EXCEPTIONALITY AND PARENT-PROFESSIONAL CONFLICT:

CAUSES, PREVENTION, AND RESOLUTION

by

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SIGNED: *Anne-Claire Fisher*

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DEDICATION

This work is dedicated to my sons Matthew Arjuna and Casey Brian Burke. May they grow in wisdom to appreciate the shades of gray and seek the truth beyond life’s turmoil.

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ABSTRACT

A large number of due process hearings regarding the delivery of special education services to children with disabilities occur nationally and the number is increasing. Differences of opinion between professionals and parents concerning whether or not a child is disabled, the diagnosis of a disability, and the special services recommended or provided has resulted in parent-professional conflict accompanied by substantial financial and emotional costs to parents, professionals and educational agencies. The purpose of this dissertation is to examine the origins and dynamics of parent-professional conflict about special education services and identify promising approaches and strategies for preventing and resolving conflict between professionals and parents of children with disabilities.

A comprehensive literature review revealed the major origins of conflict about special education services in the schools. These include (a) legislative mandates; (b) attrition of special education personnel; (c) ineffective leadership in the schools; (d) lack of collaboration between general and special educators and parents; and (e) hidden constraints in educational agencies such as time, money, and resources. The combination of "systemic cracks" in the nation's educational system and the failure of professionals and parents to use effective "communication and collaboration skills" were found to be the major sources of conflict between professionals and parents.

Five promising approaches and strategies were identified for preventing or resolving conflicts about special education. First, identify systemic problems, initiate school-wide dialogues, and implement a change process to reform problems through

legislation, policies, organizational structures, and operating procedures. Second, follow ten basic principles of dialogue and collaboration while communicating with each other. Third, engage in positive dialogue where each party reflects and takes responsibility for reaching a mutually shared alternative solution by understanding the other person's point of view and conversing as equals. Fourth, train professionals to adopt an interest-based approach to dispute resolution by engaging all stakeholders in a school-wide dialogue, addressing underlying interests or needs rather than reacting to demands. Fifth, use third party intermediaries such as parent-to-parent assistance, dispute resolution case managers, individualized education program facilitators and intervene at the onset of the conflict.

INTRODUCTION

The purpose of this dissertation is to examine the origins and dynamics of parent-school conflict regarding the delivery of special education services to children with disabilities and suggest solutions to prevent or assist in resolving parent-school conflicts that might arise from current federally-mandated practices.

According to the Webster Online Dictionary, conflict is defined as a "mental struggle resulting from incompatible or opposing needs". The first part of this dissertation addresses the major causes of conflict between parents of children with exceptionalities and professionals in our schools as illustrated in Figure 1. While the six causes overlap across chapters, the chapters which primarily address each of the six causes are illustrated in Figure 1.

Chapter One-The Seven Steps of the Special Education Process and Parent/Professional Conflict addresses how the special education process mandated by federal legislation and state rules and regulations contributes to parent-school conflict.

*Chapter Two-The Impact of Reform, Special Educator Shortage, and Leadership on Special Education Service*s examines how the pressures of recent education reform, teacher shortage and the insufficient preparation of building level leadership impacts the delivery of special education.

Chapter Three-Parent/Professional Relationships: Ambiguity, Collaboration and Changes reviews the stages of conflict in special education as well as alternative dispute resolution (ADR) solutions for parents and school professionals.

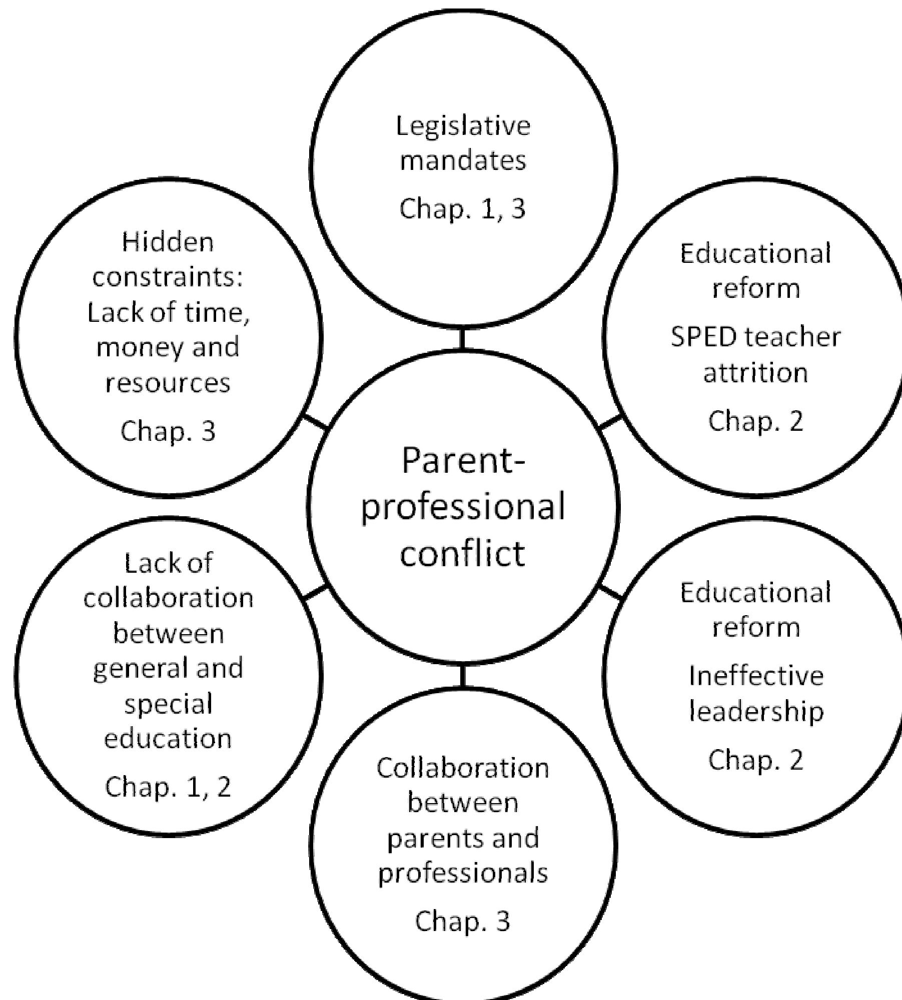

Figure 1. Sources of parent-professional conflict.

The second part of this dissertation focuses on how dialogue between diverse stakeholders in education can contribute to resolving conflict in the schools. It also presents recommended solutions from the Center for Appropriate Dispute Resolution in Special Education (CADRE).

Chapter Four-The Importance of Dialogue in Resolving Conflict: Theoretical Considerations presents the importance of dialogue for forging consensus between

parents and educators. The importance of mediation, neutrality, systems thinking, and conversation for avoiding or resolving conflict situations is emphasized.

Chapter Five-Approaches to Dispute Resolutions includes a critical analysis of disability policy as a cause of conflict between parents and professionals. This chapter highlights the problems of power sharing in schools and parent-professional partnerships with suggestions that could be applied to school settings.

Chapter Six-Conclusion presents the author's conclusions about how leaders in special education can utilize the concepts presented in this review to avoid or resolve conflict disputes between parents and school personnel about the delivery of special education services to children with disabilities. These concepts emphasize a "systems approach", built from a theoretical framework focused on dialogue in education, and promoting democracy through vital exchanges between parents and educators as well as collaboration for resolving problems of mutual concern.

CHAPTER ONE

THE SEVEN STEPS OF THE SPECIAL EDUCATION PROCESS AND PARENT/PROFESSIONAL CONFLICT

The origins of parent-professional conflict often are driven by the special education process mandated by the Federal law, Individuals with Disabilities Education Improvement Act (IDEIA) (Beekman, 2004; Feinburg, Beyer, & Moses, 2002; Opuda, 1999; Schrag & Schrag, 2004; Valle & Aponte, 2002). The rules and regulations schools must follow to implement the federal mandates for providing special education services often result in disagreements and conflicts between parents and school personnel. Each of the seven steps of the special education process involves specific procedures, strict timelines and designated paperwork. The national dissemination center for children with disabilities, otherwise known as NICHCY (2007), lists the seven steps where conflict might occur including:

1. Identification of students with disabilities,
2. Appropriate assessment and determination of eligibility,
3. Development of the individualized education program (IEP),
4. Placement in special education services,
5. Implementation of the IEP in the least restrictive environment (LRE),
6. Review, re-evaluation, and revision of the IEP, and
7. Following procedural safeguards.

Successful implementation of the special education process assumes ongoing collaboration between parties. Conflict may occur at each step although some steps attract more opportunities for differences of opinion and conflict than others. This chapter will review the seven steps of the special education process. The major reasons for the underlying differences of opinion and disagreement leading to conflict between parents and educators during the special education process will be presented for each step.

Identification of Students with Disabilities

The identification process for children with special needs might occur at three different times. First is at birth when physicians detect physical or other medical issues (IDEIA, 2004, §632). Second is during preschool years when school districts are responsible for identifying, locating and screening children with disabilities prior to Kindergarten. “Child Find” activities involve posting notifications in the local papers seeking parents who suspect some form of delay in their child. Local preschools and physicians might also refer parents to the public schools for an initial evaluation (IDEIA, 2004, §632). Third is when the child is attending school (IDEIA, 2004, §614). For example, if a teacher suspects a delay or notices behaviors that seem problematic, the educator would normally refer the student to the school’s student study team or directly to the special education team for further testing (Allbritten, Mainzer, & Ziegler, 2004).

Appropriate Assessment and Determination of Eligibility

The initial evaluation must assess the child in all areas related to the child's suspected disability. Under IDEIA (2004, §614), children with a disability must be identified as having one of 12 disabilities in order to receive special education services. These disabilities include:

1. Autism (A),
2. Deaf blindness (DB),
3. Emotional disability (ED),
4. Hearing impairment (HI),
5. Learning disabilities (LD),
6. Mental retardation (MR),
7. Orthopedic impairment (OI),
8. Other health impairment (OHI),
9. Traumatic brain injury (TBI),
10. Visual impairment (VI),
11. Speech or language impairment (SLI), and
12. Multiple disabilities (MD) (IDEIA, 2004, §614).

Etiology plays an important part in creating conflict. For example, students with autism represent only one percent of the population, but 11% of the dispute resolution population. It is important for administrators to understand why families of children with autism are so often involved in litigation. Stoner, Bock, Thompson, Angell, Heyl, and Crowley (2005) reported that parents of children with autism have to struggle to obtain an

initial diagnosis from medical professionals who might at first dismiss their observations and fears. This struggle is shared by many parents having difficulty obtaining an initial diagnosis.

Parents may be forced to pursue their desire for an accurate assessment and are motivated to educate themselves about their child's disability. Self informed parents are involved proactively in the education of their child with a disability. When parents have a conflict with doctors, the usual result is that the parents attempt to educate themselves and seek solutions for their child's problems themselves (Stoner et al., 2005). Since early intervention is crucial in establishing behavioral and communicative functional patterns in children, parents have a sense of urgency that can be difficult for professionals to comprehend. Some parents have little confidence in educators since some seem unable to provide solutions (Lake & Billingsley, 2000; Stoner et al., 2005). Building relationships under these circumstances can be difficult for educators and parents. Students with deaf-blindness, emotional disturbances, hearing impairment, multiple disabilities and traumatic brain injury are often over-represented in the area of litigation (Schrag & Schrag, 2004, p. vi). Most students involved in dispute resolution cases are predominantly male and in their early teens (Schrag & Schrag, 2004).

Controversy between parents and educators may occur over the assessment procedures used to make the determination that a child has a particular disability. For example, a parent might consider a test culturally or linguistically biased or not suited to the particular disability determined for a child (Beekman, 2005b; Matuszny, Banda, & Coleman, 2007). Sometimes the parent might not fully understand that the evaluation

must be related to educational needs alone (Beekman). When parents disagree with the results of an assessment and the disability designation for their child, they have the right to seek an independent educational evaluation.

For many parents, accepting the fact their child is disabled can be a slow and arduous process. For some parents, the acceptance starts the day the child is born or perhaps prior to birth. For others, the process of acknowledgment occurs at school, or perhaps following a traumatic accident. After the parents learn that their child has a disability, they usually enter a grieving process that involves five different stages: denial, anger, bargaining, depression and acceptance (Kübler-Ross, 1969). To respond to a grieving process appropriately, professionals must be aware of the strong emotional undercurrents present in all parent-professional encounters. Finding ways of demonstrating empathy and openly acknowledging emotions can ease tense encounters (Beekman, 2004; Beekman, 2005b; CADRE, 2000; Lawrence-Lightfoot, 2003). Professionals may lack the knowledge and experience necessary to cope with the parents' layers of emotion, which may lead to conflicts between parents and school personnel. Similarly, parents may not be familiar with the constraints and complexities of the school, and may interpret a professional demeanor as uncaring (Lawrence-Lightfoot, 2003).

Development of the Individualized Education Program (IEP)

The Individualized Education Program (IEP) is a legally binding document defined in IDEIA (2004, §300-320). Reports on the educational goals for a student with

disabilities must be communicated regularly to the parents. The development of the IEP is a collaborative team process, which drives the placement and the implementation of an IEP for a child with a disability. The IEP team is legally determined by IDEIA and should minimally include the following members: (a) the parents, (b) no less than one special educator, (c) no less than one general educator, (d) someone capable of making decisions affecting the implementation of the IEP (administrator), (e) someone able to interpret the test findings if necessary, (f) related service providers (e.g., an occupational therapist, a speech pathologist, or a physical therapist) if their services are required to meet the child's needs, and the student whenever appropriate.

Many of the differences arising between parents and professionals at IEP meetings address the appropriateness of the instructional content (Beekman, 2004; Feinburg et al., 2002). Both professionals and parents desire to increase educational outcomes for all students. Parents usually will be focused on the individual needs of their children and want their children to learn and demonstrate continued progress, while school professionals also must be concerned with the needs of the school and the district.

Instructional leadership focused on student achievement encourages differentiated instruction to address the mix of student abilities that classroom teachers encounter (Bays, 2004; Boscardin, 2004; DiPaola, Tschannen-Moran, & Walther-Thomas, 2004; Guzman, 1994; Lashley & Boscardin, 2003). Some researchers promote a critical concept that school professionals understand the school population as increasingly diverse regardless of whether students with special needs are included. These researchers further

purport that instructional needs must be delivered to benefit all of the students in the classroom (Browning Wright, 2006).

Placement in Special Education Services

Once the child is determined to be a "child with a disability" as defined under IDEIA 2004, the IEP Team will consider the most appropriate program in which to place the child. The placement recommendations of the IEP team can be a source of conflict. It is important for school personnel to understand that parents usually will be focused on the unique characteristics and needs of their child. Parents want the specific needs of their child met by the most appropriate individualized program. A school or a district might have a limited amount of programs available for students with disabilities (Wright & Wright, 2006).

Some school districts have programs for certain disability categories, or classrooms that serve specific student populations such as only students with multiple disabilities or only students with autism. These programs are often housed within specific schools in the district. These options will not appear adequate for parents who want their child educated with their non-disabled peers in an inclusive setting within a neighborhood school. The school is responsible to provide the services the child needs. However, the parent might not be aware of the financial and systemic constraints of the district.

Wright and Wright (2006) urge parents to learn the rules of their school district and the school which their child attends. Schools and school districts have their own unique individual climates, hierarchies, and attitudes toward children with disabilities and

IEP team members. The authors and creators of the website Wrightslaw, Wright and Wright, warn parents of limited and inflexible "One Size Fits All" special education programs. The authors attribute the school's difficulty in individualizing services to an outdated internal structure inherited from the industrial production system, which offers a systematic and standardized education to a homogeneous student body. Wright and Wright list the following reasons why a school might say "no" to parents' request for services other than what the school recommends:

1. Refusal to change policy and procedures;
2. Refusal to change existing programs;
3. Fear of setting a precedent;
4. Lack of trained staff;
5. Fiscal constraints; and
6. Poor understanding of school's legal obligations under IDEIA 2004 (p. 26).

The student population is now increasingly diverse and heterogeneous. The National Center for Educational Statistics reports that in 2005 minorities made up 33% of the entire US population with Hispanics being the largest group at 14%, followed by African Americans at 12%, Asian/Pacific islanders at 4%, and Native Americans at 1% (National Center for Education Statistics, 2007). Minorities are predicted to represent 39% of the population by 2020. In 2003, inner city locations had the greatest percentage of minorities (65%) enrolled in public schools. In 2005, the percentage of students who spoke a language other than English at home was higher among Hispanic and Asian elementary and secondary students than among elementary and secondary students of all

other racial/ethnic groups. In 2005, some 16% of families with children under 18 residing in the United States were living in poverty. However, the percentage of these families living in poverty varied between 4% and 47% when considering race/ethnicity and family type (National Center for Education Statistics, 2007).

The rapidly changing population for which teachers are seldom prepared is best illustrated by the disproportionate numbers of minority students in special education (Artiles & Harry, 2005; Harry & Klinger, 2006; Kalyanpur & Harry, 1999). In the 1998/1999 school year the number of African Americans children in special education totaled 20.2%, while representing only 15% of the national population aged 6 through 21 (Allbritten et al., 2004, Part A, sec. 601). The "dilemma of difference" presents a hurdle for teachers not trained to understand students from diverse backgrounds, presenting differing abilities or cultural and linguistic differences (Minow, 1990). The dilemma is whether differences are viewed as impairments or welcomed as an expression of human diversity (Villa & Thousand, 2000).

"Special education" is defined by IDEIA (2004) as a service not a place and schools must offer a continuum of services from the most restrictive placement to the *least restrictive environment* (LRE). The determination of the disability or label, derived from the initial evaluation, and the resulting placement have long-term effects on the student's education when it designates a place rather than increased supports (Schwarz, 2007; Taylor, 1988).

Theoretically, placement is driven by the student's needs and the IEP. However, evaluation and labeling also drive placement decisions which parents may resist (Wright

& Wright, 2006). Since parental consent and agreement is required for all special education decisions, every interaction requiring a signature has the potential for conflict.

Implementation of the IEP within Inclusive Collaborative Schools

Garrick-Duhaney (1999) describes how the idea of inclusion embraces several defined and accepted concepts, essentially a commitment to educate all students with disabilities in high-quality, age-appropriate, general education classrooms in their home schools and local communities. Garrick-Duhaney's research on inclusion policy in state education agencies also examined differing policy and position statements from national education associations. Policies varied from unequivocal support of inclusion to unqualified support for the maintenance of the continuum of placement and limited support for the concept of inclusion (The Association for Persons with Severe Handicaps-TASH, 1991; Council for Exceptional Children- CEC, 1993 in Garrick-Duhaney, p. 68). Only 17 state education agencies (SEA) in the nation have created policies on inclusion. The lack of policy might further contribute to confusion on the implementation of LRE or inclusion, and adds more opportunities for disagreement between parents and professionals.

An inclusive service delivery system for students with disabilities requires a specific set of skills and extensive communication between teachers. School districts find it difficult to provide teachers with the time to collaborate in spite of the legally suggested recommendation to serve students in the least restrictive environment (LRE) (Billingsley, 2007; Brownell, Adams, Sindelar, Waldron, & Vanhover, 2006).

