Chapter 3

Effectiveness and Accountability (Part 1): The Compliance Model

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A recent article in *The Washington Post* revealed some alarming features of the special education program in our nation's capital. Special-needs students languish in inappropriate school settings for years before the District of Columbia's public school system conducts an initial assessment of their disabilities and assigns them to a special program or school that might promote their educational progress. It is unclear how or even whether "progress" is defined for special education students in the D.C. system. Administrators confessed to *Post* reporter Justin Blum that they "do not know how many special education students graduated (from high school) last year." Although an elaborate reporting system is in place, one that requires special education teachers and administrators to complete reams of paperwork, Blum reported that "there are serious errors at nearly every step of the process and…missing documents and unreturned phone calls hinder efforts to correct them." The D.C. Office of Special Education even advises people to ignore graduation rates reported in previous years because they are totally unreliable.[1]

> *How do we know whether special education is working in the United States, and how do—and should—we define "working" in this context?*

Experts estimate that $35-60 billion is spent each year to provide a "special" education to disabled children in the United States. The wide range of cost estimates itself hints at an insufficient level of accountability in these programs, while also provoking the important question of what society is receiving as a return on its substantial investment in special education. In this chapter, we address critical questions regarding what standards of effectiveness are used to evaluate the progress of children receiving special education services and what accountability systems operate to track and report their progress. In other words, how do we know whether special education is working in the United States, and how do—and should—we define "working" in this context?

The chapter focuses primarily on the "compliance model" of accountability that currently governs most special education programs. Compliance accountability is a form of monitoring

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and oversight that stresses *documentation* of various *processes* and *activities*, including initial

assessment, pupil assignment, reassessment, reassignment, and the use of education funds.

Within a compliance model, effectiveness tends to be defined in terms of whether or not procedural regulations were satisfied, the proper steps taken, and the right paperwork processed correctly and on time. The compliance view of accountability is deeply entrenched in the history, theory, and practice of government involvement in special education in the United States despite recent efforts to "reinvent" special education by focusing more on educational results. Ironically, the compliance model fails even to ensure widespread compliance with federal and state laws and regulations, while generating unexpected, undesirable outcomes and perverse incentives.

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Having laid bare the nature of the current compliance model for accountability and effectiveness in special education, we proceed in Chapter 14 to describe possible alternative models and assess their strengths and weaknesses. We think that it is possible and desirable to define success more appropriately for children with special educational needs, and to design monitoring systems that accurately reveal useful information about how well we are serving these vulnerable youngsters.

Definitions

Many important special education terms are defined in other chapters. Here we focus on clarifying what is meant by effectiveness, accountability, and the compliance model. "Effectiveness" is a measure of goal achievement. An effective program achieves the goals that have been set in advance for it. The goals themselves may be focused on resources (for example, inputs), processes and activities (services), results (outcomes), or the social consequences of the results (impacts).[2] Impacts and outcomes are generally considered to be superior to services and input effectiveness criteria, because they focus on what a program or agency actually accomplishes, not merely what it expends or what it does.

"Accountability" is advanced when individuals and organizations are held responsible for the operation and effectiveness of programs and institutions under their control. Thus, achieving accountability requires that accurate performance information be collected and reported in some public venue. Accountability systems in the government sector seek to enable a clear and accurate "accounting" of what has been accomplished through the use of public funds and the operation of public programs. They also serve as a means for holding public officials and private contractors "accountable" for the lack of accomplishments or the misuse or abuse of public funds and programs.

Up to this point, the compliance model has dominated effectiveness and accountability considerations and activity in special education. According to this model, effectiveness is largely defined in terms of the prescribed expenditure of resources and the execution of correct

processes and activities that are mandated by special education laws and regulations. A major assumption of the compliance model is that the correct operation of the special education "process" implies actual "progress" for special-needs students—meaning that greater inputs and services generate desirable outcomes and favorable impacts. To ensure accountability, the compliance model requires that every step of the special education process be thoroughly documented. Other major assumptions are that the issuance of regulations and documentation of compliance with those regulations (1) ensure that public funds and programs are not being misused and (2) provide a complete and accurate public record of what is being accomplished regarding the education of students with special needs. As we will see, the compliance model is being challenged by contemporary special education reforms, and an examination of how it operates in states, communities, and schools strongly suggests that such a challenge is overdue. But first we will examine more carefully the theory undergirding the compliance model.

Effectiveness and Accountability in Theory

The compliance model of accountability in special education is intended to solve the "agency problem" that is inherent in policy implementations which rely upon delegation of authority.[3] Principal-agent theory, as applied to policy implementation and oversight, holds that the

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formulators and overseers of policy are "principals" who delegate the task of actual implementation of policy to subordinates, or "agents." Principals and their agents are assumed to have more or less diverse, even divergent preferences and goals for policy implementation. At the extreme, some rational-choice theorists contend that agents will tend to "shirk" the implementation work, "subvert" the policy goals of their principals in order to further the agents' own purposes, and even "steal" whatever program resources they can.[4] To solve this "agency problem," the designers and overseers of policy need to operate an accountability system that will mitigate the supposed tendency of subordinates to shirk, subvert, and steal. The "agency problem" is essentially an accountability problem. Because the operators who actually deliver services to people might not do so in the "proper" way if left to their own devices, we must design a system to compel their proper behavior or force them to account for improper behavior.

According to economist William Ouchi, there are three general ways by which organizations can address the agency problem. They can be organized as a bureaucracy, a market, or a clan.[5] Bureaucracies, including most government organizations, use administrative hierarchies of supervision to address the agency problem. Organizations that rely on market forces to diffuse the agency problem include many entrepreneurial businesses. Organizations that take the form of clans to address the agency problem include families, sports teams, and many nonprofit agencies.

Table 1 describes the basic components of accountability systems employed by the three general types of organizations. We will modify Ouchi's terminology slightly by referring to his bureaucracy model as a *compliance* model, his market model as a *competition* model, and his

Table 1. General Models for Addressing the Agency Problem

Model	Theme	Focus of Effectiveness	Ex Ante Accountability	Ex Post Accountability	Rewards	Sanctions
Bureaucracy (Compliance)	Heavy Hand	Activities (Processes)	Rules and Regulations, Certification	Paperwork, Audits, Hearings	Continued Funding, Jurisdiction	Written Warnings, No Promotion, Decertification
Market (Competition)	Hidden Hand	Outcomes (Results)	None	Consumer Choice	Increased Revenue, Increased Salary, Continued Operation	Loss of Revenue, Bankruptcy
Clan (Community)	Helping Hand	Varied	Values and Norms	Reputation	Praise, Role Enhancement	Scolding, Role Reduction, Banishment

clan model as a *community* model of accountability.

The compliance model traditionally focuses on organizational activities or processes.[6] What tends to be most important under the compliance model is what people do, how much they do, and how they do it. At the front end, the compliance model prescribes the formulation of elaborate rules and explicit regulations to guide the behavior of agents. It relies upon a heavy hand to shape and enforce behavior. Compliance accountability systems often require some form of credentialing (such as teacher certification) before an agent is allowed even to operate within the system.

After operations have begun, the *compliance* model calls for accountability checks that generally involve documentation of organizational activities and workflows that can later be audited by overseers. Agents that are judged to have operated according to the rules and procedures set by the principal tend to be rewarded with continued responsibility for their programs. Where organizational paperwork reveals a lack of compliance on the part of an agent, however, the agent may be issued a warning, denied promotion, or even decertified. For example, a military officer who fails to comply with the regulations of his service may first receive a "letter of reprimand." If the officer receives several such reprimands, he may be passed over for promotion to a higher rank. If noncompliance worsens, the officer may be involuntarily discharged from the service.

