

AN ABSTRACT OF THE DISSERTATION OF

Richard M. O'Dell for the degree of Doctor of Philosophy in Education presented on July 8, 2002.

Title: Special Education Compliance Issues in Oregon.

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Abstract approval: _____

LeoNora Cohen

In the 27 years since the establishment of federal law mandating special education, no state has been fully in compliance. In addition, the voices of school personnel (special education teachers, speech and language pathologists, and school psychologists) charged with implementing these laws and regulations have been largely silent in the national research. A review of 1306 references concerning the Individuals with Disabilities Education Act (IDEA) did not find studies that included these front line school district personnel who serve as "intermediaries" and have responsibility to implement special education policy.

This is the first study that provided a forum for Oregon professionals to share their concerns and suggestions regarding implementation of the IDEA. The study went beyond the enumeration of noncompliance areas, asked questions about why compliance is problematic, and compared what study participants view as problematic to litigated areas at the Oregon complaint investigation and due process hearing levels.

Multiple methods in the data collection process included surveys ($n = 169$), semi-structured interviews ($n = 11$), and document analysis ($n = 147$). To provide

baseline information, quantitative analysis provided ordinal ranking of responses and statistical comparisons among participants from the different specialty areas, different years of experience, and different district sizes. It also compared participant responses to Oregon litigation. Part of the study used an exploratory and descriptive approach to obtain accurate and thick description of participant experiences.

Participants' rankings differed significantly from identified areas in the literature and alleged violations brought in due process hearings and complaint investigations. Participants ranked least restrictive environment and evaluation concerns highest while the literature and reviewed litigation identified the individualized education program as most problematic. Differences existed among participants based on district size and their disciplines. No differences were found based on experience.

A thorough review of policy and funding are indicated. Implications for practice include increased focus on the emphasis of training programs and technical support. Increasing placement options, consistency of information, streamlining of the individualized education program, and assistance in the evaluation and eligibility process are also needed. Because the study included participants from Oregon, generalizability is limited to the state.

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Special Education Compliance Issues In Oregon

by
Richard M. O'Dell

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I understand that my dissertation will become part of the permanent collection of Oregon State University libraries. My signature below authorizes release of my dissertation to any reader upon request.

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Richard M. O'Dell, Author

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DEDICATION

This is dedicated to my children Brin Daniel and Elinor Maria who grew up as I worked and studied. You have provided me with unconditional love and patience. It is time to go to Disneyland!

Special Education Compliance Issues in Oregon

CHAPTER 1: INTRODUCTION

This study addresses the lack of research concerning the perceptions and the experiences that Oregon special education teachers, speech and language pathologists, and school psychologists have regarding difficulties in complying with or implementing provisions of the Individuals with Disabilities Education Act (IDEA). The study also asked the participants about possible solutions to make compliance with, or implementation of, the IDEA less problematic. The study also compared the responses of participants to alleged violations of the IDEA brought in Oregon due process hearings and complaint investigations.

BACKGROUND OF THE PROBLEM

In 1975, the United States Congress passed landmark legislation, the Education of All Handicapped Children Act, now known as the Individuals with Disabilities Act, mandating that all states establish special education programs for children with disabilities. The United States Department of Education and individual state education agencies (e.g., Oregon's Department of Education) are accorded legal authority to see that special education laws, regulations, and policies

are put into effect. Despite over 25 years of having special education laws, regulations, and policies, school districts continue to experience difficulties with implementation and are out of compliance with one or more provisions at any given time (National Council on Disability, 2000; U.S. Department of Education, 1998). The implementation of the individualized education program (IEP) clearly is the most cited area of noncompliance and the primary issue of litigation based on the review of available literature (see Harris, September, 1998a; Maloney, 1993; National Council on Disability, 2000; Oregon Department of Education, Department of Special Education, September, 1998; and Smith 1990).

Not known or discussed in the literature are the difficulties those “front line” school district personnel — special education teachers, speech and language pathologists, and school psychologists — experience when implementing the provisions of the IDEA. Yet, these front line school district personnel are assigned to serve as “policy intermediaries” and are delegated with the responsibility to implement special education policy, particularly the IEP (Fowler, 2000, p. 270).