Traditionally schools are structured to communicate within classrooms, within departments, within grades and with the administration. Rarely are schools systemically organized to communicate across departments and grade levels, a level of collaboration and communication that is essential for inclusion to work. Special educators do not always teach students within one classroom. Instead, they usually support students across departments, grade levels and classrooms, making monitoring and instructing individual students hard to achieve (Jorgensen, Schuh, & Nisbet, 2005; Ryndak, Clark, Conroy, & Hothaus Stuart, 2001).

Fisher, Frey and Thousand (2003) examined the rapidly changing role of the special educator. The changing role for special educators requires new skills and dispositions which include, but are not limited to: greater flexibility; providing instruction and assessments to students with and without disabilities in collaborative classrooms; scheduling and problem solving; leadership and training of paraprofessionals; ongoing support to general education educators; coordination of related service professionals in a variety of settings; fostering natural supports and friendships among peers; ongoing communication and collaboration with parents; and facilitating multiple IEP teams. Fisher, Frey and Thousand speak of six high priority focus areas for the inclusive special educator:

1. Collaborative teaming and teaching,
2. Curricular and instructional modifications and accommodations or differentiated instruction (DI),
3. Technology to assist students (AT),

4. Positive behavioral supports (PBS),
5. Personalized supports, and
6. Literacy and content instruction (pp. 46-47).

In their book, *The Inclusion Facilitator's Guide,* Jorgensen, Schuh and Nisbet (2005) examine ten research-based promising practices needed to define a quality education for students with significant disabilities. These are

1. High expectations,
2. Membership and full participation in general education classes,
3. Family and school partnerships,
4. Collaborative teaming,
5. Planning and implementing supports,
6. Appropriate augmentative and alternative communication (AAC),
7. Friendship facilitation,
8. General and special education reform,
9. Encouragement of self determination, and
10. Person-centered planning (p. 26).

Inclusion cannot be added to an existing system, as it involves a school-wide "re-culturing" (Doyle, 2002, 2003; Gartner & Lipsky, 2000; Villa & Thousand, 2000). A shift to inclusive practices requires developing knowledge of the process of change, and how to achieve change in schools (Christie & Lingard, 2001; Fullan, 2001, 2002a, 2002b). Change is difficult to implement and often meets with resistance from professionals, although the practices needed to establish inclusion are similar to those

needed to teach mixed ability classrooms (Gartner & Lipsky, 2000; Harry & Klinger, 2007). Stanovich and Jordan (2002) state that the best inclusion teacher is simply a good teacher attentive to the specific needs of their student and able to modify and adapt instruction.

The alignment between No Child Left Behind (NCLB) (2000) and IDEIA (2004) increases the accountability of schools and educators to demonstrate progress in the achievement of students with disabilities (OSERS, 2004; Ratcliffe & Willard, 2006; Yell, Katsiyannas, & Shiner, 2006). Students with high incidence disabilities are not exempt from high stakes testing, while students with low incidence disabilities routinely are evaluated through a complex and exhaustive alternative test process (Nagle, Yunker, & Malmgren, 2006). Some of the stress resulting from standardized testing requirements imposed by NCLB (2002) and IDEIA (2004) can delay establishing inclusive programs in schools. Some of the practices required to sustain inclusion such as teacher collaboration, differentiated instruction, self-determination and so forth are seen to detract from achieving Annual Yearly Progress (AYP) as mandated by NCLB (2002) (Jorgensen et al., 2005; Sindelar, Shearer, Yendol-Hoppey, & Liebert, 2006). School districts or schools experiencing difficulty adapting to the requirements mandated by NCLB (2002) and IDEIA (2004) will have difficulty creating an inclusive environment since both mandates require deep structural and cultural school change. Both mandates lead to increased collaboration across departments and collaboration is a prerequisite to inclusive services (Collins, 2005; Nagle et al., 2006; White, 2005). While complex, the transformation to inclusion is eminently achievable (Fratura & Capper, 2007).

The shift from legal compliance to educational accountability in special education resonates strongly with parents who expect their children to learn (Skrtic, Harris, & Shriner, 2005). Parents assume documentation of progress will be communicated regularly. When students make no progress, parents will want to see the data supporting that conclusion, and will want to know what needs to be done to promote learning.

Review, Re-evaluations, and Revisions of the IEP

IEPs must be reviewed annually (IDEIA, 2004, §614). A professional or parent may require additional meetings when a goal has been reached or a revision is needed to accommodate new behaviors and development in the student. The three-year evaluation is required to assess the child's learning and development, and determine whether or not the child requires additional evaluations. In some cases, an IEP team may decide a student can be exited from special education services (Beekman, 2004; Beekman, 2005c).

If collaborating to establish an IEP is difficult with all the underlying emotional and instructional issues, communicating sufficiently to implement an IEP in multiple settings on and off campus is a very complex task. The failure to implement the IEP is a very serious legal offense and grounds for due process.

Forming a functional team requires communication and interpersonal skills that many parents and educators lack (Bens, 2005). Each time the parent and school personnel meet is an opportunity for conflict, especially if the team does not meet often. Over time, the frequency of resentments and misunderstandings may increase. Maintaining a dialogue to build a relationship with parents between meetings is vital. Each meeting

becomes a compilation of all of the issues visited in the past and simultaneously a renegotiation of how a child is assessed and viewed by the whole school. Most likely, this will be a difficult and intimate process for the parent. Many private details are constantly being reviewed by individuals who sometimes do not know each other well, or are often new to the family and the school due to high staff turnover. Parents often feel that they are starting over a process they began years ago (Plummer, 2005). The IEP review could become a meaningless ritual resented by parents, especially if there is no personal relationship between the parent and the team, or the parents are from a different culture. It is not uncommon for schools to pass judgment on parents who appear disinterested or frustrated, without being aware of cultural or socioeconomic differences (Kalyanpur & Harry, 1999).

Following Procedural Safeguards

The procedural safeguards IDEIA (2004) has established are intended to address parental rights to due process. Procedural safeguards also specify timelines, forms and procedures for all activities required to provide special education services. There are many details to manage and compliance issues to avoid. If a relationship is firmly established between educators and parents, parents will more readily overlook and accommodate missed deadlines or unfilled paperwork. If the situation between parents and school personnel is tense and there is no trust, parents will be inclined to use a breach in procedure to lodge a state complaint or request a due process hearing (Beekman, 2004; Beekman, 2005b; Opuda, 1999).

Conclusion

The difficulties inherent in forming functional and effective decision making teams increase the potential for conflict. Each special education procedural step adds or revisits opportunities for conflict. Finding the time and the resources necessary to establish true collaboration is not a simple procedure within the existing school organizational structure (Billingsley, 2007; Brownell et al., 2006; Johnson, Pugach, & Hawkins, 2004). Additionally, in special education, admitting to the lack of fiscal resources and expertise is often grounds for litigation, since legally that would be limiting access to free and appropriate public education (FAPE) for a student with disabilities (Lake & Billingsley, 2000).

After examining the potential for conflict specific to the special education process, the next chapter will assess the pressures of educational reform on educators and leaders and its impact on heightening misunderstandings between families and school professionals.

CHAPTER TWO

THE IMPACT OF REFORM, SPECIAL EDUCATOR SHORTAGE AND LEADERSHIP ON SPECIAL EDUCATION SERVICES

Effective school reform depends upon the effective collaboration between general education and special education. The absence of collaboration creates conflict between educators and families since it becomes harder to implement the individualized education program (IEP) for the student. Understanding the need to collaborate and creating satisfactory job conditions necessary to retain highly qualified special educators largely depends on building site leadership. This chapter examines the impact of educational reform influenced by special education legislation, and the how the roles of those in leadership positions have affected the delivery of special education services (Skrtic et al., 2005). Specifically, it will present an overview of special education legislation, the impact of school reform on special education focusing on the critical ideas of accountability to all students and the lack of qualified special educators. The changing role of leadership in special education also will be investigated.

In order to fully understand conflict in special education it is important to examine educational reform in the context of the many educational legislative initiatives that have occurred in the last four decades. Special education legislation has been influenced by *Brown v. Board of Education* which inspired parents of students from marginalized groups to legally pursue more appropriate education for their children ("Brown v. Board of Education," 1954). Two other important court cases, *Mills v.*

District of Columbia Board of Education and *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania* ("Mills v. DC Board of Education," 1972; PARC v. Commonwealth of Pennsylvania," 1971) led to the ground-breaking law, P. L. 94-142, or the *Education for all Handicapped Children Act*, also commonly referred to as EHA (1975). This was the first legal act that prevented the exclusion of children with disabilities from the educational process and introduced the idea of free and appropriate public education (FAPE) (Palley, 2003).

The publication of a *Nation at Risk* (National Commission on Excellence in Education, 1983), produced by President Ronald Reagan's administration, raised concerns about the general state of education in America. One of the legacies of *A Nation at Risk* was the subsequent focus on raising educational standards (Wong, Guthrie, & Harris, 2004). Public concern about education and accountability has impacted the quality of special education services. Many national and state legislative mandates have resulted in greater accountability for appropriate education for all students as well as focusing on the identification of students at risk for failure and improving their academic performance (Skrtic et al., 2005). Some of these important mandates are: (a) P.L. 101-476, the *Individuals with Disabilities Education Act* (IDEA, 1990), (b) P.L. 105-17, the *Individuals with Disabilities Education Act* (IDEA, 1997), and (c) *No Child Left Behind* (NCLB, 2001) and its alignment with P.L. 108-446, the *Individuals with Disabilities Education Improvement Act* (IDEIA, 2004). Researchers have shown that special education issues are intimately connected to fundamental educational ones (Clark, Dyson, & Millward, 1998). Therefore, many of the innovations required of general education are

the same as the innovations needed for progressive, student-centered and effective special education practices (Fisher et al., 2003).

The impact of school reform on special educational programs has resulted in many changes in educational services to guide administrators from simple compliance to a sense of accountability for student achievement (Bays & Crockett, 2007; Boscardin, 2004, 2007; DiPaola et al., 2004; DiPaola & Walther-Thomas, 2003; Lashley & Boscardin, 2003). Heightened accountability also has forced administrators and educational leaders to face the increasing problems of special educator shortage, as research demonstrates the importance of administrators' roles in retaining experienced and qualified special educators (Ax, Conderman, & Stephens, 2001; Billingsley, 2004; NERRC, 2004). From 1987 to 2003, the Office of Special Education Programs' (OSEP) data indicate a shortage of fully-certified teachers for students with disabilities, especially for students 6-21 years old, has risen annually from 7.4% to 13.4%. This means "a shortage of approximately 54,000 special education teachers, including estimated vacant positions" (Boe, 2006, p.138). Retention of qualified staff is crucial when four out of ten new special education teachers leave the field before their fifth year (Kozleski, Mainzer, & Deshler, 2000). Approximately 30,000 unqualified teachers were hired in 2000 (Kozleski et al., 2000). These teachers' inexperience might inadvertently become a factor in the increase of conflict with parents of children with disabilities.

Many studies in general education have presented the opinion that educators hold about their ability to effectively perform their jobs, introducing the concept of teacher self-efficacy beliefs (Brownell & Pajares, 1996; Tschannen-Moran, Woolfolk-Hoy, &

Hoy, 1998). Emerging literature on special education teacher quality and leadership has presented a clearer picture of what factors might impede high quality special education (Billingsley, 2007; Kozleski et al., 2000).

A prevalence of conflict between parents and school professionals in special education points to the dysfunction within special education policy and/or special education as it is actually practiced. In fact, Cloke (2006) from the field of mediation posits that chronic institutional conflict reveals systemic cracks "as a result of unclear vision or goals, inept leadership, or hierarchical, bureaucratic, autocratic managerial practices" (Cloke, p. 22). The goal of this chapter is to help parents develop a better understanding of the pressures and conditions professionals face (Nagle & Crawford, 2005; Yell et al., 2006), and for professionals to understand the systemic patterns underlying conflict.

An Overview of Special Education Legislation

Understanding the history of IDEIA (2004) and its legal predecessors, IDEA (1990), IDEA (1997) and NCLB (2001), helps parents, special educators, administrators, and advocates comprehend the frequency of disputes between parents and school administrations and how conflict between parents of children with disabilities and professionals has increased over the years. The efforts underpinning the development of these legal acts originate in parent litigation.

In 1972, two critical court cases contributed to the establishment of the concept known as *free and appropriate public education* (FAPE) as well as allowing for *due*

process, or the right of parents to participate and collaborate in developing an appropriate education for their children, and prevent "discriminatory exclusion" of students with special needs (EHA, 1975). These court cases: (a) *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania* (PARC, 1971), and (b) *Mills v. District of Columbia Board of Education* (1972), were initiated by parents and ruled on by federal district courts. Both were inspired by *Brown v. Board of Education*'s (1954) determination that "educating students in separate educational settings based on race was inherently unequal and therefore a violation of the Equal Protection Clause of the fourteenth amendment" (Palley, 2003, p. 607). The most recent *Individuals with Disabilities Education Improvement Act* known as IDEIA (2004), or P.L. 108-446, is the latest law in a long history of attempts to include children with special needs in "public" education. A list of the most well known initial legal efforts follows:

1. *The Educational For All Handicapped Children Act* (EHA, 1975). P.L. 94-142, referred to as EHA or EAHCA included the following principles: free and appropriate education (FAPE), the least restrictive environment (LRE), and the individualized education program (IEP).
2. *The Individuals with Disabilities Education Act* (IDEA, 1990). P.L. 101-476, referred to as IDEA 1990, "…established very specific procedural requirements in order to protect the rights of the children with disabilities and ensure that they could not be unfairly removed or excluded from school" (Palley, 2003, p. 606).

3. *The Individuals with Disabilities Education Act* (IDEA 1997). P.L. 105-17, also known as IDEA 1997, introduced specific sections: (a) *Part A* defines legal terms such as a *child with a disability* and FAPE, and (b) *Part B* stipulates rules and regulations for states and school districts. Schools are now mandated to provide evaluations for children suspected of having a disability and to determine their eligibility, collaborate with parents more extensively on their IEPs, and provide special education and related services to children with disabilities, (c) *Part C* describes the early intervention program for infants and toddlers with disabilities and presents a system for identifying such children and working with other agencies to provide family-centered services; and (d) *Part D* focuses on state education agencies (SEA) in order to improve how they work with such populations, and builds capacity for early intervention. Additionally, *Part D* presents grants that are provided to universities, colleges and other organizations to prepare teachers and professionals, research educational best practices, operate NICHCY and Parent Training Information Centers (PTI), and develop technologies and model educational projects related to children with disabilities.

Alignment of IDEIA (2004) with NCLB (2001)

The *Elementary and Secondary Education Act* (ESEA, 1965) is the national law that addresses education from preschool to high school. NCLB (2001) mandates high stakes testing in all states in specific academic areas and grades, including students with

disabilities. NCLB addresses some of the concerns outlined in *A Nation at Risk* (National Commission on Excellence in Education, 1983) by establishing benchmarks for diverse groups of students. According to the United States Department of Education, NCLB (2001) was founded on four conceptual pillars:

1. Stronger accountability for student results and the achievement gaps between different student groups;
2. More freedom for states and communities to use existing funding;
3. Proven educational methods or a mandate to use scientifically-based research (SBR) methods; and
4. More choices for parents or the ability for parents to choose other schools if the school their student attends is chronically failing (U.S. Department of Education, 2004).

Beyond furthering the main principles of IDEA (1990) and IDEA (1997), the special education law IDEIA (2004) was established in close alignment with NCLB (2001) in many areas (Alignment with the No Child Left Behind Act, 2004). The creators of IDEIA added some new definitions that limited eligibility determination for special education services and raised parent’s expectations of special education teachers. For example, IDEIA states students should not be receiving special education services if the need for services results from the “lack of appropriate instruction” in reading, math or the student has limited English proficiency (Alignment with the No Child Left Behind Act, p. 3).

Additionally, IDEIA (2004) included specific regulations requiring special educators to be “highly qualified” to teach with proper certification in “core academic subjects” (Alignment with the No Child Left Behind Act, p. 1). The alignment between NCLB (2001) and IDEIA also required demonstrating student progress as well as establishing performance goals and indicators for students with disabilities aligned to the state’s goals for *Adequate Yearly Progress* (AYP) or “any other goals and standards for children established by the state” (Alignment with the No Child Left Behind Act, p. 2). AYP is an accountability system of high-stakes tests set in place and monitored by the state, to determine specific achievement progress for schools and districts. Thus, IDEIA and NCLB raised expectations for both teacher and student performances.

Student Groups

NCLB (2001) supplied specific definitions of *student groups* as (a) students with free and reduced meals; (b) students with disabilities; (c) English Language Learners (ELL); and (d) students of racial and ethnic groups, who become a statistical group only when there are 30 or more individuals across an assessed grade, but do not remain one if less than 10 students are present. Each group must meet or exceed annual targets in reading and math (determined individually by schools); meet 90% attendance rates or demonstrate progress from previous years; and finally, meet graduation rates of 75% or show an increase from previous years. The achievement gaps existing between groups are observed and tracked over time and failure to close the gap over time could result in penalties for both educators and schools.

Building administrators are responsible for tracking the achievement and progress of each student group and reaching Adequate Yearly Progress (AYP). For example, a school that does not make AYP for two years in a row must create a school improvement plan and offer parents the option of choosing another school not on an improvement plan. After the 4th year the state requirements become more radical and intrusive demanding the school take all of the following actions: (a) replace staff as allowed by law, (b) implement a new curriculum, (c) decrease management authority of the public school, (d) appoint an outside expert to advise the public school, (e) extend the school day or year, and (f) change the public school's internal organizational structure.

Funding

IDEIA (2004) broadened the financial flexibility of funding, but it did not increase any federal monetary support. Since 1975, the federal portion of IDEA (1990 and 1997) financing has not exceeded 18%. IDEIA (2004) included promises of increased funding to 40% by 2011. Similar gaps have occurred in the federal funding of NCLB (2001). During the Bush administration, Secretary of Education, Dr. Margaret Spellings stated that the federal government should not be a major "investor" in public education. Dr. Spellings was recommending a federal investment of only 9% with states and local governments contributing the bulk of the dollars needed (U.S. Department of Education, 2007).

Fiscal constraints have governed the reality of balancing the funding between general and special education services. Funding has become a "masked issue" behind

conflict in schools because they cannot admit their financial limitations since that would deny FAPE, providing grounds for litigation. Fiscal constraints could greatly affect IEP teams' functioning as the administrator would be the only one able to make decisions once certain levels of funding are involved (Lake & Billingsley, 2000).

The Impact of School Reform on Special Education

The reaction to the alignment of IDEIA (2004) and NCLB (2001) has been mixed because many administrators hold the belief that including students with special needs in evaluating school performance could result in the designation of a school as failing under the law (Allbritten et al., 2004; Ratcliffe & Willard, 2006). Some educators see NCLB's focus on standardization as an inherent contradiction with IDEIA's focus on individualization (Ratcliffe & Willard). Others applaud the increased emphasis on accountability because they view NCLB as an opportunity to raise academic expectations for students with disabilities (Nagle et al., 2006; Yell et al., 2006). School reform impacts special education. Administrative and special educator reactions to the movement from compliance to accountability and the emerging problem of the lack of well-trained special educators will be examined in the next sections.