> *The competition model relies upon consumer choice to enforce accountability.*

The *competition* model of accountability provides a sharp contrast to the compliance model. Its focus of effectiveness usually is on outcomes or results, not activities and processes. Generally, correct procedures are not specified in advance. This model relies upon the hidden hand of market incentives to shape behavior. The goal is to achieve the "bottom line" in whatever way you can.

The *competition* model relies upon consumer choice to enforce accountability. If consumers like what the agency is doing, and have reason to believe that its positive performance will continue, they will support it. If they are disappointed with the services provided by the organization and other options are available to them, they will take their business elsewhere. James Q. Wilson has referred to this system of accountability as permitting "clients to vote with their feet."[7]

Government agencies employing the competition model may construe the idea of "consumer" in one of two ways. One approach regards the ultimate beneficiaries of the government service as consumers and gives them the power to vote with their feet in selecting the provider of the service. In the education arena, for example, policymakers can give families the ability to use a "voucher" to pay tuition so that their children can attend a preferred school. In this variant of the competition model, agents are held accountable in that if they fail to convince beneficiaries to "buy" their services, they go out of business. The other variant regards government agencies as consumers who buy products from other governmental units or outside contractors. In education, for example, a state education agency might select a certain educational assessment company (in lieu of a competitor company) to provide the instruments for the agency's testing regime.

Agents that achieve positive outcomes under a *competition* model of accountability are rewarded with bonuses or increased revenue and the ability to stay in business. Conversely, agents that fail to achieve positive outcomes (or whose customers vote against them with their feet) will be denied salary bonuses, docked pay, and, if the agent falls well short of the performance goal, possibly fired. Organizations that fail to achieve their outcome targets may lose revenue, forfeit the contract with the principal, and, as a result, risk bankruptcy. Market models of accountability are non-directive at the front end; however, the rewards and sanctions under such a system can be dramatic at the tail end of operations.[8]

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Performance measurement is not unique to the *competition* model of accountability. Organizations that are structured as bureaucracies (or even clans) often can and sometimes do measure their performance. Performance measurement is more common in systems of competition, however, because managers who face market rewards and sanctions value information about how well their programs and employees are doing. Because they do not want customers to go elsewhere, managers and organizations that face high stakes competition regularly assess performance in order to nip problems in the bud and identify productive programs and employees in which to invest additional resources.

The third type of accountability system is the *community* model. Organizations that function as communities view effectiveness as context-dependent. They will focus on impacts and outcomes if what they are doing is amenable to those effectiveness criteria; however, they will pay close attention to services and processes if more results-oriented effectiveness measures would be inappropriate. John Dilulio illustrates this point in his portrayal of the Federal Bureau of Prisons (BOP) as a clan or community-type organization.[9] If a jailbreak or riot has occurred, BOP personnel will do whatever it takes to catch the fugitive or quell the disturbance, consistent with preserving the safety of innocent people. Such an approach represents a results emphasis. However, during the daily operations of BOP facilities, staff members focus on the standard operating procedures and rule-based behaviors that their principals have specified for them. Such an approach represents a process emphasis.

Clan-like organizations can make quick adjustments in how they operate and what they

emphasize because they rely upon values, norms, and relationships, not hierarchy or regulations, to guide members' behavior. This model employs a helping hand to shape behavior. Several scholars have pointed out that Catholic schools tend to have a strong sense of community because their administrators and teachers usually share a set of educational, personal, and spiritual values that shape the environment of the school and the behavior of those in it.[10] Such norms and values often include concern for the welfare of every student, emphasis on the importance of cooperation, a focus on mastering basic skills, and insistence on maintaining a clean and orderly school. School leaders are confident that staff members share their values and that they therefore need not prescribe what teachers do in classrooms. Because of shared values, principals can be assured that teachers will take appropriate actions when confronted with various situations. As Dilulio notes, such "strong culture" organizations address the principal-agent problem by relying upon operators who are "principled agents."[11]

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With principled agents delivering services to the organization's clients, community-based agencies often do not overly concern themselves with *ex post* accountability instruments. Their leaders instead tend to rely on their own constant readings of whether the community is thriving and, if not, what might be done to improve its condition. Operators and clients who have performed particularly well in the view of the leader might receive praise during a community gathering or have their roles within the organization enhanced in some way. Operators and clients who have performed poorly in the view of the leader might receive a private admonition, role reduction, or, in extreme cases, banishment from the community.

Each of these three models of accountability has certain theoretical advantages. The *compliance* model ought to be more reliable and consistent than the *competition* or *community* models, because its rules of behavior are clearly specified in advance and adherence to those rules is monitored. With the compliance model, agents and clients know up front what they must do and how they can expect to be treated. By contrast, the *competition* model has virtues of flexibility and adaptability. Agents can use whatever appropriate and creative means they think will advance the organization's goals. Moreover, market-based organizations receive clear feedback from customer decisions and comments regarding what is and is not working, and they can adjust accordingly. Because *community* models of organizing rely upon personal allegiance to norms and values instead of rules and supervision or customer information to ensure accountability, they tend to be the most efficient means for addressing the agency problem. However, an important limitation of the *community* model, with its heavy reliance on the culture of the organization, is that it tends to succeed only within the confines of individual agencies. A principal that needs to control the behavior of agents in different organizations, sectors, and levels of government, as in special education, would find it difficult to do so using culture alone.

Choosing an Accountability Model for Special Education

Which type of accountability system would be best for special education? The eminent political scientist James Q. Wilson has developed a typology of government organizations that provides us with guidance regarding this important question.[12] According to Wilson, agencies can be distinguished from one another based on whether their outcomes can be reliably measured and unequivocally ascribed to agency actions and policies. They also differ based on whether a clear technology or single method of operating applies to the agency's mission. Agencies with measurable results and clear ways of doing things are considered to be *production* agencies, according to Wilson. Because they are so favorably situated, production agencies can employ any of the three accountability models successfully. Agencies with unmeasurable outcomes but clear technologies are called *procedural* agencies. Because what is to be done is clearer than what is achieved, the compliance model of accountability is generally used for procedural agencies. Bureaucracies with measurable outcomes but various viable technologies are considered to be *craft* agencies. The competition model of accountability is best suited to craft agencies because of its emphasis on results, such as consumer choices, that can be measured. Finally, agencies with neither measurable results nor single ways of doing things are called *coping* agencies. Because their missions involve uncertainty regarding both process and result, the community model is the best system for promoting effectiveness and accountability in these agencies.

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Where does special education fit into this typology? Schools themselves are properly treated as craft agencies, according to Wilson. There is little agreement as to precisely how teachers should conduct the process of educating their students; however, standardized tests and other assessments do offer the ability to measure student achievement, at least regarding the skills and topics covered by the exams. Thus, regular education would appear to lend itself to accountability systems based on performance measurement that are typically part of the market model. However, special education is different. It is difficult to measure accurately the educational achievement of certain students with special needs. As such, at least some special education students and programs may reasonably be considered coping projects. For them, the community model of accountability may be most appropriate.

Clearly, special education is not a procedural or production mission. The education landscape is littered with pedagogical approaches and reforms that were billed as trustworthy technologies for helping all students to learn.[13] Even less certainty surrounds approaches to teaching students with special needs. Fierce battles continue over whether deaf students should be taught orally or using American Sign Language, and whether non-English-speaking students should be immersed in English or receive the bulk of their instruction in their native tongue.[14] Many educators and policymakers have behaved as if a single sure technology exists for all special education situations, but in reality the variety and intensity of demands posed by special-needs children seem certain to frustrate attempts to specify in advance precisely what special education must consist of, as opposed to what it should accomplish.

