that nearly 80 percent of Texas parties utilizing mediation services to address a special education complaint during the last several years have reached an agreement due to this dispute resolution method (TEA, 2021).

7. Scholarly Significance of the Study

Accepting the educational responsibility to meet the educational needs of students with disabilities should be a collaborative effort between all stakeholders. Trust is paramount in the relationship between parents and schools. This is typically a long-standing relationship that lasts through the child's educational career. As Chamoun and Hazlett assert, "[W]ithout a bridge of trust through relationship, there may be: 1) reluctance to share; 2) exposure of superficial needs; or 3) ex-change of deliberate misinformation" (2009, pg. 161). This study is designed to uncover inequities in special education practices and identify effective IEP implementation of policy to practice that can be duplicated. Additionally, voluntary mediation is a viable ADR process underutilized as a formal option. It should be offered readily at the onset of conflict within an ARD meeting or informally by those trained in the process. Increased awareness of these processes can significantly impact the educational progress for the students we aim to serve.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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