From Compliance to Accountability

With IDEIA (2004) aligned to NCLB (2001) there has been a critical shift from compliance with the law in providing students with FAPE, to a renewed focus on individual student academic progress (Skrtic et al., 2005). Both IDEIA and NCLB

included detailed definitions of terms such as “English language proficiency”, “core academic subject”, and “lack of instruction”, thereby delineating the nature of a student’s disability so it is not confused with an apparent lack of student progress. These assessments have been further confirmed by IDEIA’s introduction of the *Response to Intervention* (RTI) concept, which favors strategic and early instructional interventions for students identified as “at risk”. These early interventions are based on systematic assessments of students and are intensely data-driven. However, the reality of special education service delivery in schools often remains focused on avoiding litigation and merely meeting compliance standards (Futernick, 2007; Kozleski et al., 2000; Salisbury, 2006). Therefore, the increased expectations for student outcomes is largely left to the individual talents, leadership, and expertise of both special and general educators, and their leaders (Skrtic et al., 2005). The quality of special education between states and districts differs greatly because states and districts independently allocate varying levels of monetary support and professional development to public education, with school funding relying mostly on its tax base.

Expanding the collaboration between special and general educators has been a crucial factor in meeting the NCLB (2001) mandates requiring that all special education teachers be “highly qualified” or certified in any content area they teach. At a secondary level, one special education teacher would be unable to obtain all the necessary certifications needed to teach students all subjects. The underlying goal has been to expose students with disabilities to typical “core academic subjects” as much as possible. Collaborating with content teachers is often the only viable solution, especially since

students are expected to take the same tests as students without disabilities (Collins, 2005; Nagle & Crawford, 2005).

Principals are held accountable for *all* of their students' performances. Therefore, principals should develop a better understanding of possible special education service delivery models, the specific supports needed, and instructional delivery in the least restrictive environment (LRE). An administrative understanding of the many roles the special education teacher must fulfill is extremely important. The complexity of service delivery models from most to least restrictive, and the different special education teaching roles from consultant teacher to co-teacher demand more planning time, more flexibility, and increasing collaboration (Boscardin, 2004). The building leader is the only one able to set and change teachers' schedules.

Cloke (2006) believes chronic institutional conflict to be a symptom of the cracks in the system. Issues in special education may be manifestations of much larger issues present at the junction of special and general education. Both general and special educators are expected to meet NCLB (2001) standards, despite fiscal and structural constraints, and must be able to individualize student-centered services required by IDEIA (2004). Conflict from a systemic perspective needs to be examined. More specifically, parallels can be drawn between the business organizations Cloke has studied and the field of education as it increasingly includes special education. Cloke states

> Systems manifest their dysfunction through chronic conflicts that may appear purely personal, yet emanate from systemic sources. These conflicts grow deeper and more profound as a system loses its ability to adapt to changing

> environments...In organizations they may emerge as a result of unclear vision or goals, inept leadership, or hierarchical, bureaucratic, autocratic managerial practices (p. 22).

Special Educator Shortage

Qualified special education teachers have been leaving the field at an alarming rate, an issue which has been researched over the last decade (Billingsley, 2004; Edmonson & Thompson, 2001; Futernick, 2007; Gersten, Keating, Yovanoff, & Harniss, 2001; Kaff, 2004; Thornton, Peltier, & Medina, 2007). In 2000, the Council for Exceptional Children (CEC) commissioned a study named *Bright Futures* on the conditions of special education teaching and learning (Kozleski et al., 2000). This study found four out of every ten educators leave the profession before their fifth year.
The high attrition rates are paralleled by an increased demand for fully certified special educators (Boe, 2006; Brownell, Hirsch, & Seonjin, 2004; Gersten et al., 2001; Kozleski et al., 2000), and a heightened focus on special education teacher quality and leadership (Billingsley, 2004, 2007; Blanton, Sindelar, & Correa, 2006; Brownell, Sindelar, Bishop, Langley, & Seonjin, 2002; Carlson, Hyunshik, & Shroll Westat, 2006). Since the 1993-1994 school year, the percentage of available highly qualified special educators has significantly lagged behind the increase in the number of students in special education. Improving the retention of experienced special educators has been a national concern (Billingsley, 2004; Brownell et al., 2004; Gersten et al., 2001). After surveying 6000 randomly selected special education teachers in California, Futernick's (2007) findings

support and expand upon the idea that special educators face a unique set of challenges such as their complex and sometimes testy working relationships with general education teachers, additional paperwork and meeting requirements, and a work environment that some special education teachers liken to a legal minefield because of the litigious stance of many parents of special needs students (p. 35).

Recent studies have highlighted how the special educator's role has changed from being a self-contained or resource room teacher to that of a consultant, a coordinator, or a team leader (Billingsley, 2007; Blanton et al., 2006; Carlson et al., 2006; Jorgensen et al., 2005; Kozleski et al., 2000; Ryndak, Jackson, & Billingsley, 2000; Stanovich & Jordan, 2002). Over 96 % of general education teachers have children with disabilities in their classrooms, but only one third of these teachers feel prepared to instruct these students (Skrtic et al., 2005). Kozleski et al. (p. 4) substantiated these findings by stating that "…special educators face ambiguous, conflicting, and fragmented expectations from other educators, families, administrators, and the public...in part because the field is changing so rapidly". Sixty-eight percent of special educators surveyed in the *Bright Futures* study by Kozleski et al. reported that they spend less than two hours per week in individual instruction with each of their students. Instead they use their time to collaborate, co-teach, consult with general educators, and complete paperwork.

Understanding why teachers leave the profession is important as the loss of qualified and experienced teachers has the potential to considerably impact not only student achievement but also conflict with parents when experienced teachers are replaced with inexperienced and unqualified teachers (Brownell et al., 2002). Research

by Futernick (2007) found that 14% of special education teachers in California were not certified to teach special education in the 2004-05 school year. Forty-nine percent of first-year special education teachers were not certified to teach special education. These numbers are alarmingly high. Furthermore, Futernick found strong indications of this increase of unqualified special educators teaching in high poverty schools (22%), versus low poverty schools (6%). This can only contribute to increasing the achievement gap between groups of students, as defined by NCLB (2001), and compounding the ability for high poverty schools to make AYP.

The nature of the profession is changing dramatically. Special educators are delivering services in various settings from self-contained rooms to full inclusion classrooms. Therefore, when hired, special educators might be expected to be a classroom teacher, co-teach with a general educator, assist a grade level or a department, individually consult, “pull students out” to work with them individually, or “push students in” to work with them in an inclusive setting. The nature of the job is increasingly collaborative. Effective collaboration demands planning time. Increasing planning time requires administrative approval so leaders have to be aware of this need and of the changing roles for special educators. Because special education teacher attrition is high, special education expertise is lost over time (Kozleski et al., 2000). Recent literature suggests that problems specifically related to the special educator’s job create undue stress for the teacher, manifested in high attrition rates for special educators (Billingsley, 2004; Edmonson & Thompson, 2001; Gersten et al., 2001). Gersten et al. (2001) found that administrator’s job expectations of special education teachers are often

not realistic and educators experienced problems managing them all. The literature delineates the nature of the changing roles for special educators under the following three categories:

1. *Role conflict* and *overload* is defined as occurring when the formal role of the special educator is at odds with the reality experienced (Wasburn-Moses, 2005). For example, some factors directly related to role conflict are the lack of administrative support and collegiality, excessive paperwork, the move toward inclusion and the need to collaborate with resistant general educators, high and very diverse caseloads, and conflict with parents (Kern & Pace, 2006).
2. *Role ambiguity* is characterized by the inability to fulfill the different roles and responsibilities due to lack of information and training (Gersten et al., 2001). For example, the lack of preparation and training in co-teaching strategies in inclusive settings may hinder the special education teacher's ability to be an effective consultant. The lack of special educator's content-specific knowledge at a secondary level may delay the potential for collaboration between special educators and content specialists (Brownell et al., 2002; Kaff, 2004; Schlichte, Yssel, & Merbler, 2005; Wasburn-Moses, 2005)
3. *Role dissonance* relates to the teacher's perception of what the job means and the reality of the school's or district's existing "perspectives, philosophies, goals and approaches to work, reflected across the 'teams' of professionals envisioned in IDEA 1997" (Gersten et al., 2001, p. 553). There might be

misunderstandings between how teachers want to teach, and the approach a certain school or district adopts or the changes it makes over time in its vision, which is ultimately reflected in the IEP team's philosophy. For example, a teacher might expect or be accustomed to working in a self-contained classroom, and then be asked to collaborate with others in more of an inclusive service delivery model. This transition entails learning a new skill set, collaborating with other adults, as opposed to being in control of one classroom (Brownell et al., 2006).

Many special educators have left the profession because of inadequate support. Futernick's (2007) research concluded that the primary reason one third of the special educators in California gave for their decision to leave the profession was inadequate system support. Inadequate system support is defined by the terms listed below. The percentage rates reflect how many teachers cited that particular reason as the primary one for leaving the profession. The specific components are as follows:

1. Bureaucratic requirements asked of teachers, or increased paperwork (70%);
2. Lack of appropriate leadership at the building level (61%);
3. Insufficient time available for collaboration with colleagues (54%);
4. Lack of understanding from general education colleagues about special education challenges, therefore issues with collaboration (60%);
5. The very complex and labor-intensive production of individualized education programs (IEPs) and related paperwork, which refers to issues in the area of

team building, facilitation, communication with colleagues and related service provided (58%);

6. Lack of support for students with disabilities, or what is perceived as such. Often teachers have to contend with limited budget, outdated curriculum, limited help and supports from others (66%); and
7. Difficulty dealing with parents or more specifically difficulty coping with what has been perceived as the constant threat of legal action (39%) (Futernick).

Futernick's (2007) study lists some reasons why two thirds of the special education teachers in California remained in the field. These are

1. Adequate preparation for the job (70%),
2. Strong collegial supports (66%),
3. Supportive and effective leadership from the principal (67%),
4. The rewards of teaching special education students (65%), and
5. Interacting with parents (56%), which, in Futernick's words "revealed a wisdom they [teachers] developed on the job in dealing with parents of special education students that then positively tethered them to the job" (p. 42).

Since leadership plays such an important part in teacher retention, literature on leadership and special education is now reviewed to further clarify what other areas of teacher performance different levels of leadership might impact.

The Changing Role of Leadership in Special Education

Leadership in special education reflects the realities of a dual educational system. Both IDEIA (2004) and NCLB (2001) promote education in the LRE as well as the strengthening of collaborative practices between and among general and special educators (Boscardin, 2006; DiPaola et al., 2004; DiPaola & Walther-Thomas, 2003; Lashley & Boscardin, 2003). Policy changes have not necessarily clarified leadership roles for special education. By default, leadership for specials education rests on the triumvirate of the building-level leader, the special education teacher and the district-level special education director.

Emerging research in educational leadership is revealing how much building-level leadership can impact the teacher's sense of self-efficacy. High levels of teacher self-efficacy can create "collective efficacy", which positively influences community participation in schools. This collective efficacy could be surmised to build relationships and trust with the school's families (Goddard, 2001; Goddard, Hoy, & Woolfolk-Hoy, 2004; Ross & Gray, 2006; Ware & Kitsantas, 2007).

The Impact of Change on Special Education Leadership

Heightened accountability in educational policy often is matched by increasingly well-informed expectations of parents. Parental expectations may not be met by schools due to a multitude of reasons ranging from funding concerns to lack of leadership training in special education best practices. Research conducted on special educator retention has revealed the importance of administrative support in successfully retaining teachers, and

has also revealed the increasing stressors faced by educators in general (Billingsley, 2004; Gersten et al., 2001).

Supervision and evaluation of special educators may not be clearly assigned, since many special educators report to their building leader and also to the district special education administrator (Bays & Crockett, 2007). Many ambiguities exist in the balance of accountability and support within the triumvirate of special educator, principal, and district special education director. These key participants often share special education leadership roles (Billingsley, 2004; Gersten et al., 2001). Special educators often assume leadership roles within schools when they are able and gain the expertise to do so (Billingsley, 2007). Conversely, if a special educator does not possess the knowledge or lacks the leadership skills needed to handle complex situations, this deficit might lead to more conflict.

In the move from compliance to accountability, special education leadership has significantly transformed. The responsibility for instructional leadership, legal compliance, and general management of programs has shifted to a necessary collaboration between special education administrators, building managers, and special educators rather than being the singular duty of the district director of special education (Bays & Crockett, 2007).

Instructional Leadership in Special Education

Bays and Crockett (2007) conducted research in nine elementary schools across three districts in the south east to examine the role of instructional leadership for special

education. They found responsibilities were dispersed formally and informally between principals, directors of special education and teachers. Bays and Crockett used the term leadership “dispersal” rather than “distribution” because the latter implied a formal and intentional arrangement. They concluded that principals typically have been unprepared for meeting the needs of students with disabilities or providing informed support and instructional leadership to special educators.

Bays and Crockett (2007) also administered a state-wide survey in Virginia and found 31% of special education directors listed their greatest concern as lack of time. Twenty-six percent of special education directors were “alarmed” at the school administrators’ lack of knowledge about special education. Building principals and special education directors are left to supervise and evaluate special educators, with neither the knowledge nor the time to do so effectively.

Lake and Billingsley (2000) found the principal’s role as a manager of resources (e.g., money, time, scheduling, personnel, and materials) influenced conflict between professionals and parents. Educators and building leaders also viewed time as an issue, particularly with special education matters involving parents considered to be strong advocates for their children who require additional attention (Futernick, 2007; Salisbury, 2006).

The traditional dual educational leadership system seems obsolete to some educators as service delivery and accountability occur precisely at the intersection of special and general education. School leadership has been changing in special and general education. Principals must manage, monitor, and analyze increasingly competing

priorities such as building management, administrative and supervisory duties, legal compliance, instructional quality of all of the programs, and teacher evaluation as well as assess and analyze data to plan for the future (Bays & Crockett, 2007). The demands and the accountability have been increasing. In the words of Di Paola, Tchannen-Moran and Walther-Thomas (2004)

> From coast to coast, public officials (e.g., governors, superintendents, principals) are in the headlines and, in many ways, in the academic headlights, as they try to explain low test scores to their constituents. Unfortunately, few of them effectively describe the complex challenges that schools face in implementing NCLB (e.g., insufficient resources, high teacher turnover, teacher shortages, unrealistic 'highly qualified' requirements, and standardized test limitations) (p. 2).

Families and the public at large are unaware of the many variables necessary to create an effective school where *all* children demonstrate learning. The potential for transformation exists but it requires knowledge and expertise on the topic of leadership for change, and how change is implemented and sustained in schools (Fullan, 2001; Senge et al., 2000).

Leadership and Teacher Self-Efficacy Beliefs

A growing body of research in the last decade has found that the most important variable likely to impact teacher self-efficacy beliefs, the retention of special educators,

and student outcomes is building level leadership support (Billingsley, 2004; DiPaola et al., 2004; Gersten, Keating, & Yovanoff, 1995; Gersten et al., 2001; Weiss, 2001). The construct linked to how teachers view their own professional performance (Brownell & Pajares, 1996) is commonly referred to as *teacher self-efficacy beliefs* or the insights that educators develop when able to effectively perform their jobs. This concept, drawn from the work of Bandura (1997) and his research in social cognitive theory, suggests that individuals will "…pursue activities and situations in which they feel competent and will avoid situations in which they doubt their capability to perform successfully" (cited in Brownell & Pajares, p. 11). Social cognitive theory maintains that people with high self-efficacy beliefs will demonstrate effort and perseverance in work related tasks.

High teacher self-efficacy beliefs have been linked to student outcomes, openness to new ideas and methods as well as the skills necessary to individualize instruction and include students with disabilities (Brownell & Pajares, 1996; Jordan, Stanovich, & Roach, 1997; Romi & Leyser, 2006). Openness to new ideas and the ability to individualize instruction are attitudes and skills important to develop in special education teachers, since special education is in a constant flux, and collaboration requires flexibility. There is another link between high teacher self-efficacy beliefs and student outcomes as evidenced by the emerging research on teacher quality (Blanton et al., 2006; Brownell et al., 2002; Carlson et al., 2006).

Brownell and Pajares (1996) list factors directly influencing teacher self-efficacy beliefs. They are related to leadership support, building-level collegiality, class size, socioeconomic status of students served, and levels of professional knowledge. These

factors mirror reasons most commonly cited in the special educator shortage research, which is the lack of administrative and collegial support and issues related to teacher roles and job design (Ax et al., 2001; Billingsley, Gersten, Gillman, & Morvant, 1995; Gersten et al., 2001; NERRC, 2004).

Leadership Styles, Collective Efficacy, and Student Outcomes

Research on transformational leadership has examined many variables of teacher behavior such as increased professionalism, organizational commitment, learning, effectiveness and culture, and has offered interesting insights into the value of increasing community involvement (Ross & Gray, 2006). Transformational leadership is characterized by the presence of a charismatic and moral vision for the school, intellectual stimulation of its members, and commitment to the individual teacher (Leithwood, Jantzi, & McElheron-Hopkins, 2006; Ross & Gray, 2006). Fullan (2001) has urged principals to consider five points, which are crucial to effectively leading for change and transformation. They are (a) infusing moral purpose, (b) comprehending and explaining the process of change itself, (c) nurturing and building relationships, (d) building a common professional knowledge base, and (e) making sense of the change process as it occurs.

Recent research has highlighted the relationships between leadership, high teacher self-efficacy beliefs, collective efficacy and community involvement in schools (Goddard, 2001; Goddard et al., 2004; Ross & Gray, 2006; Ware & Kitsantas, 2007). Transformational leadership greatly impacts individual teacher self-efficacy beliefs.

Increased teacher self-efficacy beliefs have, in turn, led to high collective efficacy, which has greatly influenced student achievement and higher levels of community and parent involvement (Ross & Gray, 2006). Many studies have found that increased parent involvement in schools may also be a strong positive influence on student achievement (Carter, 2002).

Dr. Richard Mainzer, the Associate Executive Director for professional services at the CEC states "We bring people in, burn them out early, then bemoan the fact that we have high turnover rate" (cited in Lake & Billingsley, 2000, p. 246). Knowledgeable and effective leadership for special education can positively change this pattern.

Conclusion

In these complex and stressful times of rapid educational transformation, levels of support, teacher collegiality, retention, and openness to change are shaped by quality leadership. The elevated stress experienced by special education teachers is manifested in increasing special educator shortage rates (Doyle, 2002). Quality and effective instructional support for special education often rests on the shoulders of the district special education director, the building-level leader, and the special educator.

The levels of change required must incorporate re-culturing as well as re-structuring efforts in order to inclusively accommodate the needs of an increasingly diverse student body (Doyle, 2002). Re-culturing extends beyond policies, structure and practice to include changing attitudes and belief systems, as school leaders play a pivotal role in effecting sustainable systems change.

Schools focused on inclusive service delivery in special education share a commitment to diversity, social justice, community and equity (Salisbury, 2006), an approach that might help school leadership to increase academic achievement for all students, regardless of their ability, ethnicity, or SES status (NCLB 2001). It is reasonable, therefore, to infer that developing effective instructional and supervisory skills for special education in building level leadership will lead to higher special education services quality, increased academic progress for students with disabilities, and increased retention of highly qualified special educators in schools.