The example of a private educational center for emotionally disturbed students illustrates these challenges. At the time of our visit, the center enrolled 53 students in grades 1-12, with an average class size of four students.[15] Nearly half of the staff were professional counselors. The intensive psychological therapy and small class sizes that characterized the program came at an annual cost of $36,000 per student, which was borne by the local county school system for all of the children in the school.[16]

This organization closely fits the "clan" model. Effectiveness is defined in various ways, depending on context. Effectiveness measures include a student's level of participation in the activities of therapy sessions and behavior in class, as well as the outcomes of learning coping skills and transitioning from the program back to a regular school. Nearly half of the students sent to the school make sufficient progress in their therapy and education programs to transfer to a "less restrictive" school environment. School administrators refer to such outcomes as "transitioning out" of the school under "favorable" or "successful" circumstances.[17] A small number of students—typically one or two but sometimes none in a given year—remain in the school through 12th grade and thus formally graduate from the high school component of the center.[18] The students who neither transition out of the center successfully nor graduate from its high school leave the school "unsuccessfully" by quitting the program prematurely. The center's failure rate of about 50 percent is considered very low, given the propensity of emotionally disturbed students to quit special education programs and school itself.[19]

> *Measuring results that can be appropriately attributed to special education interventions can be challenging.*

Although students are tested each year in accordance with state guidelines, the test results are primarily used for diagnostic purposes. The teachers advocate customized testing of their students "in their best medium" and at the time of day when a given student tends to be most balanced emotionally. They claim that, for some severely emotionally disturbed students, getting them to remain in their chair for an entire class (a process measure) might be the most appropriate measure of progress.[20] The teachers who work with emotionally disturbed students every day at this school consider their job to be primarily a coping mission.

The environment and operation of the school are shaped by a set of values that produces a strong and distinct culture. The values include openness, informality, trust, personal responsibility, and flexibility. These values, and the academic activities that take place at the school, are all oriented toward addressing the emotional problems that are the source of each student's disability. As the director stated, "The learning that takes place in the classroom is therapy."[21] Students refer to teachers, counselors, and administrators by their first names to prevent them from being intimidated by the intensity of the classroom and counseling sessions that comprise each school day. Students are encouraged to take ownership of the school; pictures of each student adorn the hallway, and student leaders are given the authority to assign maintenance tasks to other students and ensure that the tasks are completed properly. A high school student was selected to provide us with a tour of the school, unchaperoned. The teachers are extraordinarily flexible and accommodating; they readily greeted us as we were ushered into

classrooms, primarily while classes were in session. Most of the classes consisted of small group projects or individual tutorials. The junior high and high school students serve as mentors for the elementary school students. On the morning that we visited, the regular high school English classes were replaced by a student-led poetry "slam."

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Even this "clan-like" school is required to participate in many compliance-oriented oversight activities. The school must maintain its accreditation in order to receive referrals from various public school jurisdictions in the area. Staff members participate in the development, implementation, and annual review of progress toward the goals of individualized education programs (IEPs). Administrators must complete a blizzard of paperwork in order to justify their operations and be reimbursed by the county for their services. The efficacy of this exercise in documentation is questionable, however. As the director told us:

> The amount of paper we generate for accountability purposes to the county and state is enormous…. But I don't know if it's effective because I have no idea…what they're using it for, you know what I mean? …I present them with a [budget] packet that is an inch thick every year…. I don't know…who does what to it all. And I always wonder, 'Is this being used?'[22]

Finally, the school is subject to market accountability. Although its student body is the result of referrals from various public schools in the region, many of the referrals are based on parental demands (backed by legal counsel) that the child be assigned to this particular school. Moreover, the county may refer emotionally disturbed students to any of more than 100 public and private school programs in the area. The director told us, "Every year I worry if we'll have enough kids to pay the staff. And always it works out…. Our middle school is full, basically. The high school is about full, and I've got a lot of referrals coming in. And the elementary school is—basically, it will be full. Every year it sort of works out, and you try the best you can and continue."[23] The positive reputation and high success rate of the center are important reasons why it has been allowed to continue to teach and counsel emotionally disturbed students.

A teacher we interviewed at the center described a particularly innovative aspect of the program. Every Thursday is a work day at the school. The students are organized into landscaping and maintenance work crews, with student supervisors elected by the community of staff and students. That way, said the teacher, "the students learn to work with each other and for each other and over each other."[24] The students are paid by the center for their work, with their pay grade determined by regular evaluations of their work by peers and center staff, "so they are very much held accountable for their ability to be part of their team and get the job done."[25] On "work day," the students are organized into a bureaucracy, motivated by market incentives, and evaluated by the fellow members of their clan.

This private, nonprofit school for special-needs students exemplifies the conclusions of this chapter. First, we see that measuring results that can be appropriately attributed to special education interventions can be challenging. At the extreme, the standardized outcome measures

central to performance-based accountability may be either impossible to obtain or inappropriate measures of achievement. Second, particularly in the area of special education, accountability systems tend to combine elements of more than one model. Real-world examples of pure compliance, competition, or community models of oversight and accountability are rare. What distinguishes one system from another is whether its central tendency is oriented toward compliance, competition, or community. Third, compliance aspects of the special education oversight system are designed and implemented in ways that may not contribute to, and actually may undermine, accountability. In the following sections we explore further the imprecise, poorly targeted, hybrid nature of past and present systems used to hold people accountable for effectiveness in special education.

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The Emergence of the Compliance Model in Special Education

A compliance regulatory system has dominated the oversight of special education programs since responsibility for such programs became increasingly federalized in the 1960s. This reliance on compliance regulation may have resulted from a desire to guarantee positive outcomes, organizational culture, the fear of litigation, or all of these.

Children with special educational needs rightly evoke sympathy. Policymakers and implementers may be especially motivated to seek a guarantee that all such students receive appropriate educational interventions, and that no special-needs student is neglected. Thus, they might be tempted by the heavy hand of compliance oversight and the apparent (but not always real) guarantees of universal and appropriate service that it promises. This can occur in spite of the fact that the definition of "appropriate" will vary significantly by type and severity of disability and even change over time (due to advances in research, technology and pedagogy).

Government organizations have a propensity for the process regulation that is central to compliance oversight.[26] As Max Weber explained, formalization generates clarity, standardization, and reliability that can make the job of the bureaucrat more manageable.[27] Some researchers have argued that public education in America suffers from a culture that is particularly quick to formalize and bureaucratize.[28] Because the compliance model's forms of process regulation admit less ambiguity and tolerate less variety, they can also provide protection against litigation. Civil rights tend to be defined in terms of procedures, such as "equal access" and "due process." Thus, when special education is wrapped in the language of rights, policy implementers may seek procedural regulations of the compliance model as protection against legal claims of impropriety. This tendency may be particularly strong in special education, as children with special needs are legally guaranteed an "appropriate education" in "the least restrictive environment." Because disputes over the operational definitions of these ambiguous terms tend to be settled by the courts (see Chapter 10), implementers seek legal protection by engaging in compliance-model process regulation.

A brief history of special education policy reveals how all three forces—sympathy,

organizational culture, and fear of litigation—appear to have played a role in making compliance-style oversight central to the special education accountability system. Prior to the 1950s, states, localities, and community organizations provided most of the educational services for children with disabilities with no federal funding or oversight, under conditions that were variable, uneven, often unequal, and frequently separate.[29] Advocates for people with disabilities drew upon the example of *Brown v. Board of Education of Topeka* and the civil rights movement for inspiration and direction in seeking similar access and equity for children with special needs.[30] The first federal laws concerning the education of special-needs students were the Education of Mentally Retarded Children Act of 1958 and the Elementary and Secondary Education Act of 1965. Both measures provided funding meant to improve the quality of special education; however, neither law contained meaningful accountability mechanisms.