Complex systems change takes time and involves many levels of collaboration (Ferguson, Kozleski, & Smith, 2005). Much knowledge can be gleaned from research in general education on leadership and leadership styles. Perhaps increasing retention of special educators can occur with a heightened perception of self-efficacy. Understanding patterns of distributed leadership and its effect on school improvement models can guide the way to more effective and unified on site leadership for special education (Burello, Lashley, & Beatty, 2001; Leithwood et al., 2006; Leithwood et al., 2007; Leithwood & Sleegers, 2006). Links have been made between community involvement in schools and high teacher self-efficacy beliefs (Ross & Gray, 2006). The next chapter will examine the literature concerning family-professional collaboration and community involvement.

CHAPTER THREE

PARENT/PROFESSIONAL RELATIONSHIPS: AMBIGUITY, COLLABORATION AND CHANGES

Three major factors causing conflict are the lack of collaboration between educators and parents, the hidden constraints of time, money and resources (Lake & Billingsley, 1999), and cultural values embedded in IDEIA (2004). Specifically, this chapter examines the cultural values of equality, individualism and choice as sources of conflict in parent-professional relationships (Kalyanpur & Harry, 1999). Legislative leaders and most parents and professionals endorse collaboration as an essential element of special education service delivery. However, parent-professional relationships often are less than satisfactory and filled with tension (Blue-Banning, Summers, Franklin, & Lord-Nelson, 2004; Feinburg et al., 2002; Pinkus, 2005, 2006). The benefits of parent-professional collaboration are summarized by the following factors: (a) increased children's academic achievement, (b) improved school attendance and behavior, (c) stronger work motivation, and (d) an enhanced view of school.

The legislative cultural values of IDEA 1997 are reproduced in IDEIA 2004. While this text will often refer to IDEA 1997, the observations also apply to IDEIA 2004, since the latter is a reauthorization of IDEA 1997. A critical analysis of disability policy, emphasizing cultural differences, is used to clarify some of the root causes of conflict between parents and professionals. Examining the IDEA 1997 legislation with the intent of clarifying core values embedded in it sheds light on assumptions held by both

professionals and parents (Kalyanpur & Harry, 1999). There is an essential contradiction between the value of equality or the notion that all parents will be treated the same and the value of personal choice deeply embedded in the belief of *individualism.* According to Kalyanpur and Harry, individualism encompasses a striving for self-reliance and independence that is tied to civic goals, but it is not necessarily a trait shared by all cultures. There is a basic inconsistency between the mandate to collaborate and the right to due process (Kalyanpur & Harry). This analysis will highlight the differences between the scientific, objective knowledge held by professionals and the parent's informal and personal knowledge of their own children and how this contradiction manifests in the parent-professional relationship (Reid & Valle, 2004; Valle & Aponte, 2002).

The relationships between parents and professionals and the context of their interchange will be discussed, pointing to underlying issues of power and how that is shared in schools (Kalyanpur & Harry, 1999). The distribution of power between families and professionals and within family systems is presented extensively in the literature on parent-professional partnerships in early childhood research, demonstrating that professionals collaborate with parents and work within the child's home (Blue-Banning et al., 2004; Epstein & Clark Salinas, 2004; Pinkus, 2005, 2006; Turnbull, Blue-Banning, Turbiville, & Park, 1999; Turnbull & Turnbull, 2006). This research provides further insight and helpful suggestions that could be applied to school settings.

There have been subtle shifts from a law focused on education and civil rights, IDEA (1997), to a "welfare" law, IDEIA (2004), increasing the parental responsibility in the special education process, a result of the alignment with NCLB (2002) (Turnbull,

2005). These notable changes, which affect the parents' roles and the dispute resolution process, will be reviewed.

Ambiguities and the Context of Special Education

The next three sections will examine the discrepancies between the cultural values of equality, choice, and individualism embedded in IDEIA (2004) and values of families from various backgrounds, including linguistic or socio-economic differences. The concept of expertise and its effects on professional culture are also reviewed (Reid & Valle, 2004; Valle & Aponte, 2002). Clashes between professional and family expectations of collaboration are addressed as well as the apparent contradiction between the mandate to collaborate and the right to due process (Kalyanpur & Harry, 1999).

Equality versus Choice versus Individualism

Conflict between parents and professionals is embedded in IDEA 1997, according to Kalyanpur and Harry (1999) in *Culture in Special Education-Building Reciprocal Family-Professional Relationships*. This conflict is a tension replicated in IDEIA 2004. Kalyanpur and Harry explain how the values of equality, freedom of choice and individualism deem parents and individuals "...able to assume the level of assertiveness that is needed for claiming their rights and be aware of the appropriate avenues for redress..." (Kalyanpur & Harry, p. 22). The right to due process potentially places parents in the role of enforcers of IDEIA. The authors put forward the idea that parents become unintentional participants in heightening conflict in an already adversarial system.

Individuals in some cultures might not be comfortable assuming the enforcer role, which might be interpreted by educators as not participating in their child's education or special education process (Kalyanpur & Harry). A culture of entitlement or conflict is less conducive to increasing collaboration between parents and school professionals and builds fear and resentment on both sides (Cloke, 2001).

Kalyanpur and Harry (1999) describe in detail how the seven principles and parental rights of IDEA (1997) spring from the three American core values of equality, freedom of choice, and individualism, embedded within the ideals of participatory democracy. The seven principles of IDEA (1997), which were reviewed in Chapter Two, address the following rights:

1. Early identification of "at risk" children,
2. The right to a non-discriminatory evaluation,
3. Free and appropriate public education for all children (FAPE),
4. The right to an individualized educational program (IEP),
5. Implementation of IEP in the least restrictive environment (LRE),
6. Ongoing parent participation and collaboration, and
7. The right to procedural safeguards.

The notion of equality between citizens is rooted in the principles of zero-reject or Free and Appropriate Education (FAPE) for all students, the right to nondiscriminatory assessment and parent participation in the special education process. The value of freedom of choice inspires the principles of parent participation and the least restrictive environment (LRE), while the value of individualism underlies the principles of due

process and the individualized education program (IEP). Collaboration is mandated by policy yet the threat of due process is ever present, thus creating adversarial conditions for both professional and parent. The ideal of freedom of choice leads individuals to perceive rights as entitlements, which escalates the level of conflict between parents and professionals and "...the likelihood of conflict resolution through confrontation rather than mediation"(Kalyanpur & Harry, 1999, p. 23).

The ideal of participatory democracy is expressed in the expectation for parent collaboration, pitting the value of equality against the one of choice, since the increase of equality should theoretically reduce choice and vice versa (Kalyanpur & Harry, 1999). For example, the tension manifested between the parent's efforts to seek individualized services tailored to their child's need demonstrates the principle of individualism and choice. The school's attempts to provide programmatic solutions when addressing a similarity of needs exhibited in students with disabilities, addresses the principle of equality in IDEIA 2004 (Wright & Wright, 2006). The tension between choice and equality is apparent in budgetary allocation and how schools manage their limited financial resources by favoring equity over choice, while the threat of litigation is ever present. The principle of due process, while guaranteeing rights for parents, forces many schools to focus on compliance rather than true individualization of each student's education.

Culture, Class, and Parent Participation

This review assumes the values of families from high poverty and culturally and linguistically diverse (CLD) backgrounds may be different from the middle class values inherent in public schools (Payne, 1996; Reid & Valle, 2004). Kalyanpur and Harry (1999) offer a thorough analysis of why the values embedded in IDEA might not be meaningful to families from other backgrounds. Some CLD families might not believe in the principle of equality, and believe that inequality is an inherent part of life driven by differences based on caste, skin color, economic or social status. This is referred to as "value inequality" (Kalyanpur & Harry). Cultures driven by value inequality often expect professionals to have a higher social status, and also expect that these professionals will protect and teach them what they must know. CLD families also might not anticipate choice or equal participation in the process. Families might not participate in school activities because they have a history of negative experiences with schools, and be unable to conceive a different situation emerging in the balance of power they have personally experienced (Kalyanpur & Harry; Lawrence-Lightfoot, 2003; Payne). If these families attend individualized education program (IEP) meetings, "...their silence at these occasions may be due to deference to authority and compliance..." (Kalyanpur & Harry, p. 29).

The different professional positions influence the nature of the relationship between the professional and the parent. Kalyanpur and Harry (1999) examine how disability is viewed in a *low context* culture. A low context culture refers to families whose relationships with professionals are predominantly viewed as impersonal and

neutral (Kalyanpur & Harry). Professional knowledge in this environment is determined to be specific and explicit. It is assumed by the professional community that families in this context will work to acquire this knowledge themselves. An objective and detached professional demeanor can present problems for intimate and emotional circumstances framing the parent's world. Kalyanpur and Harry further assert low context cultures are in sharp contrast to *high context* cultures where professionals relate personally in familiar and intimate contexts. Knowledge is perceived as implicit; therefore acquiring a different set of skills will depend on the existence of a personal relationship between the professional and the family. It becomes the professional's responsibility to educate the families with whom they are working (Kalyanpur & Harry; Payne, 1996).

In the last 100 years, since the inception of compulsory education in this country, the educational system has at times excluded many groups of students, e.g., African Americans, American Indians, students with disabilities, immigrant groups, students from low socio-economic status (SES) families, and others (Reid & Valle, 2004, p. 475). Lack of participation in the special education process may reflect an unwelcome space for those who seem far from the typical middle class norms (Lawrence-Lightfoot, 2003; Payne, 1996; Reid & Valle). Adopting Kalyanpur and Harry's (1999) posture of cultural reciprocity could potentially alleviate the common stressors affecting parent-professional relationships.

Expert Knowledge versus Intimate Knowledge

Special education and the provision of services for students with disabilities and their families are still rooted in medical and legal origins, managed by the expert (Kalyanpur & Harry, 1999; Reid & Valle, 2004). The expertise held by professionals often collides with the concept of *egalitarianism*, the democratic ideal espoused by IDEA 1997, promoting the parent as an equal participant in the special education process. Special education traditionally has been utilized as a support service for students within a school setting, rather than assessing the student within a more intimate “context”, i.e., within their family, their culture, and their social class. This traditional approach is referred to as *de-contextualized* or *categorical knowledge* (Kalyanpur & Harry). Kalyanpur and Harry emphasize that specific scientific and categorical knowledge limits the possibility of honoring each family member’s personal beliefs about their own children. Reid and Valle reiterate this idea in the following quote:

> School professionals, speaking from an authority based on the conception of science as an objective, indisputable truth, position themselves (intentionally or unintentionally) in a dominant rather than a collaborative role with parents (p. 475).

IDEIA 2004 endorses parents as the guardians of the law by assuming that families understand their rights and families need this knowledge in order to successfully negotiate the special education maze (Harry, Klinger, & Hart, 2005; Kalyanpur & Harry, 1999; Turnbull, 2005). A strong understanding of the origins of these tensions and

inherent misunderstandings common to parent-professional communications is certainly necessary (Kalyanpur & Harry; Reid & Valle, 2004; Valle & Aponte, 2002).

Collaborative Parent-Professional Partnerships

Power between families and professionals and within family systems is a much researched topic in the field of early childhood. Some of that research will be examined as it relates to family systems, boundaries between professionals, and indicators of what constitutes good collaboration and quality teamwork (Blue-Banning et al., 2004; Epstein & Clark Salinas, 2004; Pinkus, 2005, 2006; Turnbull et al., 1999; Turnbull & Turnbull, 2006). The concept of power and who retains it also will be reviewed.

Family Systems, Boundaries, and Needs

Much of the work in the field of parent-professional collaboration comes from the research in early-childhood interventions, where service delivery is defined as being "family-centered" and delivered in the families' homes (Blue-Banning et al., 2004; Lord-Nelson, Summers, & Turnbull, 2004; Summers et al., 2005; Turnbull, Turbiville, & Turnbull, 2000; Turnbull & Turnbull, 2006). Since families profoundly affect the student's long-term development, it is crucial for professionals to understand the needs of families in order to compound the potential effects on student growth.

A study focusing on Anglo-Jewish families in England developed a "set of analytical tools for understanding how partnerships do, and should, function when a child has special needs" (Pinkus, 2006, p.158). Pinkus determined three distinct premises:

(a) parents generally try to be active rather than passive, (b) the student must be understood in the context of the family as a whole, and (c) families are very vulnerable to professional intervention. These families expressed a need to maintain boundaries with professionals within the family context.

Effective relationships with families require knowledge of family systems theory, which views families as a complete organization "...subject to multiple and competing internal and external influences, and how these may interact over time" (Pinkus, 2006, p. 158). Johnson, Pugach and Hawkins (2004) extend this idea further as they address the unique characteristics of the many kinds of families encountered in public schools today, e.g., the traditional nuclear family, the single-parent family, the blended family, the extended family, and same-gender couples. Students belong to their families first and to schools second. The importance of professionals developing knowledge of individual family systems is supported by many other educational researchers (Johnson et al.; Turnbull et al., 2000; Turnbull & Turnbull, 2006).

Turnbull and Turnbull (2006) recommend understanding families as continuously operating within four subsystems:

1. Adult-adult (partners),
2. Parent subsystem (parent and child),
3. Sibling subsystem, and
4. Extended family subsystem (support system) (p. 30)

Lord-Nelson et al. (2004) examined the topic of boundaries from the committed professional's point of view for developing relationships with the families of their

students. Many professionals welcome and engage in the emotional work needed to best serve the student, defined in this research as “emotional labor” (Lord-Nelson et al., p.162). Professionals who display such efforts “...have opened a boundary between their professional and personal selves – between their minds and their hearts...” (Lord-Nelson et al., p. 162). While parents prefer educators who are caring, flexible, and accessible, Lord-Nelson et al. believe it is important for professionals to maintain healthy boundaries, but be capable of self-disclosing feelings of increased stress, exhaustion and burnout.

Pinkus (2006) mentions the family’s history with professionals, e.g., medical, early intervention, and school professionals, will affect future relationships with other professionals. Stress experienced with school professionals impacts the whole family (Johnson et al., 2004). To avoid perpetuating a “culture of suspicion”, professionals should remember that they are one of many entities with whom parents must interact, and the layers of possible past disappointments, grief and frustrations are always present (Pinkus, p. 159). Disappointments are often ingrained in past experiences of dealing with the medical profession whose views of disability might be less “family-centered” (Pinkus; Stoner et al., 2005). Pinkus states that policy favoring “parent-professional” relationships over complete family systems disconnects the intent of policy from the realities of parent’s experiences. This circumstance offers another explanation of the discontent.

Johnson et al. (2004) and Turnbull and Turnbull (2006) list the following seven family functions, which determine levels of need that family systems experience over time or simultaneously:

1. Economic needs,
2. Daily care needs,
3. Socialization needs,
4. Recreational needs,
5. Self-esteem needs,
6. Affection needs, and
7. Educational and vocational needs.

Johnson et al. (2004) developed several ways in which schools can meet these needs and help families reach more functional levels. Some suggestions include offering educational programs in finance management, health care, behavior management, and parenting; informing families of local resources available; providing school-based medical services; encouraging the creation of family support groups; and letting parents choose their levels of involvement with schools, since their time might be focused on meeting some of the basic needs mentioned above.

Indicators of Collaborative, Trusting Relationships between Parents and Educators

The following groups of authors, Turnbull and Turnbull (2006) and Blue-Banning et al. (2004), are from the Beach Center on Disability at the University of Kansas focused on making a difference in the lives of families living with exceptionalities. Turnbull and

Turnbull outline seven principles essential for professionals to adopt when working with parents of students with exceptional needs:

1. Communication,
2. Professional competence or skills,
3. Respect,
4. Trust,
5. Commitment,
6. Equality, and
7. Advocacy.

In general education Epstein and Salinas (2004) additionally suggest different actions schools can take to promote parent involvement, while in special education Turnbull and Turnbull (2006) focus more on what kinds of behaviors professionals need in order to develop quality relationships. Blue-Banning et al. (2004) sought to answer the following question, "What specific indicators of professional behavior do parents and professionals identify as indicative of collaborative partnerships?" (p. 169). Blue-Banning et al. selected for interviews an ethnically diverse group of parents including different family configurations, varying employment statuses, a variety of ages of children with special needs, and assorted etiologies of the students. A professional group representative of the field of special education with 70% white and 32% African American participants was interviewed. Six "hypothesized domains of interpersonal partnership" emerged with indicators representing viewpoints from both families and

professionals (Blue-Banning et al., p. 68). These six domains are explained in Table 1, summarizing the findings from this research.

Lake and Billingsley (2000) list the following eight factors that could escalate conflict between professionals and families:

1. A discrepant view of the child and/or the child's need, relating to opposing views of children with disabilities typified by strength versus deficit-based perspective.
2. A lack of knowledge of the special education process by both parent and/or educator.
3. A difference of opinion on service delivery options, the quality of services offered, what inclusive service delivery and instructional programs consist of, as well as quality case management of integrated services.
4. The lack of school resources such as time, money, personnel, and materials.
5. How valued parent and/or their child or professional felt by the other during the partnership process or the concept of valuation.
6. The locus of power and whether there might be an abuse of power over the other party in order to achieve the desired goal.
7. Lack of communication, and lack thereof, commonly expressed in misunderstandings, lack of follow up, poor timing of clarifying attempts, and withholding information by both parents and professionals.
8. Lack of trust which de-escalates conflict when present (p. 244)

Table 1

Indicators of Collaborative Partnerships

Partnership Themes	Indicators
1. Communication	Sharing resources
	Being clear
	Being honest
	Communicating positively
	Being tactful
	Being open
	Listening
	Communicating frequently
	Coordinating information
2. Commitment	Demonstrating commitment
	Being flexible
	Regarding work as 'more than a job'
	Regarding child/family as 'more than a case'
	Encouraging the child and family
	Being consistent
	Being sensitive to emotion
3. Equality	Avoiding use of 'clout'
	Empowering partners
	Validating others
	Advocating for child/family with other professionals
	Allowing reciprocity among members
	Being willing to explore all options

Table 1 (*continued*)

Indicators of Collaborative Partnerships

Partnership Themes	Indicators
3. Equality (*continued*)	Fostering harmony among all partners
	Coming to the table/avoiding ‘turf wars’
	Acting equal
4. Skills	Taking Action
	Having expectations for child’s progress
	Meeting individual special needs
	Considering the whole child or family
	Being willing to learn
5. Trust	Being reliable
	Keeping the child safe
	Being discreet
6. Respect	Valuing child
	Being nonjudgmental
	Being courteous
	Exercising nondiscrimination
	Avoiding intrusion

Note. Adapted with permission from Blue-Banning, M., Summers, J., Franklin, C., & Lord-Nelson, L. (2004). Dimensions of family and professional partnerships: Constructive guidelines for collaboration. *Exceptional Children, 70*(2), 167-184. Copyright 2004 by the Council for Exceptional Children.

There are striking parallels between Turnbull and Turnbull’s (2006) seven principles and Blue-Banning’s et al. (2004) domains of interpersonal indicators, and Lake and Billingsley’s (2000) factors, which are summarized in Figure 2.

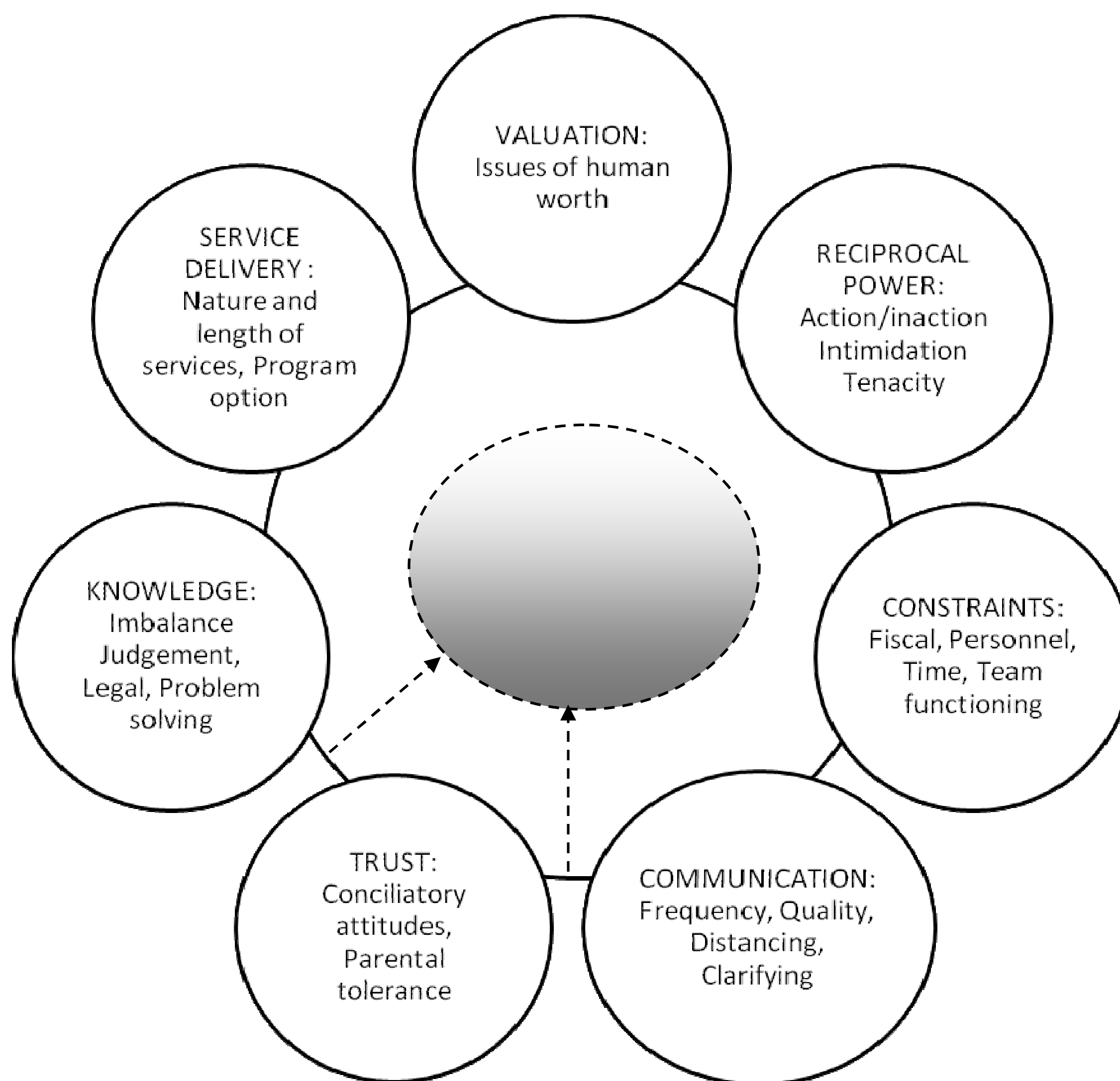

Figure 2. Factors that escalate and de-escalate conflict.

Note: Adapted with permission from the author, Lake, J., & Billingsley, B. (2000). An analysis of factors that contribute to parent/school conflict in special education. *Remedial and Special Education, 21*(4), 243-251. ProEd & Sage Publications.

Measuring Quality Partnerships between Parents and Professionals

The research team from the Beach Center on Disability published an article exploring ways to monitor the quality of family-professional partnerships by creating the Family-Professional Partnership Scale (Summers et al., 2005). This study found that most instruments differentiated between the family's satisfaction with services, and satisfaction with the interventions themselves. Summers et al. used both of these concepts to define the general term of partnership to be measured. After exploratory analysis the original six domains related to attitudes and behaviors from Blue-Banning et al. (2004) were collapsed into two subscales: child-focused relationship and family-relationships. This conceptual framework allows educators and administrators to pinpoint areas for further professional development and adjustment if they commonly experience conflict with families.

Power and Family-Professional Partnership Models

Turnbull, Turbiville, and Turnbull (2000) have examined the evolution of family-professional partnerships along a power continuum since the 1950s. Whether the parent or professional holds the power at any given moment characterizes the nature of the parent-professional relationship. Turnbull et al. (2000) discuss three collaborative models, two of which presume power in the hands of the professional who holds the specific/scientific knowledge and designates the parent as the receptor of the knowledge. Turnbull et al. name this first model "*power-over*", which has its origins in counseling, psychotherapy, or in parent training models. The relationship in this instance is generally

focused on the mother-child relationship. The second model is characterized by family-centered practices, which is named "*power-with*" and represents a theoretical equality between parents and professionals. Professionals assume the role of collaborators.

The last and most desirable collaboration model is collective empowerment or "*power-through*" defined as including "synergistic decision making among family members, professionals, friends, and community citizens through perceived group competence, 'mind and heart' communication, and the creation of new and preferred environment resources" (Turnbull et al., 2000, p. 632). The process of empowerment refers to gaining mastery over daily trials and challenges for all parties involved in the process. This last model implies a relationship based on equality, and assumes the ability of professionals to forego their titles and roles. In this model the professional alone cannot provide all the answers. Being able to openly admit to an impasse without fear of judgment or legal retribution, releases a shared energy able to create scarce resources. Wagner, cited in Turnbull et al. (2000), states

> Power has become capacity building, with participants gaining in competence, abilities, resource acquisition, and capability without taking any power from others....It is not a scarcity to be hoarded by any member; their power is capacity for all (p. 644).

Experiencing a new and mutually beneficial partnership, parents and professionals learn to appreciate each other's input, knowledge and creativity. The redefined team can expect outcomes such as synergy, innovative and sustainable resources, and increased satisfaction.

Changes in the Dispute Resolution Process

Laws are viewed as behavioral contracts shaping the actions of both the state and those it governs (Turnbull, 2005). Turnbull views the new IDEIA (2004) first as a school reform law (aligned with NCLB, 2002), second, as a civil rights law (reflecting IDEA 1997), and third, as something well beyond both of these characterizations, as "it partakes of social reform on a large scale – more like a 'welfare state' reform law than a civil rights or school reform law" (p. 320). Turnbull finds the latest reauthorization of IDEIA to be aligned with key concepts introduced in two reports preceding this legislation: *Rethinking Special Education for a new Century* (Finn, Rotherham, & Hokanson, 2001) and the *President's Commission on Excellence in Special Education* (2002). The messages from both Congress and the Supreme Court for the last decade have focused on increasing the schools' accountability and the family's responsibility. Turnbull analyzes the shift from IDEA (1997) as a right to IDEIA (2004) as a responsibility to be accounted for.

The governmental contract between government and those governed is altered and the focus is now on responsibilities as well as rights (Turnbull, 2005). Some changes in dispute resolution procedures reflect the same policy emphasis.

Due Process

The principle of due process guarantees the parent the right to use the legal procedure in cases where rights have been violated. Turnbull (2007) states "…two IDEIA

2004 principles, namely, *procedural due process* and *parent participation*, exist because parents had been excluded from the schools' *decision-making processes*" (p. 69). Due process hearings are formal judicial forums, where opposing parties present their cases in front of a hearing officer. Decisions might be based on substantive issues as well as procedural requirements and court cases can proceed to the United States Supreme Court (Turnbull).

IDEIA 2004 introduces resolution sessions, but primarily replicates preceding legislation. Parents may still request a due process hearing to be conducted by the state education agency (SEA) or local education agency (LEA) regarding anything to do with either the identification, evaluation or educational placement of the student, or the provision of a free appropriate public education (FAPE) (§615; §300-507). Timelines are now attached to these procedures, i.e. the complaint may not address issues that occurred more than two years prior to the complaint, although the parent may seek reparation beyond the two-year timeline if the LEA is proven to have misrepresented itself or withheld information. Both parties must provide notice to each other of impending legal action as well as delineate the nature of the problem with supporting facts and submit a proposed resolution. A due process hearing may not occur until the document meets those requirements outlined in IDEIA (2004), or if the party receiving the notice supplies written notice to the hearing officer that they believe the notice does not follow the required format.

The school must send a prior written notice (PWN) to the parent regarding the problem named in the due process appeal as soon as they receive the notice requesting a

due process hearing (IDEIA, 2004, §300-503). This response must include the following four parts:

1. Why the school proposed or refused to respond to the issue identified in the request for a due process hearing;
2. A description of other options that the IEP team considered and the reasons why those options were rejected;
3. A description of the whole evaluation procedure the school used as justification for a decision concerning the student; and
4. A description of other factors relevant to the decision made by the school (§300-508).

The non-complaining party must send to the other party a response within ten days that specifically addresses all of the issues named in the due process request. The hearing officer must respond to both parties within five days after he or she determines the notice meets all the requirements mentioned above. A party may amend its request only under two conditions:

1. If the other party consents to the amendment and is open to resolve complaint through a resolution session outlined in Section 615 of IDEIA 2004; and
2. If the hearing officer grants permission to amend the request.

Both of these conditions may occur up to five days prior to the due hearing date (§300-510). New provisions are added for the hearing officer who must possess knowledge of all of the legislation pertaining to IDEIA (2004), know how to conduct hearings and deliver decisions and not have conflicting interests. The complaining party

may not bring up new issues, i.e. ones that were not addressed in the due process notice. The complaining party has a timeline of 90 days to bring a civil action if not satisfied with the hearing officer's decision.

The attorney's fees may be awarded to the current state education agency (SEA) or local education agency (LEA) against the parent's attorney if the due process request is found to be "frivolous, unreasonable, or without foundation". If an attorney continues to litigate after the due process request is deemed by the court as "frivolous, unreasonable, or without foundation", this may result in fees being awarded to the SEA or LEA. If the action is judged to have been presented in order to "harass, cause unnecessary delay, or to needlessly increase the cost of litigation", attorney's fees may be awarded to the SEA or LEA (§615).

Simultaneously, parents have the right to file a separate request from the one already filed. The language used in this section is new and addresses what Turnbull (2005) calls the increased responsibility and accountability to which parents are held.

State Complaint

Any individual or organization may lodge a state complaint. The complaint is valid only one year from the supposed violation date and addresses any violation under Part B or Part 300 of IDEIA 2004. The issue must be investigated by the State Education Authority (SEA) and resolved within 60 days (§300-510).

Resolution Sessions

The LEA can schedule a resolution session when it receives a request for due process, unless both parties opt for mediation. The resolution session must happen within 15 days of the receipt of the notice. There is a 30-day time line within which a resolution session must take place. Four potential timeline alterations can occur:

1. If the due process is filed with urgency relating to discipline issues, the resolution period is 15 days. If resolution isn't reached, the hearing must occur within 20 school days, and a decision must be issued within 10 school days.
2. The 30 days allowed for the resolution period may be adjusted, or the 45-day count for the due process hearing starts the day after one of the following events: (a) both parties agree in writing to wave the resolution meeting, (b) either mediation or resolution start but prior to the end of the 30-day period both parties agree in writing that no resolution is possible, or (c) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later one of the parties withdraws from the due process.
3. If the parent fails to participate in the resolution session, the timelines for the resolution session and due process hearing are delayed until this meeting is held.
4. If the LEA fails to hold the resolution meeting within 15 days of receiving the parent's due process notice, or fails to participate in the resolution meeting, the parent can ask the hearing officer to begin the due process timeline (§300-510).

An IDEIA 2004 dispute resolution process comparison chart from the Office of Special Education Programs (OSEP) is modified and presented in Table 2 to summarize who is involved, time limits, issues addressed, and timelines involved in the resolution of these procedures.

Conclusion

Alternatives exist for creating effective, empowered, quality partnerships between parents and professionals. Early childhood parent professional collaborations have proven effective in improving the quality of family-professional partnerships (Johnson et al., 2004). This content and professional development in schools would be beneficial for higher education and leadership training. Developing power through models in schools assumes a professional and leader able to think critically and have the resources and time to do so (Kalyanpur & Harry, 1999). Turnbull et al. (2000) refer to the professional's ability to critically self-reflect and examine personal relationships to power as an essential step toward systems change because

> ... the power differential that exists between the practitioner and their clients is such that it has too often been exploited by practitioners who intend to engage clients but who instead meet their own needs for personal power and esteem through the intervention process... (p. 644).

The ambiguities outlined in this chapter highlight how difficult it is to genuinely collaborate with the threat of litigation. Both families and professionals need to understand how complex this issue is, how claiming one's rights can lead to eliminating

Table 2

IDEIA Dispute Resolution Process Comparison Chart

Question	Mediation	Due Process Complaint	Resolution Process	State Complaint
. Who initiates the process?	Parent or school, must be voluntary for both	Parent/school	LEA schedules the resolution meeting on receipt of due process complaint, unless both parties agree to waive or use mediation	Any individual or organization, including those from out of state
. What is the time limit for filing?	None specified	2 years from when the party knew of the problem	Triggered by parent's due process complaint	1 year from the date of the alleged violation
. What issues can be resolved?	Any matter under Part 300 of IDEIA	Any matter relating to the identification, evaluation or education placement or provision of FAPE	Same as the issues raised in the due process complaint	Alleged violation of Part 300 of IDEIA
. What is the timeline for resolving issues?	None	45 days from the end of the resolution period unless other extensions are granted	LEA convenes meeting within 15 days of receipt of due process complaint notice unless meeting is waived by both parties, mediation is agreed to or other exceptions	60 days from receipt of complaint unless extension are permitted

Table 2 (*continued*)

IDEIA Dispute Resolution Process Comparison Chart

Question	Mediation	Due Process Complaint	Resolution Process	State Complaint
. Who resolves the issues?	Parent or school with mediator voluntary process, both parties must agree to resolution	Hearing officer	Parent and school must agree to any resolution	State education agency

Note. Adapted from Office of Special Education Programs, IDEIA 2004 Dispute Resolution Processes Comparison Chart. US Department of Education, 2006.

the desire to collaborate and further entrenchment by all. While there is much improvement to be made in schools, authentic candor about school constraints is often impossible as that would be viewed as not offering FAPE (Lake & Billingsley, 2001). Much work remains to train our future special and general education teachers to serve the complexities they will encounter in their classroom. A deeper understanding of families and their needs will help in developing genuine relationships.

How to meet the other person's needs in adversarial situations and seek lasting resolutions will be further examined in the next chapter (Cloke, 2006; Fisher, Ury, & Patton, 1991). The fields of mediation and negotiation shed fresh insights on chronic institutional conflict. Additionally, existing research and best practices from the Center for Alternative Dispute Resolution in Special Education (CADRE) will be presented.

CHAPTER FOUR

THE IMPORTANCE OF DIALOGUE IN RESOLVING CONFLICT: THEORETICAL CONSIDERATIONS

The metaphor of "natural enemies" seems appropriate when considering parent-professional relationships (Waller, 1932; as cited in Lawrence-Lightfoot, 2003). Often, these relationships are perceived to be less than satisfactory and fraught with tension (Blue-Banning et al., 2004; Feinburg et al., 2002; Pinkus, 2005, 2006). Critical scholarship on learning disabilities points to "routine disqualification of parents' voices by professionals as a major obstacle to authentic collaboration" (Valle & Aponte, 2002, p. 470).

In her book, *How to Deal with Parents Who are Angry, Troubled, Afraid, or just Plain Crazy*, McEwan (2005) states that the increased pace, fragmentation, and stress of contemporary life deeply affects both parents and professionals and explains "…why quiet conversations in which educators and parents listen to one another and come to mutually agreeable solutions are becoming more rare" (p. 7). McEwan reports that all educators have experienced encounters in which a parent seems "crazy" or exhibits "irrational behavior that seems upsetting to others-whatever its cause" (p. xvi). McEwan lists the seven most significant practices she believes provoke conflict as follows: (a) failure to communicate, (b) defensiveness, (c) intimidation, control, power, and blame, (d) condescension and rudeness, (e) extreme forms of political correctness (e.g., safe school policies which educators follow out of fear of litigation, (f) unwillingness to

admit mistakes and apologize, and finally, (g) failure to give parents credit for understanding their children. McEwan also includes candid observations and wisdom "from the trenches" that are helpful in understanding both professionals and parents.

Lawrence-Lightfoot (2003) describes the emotions present during bi-annual encounters for parent-teacher conferences. He states, "Beneath the polite surface of parent-teacher conferences…burns a cauldron of fiery feelings made particularly difficult because everyone carefully masks them and they seem inappropriate for the occasion" (2003, p. xxi). The author unequivocally describes parent-teacher conferences as becoming the scene of "…territorial warfare, a clash of cultures between the two primary arenas of acculturation in our society" (Lawrence-Lightfoot, p. xxi).

The parent-teacher conference can be an intensely personal and poignant experience where parents are most vulnerable since they are speaking about what is most precious to them, their children. Professionals are often perplexed by the intensity of the parents' emotions (Lawrence-Lightfoot, 2003). Parents may mistake a professional stance for an uncaring approach, and professionals might read unnecessary meaning into the obvious emotional turmoil of the parents. Lawrence-Lightfoot sheds light on the complexities and gray areas of the necessary relationship stating that "there is no more complex and tender geography than the borderlands between families and schools" (p. xi). Lawrence-Lightfoot presents practices that promote collaboration with parents since teachers view parental input as essential to their approach in learning about this student.

Teachers usually actively seek a relationship with parents during multiple meetings over the year focusing on the positives the child might be demonstrating. The child becomes the bridge across the "borderlands", and presents the opportunity for parents and professionals to explore unique and complementary ways of contributing to the growth of the student (Lawrence-Lightfoot, 2003). Lawrence-Lightfoot believes conflict is common between parents and professionals and should not be avoided, instead anticipated. These moments of conflict are a part of the process toward creating productive relationships on behalf of the children and help parents and professionals become "real with one another" (p. 73).

If emotions and conflict are unavoidable components of the parent-professional encounter, then dialogue, defined as "a formal discussion or negotiation, especially between opposing sides" (Webster Online Dictionary, 2009), becomes one path toward the possibility of a positive resolution (Cloke, 2001, 2006; Cloke & Goldsmith, 2005). The inevitability of conflict may create the need for more frequent conversations between individuals of differing opinions and backgrounds that have to work together. Genuine and frequent dialogue seeking consensus is proposed to be the missing piece in the very complex and legally mandated collaboration between parents and school professionals.

This chapter presents a review of the theoretical background emphasizing the importance of dialogue in education and organizations. Dewey (1932) characterizes communication as art, fundamental to the forging of consensus between the pluralities of opinions critical to ensuring democracy within education. Another theorist, Freire (1993), expands upon the importance of dialogue between teacher and learner and introduces

other concepts pertinent to the continuing dialogue between parents and professionals. Turnbull, Turbiville, and Turnbull (2000) define collaborative partnerships with parents calling for similar transformations. Senge (1994) and Wheatley (1999, 2002) focus on broaching dialogue and building relationships as the foundation of systems thinking. In the next section, Cloke's (2006) views on conflict resolution are introduced, as well as the tensions between professional and parental types of knowledge that are often expressed through formal and informal discourse (Kalyanpur & Harry, 1999; Reid & Valle, 2004; Valle & Aponte, 2002).