The first federal special education laws with oversight teeth were Section 504 of the Rehabilitation Act of 1973 and the Education for All Handicapped Children Act of 1975 (EAHCA). The former required states and localities to ensure that disabled children be granted access to education programs and facilities. The latter mandated that all children with disabilities receive a "free appropriate public education" and that it take place in the "least restrictive environment." The least restrictive environment for a particular student would be determined by a group of interested parties including the child's parents, various diagnosticians, and educators from the local school district. Their decisions would be codified in an IEP that would serve as a guide to everyone participating in the child's schooling. An outgrowth of public sympathy regarding the educational needs of many children with disabilities, the EAHCA invited a compliance and process-oriented accountability system because, like so much pioneering civil rights legislation, it combined legal guarantees with ambiguous terminology.

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During the 1970s and 1980s, special education advocates tackled some of the ambiguity by promoting "mainstreaming" as the proper method of educating students with disabilities.[31] This approach again mirrored the civil rights strategy, then popular in advocacy and legal circles, of addressing racial segregation in public schools by integrating them, even using forced busing when necessary. The process-oriented goal was to expose previously excluded classes of students (such as students with disabilities or racial minorities) to the same educational program and environment as their peers. However, just as many minority students were "tracked" within schools in ways that prevented them from being exposed to most of their non-minority classmates,[32] concerns emerged that mainstreamed special-needs students were not truly being integrated into the life of their schools. Therefore, in the 1990s, the emphasis on mainstreaming gave way to an emphasis on inclusion.[33]

Fully including disabled students in all school activities on an equal basis with their peers has not proven to be the clear solution for addressing student needs that was anticipated. In some cases, full inclusion is impossible or even counter-productive. A student with a severe physical

disability obviously will not be able to play on the school's football team, although he may be included in the activity as a team manager. Stronger inclusion problems emerge in cases of deaf or severely emotionally disturbed students. Because deafness is a communication impairment, and many deaf people communicate using a distinctive language (American Sign Language), "deaf schools" have persisted as separate places where students can learn in that language and become steeped in their culture, all contrary to the precepts of inclusion. An excellent example of this "celebration of differentness" is Gallaudet University, which operates as an institution of higher education exclusively for deaf and hearing-impaired students, though it is federally funded and overseen by the U.S. Department of Education. Emotionally disturbed students present another case-in-point. Full inclusion of many such children in a regular school would deny them the customized environment and intensive therapy sessions that they need to address their particular disabilities. In such cases, inclusion may mean unequal and ineffective treatment.

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Recently, the process orientation of the compliance model has been challenged by the movement in education circles to emphasize academic standards and results. Standards-based reform in regular education has drawn special education along, as analysts and policymakers confront the compliance model limitations for ensuring that students with special needs are actually learning. The desire that effectiveness in the special education arena be defined in terms of educational outcomes, and that educators be held accountable for their results, was manifested in the 1997 amendments to the Individuals with Disabilities Education Act (IDEA).

Effectiveness and Accountability Under the IDEA

The mandates contained within the 1997 amendments of the IDEA (IDEA '97) regarding effectiveness are too vague and allow too many exceptions to represent a true "sea change" from previous special education effectiveness mandates. The section of the law that deals with "Performance Goals and Indicators" (P.L. 105-17, Sec. 612(a)(16)) merely requires that: (1) states have "goals for the performance of children with disabilities"; (2) the goals "promote the purposes of this Act"; and (3) the goals be consistent "with other goals and standards established by the State" with the qualifier "to the maximum extent possible." Clearly, states still retain a great deal of discretion in deciding how performance and success are defined for their disabled students.

The reporting requirements of the IDEA (Sec. 612(a)(17)) are heavily qualified and include important loopholes. They require states, for example, either to include special education students in regular statewide assessments (with or without special accommodations) or to develop "alternative assessments" for such students. The one area in which the mandates appear to have real teeth is in requiring that each state make public the following: (1) "the number of children with disabilities participating in regular assessments"; (2) the number opting out via

alternate assessments; and (3) the performance of each group on their respective assessments. States are still able to use various means to exempt special education students from standard achievement tests; however, they are now required to report how many of their disabled pupils have been excluded.

Most importantly, the effectiveness and accountability requirements in the IDEA include no rewards and only weak sanctions. There is no explicit mechanism for rewarding states that actually demonstrate significant progress in educating their disabled students. The Secretary of Education is authorized to withhold federal funding from states or localities that are found to be out of compliance with the IDEA but is not required to do so (Sec. 616(a)). Moreover, the IDEA extends the right of appeal to educational jurisdictions that are punished for non-compliance (Sec. 616(b)). Financial sanctions for IDEA violations thus appear unlikely, and we are aware of just one or two instances in which they have even been threatened.

As we read them, the 1997 effectiveness and accountability provisions of the IDEA include elements that could, if strictly enforced, inject a strong measure of results-orientation into the oversight of special education. Yet, many of those provisions are optional or highly discretionary. The fundamental compliance model emphases on *ex ante* procedural prescriptions and *ex post* audits of resources expended and activities conducted remain strong. IDEA '97 includes 13 pages of text describing the intricacies of 13 separate procedural safeguards with which teachers and administrators must still comply (Sec. 615(a-m)). Moreover, the Act specifies seven procedural approaches, described as proven methods for advancing special education, that include "whole-school" intervention, better coordination, greater reliance on classroom aides, and more training for special education teachers (Sec. 601(c)(A-G)). In short, reports of the death of the compliance model of effectiveness and accountability in special education appear to be greatly exaggerated.
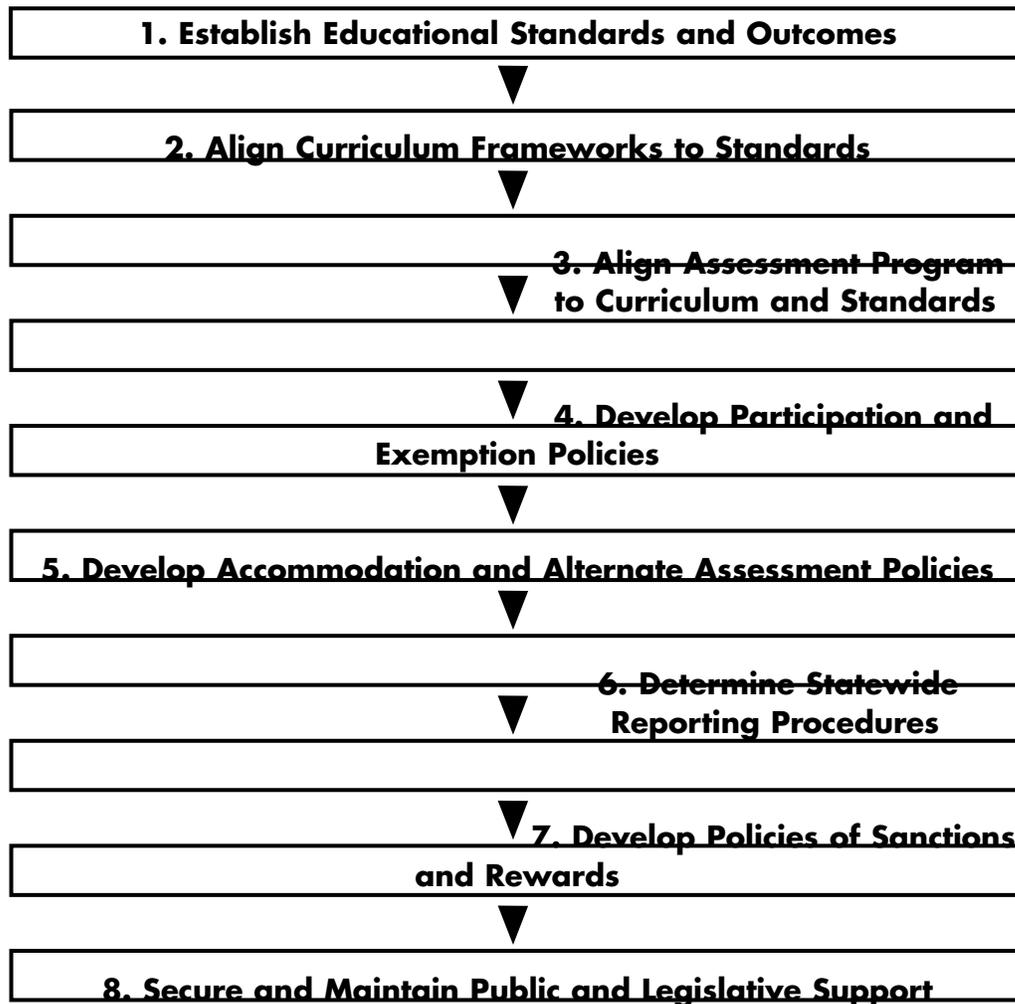
> *Reports of the death of the compliance model of effectiveness and accountability in special education appear to be greatly exaggerated.*

IDEA Reforms: The Vision and Process

An express purpose of the 1997 IDEA amendments was to focus the oversight system for special education on educational outcomes (Sec. 601(d)(4)). According to Ronald Erickson of the Regional Resource and Federal Center Network, the performance-based accountability system required by IDEA '97 must include at least 10 critical components.[34] Although Erickson configured them as spokes on a wheel, we have reproduced them in Figure 1 as discreet steps in an implementation flowchart. The first step is to establish consistent standards and outcome targets for special-needs students. Next, curriculum and testing programs must be aligned to the educational standards and goals. Policies must be set for determining which special-needs students must participate in the testing and what accommodations should be provided to them. Procedures must be established for reporting test results, and additional policies must be developed to reward good performers and penalize bad ones. The final three tasks in the flowchart may appear to be improperly placed at the end, as opposed to the beginning, of the process. However, public and legislative support is as often earned at the end as it is granted at the outset of an implementation process. Similarly, expanding access to and revising the content of professional training programs might be more

Figure 1. Flowchart of Necessary Steps for Results-Based Effectiveness and Accountability Under IDEA '97

1. Establish Educational Standards and Outcomes

▼

2. Align Curriculum Frameworks to Standards

▼

3. Align Assessment Program to Curriculum and Standards

▼

4. Develop Participation and Exemption Policies

▼

5. Develop Accommodation and Alternate Assessment Policies

▼

6. Determine Statewide Reporting Procedures

▼

7. Develop Policies of Sanctions and Rewards

▼

8. Secure and Maintain Public and Legislative Support

appropriately accomplished after a performance monitoring system is up and running and providing information and feedback to overseers.

To what extent does the post-1997 oversight system designed by the U.S. Department of Education reflect the performance-based model that we have derived from Erickson's work? Unfortunately, the answer is "not very much." The federal government's monitoring system deviates from a well-designed performance oversight system in several important ways. First, in many respects it merely adds a results-based definition of effectiveness to a process-based accountability system. Second, it omits critical components of a results-based accountability system. Third, it leaves the fox in charge of the henhouse. Finally, it still includes certain perverse incentives.

The Department of Education's Office of Special Education Programs (OSEP) has designed an

accountability system in response to the 1997 IDEA amendments that appears to pay lip service to standards and testing, while continuing to emphasize procedural compliance. The official OSEP guide to the 2001 monitoring process that is provided to state and local special education administrators is replete with references to "compliance" and "process."[35] The first page of the manual describes how, "In order to ensure *compliance* with IDEA '97...OSEP designed a multifaceted *process*...."[36] Granted, it is described as "an outcome-oriented *process*"[37] that is focused on "improving results."[38] Yet the document suggests to education providers that the self-assessment that drives the accountability system should focus on performance and "adherence to pertinent Federal and State regulations, policies, and procedures."[39] The core of the self-assessment is a series of interviews "to confirm information from the records reviewed and to gather information about local procedures for referral, evaluation, placement, service delivery, and how discussions are made and documented."[40] In short, this important government manual is still designed to prepare state and local officials for compliance-based procedural oversight, not for a results-oriented performance regime.

> **The Office of Special Education Programs' approach to accountability permits the fox to guard the henhouse.**

Several essential components of a results-based effectiveness/accountability model are absent from the OSEP system. These include educational standards and outcome goals, curriculum and assessment alignment, rewards for demonstrated effectiveness, and the reform of pre-service education programs for teachers and other special education staff. Also lacking are consistency in decisions regarding the use of special accommodations and alternative tests for special education students, and predictable consequences for either failing to implement the monitoring system or for adverse results. The last two of these weaknesses especially endanger performance accountability. The testing accommodations provided to special education students can involve variations in the timing, setting, presentation of, or method of responding to the achievement tests. Such policies permit endless variations in possible testing conditions from student to student and year to year, modifications that could yield false signs of performance gains.[41] Regarding sanctions, note the permissive language in the OSEP monitoring manual that:

> If a state does not implement the mandatory components of the improvement plan, or implementation is not effective, OSEP may impose sanctions, which could include OSEP's prescription of corrective actions for compliance, a compliance agreement, withholding funds in whole or in part, or other enforcement actions.[42]

We doubt that such nebulous and uncertain provisions leave special education administrators shaking in their boots.

These weaknesses in the design of the special education accountability system become particularly clear when we contrast Figure 1, on the necessary steps for results-based effectiveness and accountability depicted linearly, with Figure 2, which is the actual monitoring process figure from page 8 of the OSEP manual. Two aspects of Figure 2 are striking. First, as with Erickson's original scheme, the wheel-shape of the figure is intended to signal that the monitoring process is continuous, having no "end" in sight. Second, the hub of the wheel is not the well-being of the special-needs child. Instead, the process is centered around a steering

Figure 2. OSEP Continuous Improvement Monitoring Process
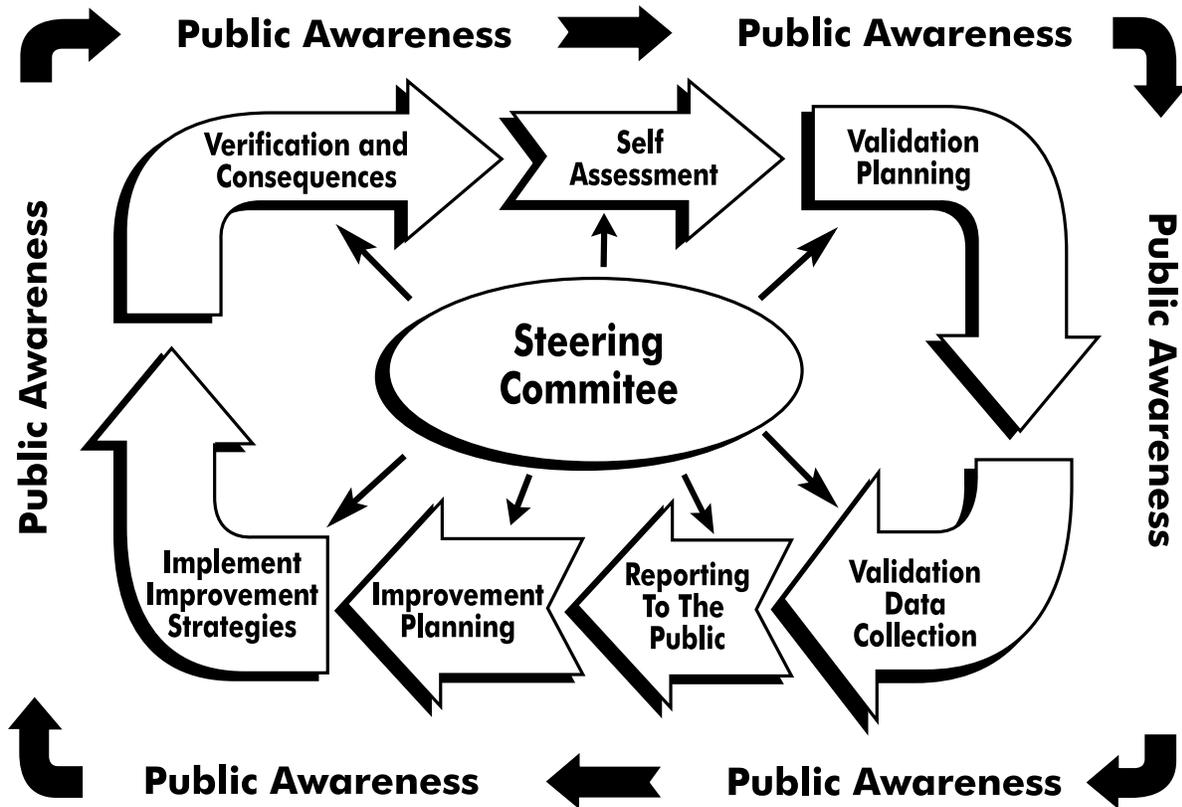
Source: Office of Special Education Policy, U.S. Department of Education, *2001 Monitoring Manual*, p. 8.