Theoretical Background

Dialogue and Education

Collaboration between parents is mandated by the Individuals with Disabilities Improvement Act of 2004 (IDEIA). The ideal of a "vitally social and vitally shared conversation" between parents and professionals is assumed during the creation of the individualized education program (IEP) (Dewey, 1932, p. 7). Dialogue can lead to the resolution of complex issues that may emerge when planning educationally for a child with disabilities.

The path to consensus and democracy in a school pre-supposes a "large variety of undertakings and experiences" since a "lack of free and equitable intercourse which springs from a variety of shared interests makes intellectual stimulation unbalanced. Diversity of stimulation means novelty and novelty means challenge to thought" (Dewey, 1932, p. 98). A lack of diversity can lead the isolated and exclusive group, or school

separated from home and community, to focus only on protecting its own interests "The essential point is that isolation makes for rigidity and formal institutionalizing of life, for static and selfish ideals within the group" (Dewey, p. 99). When this dynamic occurs, communication with others becomes feared. A diversity of interests between parent and professionals is essential to create the dialogue necessary in negotiating diverse opinions. If the dialogue becomes habitual, it may lose meaning for those involved and "the ritual routine flattens and mutes the dialogues...The encounters are also distorted by 'sentimentalism,' a false politeness and forced decorum that do not permit honest exchange" (Lawrence-Lightfoot, 2003, p. 79).

Freire (1993) developed a methodology to teach illiterate adults the art of dialogue in the greatly impoverished northeast of Brazil. Freire was inspired by the European philosophers Buber (1958) and Sartre (1964), who distinguished between a dialogue in which one individual dominates over the other, from one where both parties converse as equals. Freire refers to a dialogue which essentially symbolizes an unequal relationship between one person (I) and someone else who is objectified by the first (it). Turnbull et al. (2000) refer to this relationship as a traditional parent-professional collaboration, one characterized by the expert having *power over* the receiver of expertise, this relationship is an unequal one. In contrast, a dialogue where "I" is able to encounter another "Thou" and converse "vitally" from a position of equality with one another, holds the potential for genuine cooperation and collaboration (Dewey, 1932). The dialogue must be meaningful to those engaged in it, candid, safe, and one where no individual involved will be punished or belittled for not knowing something or making a

mistake. This kind of dialogue can empower both professionals and parents. The combined energy, or synergy, can lead to innovation and creative problem-solving. Turnbull et al. refer to this relationship as capable of providing *power through* to all involved in the dialogue.

Ideally, education is the site of continual transformation through the constant tensions between *permanence* and *change* (Freire, 1993). This tension is crucial for a vital dialogue to occur between opposing points of view (Dewey, 1932). Both Dewey and Freire saw the plurality of communities within education as beneficial, as they maintain democracy and a constant renewal through practice and problem-posing. The dialogue should be loving, humble, and able to express an "…intense faith in humankind, faith in their power to make and remake, to create and re-create, faith in their vocation to be more fully human…" (Freire, p. 71). Ideally, the *dialogical man* is not naive; he is critical and aware of the day-to-day educational barriers. This awareness opens a "…horizontal relationship of which mutual trust between the dialoguers is the logical consequence" (Freire, p. 72).

Turnbull et al.'s (2000) *power-through* model implies a complementary relationship between parents and professionals, which assumes the professional is able to release their title and their position and permitted to be completely honest. It is understood that the professional cannot alone provide all the answers. Being able to openly admit to an impasse without fear of judgment or legal retribution, releases a shared energy able to create scarce resources. If the fear of making mistakes, being blamed for mistakes, and admitting to ignorance is openly acknowledged and addressed,

both parties will be able to focus on existing barriers rather than on finding fault with one another. Experiencing a new and mutually beneficial partnership, parents and professionals learn to appreciate each other's input, knowledge and creativity.

Other researchers present a critical and contemporary approach that recognizes parents of children with disabilities, including those from culturally and linguistic diverse backgrounds (CLD), are routinely excluded from the dialogue. Parents are reduced to forcing their way into a conversation and challenging the very concept of "professionalism" as it is traditionally perceived (Kalyanpur & Harry, 1999). Parent participation in this instance is seen by professionals as an intrusion, or "the insurrection of subjugated knowledge", or a knowledge viewed as unprofessional, inexperienced, and therefore invalid (as cited by Foucault in Reid & Valle, 2004, p. 470) . Theoretically, conflict may be the only way to force a dialogue. Although as parents threaten "the legitimacy of professional knowledge, practices, and discourses", dialogue becomes fraught with conflict (Skrtic & Sailor, 1996). The power struggle between the formal and professional expertise and family's informal knowledge of the child usually manifests itself through the exertion of legal rights, which can further exacerbate the adversarial stance.

Mediation, Neutrality, and Resolution

Cloke (2001) encourages disputants to examine more critically what caused the conflict between them. Cloke questions the value and effectiveness of *neutrality* as does

Mayer (2004). Mayer offers six reasons why disputants might resist taking part in mediation:

1. *Voice*: People want to be heard in a way that will resonate with their values; consensus building might not offer that, and confidentiality is seen as diminishing the voice disputants feel they need to express.
2. *Procedural Justice*: Individuals want to be sure their rights are being met and have an expectation of how this should proceed but mediation is very individualized and in essence very private.
3. *Vindication*: Disputants want to be openly vindicated as they usually perceive conflict leading them to being either right or wrong and not having "perceived incompatible interests".
4. *Validation*: Most people are unwilling to express their outrage and hurt feelings, or abandon their stereotypical views of the "other".
5. *Impact*: People engaged in conflict need a sense of control over the situation
6. *Safety*: Because conflict often elicits fear, many disputants prefer someone present throughout, as well as the clarity litigation seems to offer (pp. 23-33).

Cloke (2006) sees every conflict as leading to a crossroad between three paths. The first path directs the participants to anger and bitterness over the past while encouraging adversarial relationships and impasse in the future. The second path leads to "empathy, acceptance, honesty, and mutual respect and draws us into negotiations over the future" bringing the disputants closer to "resolution, collaboration and mutual problem solving" (p.1). The third path is more spiritual in nature, revealing a path to deep

change and long term resolution of the conflict. Cloke views conflict as an opportunity for transformation only if mediator and disputants are able to address the heart of the conflict, resist compromise, view the other as a teacher, and address the origins of the conflict "enabling them to repair and redesign the dysfunctional systems that chronically generated the conflict" (p. 5).

The *fight or flight* impulse is responsible for our reaction to perceived hostility. Cloke (2006) states that it is not the activation of these fight or flight reflexes alone that makes conflict so difficult. This lack of awareness of one's own reactions and motives makes it difficult to pursue more constructive, creative, and evolved alternatives. Conflict exposes personal vulnerabilities that we might be unaware of and confused about. Conflict is an opportunity to gain a better understanding of ourselves as opposed to letting it define us "for ourselves and against each other - rather than for ourselves and with others against our common problems" (p. 18). Cloke says

> Conflict is therefore simply the sound made by the cracks in a system, regardless of whether the system is personal, relational, familial, organizational, social, economic, or political. Alternatively, it is a warning light pointing at something in our character, relationship, or environment that is not working, either for us or for others. It can be an opportunity for rethinking and innovation, or the birth pain of a new way of being or behaving that is waiting to be born (p. 18).

Cloke's thoughts resonate with Turnbull et al.'s (1999) research and with Senge's (1994) vision of systems thinking. Each of these theories depends largely on our ability to

change our mental models, take responsibility for our actions and our faulty perceptions, continually learn about ourselves with others, and foster a shared vision through dialogue.

Systems Thinking and Conversations

Senge (1994) believes that dialogue or the "flow of meaning" between individuals in a group and the capacity of members of a team to suspend assumptions and enter into a genuine collaborative thinking process allows the group to discover insights not attainable individually. Dialogue involves discovering how to learn as a team and how to recognize the barriers to team learning. The basic premise is that problems cannot be resolved in isolation. Understanding the context in which problems occur helps disclose complete patterns and the place where the change must originate (Senge). Senge presents the following four inter-related disciplines:

1. Personal mastery or developing life long learning habits;
2. Changing personal mental models or "deeply ingrained assumptions, generalizations, or even pictures or images that influence how we understand the world and how we take action";
3. Building a shared vision or developing buy in; and
4. Fostering team learning through dialogue (p. 8).

Each of the disciplines lead to the fifth discipline which is systems thinking itself, or a

> …shift of mind- from seeing ourselves as separate from the world to connected to the world, from seeing problems as caused by someone or something "out there" to seeing how our own actions create the problems we experience. A learning

> organization is a place where people are continually discovering how they create their reality. And how they can change it (Senge, pp.12-13).

Like Freire (1993), Senge (1994) suggests dialogue has the potential of fostering self-reflection, building community, and creative resolution to problems encountered. Obviously effort or leadership is needed to start the transformation, but the process assumes equity and inter-dependence between participants who are "continually learning to learn together" (Senge, p. 3). A second suggestion is concerned with the individual's ability to reflect and take full responsibility for his or her part of the whole issue.

Wheatley (1999) marks the scientific shift toward understanding a system by studying the relationships within those networks rather than separately scrutinizing the parts. Wheatley believes simple cause and effect are no longer sufficient to understand the multiplicity of connections and relationships that might explain one phenomenon. Similarly, Senge (1994) states categorically "the tools and ideas presented in this book are for destroying the illusion that the world is created of separate, unrelated forces. When we give up this illusion – we can then build 'learning organizations'..." (p. 3).

Wheatley (2002) states in order to understand an increasingly complex world, we must turn to one another in order to "find our way through the darkness" and regain community. The simplest way to do so is to "start talking about what we care about" (p. 4). In the context of conflict in special education, that might simply mean putting the child in the center and welcoming different, even opposing views. Substantiating Turnbull et al.'s (2000) views on collaborative empowerment, Wheatley says that

solutions can only be found if both sides admit to not knowing the answer and are willing to listen to diverse opinions.

> We weren't trained to admit we don't know. Most of us were taught to sound certain and confident, to state our opinion as if it were true. We haven't been rewarded for being confused. Or for asking more questions rather than giving quick answers. We've also spent many years listening to others mainly to determine whether we agree or not. We don't have time to sit and listen to those who think differently than we do (Wheatley, p. 34).

The ideas of Dewey (1932) and Freire (1993), as well as the philosophies of Buber (1958), and Foucault (1980), have led to a systems-way of thinking posed by Senge (1994) and Wheatley (1999, 2002). This way of thinking has established the framework of conflict in special education within the larger educational context.

Together, the authors cited in this theoretical background point to the following ten propositions:

1. A plurality of opinions is essential.
2. Building a "horizontal relationship" establishes trust and opens the path to building relationships and increasing collaboration.
3. Power and mutual boundaries must be constantly reexamined.
4. Dialogue leads to personal and systemic transformation.
5. Engaging in a "vital" dialogue is the first step to finding creative solutions to existing local barriers.

6. Revitalizing frequent dialogue in teamwork restores meaning to routine meetings.
7. Creating the time for frequent and consistent dialogue is vital and cost-effective.
8. Conflict is an indication of underlying systemic problems.
9. Conflict is a necessary step and an opportunity for resolution.
10. Admitting ignorance and inadequacy should not be punished but perceived as an opportunity for more learning and increased collaboration.

Re-establishing a dialogue with parents is vital for both the well-being of the school community and the student. Frequent opportunities for conversations must be provided in schools to build the relationships that will enable faster resolution of common misunderstandings (Opuda, 1999) and allow both parents and professionals to create solutions recognizing the many restraints public schools endure (Lake & Billingsley, 2000).

CHAPTER FIVE

APPROACHES TO DISPUTE RESOLUTIONS

A large number of due process hearings occur nationally resulting in substantial financial and emotional cost to parents and schools (Zirkel & Gischlar, 2008). To avoid litigation and due process hearings, *Resolution meetings* will be discussed. A resolution meeting is a recent practice instituted by IDEIA (2004) adding a formal step prior to due process "for early dispute resolution when parents and school districts disagree over services to be provided to a student with disabilities" (Henderson & Moses, 2008, p. 1). Henderson and Moses' research on the efforts of eight states that support and implement this practice is reviewed.

In special education, the balance between the legally defined procedural rights and underlying individual interests is delicate. Long-term resolution has a better chance of succeeding if both parties view conflict as a potential for transformation, rather than a battle to be won or lost. The idea that conflict may be viewed as a transforming process is not new to education (Bradley & Monda-Amaya, 2005; Uline, Tschannen-Moran, & Perez, 2003). Cloke (2006), from the field of mediation and negotiation, writes about the dimensions of and responses to conflict.

Trends in Due Process Hearings

To understand the great need for dispute resolution strategies, it is helpful to review the trend in the number of formal due process hearings occurring between 1992 and 2008 (Zirkel & Gischlar, 2008). This section reviews the literature regarding the cost

of due process hearings, the demographics associated with persons frequently starting formal procedures, and the effectiveness of mediation (Chambers, Harr, & Dhanani, 2003; Reiman et al., 2007; Schrag & Schrag, 2004). Interesting recent research surveyed eight states for their opinions on resolution meetings which is an additional formal step in the path to due process (Henderson & Moses, 2008). The resolution meeting initiative is often the culmination of many informal alternative dispute resolution efforts and has been initiated in these different states over the last decade.

Zirkel and Gischlar (2008) tracked national trends in the number of due process hearings that were adjudicated (written decision issued by hearing officer) between 1992 and 2008, and rank ordered states "by the number of adjudicated hearings both on an overall basis and on a per capita, i.e., per 10,000 special education students" (Zirkel & Gishlar, p. 23).

Zirkel and Gischlar's (2008) analysis revealed an overall steady increase in the number of due process hearings from 1997-2004. New York and New Jersey consistently accounted for approximately 56% of all disputes in special education and the eight most litigious states account for about 80% of all national disputes. The top eight states with the most due process hearings were New York, New Jersey, Pennsylvania, California, Maryland, Illinois, Connecticut, and Texas. Although a per capita analysis changes the distribution somewhat, New York and New Jersey remain at the top. The remaining six states with the highest per capita disputes are Hawaii, Connecticut, Rhode Island, Maryland, Pennsylvania and New Hampshire.

Zirkel and Gischlar (2008) explain the yearly fluctuations by examining the corresponding legal frameworks. The initial increase in the number of due process hearings followed the passage of the 1986 IDEA reauthorization, which granted attorney fees to prevailing parents. Decreasing rates could be due to the IDEA 1997 amendments introducing and encouraging mediation (Zirkel & Gischlar). Zirkel and Gischlar assert the importance of observing future tendencies in the number of disputes because IDEIA (2004) expands on the provisions for mediation initiated with IDEA (1997). Specifically, IDEA's (1997) pre-hearing requirement introduced the process of resolution meetings, thus moving the opportunity for mediation earlier in the dispute process (i.e. no longer tied to the due process hearing request), and established a two-year statute of limitation for complaints to be lodged. One significant concern raised by Zirkel and Gischlar is the over-legalization of the "hearing-level stage" (2008, p. 23) or the stage delineated under IDEIA (2004). Another issue is the extent of emotional and financial impact on both parents and professionals during the early stages of the adversarial dispute resolution system under IDEIA (2004) (Lanigan, Audette, Dreier, & Kobersy, 2001).

Schrag and Schrag (2003) suggest that there is a relationship between the high numbers of disputes and families of higher socio-economic status (SES) level. A study conducted by the American Institute for Research (AIR) and the Special Education Expenditure Project (SEEP) was released entitled *What are We Spending on Procedural Safeguards in Special Education 1999-2000* (Chambers et al., 2003). This study was based on surveys at the state, district, and school level. This study found suburban school districts with the highest SES backgrounds were more likely (70%) to lodge state

complaints or request due process hearings than their suburban lower SES counterparts (21%).

Reiman et al. (2007) reviewed the literature on *alternative dispute resolution* (ADR) in special education. Some of the studies Reiman et al. examined support Schrag and Schrag's (2004) observations that families with higher SES engage more readily in conflict. Cases involving families with high SES tend to be resolved more frequently in due process hearings, while those from low SES communities are more often resolved during mediation conferences. If parents were unable to afford the full due process and good legal counsel, "...due process was not found to promote objective justice" (Reiman et al., p. 4). Many studies promoted the design of ADR programs, enlisting the collaboration of parents and local mediation centers in exploratory panels, as well as involving parents in advisory committees and in conflict resolution training activities (Reiman et al.).

Chambers, Harr and Dhanani (2003) reported between 1999 and 2000, the cost of due process, mediation, and litigation was an average of $24 per special education student. During that same period school districts spent at least 0.3% of their total special education budget on conflict (Reiman et al., 2007). In 2004, the average cost of due process and mediation was between $8,000 and $12,000 per case (Reiman at al.), while Feinburg et al. (2002) mentioned that the overall cost of this very complex litigious process has exceeded $40,000 per hearing.

Dimensions of Conflict

Effective approaches to dispute resolution must be directed to the origins of conflict. This section will review the key dimensions of conflict. Cloke and Goldsmith (2005) attribute the origins of conflict to the inability to communicate needs clearly and the fear of conflict itself. Suppressing and avoiding conflict may lead to deeper levels of conflict since disputants may settle for less than ideal solutions. Every ongoing conflict possesses at its core at least two fundamental truths "the truth of impasse, that we are stuck with a problem from which we would like to escape and cannot, and the truth of resolution, that it is possible for us to become unstuck and move to a higher order of relationship" (Cloke & Goldsmith, p. xxi).

Often what opposes adversaries also connects them since they typically care about the same core issues; thus, conflict can become an opportunity for transformation. Cloke (2006) lists ten needs that are met when individuals engage in conflict. Understanding these needs may help parents and special educators better grasp the sources of conflict. These needs are

1. Finding an immediate source of meaning and identity for one's life;
2. Finding energy even if fueled by negative emotions;
3. Transforming the suffering endured through conflict into meaning;
4. Safeguarding needs for privacy and space;
5. Creating intimacy, even if negative;
6. Diverting attention from other issues we do not want broached;
7. Communicating honestly and venting;

8. Getting fast results;
9. Making us feel righteous; and
10. Encouraging change (Cloke, 2006, pp. 14-17).

Cloke (2006) offers six essential reasons for conflict:

1. The presence of two or more people
2. A disagreement over form, process, relationship, or outcomes
3. Many negative emotions (anger, fear, jealousy, shame, guilt or grief)
4. A lack of awareness of self and other, antagonistic spirit, intention, or energy
5. A closed-hearted attitude
6. An adversarial, bureaucratic, or highly competitive context, system, culture, or environment (p. 23).

The sixth reason for systemic conflict is further defined by Cloke (2006) as follows:

> Systems manifest their dysfunction through chronic conflicts that may appear purely personal, yet emanate from systemic sources. These conflicts grow deeper and more profound as the system loses its ability to adapt to a changing environment...In organizations they may emerge as a result of an unclear vision or goals, inept leadership, or hierarchical, bureaucratic, autocratic managerial practices...This suggests that identifying and reforming dysfunctional systems, contexts, and environments, including their structures, processes, relationships, and cultures, might be useful techniques in resolving conflict (p. 23).