committee. Certainly an accountability system consisting of continuous motion centered around the dictates of a committee was not what reformers envisioned when they crafted IDEA '97!

OSEP's approach to accountability still permits the fox to guard the henhouse. The Local Educational Agencies (LEAs) that are the "agents" whose performance is to be overseen are themselves allowed to set the agenda, assess their own performance, and recommend data sources and contacts for the external evaluation of their performance.[43] The "self-assessment" that begins the process is planned and executed by the same large steering committee of stakeholders that is literally central to the monitoring process.[44] With the target of the oversight controlling the front end of its own monitoring process, it is unlikely that many criticisms will be forthcoming. As the LEA is being evaluated, OSEP works with it "to plan strategies for validating the self-assessment results...."[45] As with the inspection process of the Occupational Safety and Health Administration in the U.S. Department of Labor, which is often characterized as seriously flawed,[46] OSEP warns the sites that are to be monitored: (1) when inspectors are coming; (2) what they will be asking about; and, (3) that site administrators should select personnel and parents to be interviewed by the overseers.[47] Based on the content of their own oversight manual, OSEP overseers appear to be more "enablers" than "monitors."

Finally, the current "outcome-based compliance system" for special education has the potential

for generating perverse incentives. Studies indicate that "high stakes" accountability systems discourage the inclusion of disabled students in testing regimes.[48] Thus, overseers may be forced to choose between encouraging the maximum participation of special-needs students in testing programs by assuring school districts that they will not be punished for poor results, or threatening to penalize poorly performing districts at the risk of encouraging them to exclude special education students from testing. Also, longitudinal gain-scores are more revealing and reliable measures of progress than absolute ability scores, but they are also more costly and difficult to obtain. Not surprisingly, they seldom are the focus of government educational assessments, a practice that continues under IDEA '97.[49]

In sum, the accountability system that has resulted from IDEA '97 appears to hold little promise of solving the "agency problem" in a conclusive or efficacious fashion. The number of regulations in the oversight process and its procedural-compliance focus have not diminished. We are aware of only one significant procedural requirement that was eliminated by IDEA '97—the requirement that students with permanent disabilities, such as blindness, be re-certified as having a disability every three years. Instead, results and performance measurement rhetoric and procedures have merely been grafted onto a barely modified compliance model of accountability. To be sure, redundant and hybrid models of accountability are common in governmental programs. Still, the "outcome-based compliance system" for special education appears to retain the onerous procedural requirements of the previous system—and adds more!—yet omits components that are essential to holding implementors accountable for results. The plethora of regulations implies a strong distrust of agents by their principals; yet the monitoring process is so cooperative and permissive that it implies tremendous trust in agents by principals. In other words, the compliance process is not internally consistent. These weaknesses become clearer when we examine the actual operation of the "outcome-based compliance system."

> *The "outcome-based compliance system" for special education appears to retain the onerous procedural requirements of the previous system—and adds more!—yet omits components that are essential to holding implementors accountable for results.*

IDEA Accountability in Practice

Since 1991, the National Center on Educational Outcomes, a research institute at the University of Minnesota, has been studying the implementation of special education reforms aimed at promoting performance-based accountability.[50] Its December 1999 report (NCEO Report) presents the results of its National Survey of State Directors of Special Education regarding the implementation of IDEA '97. The survey results largely reinforce the central claims of this chapter that performance-based accountability is not yet being achieved in special education.

The Record on Effectiveness
Defenders of IDEA '97 like to define effectiveness in terms of outcomes such as rising test scores. However, the NCEO Report confirms that program overseers still focus on process or output

questions such as what percent of special education pupils are being tested and whether they are being educated in the "least restrictive environment."[51] As discussed above, teachers and administrators who work with disabled students often prefer to define success individually, in terms of progress in small, sometimes unquantifiable ways. For example, the students at the private special education school for emotionally disturbed children that we visited are required to work, under direction of student supervisors, to maintain the school's grounds. The purpose is to teach them personal responsibility and interpersonal skills within a work environment. The school staff members view a student's success in completing his maintenance work as an important indicator of progress, despite the fact that it would not fit the standard definition of a results-based accountability indicator. Many educators of special-needs pupils are surely obtaining positive outcomes; however, those positive results are not necessarily induced by or even reflected in the IDEA '97 accountability system.

> *States report that the greatest difficulty teachers and administrators face on the ground is aligning IEP goals with state assessment rules and regulations.*

The Record on Accountability

The NCEO Report confirms our suspicion that the compliance approach to accountability has not been replaced, just supplemented with a testing regime. More special education students are being tested, and most states are reporting the results of those tests (in absolute, not gain-score terms) in compliance with IDEA '97. However, states vary greatly in: (1) the proportion of their special education students who are tested; (2) the proportion who take the regular test with no accommodations; (3) the proportion who take the regular test with accommodations; (4) the types of accommodations granted to students with similar disabilities; (5) the proportion of students who take an alternative assessment; (6) the nature of the alternative assessments that are given to students with similar disabilities; and, most importantly, (7) the performance standards that are applied to special education students.[52] As opposed to "letting 1,000 flowers bloom," which is the standard justification for permitting state-by-state variation in policy implementation, the type and degree of variation by state that is described here prevent overseers from comparing apples to apples when evaluating the performance garden.

So much paperwork is generated to plan for testing and demonstrate compliance that no one is able to take the time to process or review the data in order to learn what is and is not working and actually hold people accountable for effectiveness and results. State special education directors claim that the lack of resources prevent them from collecting and acting on more accountability data.[53] Most states have issued an elaborate set of rules and regulations regarding IDEA '97 testing that tends to produce paperwork without even achieving consistency. States report that the greatest difficulty teachers and administrators face on the ground is aligning IEP goals with state assessment rules and regulations, Step 3 of the results-based accountability process in Figure 1.[54] Yet 20 of the 34 state directors surveyed still listed "more written policies" as what is most needed to meet IDEA '97 requirements.[55] It would seem that these people are so steeped in the culture of compliance that they have come to view more rules and regulations as an acceptable solution.

At this point, we do not know the extent to which states, localities, and schools are providing excessive or inconsistent accommodations to disabled students who take the regular assessments, or subjecting other special education students to an alternative assessment that is oriented more to input or "process" than to outcomes or "results." The NCEO Report does confirm that special-needs students are excluded from testing mainly due to the perception of administrators that high stakes are involved.[56] Those wary administrators might relax if they examined the OSEP monitoring process manual carefully and saw the many reassuring components of the federal oversight system that we discussed above. Moreover, most states encourage districts and schools to disaggregate test scores into disabled and non-disabled subgroups for reporting and assessment purposes. This practice, which is a component of President Bush's education accountability initiative, would prevent the achievement scores of special education students from dragging down the average score, although it also would generate incentives to classify poorly performing students as suffering from disabilities, even if the reason for their bad performance is motivational or instructional.

Only one third of the states report that they are implementing rewards or sanctions for schools and districts based on disabled students' testing results. Another half of the states say they are developing, revising, or planning such systems.[57] The reward and sanction system being developed in Tennessee appears to hold the most promise to capture performance, as it is to be based on "educational value added."[58] However, two states, Alabama and Connecticut, still reward persistently low-performing districts and schools with more money.[59] We might characterize their accountability systems as based on a "non-performance results model."

> *The "results-oriented compliance" effectiveness-and-accountability system now being implemented in the wake of IDEA '97 appears to be flawed in theory, design, and practice.*
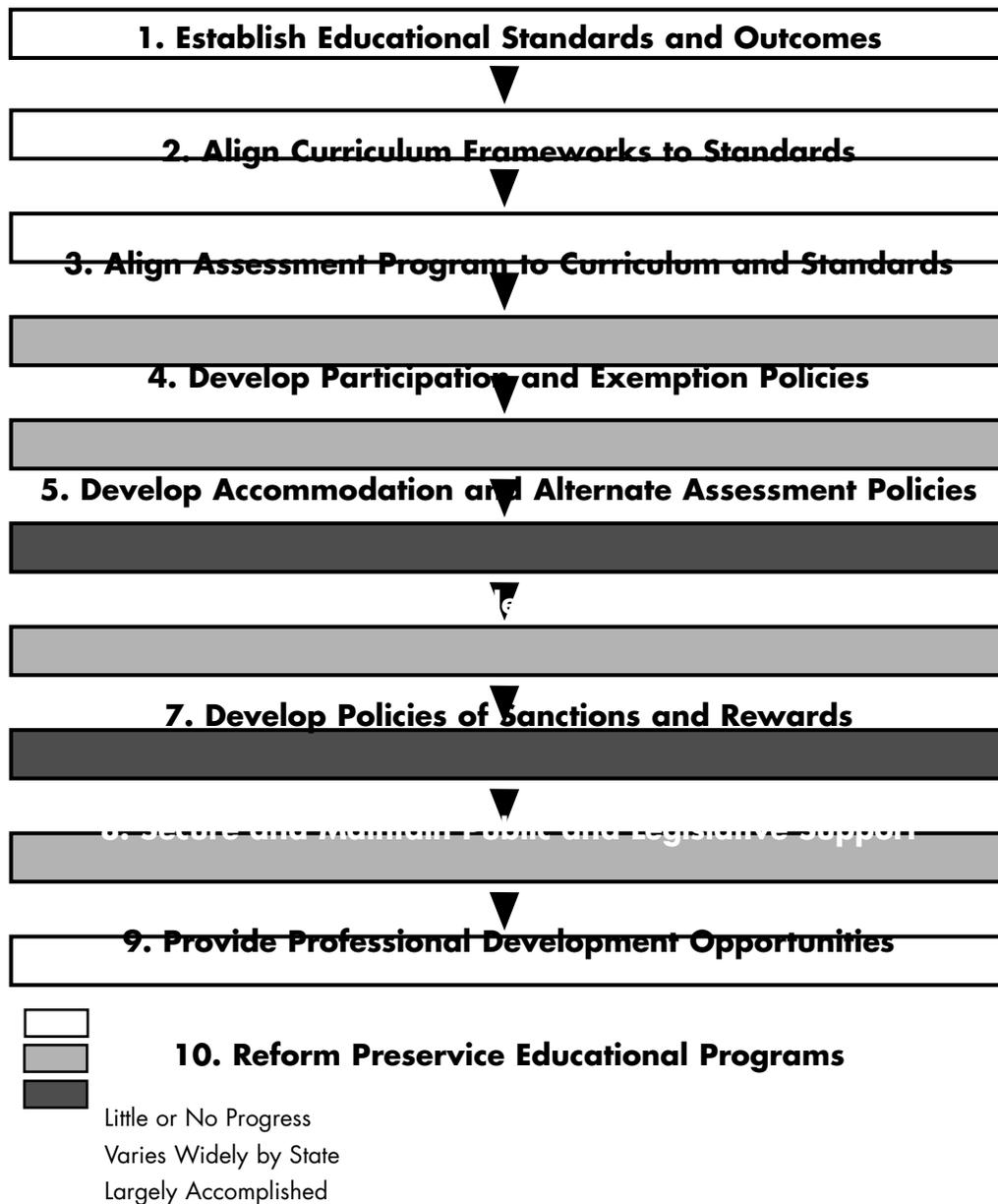
Conclusions

The 1997 IDEA amendments were widely touted as reforms that would extend the results-based effectiveness and performance-based accountability revolution in U.S. education to students with special needs. It was hoped that such a regime shift would complete the transformation of the educational status of disabled youngsters from widespread neglect prior to the 1980s, through general inclusion in the 1990s, to educational achievement in the 21st century. We find that such noble aspirations have yet to be realized.

The extent to which the IDEA '97 oversight system measures up to the requirements for a performance-based accountability system is demonstrated in Figure 3. Just two of the ten necessary steps for performance accountability (darkly shaded) have clearly been accomplished. Reporting procedures have been established in every state, and support for performance-based accountability in special education among the public and policymakers has generally been secured. Some other important components of an effective system may be in place, depending on the state. Yet for four critical steps in the accountability process, little or no progress has been made. At what should be the front-end, educational standards and achievement goals for special

**Figure 3. Progress Towards a Result-Based Accountability
System Post-IDEA '97**

1. Establish Educational Standards and Outcomes

2. Align Curriculum Frameworks to Standards

3. Align Assessment Program to Curriculum and Standards

4. Develop Participation and Exemption Policies

5. Develop Accommodation and Alternate Assessment Policies

7. Develop Policies of Sanctions and Rewards

8. Secure and Maintain Public and Legislative Support

9. Provide Professional Development Opportunities

10. Reform Preservice Educational Programs

Little or No Progress
Varies Widely by State
Largely Accomplished

education students have not been standardized (possibly because they cannot be), special education curricula have not been modified in light of the (nonexistent) standards, and assessment programs have not been aligned to the curricula and standards (which themselves are moving targets). At the tail-end of the process, the training of special education teachers and administrators has not been modified to account for a shift from procedural accountability under the compliance model to results accountability under the performance model, arguably because no such regime shift has occurred.

The "results-oriented compliance" effectiveness-and-accountability system now being implemented

in the wake of IDEA '97 appears to be flawed in theory, design, and practice. It is flawed in theory because it still uses oversight practices that assume teachers, schools, districts, and states are untrustworthy, even while trusting them with the keys to the castle during the monitoring process. Teachers or schools that are failing to address the educational needs of students with disabilities can easily escape notice and punishment under the current system. The accountability system is flawed in design because, instead of replacing a rules-driven process with a results-driven oversight system, it merely piles more rules regarding performance assessment onto the process-based compliance system that remains largely intact— and awash in paperwork. The many teachers and administrators who are doing well by their special education students are merely saddled with additional documentation responsibilities that divert their time and resources away from more educationally focused functions. Finally, the system is flawed in practice.