Cloke (2006) suggests that breaking away from "chronic systemic conflict" requires evolvement from a microscopic view focused on the two individuals in conflict, e.g., one school and one set of parents, to a macroscopic and future-oriented vision in which both parties can focus on resolution. For example, parents and professionals might both attend to issues such as the scarcity of resources in education, the problems caused by high teacher attrition, or the lack of building level leadership for special education. Cloke emphasizes the importance of discussing conflict openly and immediately, rather than parents and professionals blaming each other. Elements of conflict resolution as described by Cloke are summarized in Table 3.

Responses to Disagreements and Conflict

How do groups that must establish working relationships usually address disagreements? Cloke (2006) defines three responses used over the centuries. First is the use of power, which includes war, violence and coercion. The responses to power can be surrender, resistance and/or an escalation of violence, fueling future disputes.

Cloke identified the second response to conflict as the creation of laws setting limits on the abuses of those in power and allowing individuals to exercise their rights. Since individuals exercising their rights are often perceived as a threat to those in power, rights should never be taken for granted. The outcome of living in a rights-based culture is increased bureaucracy, the development of contractual language and technical compliance, as well as "lesser, muted versions of all of the problems created by power" (Cloke, p. 59). A culture of collaboration is difficult to promote in a society that

Table 3

Elements in a Unified Theory of Conflict Resolution

Component of conflict	Adversarial, bureaucratic, or highly competitive context, system, culture, or environment
Likely results	Hostile social conditions, systems and/or structures; e.g. hierarchical, bureaucratic and autocratic relations
What is needed or missing	Systemic change, collaborative relationship, cultural sensitivity, equity, equality, community and democracy
Possible strategies for intervention	Transform system, alter or adapt environment, balance power, build participation and consensus
Conflict location	System, context, society
Resolution styles	Synergy, community, systems design
Principle methods and forms of resolution	Prejudice reduction, systemic change, organizational democracy
Forms of interaction and process	Learning-based collaboration, consensus, public dialogue
Degrees of release or closure	Prevention, continuous, iterative, open-ended

Note. Adapted with permission from the author, Cloke, (2006). *The crossroads of conflict-A journey into the heart of dispute resolution*. Calgary, Canada: Janis Publications.

emphasizes claiming one's rights. Cloke explains that "Every declaration of rights implicitly recognizes that if rights genuinely existed, there would no need to declare them" (p. 146). While rights are a necessary step in the process toward collaboration,

proclaiming one's rights often introduces an attitude of entitlement that makes it harder to develop understanding and start the necessary deeper dialogue. Focusing on rights and entitlement provokes both sides to see each other as the problem instead of identifying the common problems they both face, i.e. lack of resources, training, and difficulty collaborating within schools or with leadership.

The third and most recent response to conflict is referred to as "interest-based processes" (Fisher et al., 1991). These processes attempt to reveal possible underlying reasons for conflict and identify commonalities between parties through collaboration and mediation. This approach generates community-minded practices by identifying what people want and why they want it, thereby leading to more creative and lasting solutions.

If an interest-based response to conflict were applied to the area of parent-professional conflict in special education, both parents and professionals would take full responsibility for the conflict and its outcomes and focus on eliminating the barriers within the school and community that might be escalating arguments (Cloke, 2006). Cloke believes this shift in responsibility is usually an arduous process. Developing the necessary dialogue within a largely rights-based system, which is extensively prescribed by contractual language and fueled by the fear of legal action, demands intense awareness and effort from everyone involved (Lanigan et al., 2001; Zirkel, 2004). Curtis (2005), who worked in an interdisciplinary collaborative law clinic on special education-related issues, encourages school administrators to approach litigation with parents as "…a possible indication of underlying problems at the school. If a parent is threatening to sue,

it is an urgent signal that something in the school or in the district has gone awry" (Curtis, p. 514).

Conflict Intervention Strategies

This section presents conflict in special education as an opportunity for transformation and reform, an approach inspired by Cloke and Goldsmith's work (2005) in mediation. Cloke (2006) presents the idea of working together, or collaborating to identify "our common problems" to achieve long term resolution. This concept allows educators and parents to alter their view of conflict in special education as an individual issue between two parties to a bigger issue both educators and parents might want to resolve. In fact, Cloke believes conflicting issues affect parents also professionals.

Cloke's research incorporates work on negotiation by Fisher, Ury and Patton (1991), who emphasized the differences between a position (demand) and the underlying interest (need). Addressing underlying interests initially instead of reacting to positions can facilitate mutually satisfying and creative resolutions allowing both parties to "win".

Cloke (2006) presents seven dimensions or levels of intervention for conflict. These dimensions, listed in ascending order with the higher number indicating a better chance of achieving a sustainable resolution, are

1. Stopping the fight,
2. De-escalating the conflict,
3. Compromise,
4. Resolving the underlying causes,

5. Forgiving,
6. Reconciling, and
7. Designing future preventative systems (Cloke, 2006).

Concrete examples of these consecutive interventions applied to a school setting might involve the case of a teacher engaged in constant petty conflicts with parents. An intervention from the principal might be to tell the teacher to stop fighting and invoke the law (IDEIA, 2004) or dimension one. A second dimension might involve learning about interest-based negotiation principles, basic conflict resolution skills, and facilitation to transform the relationship between principal, teacher and parents into a partnership. One key aspect of conflict intervention is to empower those in disagreement to explore how they are both faced with similar problems and how to overcome them together, which can lead to dimensions three, four, five and six. This is accomplished by assisting those involved to clarify common values, redefine roles and responsibilities, confront leadership issues that can positively influence lines of communication, and create new solutions. A seventh dimension of intervention might involve exploring conflict resolution designs to prevent future conflicts. The purpose of this last approach is to redesign the school's culture and structure by initiating a school-wide dialogue and change process.

The Use of Mediation under IDEA

Schrag and Schrag (2004) researched the effectiveness of the dispute resolution system in special education from 1999-2001. These authors noted that over one-third of

dispute resolution cases involved several requests for mediation between 2000 and 2001, and only 24% chose to use mediation again. Reiman et al. (2007) found mixed levels of satisfaction from parents and school districts regarding mediation. Others have found mediation, along with the ensuing agreement reached and its implementation, brings more contentment than due process hearings; more cooperation is fostered between parties and reportedly there are lower levels of emotional intensity (Reiman et al., p. 3).

Mediation was seen as a solution in the 1990s for the growing litigation between parents and schools (Feinburg et al., 2002, p. 7). For the first time in 1997, IDEA required that mediation must be available "…whenever a hearing is requested under Sections 300-507 or 300-520-300-528" (§300-506 Mediation, IDEA, 1997). IDEIA (2004) recommends mediation whether or not there is a request for a due process hearing. Schrag and Schrag (2004) suggest issues with mediation specific to special education indicate "…either many mediation agreements are not strategic or appropriate, or many mediation agreements are not being implemented by the parties" (Schrag & Schrag, 2004, p. viii), which explains why disputants might hesitate to use it.

Additionally, in the name of neutrality traditional mediators do little to help resolve the disputes permanently; rather, the mediators often opt for settlement and compromise (Mayer, 2004). These mediators are typically viewed as outsiders, unfamiliar with the district's culture, the realities of the school, and special education legalities. Often, mediation occurs too late in the dispute resolution process and there is very little follow-up on decisions made during mediation (Feinburg et al., 2002; Schrag & Schrag, 2004). Schrag and Schrag. The most widespread reason for withdrawing

complaints (46% of the time) has involved local resolution agreements achieved during individualized education program (IEP) meetings with team and school official involvement or an alternative dispute resolution (ADR) (Schrag & Schrag).

Early Resolution Meetings

IDEIA (2004) mandates resolution meetings "…within 15 days of receiving notice of parent's due process complaint, and prior to a due process hearing" (Henderson, 2008, p. 10). The Henderson and Moses (2008) study is a second collaborative effort between the Center for Appropriate Dispute Resolution in Special Education or CADRE and the National Association of State Directors of Special Education (NASDSE), which appears in the *In Forum* policy analysis brief. Eight states were selected for this study from responses to a prior survey. These states were Alabama, Alaska, Arizona, Connecticut, Oklahoma, Pennsylvania, Virginia and Wisconsin. Results from the second survey addressed the following issues: (a) types of supports for resolution meetings, (b) frequency of resolution meetings, and (c) factors that impact use of resolution meetings.

Each of the eight states played different roles in facilitating resolution meetings directly, but encouraged its use. Some states, Alaska and Wisconsin, contracted with outside mediating organizations to facilitate their resolution meetings. This approach was used in many of the informal approaches to dispute resolution. Oklahoma and Pennsylvania conducted pilot projects in which facilitation was directly supported. Positive resolutions to due process complaints in Oklahoma are now fostering more

demand for facilitation from schools. Pennsylvania has been focusing on schools that already offer IEP facilitation (a successful informal alternative dispute resolution strategy) and attempts to facilitate resolution meetings have been successful so far.

Data collected regarding resolution efforts are conflicting as there is "little consistency across states on what is considered and counted as a resolution meeting settlement agreement for data collection purposes" (Henderson & Moses, 2008, p. 4). There are different definitions of formal agreements between parents and professionals according to which process was used and who was recording the agreement.

Most state administrators considered the implementation of resolution sessions positive. Evaluation data from Oklahoma indicated 95% of the meetings ended in agreement. One hundred percent of the meetings indicated the use of a facilitator would be considered for future resolution meetings. Some state reports indicated resolution meetings led to an in-depth exploration of issues and responsibilities prior to moving to due process. School district administrators usually were unaware of the conflict prior to the due process complaint being filed by a parent (Henderson & Moses, 2008, p. 5). Resolution meetings helped address issues immediately and often were successful as they allowed for the involvement of a wider group of individuals. Additionally, resolution meetings frequently assisted in understanding disagreements that occurred in the IEP meetings, resulting in a new IEP meeting and eliminating a due process complaint (Henderson & Moses).

Mediation and resolution meetings are clearly related (Henderson & Moses, 2008). States, such as Wisconsin, where mediation is widely used frequently resort to

mediation over resolution meetings. Other states' administrations have experienced decreases in mediation because resolution meetings were more successful. Factors that might discourage the use of resolution meetings were the lack of perceived "confidentiality guarantees" when compared to the mediation process. Another trait associated with mediation and lacking in resolution meetings was the perception of a guaranteed third neutral party. When facilitators are not used, attorneys for both parties may be uncomfortable with a written agreement and may instead recommend mediation. Arizona and Wisconsin publicly distinguish between district-led resolution meetings and state-supported neutral mediations. Overall, there appears to be some confusion about the process of mediation. Specifically, timelines for the mediation process may be difficult to meet and monitor, and there may be disagreement over what qualifies as a written settlement agreement.

The Center for Appropriate Dispute Resolution in Special Education (CADRE)

The Center for Appropriate Dispute Resolution in Special Education (CADRE), a program funded by the Office of Special Education Programs (OSEP), was created to increase the nation's capacity to effectively resolve special education disputes. Early research from CADRE defined five stages of conflict progressing from prevention to due process as defined under the procedural safeguards in IDEIA (2004) named as follows: (a) prevention, (b) disagreement, (c) conflict, (d) procedural safeguards, and (e) legal review (Feinburg et al., 2002). CADRE also proposes a continuum of informal alternative

dispute resolution (ADR) interventions, some of which have been adopted in different states with success (Feinburg et al.; Henderson, 2008; Reiman et al., 2007).

A review of Feinburg et al.'s (2002) first three stages of conflict and informal alternative dispute resolution (ADR) strategies will be discussed. The prevention stage still refers to a situation with the capacity to resolve the conflict without outside intervention. Conflict, occurring in stages two and three, requires the assistance of a neutral third party (e.g., a mediator, ombudsperson, IEP facilitator, or advocate), and eventually may result in legislative action. Feinburg et al. (2002) remark that the continuum is not linear in nature but is in constant fluctuation between the different stages of conflict. The five stages are summarized in Table 4.

Strategies for Resolving Parent-Administrator Conflict

At the onset of parent-administration conflicts, relationships still appear to be salvageable (Feinburg et al., 2002). Many different strategies are being implemented at this level of conflict nationally. IDEIA (2004) includes recommendations using "third party neutrals" or outside facilitators from parent training information centers (PTI) to prepare for mediation. PTIs are funded by the Office of Special Programs (OSEP) and offer many services to parents of children with special needs. Some State Education Agencies (SEA) use PTIs in their ADR plan such as in California, Oregon, and South Dakota (Henderson, 2008). Ombudsmen can also play a vital role in investigating complaints and proposing solutions. Vermont is listed as using ombudsmen as is Arizona (Feinburg et al., 2002).

Table 4

The Conflict Resolution Continuum

Stages of Conflict				
Stage I	Stage II	Stage III	Stage IV	Stage V
Prevention	Disagreement	Conflict	Procedural	Legal review
Intervention				
Stakeholder training, Stakeholder council, Collaborative rule-making.	Parent-to-Parent assistance, Case manager, Telephone intermediary.	Facilitation, Mediation, Hybrid models, Ombudsperson, Third-party, opinion or consultation. (e.g. seeking the opinion of an outside expert)	Mediation (IDEA, 1997); Resolution meetings (IDEIA, 2004); State complaints; Due process hearings	Hearing review; Litigation; Legislation.
Intervention continuum				
3rd party assistance → 3rd party intervention				
Decisions made by disputants → decisions made by 3rd party				
Interest-based → rights-based				

Note: Adapted with permission from the authors, Feinburg, Beyer & Moses (2002). *Beyond mediation: Strategies for appropriate early dispute resolution in special education*. Downloaded from CADRE http://www.directionservice.org/cadre/index.cfm, on 9/6/06.

Parent-to-Parent Assistance

Other approaches to de-escalate conflict include offering *Parent-to-Parent Assistance* within school districts or counties (Wisconsin) (Feinburg, et al., 2002). Local parent advocates have helped other parents learn about the special education process and prepare for IEP meetings. These parent advocates have been instrumental in developing collaboration and good will between parents and schools. When problems arise, there are parent-to-parent clearinghouses where parents can call. The callers are assigned to a resource parent who assists them in deciding which path is best for them. Some Special Education Local Planning Areas (SELPA) in California, and Area Education Agencies (AEA) in Iowa hire parents trained in ADR solutions to provide IEP support (Henderson, 2008).

Henderson (2008) indicates that 26 states use parent to parent assistance to resolve conflict but define it differently. Some states utilize parent training and information centers (PTI) as a form of parent-to-parent assistance. Other states, such as Wisconsin, make specific efforts to use parents in diffusing conflict. The Wisconsin PTI partners with the Wisconsin Special Education Mediation System (WSEMS). The PTI has given more than 3,000 parents information on dispute resolution options as well as facilitated IEPs and mediations. Much of WSEMS's success is due to a close partnership between the regional special education administrators' organization, the PTI, and an independent dispute resolution consultant. Virginia uses the services of a state level parent coordinator responsible for the creation of local parent resource centers, as well as a state ombudsman. Some local education authorities (LEAs) hire parent ombudsmen and

coordinators. Oregon collaborates closely with their state PTI on a Partners Project, where parents serve as partners to other parents in conflict during IEP, transition or mediation meetings. The primary role of the PTI is to help parents prepare for meetings and identify issues, plan agendas, and clarify roles. During meetings the partners are essentially used as expert listeners and models for parent-professional collaboration.

Dispute Resolution Case Managers

In Pennsylvania, parents are assigned to assist others experiencing trouble as soon as the mediation office is contacted. The parent *case manager* will assist in "…reviewing options for resolving disputes" (Feinburg et al., 2002, p. 21). Case coordinators at the state level support a multi-program family agency and focus on fostering family-school partnerships. Case coordinators offer technical assistance in helping families choose a process to resolve disagreements. Many states use telephone intermediaries or hotlines to assist in finding ADR solutions appropriate for the callers (e.g., Alabama, Colorado, Florida, Iowa, Kansas, Massachusetts, New Mexico, and Texas) (Feinburg et al.)

Henderson (2008) notes that 13 states have used dispute resolution case managers, with two other states in the planning stage. This intervention is loosely defined. Some state level mangers inform parents of procedures and rules for both formal and informal complaints. Others operate only at a regional level. Iowa uses at least one resolution facilitator coordinator per AEA to work with both parents and schools to specifically define the issues, resolve the problems informally, or refer parties to a more formal resolution option. Pennsylvania uses three case managers at the state level, who are the

first contact after a due process hearing is requested. The case managers become the link between parties, attorneys and the hearing officer. A mediation case manager coordinates all mediation requests.

Telephone Intermediary

When a conflict is identified, a *Telephone Intermediary* intervenes directly with the parents to investigate whether or not informal resolution is still possible (Feinburg et al., 2002). Often parents are confused about the chain of command in their district, or do not know about different alternative dispute resolution options and simply need more information. Intermediaries can also facilitate discussions between parents, local special education administrators, general school staff, and service providers, as well as fact find and identify issues (Massachusetts, Maryland, Texas, and Pennsylvania) (Feinburg et al.). Other intermediaries might be parents of children with disabilities. This alternative is used in Colorado, New Mexico, Florida, and Maryland. School districts have also established parent hotlines for families who act as ombudsmen and liaisons between parties (Feinburg et al.).

Prevention

Stakeholder Trainings

The first example of resolution options is *Stakeholder Trainings*, which attempt to provide main stakeholders (i.e., educators, parents, and service providers) basic negotiation and conflict resolution skills (Feinburg et al., 2002). This training is

concerned with minimizing conflict and "…increasing the capacity of systems and individuals to meaningfully collaborate and problem solve" prior to a conflict occurring (Feinburg, et al., p.16). Feinburg cites examples of training topics as "collaborative decision making, negotiation, mediation, multi-party dispute resolution, large group facilitation, and cultural diversity" (p. 21). This guidance process empowers its participants to identify ways of building consensus and effective communication strategies at the start of the individualized education program (IEP) process. The training can be conducted at the state or a local level. Kentucky, Iowa, Virginia, and Oregon are using Stakeholder Trainings.

Henderson (2008) found 19 state educational agencies (SEA) are now using Stakeholder Training, with another five attempting to develop it. Some states train all stakeholders together while others focus on mediators and IEP facilitators, or educational administrators. Federally funded Parent Training Information Centers (PTI) play an influential role in these training efforts. If a state is subdivided into local education agencies (LEA) such as the area education agencies (AEA) in Iowa, collaboration increases locally when LEAs, parents, and general education educators are involved in the training.

Stakeholders' Council

The second strategy devised by Feinburg et al. (2002) includes developing a *Stakeholders' Council* by bringing together participants to develop a common vision for the state's dispute and resolution programs. The contributors undergo yearly trainings

together. Wisconsin has a particularly strong stakeholder council program and California and Iowa also have utilized this approach.

Henderson (2008) referred to these councils as "stakeholder management or oversight councils" (p. 4). Twelve states have applied this resolution mechanism with another five still in the process of developing stakeholder councils. North Dakota has employed the State Advisory Panel required by IDEA (1997) to provide ADR to state staff members with guidance. Oregon has formed a subcommittee of the State Advisory Council, also known as the Dispute Resolution Committee, in which stakeholders (i.e., parents, mediators, attorneys for both parents and LEAs, advocacy group representatives, and a judge) serve. Other states have created separate oversight councils. In Wisconsin, members of the stakeholders' council also serve on the Wisconsin Special Education Mediation System (WSEMS). Iowa has held facilitated dialogues between stakeholders every three years to make recommendations for the state. A similar council operates in Pennsylvania.