> *The effectiveness and accountability system that has emerged from IDEA '97 does not represent a major shift from the compliance model of the past 25 years.*

For results-based accountability to work, it must set clear goals for performance, clear rules for the measurement of outcomes, and clear consequences for performance and nonperformance. Within those clear guidelines, the system can (and should) allow all kinds of variability in how states, districts, and schools go about meeting their goals. But IDEA '97, viewed as a national program, permits too much state-by-state variability in standards, participation, testing conditions, and rewards/sanctions for the testing of special education students to establish clear results for which we might legitimately hold states accountable. Moreover, states with real teeth in their own results-based accountability systems—commonly called "high stakes" testing—face perverse incentives to exclude special education students or provide them with such generous accommodations that their "success" on the tests is all but assured. Incredibly, some states even reward, with increased funding, local school districts whose special education students are falling further behind.

President Bush's current education initiative holds the prospect of solving one of these problems. His requirement that the scores of students with disabilities who participate in accountability assessments be reported separately could remove the temptation to exclude such children from high-stakes testing.[60] However, a host of additional improvements would need to be made in the accountability system surrounding special education before we could declare it to be an effective results-oriented accountability system.

In short, the effectiveness and accountability system that has emerged from IDEA '97 does not represent a major shift from the compliance model of the past 25 years. Indeed, this new "compliance plus testing" model may offer the worst of both worlds in that it does not even succeed in ensuring compliance with the many rules and regulations that drive it. The traditional incrementalism of policy reform in the United States is still failing to produce a sound accountability system in special education. Could there be a better way? We explore that question in Chapter 14.

1. See Justin Blum, "D.C. Schools Still Neglect Some in Special Education," *Washington Post*, 2 October 2000, sect. A, p. 1.

2. See Patrick J. Wolf, "Why Must We Reinvent the Federal Government? Putting Historical Developmental Claims to the Test," *Journal of Public Administration Research and Theory 7*, no. 3 (1997): 355, 362.

3. Patrick J. Wolf, "Authority, Delegation," in *The International Encyclopedia of the Social and Behavioral Sciences*, eds. Neil J. Smelser and Paul B. Baltes (Oxford, England: Pergamon Press, forthcoming 2001).

4. See Ronald H. Coase, *The Firm, the Market, and the Law* (Chicago, IL: University of Chicago Press, 1988).

5. See William G. Ouchi, "Markets, Bureaucracies, and Clans," *Administrative Science Quarterly 25*, no. 1 (1980): 129-141.

6. See Michael Barzelay with Babak Armajani, *Breaking Through Bureaucracy* (Berkeley, CA: University of California Press, 1992).

7. James Q. Wilson, *Bureaucracy: What Government Agencies Do and Why They Do It* (New York: Basic, 1989), 364.

8. See Charles L. Schultze, *The Public Use of Private Interest* (Washington, DC: Brookings, 1977).

9. See John J. Dilulio, Jr., "Principled Agents: The Cultural Bases of Behavior in a Federal Government Bureaucracy," *Journal of Public Administration Research and Theory 4*, no. 3 (1994): 277-318.

10. See John E. Brandl, "Governance and Educational Quality," in *Learning From School Choice*, eds. Paul E. Peterson and Bryan C. Hassel (Washington, DC: Brookings, 1998), 55-81; and Anthony S. Bryk, Valerie E. Lee, and Peter B. Holland, *Catholic Schools and the Common Good* (Cambridge, MA: Harvard University Press, 1993).

11. John J. Dilulio, Jr., "Principled Agents," at 277.

12. See James Q. Wilson, *Bureaucracy*.

13. See Lynn Olson, "The Common Good," *Education Week in Review*, 27 January 1999, available at <<http://www.edweek.org/ew/vol—18/20access.h18>>; and Diane Ravitch, *Left Back: A Century of Failed School Reforms* (New York: Simon and Schuster, 2000).

14. See Ben Wildavsky, "A Blow to Bilingual Education," *U.S. News and World Report*, 4 September 2000.

15. Interview with the principal of a private school for emotionally disturbed students, 27 September 2000.

16. Interview with the director of a private school for emotionally disturbed students, 27 September 2000.

17. Interview with the principal.

18. Ibid.

19. Ibid.

20. Interview with a teacher at a private school for emotionally disturbed students, 27 September 2000.

21. Interview with the director.

22. Ibid.

23. Ibid.

24. Interview with a teacher.

25. Ibid.

26. See Herbert Kaufman, *Red Tape: It's Origins, Uses, and Abuses* (Washington, DC: Brookings, 1977); and Robert K. Merton, "Bureaucratic Structure and Personality," in *Reader in Bureaucracy*, eds. Robert K. Merton, et al. (New York: Free Press, 1952).

27. See Max Weber, "Essay on Bureaucracy," in *Bureaucratic Power in National Politics*, ed. Francis E. Rourke (Boston, MA: Little Brown and Company, 1965).

28. See John E. Chubb and Terry M. Moe, *Politics, Markets and America's Schools*, (Washington, DC: Brookings, 1990).

29. There were notable exceptions such as Gallaudet University, America's first institution of higher education for

hearing-impaired students, which was established in 1856 and was brought under federal funding and control in 1857.

[30] See Joetta Sack, "Bringing Special Education Students Into the Classroom," *Education Week in Review*, 27 January 2000, available at <<http://www.edweek.org/ew/vol—18/20inclus.h18>>.

[31] See ibid.

[32] See John E. Chubb and Terry M. Moe, "Politics, Markets, and Equality in Schools" (paper delivered at the American Political Science Association Annual Meeting, Chicago, IL, September 1992).

[33] See Joetta Sack, "Bringing Special Education Students Into the Classroom."

[34] See Ronald Erickson, "Special Education in an Era of School Reform: Accountability, Standards, and Assessment" (a product of the Federal Resource Center, Regional Resource and Federal Center Network, January 1998), 5.

[35] See United States Department of Education, Office of Special Education Programs, "Continuous Improvement Monitoring Process: 2000-2001 Monitoring Manual" (Washington, DC: Academy for Educational Development, n.d.).

[36] Ibid. at 3 (emphasis added).

[37] Ibid. at 4.

[38] Ibid. at 7.

[39] Ibid. at 10.

[40] Ibid. at 33.

[41] See Ronald Erickson, "Special Education in an Era of Reform," at 26.

[42] United States Department of Education, "Continuous Improvement Monitoring Process," at 9.

[43] See ibid. at 24.

[44] See ibid. at 10.

[45] See ibid. at 7.

[46] See Kitty Calavita, "The Demise of the Occupational Safety and Health Administration: A Case Study in Symbolic Action," *Social Problems* 30, no. 44 (1983): 437-448; and John Mendeloff, *Regulating Safety: An Economic and Political Analysis of Occupational Safety and Health Policy* (Cambridge: MIT Press, 1979).

[47] United States Department of Education, "Continuous Improvement Monitoring Process," at 24.

[48] See Ronald Erickson, "Special Education in an Era of Reform," at 7.

[49] See ibid. at 9-10.

[50] National Center on Educational Outcomes, "1999 State Special Education Outcomes: A Report on State Activities at the End of the Century" (December 1999), available at <<http://www.coled.umn.edu/NCEO/OnlinePubs/99StateReport.htm>>.

[51] See ibid.

[52] See ibid.

[53] See ibid. at 39.

[54] See ibid. at 29.

[55] Ibid. at 39-40.

[56] See ibid. at 20.

[57] See National Center on Educational Outcomes, "1999 State Special Education Outcomes," at 33.

[58] Ibid. at 44.

[59] See ibid. at 43.

[60] President George W. Bush, "No Child Left Behind," Summary of the President's Education Initiatives, 23 January 2001, at 8.