Collaborative Rule Making

Feinburg et al.'s (2002) third approach uses the practice of *Collaborative Rule Making* as exemplified in Maine. The state education authority (SEA) has invited parents, advocates and school staff to determine policy with training on negotiated rule making and consensus building. Feinburg et al. note that while reaching consensus may be difficult and time consuming, "…collaboratively developed rules were much more easily

adopted, and the rancor and divisiveness that typically occurs during adoption of controversial rules were conspicuously absent" (p. 19).

Strategies for Resolving Conflict

When the conflict becomes obvious, most LEAs and SEAs will use outside facilitators to try to resolve it. Once disagreements have been identified, parents will seek mediation or search for outside intervention. For example, Beekman Esq., an attorney who has widely written and presented on conflict in special education (2004; Beekman, 2005a, 2005b) advises both parties to consult with a relations expert for ways to improve communication. Oregon provided an advisory opinion option. Both parties present their case to a judge for 45 minutes, and the judge issues a non-binding option (Henderson, 2008). Connecticut uses this same approach. Presenting one's case to a judge is an approach "…particularly attractive to parents who may not be able to afford attorney fees but seek a more formal resolution option. This procedure also provides the party who is requesting the hearing the opportunity to be 'heard' by an impartial hearing officer" (Henderson, p. 9)

Mediation Hybrid Models

A mediation session is generally understood to place the parties in opposition in the same space with a mediator in the middle who will seek to find common ground between the two. Alternatively, ADR identifies many other hybrid examples of mediation such as *shuttle mediation*, which uses collaborative teams of professionals and parents

who shuttle back and forth between parties in conflict. Schools may have solution teams of parents and professionals within school districts, or at the Special Education Local Planning Areas (SELPA) level to help alleviate stress within IEP teams. Multiple models of mediation are used. Some strategies are co-mediation, solution teams, or panels, usually consisting of two trained ADR experts, i.e., a parent and an educator, collaborating to help disputants reach an agreement (Feinburg et al., 2002).

IEP Facilitation: An Emerging Practice

In Minnesota, one strategy involves facilitating the IEP meeting, or designating an IEP "manager" (Feinburg et al., 2002) In this process, the role of the facilitator is viewed as neutral, and this facilitator's main focus is to create an IEP and assist the group in achieving that goal. Michigan has trained facilitators at the state level to concentrate primarily on the dynamics of the meeting, maintain respect, ensure that all are heard, and lead the team to focus on the future rather than dwelling on past histories (Feinburg et al.).

Henderson (2008) mentions that IEP facilitation is a growing practice with 24 states currently using this strategy, usually coordinated at the state level. Wisconsin has used experienced mediators in a pilot program to facilitate IEPs since 2004. In the first two years of its implementation, the state received 123 requests, of which 75 resulted in completed IEPs. Mediation requests have now dropped as a result of generalizing the IEP facilitation practice. This facilitation strategy appears to be quite effective as it often generates a "…general re-orienting of the system towards collaborative efforts to build

trust and strengthen communication through involvement of a neutral third party" (Henderson, p. 7). Minnesota facilitated 34 IEPs last year reaching a 94% agreement rate. Iowa and Pennsylvania have trained facilitators and mediators assigned to each AEA and have also experienced satisfactory results. North Dakota uses special education experts from their State University to provide facilitation to LEAs. Facilitation training and services are also delivered locally directly through LEAs. Some states, such as Oregon, provide LEAs with a list of facilitators and/or mediators available to facilitate difficult IEPs. Maryland collaborates with local conflict resolution centers to deliver training. In Maryland, facilitation is available at any time of the IEP creation or the conflict stage. Oregon requires that IEP facilitation occur after a due process request has been filed. In Washington, a settlement conference follows the due process hearing presided by a trained judge that helps disputants work toward a settlement.

Conclusion

The early reliance on procedures that use quasi-judicial forums as the way to resolve conflict between parents and school professionals has produced an adversarial system (Schrag & Schrag, 2004). This trend firmly places parents and advocates in the role of IDEA enforcers (Turnbull, 2007). The past practice of heavily relying on procedural rights does little to heal and re-establish a vital collaboration and relationship necessary for the education of the student, even if it appears to resolve conflict on the surface. Efforts to find local solutions (Schrag & Schrag) focusing on preventative

approaches described by Feinburg et al. (2002) and Henderson (2008) will create a difference in the habitual stances.

Alternative dispute resolution (ADR) strategies appear to offer the most promise at the moment (Henderson & Moses, 2008). Henderson (2008) summarized factors that strongly support the use of ADR, including (a) the perception of neutrality or using third party neutrals to ease the conflict resolution process for disputants, (b) the use of advisory groups or stakeholders to explore ADR processes, and finally, (c) the use of data to evaluate programs.

Henderson (2008) identifies the three main factors that deter the use of ADR as (a) effective use of time especially if facilitation is absent from a controversial IEP, (b) ownership of the IEP process by schools might interfere with someone coming in to facilitate an IEP meeting or conduct a mediation, and (c) difficulty in building trust and establishing positive communication between parties in conflict. If disputants lack respectful and effective communication skills, resolution will be more difficult to reach. Retaliation remains a concern for parents and heightens levels of distrust (Henderson).

Being able to openly address conflict collaboratively and early is critical in the resolution of perennial disputes. Developing and deepening our understanding of the causes, dimensions, and fears of conflict will add to the flexibility needed to craft an organizational structure flexible enough to allow personal and meaningful relationships within an institutional setting (Cloke, 2006).

CHAPTER SIX

CONCLUSION

This review analyzed conflict in special education between parents and professionals as the expression of many systemic cracks in the nation's educational systems. Each step of the special education process for making decisions about the evaluation of a child suspected of having a disability is a potential area of conflict between parents and professional educators. Unfortunately, most general and special education administrators and teachers are not trained to cope with conflict and disputes.

School reform has resulted in new legislation for both general and special education and has contributed to conflict and disputes. Changes in the rules and regulations began with compliance and now require specific accountability for student achievement resulting in increased pressures on special education teachers and administrators. Also, the lack of collaboration between parents and professionals, the lack of time to fully implement the rules and regulations, and the lack of financial support and resources have played important roles in increasing tension and conflict between parents and educators. All of these systemic cracks have contributed to the disputes and conflicts between parents and professionals.

A major question that needs to be answered is, "What should be done to prevent or reduce the special education disputes and conflicts within the nation's schools?" After reviewing the causes of conflict, this dissertation has identified approaches and strategies for preventing and resolving conflict and disputes between professionals and parents of

children with disabilities. Examples of these approaches and strategies are summarized in the following section.

Recommendations

Identify and Resolve Systemic Problems Contributing to Conflict

A large number of due process hearings occur nationally and the number is increasing. These hearings result in substantial financial and emotional cost to parents, professionals, and educational agencies. The most effective and far-reaching approach for reducing the number of conflicts occurring in schools is to identify systemic problems, initiate school-wide dialogue, and implement a change process to reform the existing system including policies, organizational structures, and operating procedures.

Apply the Ten Principles for Preventing or Resolving Conflicts

This approach for preventing or resolving conflict is based on a conceptual framework of meaningful dialogue and collaboration between parents and educators, and focused primarily on the district or school level because local resolution holds the most promise for conflict resolution (Schrag & Schrag, 2004). Grounding the review on conflict are the following ten principles:

1. A plurality of opinions is essential.
2. Building “horizontal relationships” establishes trust and opens the path to building relationships and increasing collaboration.
3. Power and mutual boundaries must be constantly reexamined.

4. Dialogue leads to personal and systemic transformation.
5. Engaging in a “vital” dialogue is the first step to finding creative solutions to existing local barriers.
6. Revitalizing frequent dialogue in teamwork restores meaning to routine meetings.
7. Creating the time for frequent and consistent dialogue is vital and cost-effective.
8. Conflict is an indication of underlying systemic problems.
9. Conflict is a necessary step and an opportunity for resolution.
10. Admitting ignorance and inadequacy should not be punished but perceived as an opportunity for learning and increased collaboration.

Engage in Dialogue as a Strategy for Preventing or Resolving Conflicts

Parent-professional conferences often are an intensely personal experience where parents are very vulnerable because they are speaking about their children. Parents may mistake a professional stance as an uncaring approach. Also, professionals may read unnecessary meaning into the obvious turmoil of the parents, become upset, and respond in kind. It is important that professionals understand and apply effective strategies for engaging in a productive dialogue with parents. There are four guidelines that are helpful.

First, on a personal level, each individual should reflect and take full responsibility for his or her part in the entire issue, admit to not knowing the answer, and listen to diverse opinions rather than countering them. If one is aware of one’s own reactions and motives, this awareness will help achieve a more constructive, creative, and mutually shared alternative solution to conflict. For example, the use of critical self-

reflection and examining personal relationships to power is a critical step toward personal change and a step toward systems change.

Second, professionals should not avoid conflict, but anticipate it. In an adversarial situation, it is helpful to examine the probable causes of a conflict, try to understand the other person's feelings and point of view through empathy, acceptance, honesty, and mutual respect. It is important to try and understand the context or the system in which conflicts occur in order to identify where changes must be made to prevent or resolve future conflicts.

Third, both parties should converse as equals. One individual should not dominate over the other. In this way mutual trust can develop. Parents should be encouraged to express their thoughts about an issue and be included in the dialogue as a valued contributor to the discussion.

Fourth, when individuals with differing opinions and backgrounds are attempting to reach a consensus, conversations should be held more frequently. This will enable both parties to understand each other's position and provide more time to explore mutually satisfactory solutions to resolve the conflict situation.

Adopt an Interest-Based Approach to Dispute Resolution

Both parents and professionals must take full responsibility for resolving conflict and its outcomes. It is necessary to focus on eliminating the barriers to conflict resolution before the problem-solving process can begin. It is essential to review the school's culture and identify problematic contexts and environments in which change should be

made. All attempts to resolve disputes must be directed to the origins of conflict. Underlying interests or needs should be addressed. Only then is it possible for those involved in the resolution process to focus on a commonly identified issue that must be resolved. Examples of strategies for preventing or resolving conflict through an interest-based approach to mediation are presented.

School-wide dialogue between all stakeholders is necessary for this change process approach to succeed. This interest-based approach is invaluable for identifying the possible reasons for conflict, finding the commonalities between parties of what people want and why they want it, and focusing the stakeholders on resolving a common goal.

Since collaboratively developed rules are more easily adopted, the state education agency can invite parents, advocates and school staff and train them in collaborative negotiated rule making, policy, and consensus building. Some state education agencies have created Stakeholders' Councils for developing a common vision for the state's dispute and resolution programs and providing training for educators and parents.

Local educational agencies include parents, educators, and other service providers training in basic negotiation and conflict resolution skills. Parents also should be included on all advisory committees. Mediation or resolution meetings are implemented earlier in the dispute process whether or not there is a need for a due process hearing. For this approach to be successful, however, it is necessary to create time for professionals to attend these meetings.

Use Intermediaries for Preventing or Resolving Conflicts

The use of intermediaries has proven helpful to prevent or resolve some conflicts. Parent-to-parent assistance has helped parents learn about the special education process, prepare them for decision-making meetings, and provide on-call support for parents. Systematically using an internal or external facilitator during individualized educational program meetings can help prevent conflict. Dispute resolution case managers can work with the parents and schools to specifically define the issues, resolve the problems informally, or refer parties to a more formal resolution option and assist in choosing a resolution process. Telephone intermediaries can be used to investigate whether or not informal resolution is still possible. A final resort in searching for an outside intervention is that both parties consult with a public relations expert for ways to improve communication or presenting the case to a judge for 45 minutes with the judge issuing a non-binding option.

Establish Agency-Wide Collaborative Practices

Aligning these introductory principles with the research reviewed in this thesis suggests a priority be given to increasing collaboration between educators, and between professionals and families. Collaboration is difficult to organize at a school level, especially when it must extend to include parents and families. At the start of any special education process is the IEP team, devised to collaboratively create an individualized education program. IDEIA (2004) has multiple "direct and indirect expectations of collaboration" (Friend & Cook, 2000, p. 22) with a variety of individuals. Figure 3

illustrates the complexities of collaborations needed from a special educator's point of view.

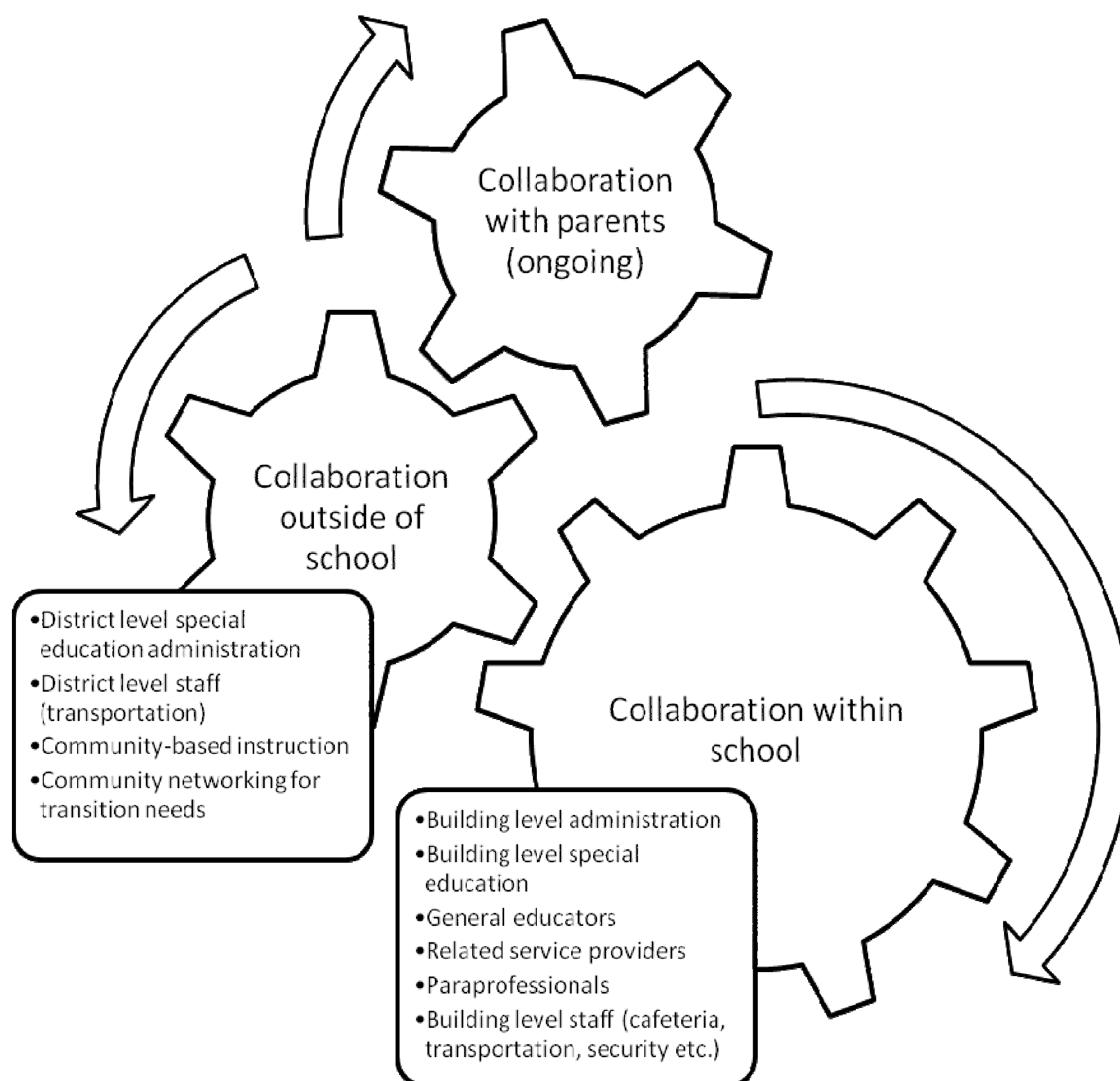

Figure 3. Complexities of direct and indirect expectations of collaboration (Friend & Cook, 2000).

Collaborative practices are encouraged in some schools, whereas little communication exists between parents and educators in other schools. If the leadership does not fully grasp its importance then special education collaboration does not occur (Friend & Cook, 2000). Superimposing special education collaborative expectations on a non-collaborative school leads to increased conflict in special education (Friend & Cook). Collaboration mandated by IDEIA (2004) and the collaboration culture itself seems to provide impetus for change in schools (Billingsley, 2007; Brownell et al., 2006; Klinger, 2004; Stanovich, 1996; York-Barr & Duke, 2004; York-Barr & Kronberg, 2002).

When parents and professionals fail to use collaborative practices in making decisions about the most appropriate special education service for a child, conflict often occurs and can create feelings of exhaustion, isolation, anger, and hopelessness among parents and teachers. When such pressures reach a breaking point, outside intervention should be sought through mediation and due process hearings.

School professionals cannot resolve the complex issue of building relationships with parents alone. They are managing multiple competing responsibilities with few supports and many constraints and this leads to a hopelessness well demonstrated by the increasing teacher attrition. Regularly inviting parents into a district's problem-solving dialogue shifts the locus of power, and heightens the potential for richer and more creative resolutions to problems both parents and professionals are facing (Turnbull et al., 2000). Finding many ways to involve parents in school governance and problem solving activities is necessary to generate the synergy necessary to truly resolve conflict (Cloke, 2006; Turnbull et al.). This collaboration shifts the spotlight from an adversarial stance to

finding solutions together. Bringing about such a cultural change takes time, leadership expertise, and knowledge of the change process itself (Fullan, 2002a; Fullan, Bertani, & Quinn, 2004; Leithwood, Fullan, & Watson, 2003).

Kalyanpur and Harry (1999) suggest the need for American professionals to adopt a posture of cultural reciprocity, a "…method of inquiry for professionals to reflect on their practices and question the assumptions of the field" (p. 115). This approach involves four steps: (a) developing awareness of one's cultural values embedded in the professional interpretations of a student's difficulties and in the recommendations for service, (b) discovering whether the student's family recognizes and values these assumptions and, if not, how their view differs from that of the professional, (c) offering respect for any identified cultural differences while fully acknowledging the cultural basis of professional assumptions, and (d) discussing and collaborating to determine the most effective way of adapting professional recommendations to the value system of each family served.

A Final Note

This review of the literature has identified two major sources relating to conflict in the nation's schools. First, there are problems with the current system for delivering special education services. This problem will require systemic changes that must be led by leaders at the national, state, and local level. Second, the literature has identified the fact that the quality of interpersonal interaction between parents and professionals

determines whether or not mutual attempts to resolve conflict situations will succeed depending upon how parents and professionals interact with one another.

It is critical to create effective, empowered, quality partnerships between parents and professionals. To accomplish this, institutions of higher education, state, and local education agencies must offer professional development to educational leaders, teachers, and parents. Pre-service and in-service trainings are necessary to provide knowledge and skills for preventing or resolving conflicts. Content should include understanding the causes of conflict between professionals and parents, understanding the principles for preventing or resolving conflicts, training in the use of collaborative practices, skill in using dialogue as a strategy for preventing or resolving conflicts, and using a collaborative approach to dispute resolution.

It will be difficult to change systems and provide parents and professionals with the knowledge and skills they need to prevent or avoid conflicts arising over special education services for children. This literature review takes a first step in addressing an important problem in the nation's schools by attempting to define the parameters of the problem and identifying promising practices for preventing and resolving professional-parent conflicts in our schools.

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