Outside of federal monitoring reports, summaries of due process hearings, and summaries of complaint investigations, there is no published research on specific areas of noncompliance or barriers to compliance faced by intermediary implementers in Oregon or elsewhere in a review of over 1,300 sources over a 44-month period. One study began to address perceptions of compliance through the eyes of teachers by addressing reasons for attrition (Billingsley, Gersten, Gillman

& Morvant, 1995). Another study addressed compliance issues from the viewpoint of school administrators, but not those of teachers or other building level educators (Brownell & Smith, 1993). Most of the literature provided limited information based on authors' opinions, selected document reviews, and reviews of selected literature, rather than empirical studies (Butera, McMullen & Henderson, 1997; Goodman & Bond, 1993; Huefner, 2000; Smith, 1990). One recent report (National Council on Disability, 2000) criticized the U.S. Department of Education for its lack of enforcement of the IDEA. In reviewing Oregon due process hearings (Harris, September, 1998a; Manoogian-O'Dell, September, 1999) and complaint investigations (Harris, September, 1998b; Harris, September, 1999; Oregon Department of Education, September, 1998), patterns of compliance issues emerge. There is little research specifically addressing the problems faced by the front line personnel responsible for implementation of the IDEA.

Finally, given the potential for district liability, an understanding of difficulties with implementation would serve districts and agencies in developing appropriate guidelines and internal monitoring systems, as well as conducting ongoing professional development. Such knowledge may also guide college and university programs in meeting the training needs of preservice educators.

PURPOSE OF THE STUDY

In the 26 years since the establishment of federal law mandating special education, the voices of school personnel charged with implementing the laws and regulations have been largely silent in the research. Most studies of special education policy and implementation of the IDEA have focused on two major groups: government officials with legal authority to see that policy is put into effect and parents of children with disabilities. To a lesser degree, other studies focus on documents produced by school personnel, legal proceedings, and government reports. The only study addressing implementation issues faced by special education teachers focused on reasons for staff attrition, not specific compliance difficulties (Brownell & Smith, 1993). Missing in the literature are the voices of special education teachers and other specialists charged with not only teaching but also coordinating services for children with disabilities and maintaining documentation of compliance with the IDEA.

RESEARCH QUESTIONS

This study drew data from three sources: 1) personal interviews, 2) surveys, and 3) due process hearing and complaint decision documents obtained from the Oregon Department of Education (ODE), Office of Special Education (OSE). The major focus of this study concerned the experiences and impressions of special

education teachers, speech and language pathologists, and school psychologists using an exploratory and descriptive approach based, roughly, in grounded theory. The grounded theory approach allows for discovery and generation of theory that pertains to specific experiences, situations, and settings (Strauss & Corbin, 1990). This approach is used to understand the *essence* of the experience as perceived by the participants (Lincoln & Guba, 1985). At the same time, the multi-method approach of the study also allowed for statistical analysis between and among data sources in order to build baseline information from a broader number of participants where research is lacking.

This study explores areas that IDEA policy intermediaries (specifically special education teachers, speech and language pathologists, and school psychologists) find most difficult or problematic to implement compared to areas litigated through due process hearings and complaint investigations. The study also explores why these areas are difficult to implement, and what recommendations the policy intermediaries provide to make implementation less problematic. Therefore, the study poses the following questions:

1. What area(s) of the IDEA do special education teachers, speech and language pathologists, and school psychologists find most difficult to implement and why?

2. What recommendations do special education teachers, speech and language pathologists, and school psychologists offer to make compliance with and implementation of the IDEA less problematic?
3. Are there differences in responses based on the participants' job description, the participants' years of experience, and size of district where they worked?
4. What are the compliance areas of IDEA that result in due process hearings and complaint investigations in Oregon?
5. Do the special education teachers, speech and language pathologists, and school psychologists identify problematic implementation and/or compliance with the same areas of IDEA that are identified in Oregon due process hearings and/or complaint investigations?

SIGNIFICANCE OF THE STUDY

As stated earlier, the voices of front line policy intermediaries have been silent in the research regarding the implementation of special education laws and regulations. This is the first study intended to provide a forum for special education teachers, speech and language pathologists, and school psychologists in which they can share their experiences and ideas regarding implementation of the IDEA. The study went beyond the enumeration of noncompliance areas and asked important questions about why compliance and implementation are problematic. The study also allowed for a comparison between what the policy intermediaries see as

problematic and actual litigated areas at the complaint investigation and due process hearing level in Oregon. Finally, special education teachers, speech and language pathologists, and school psychologists provided opinions about what can reasonably be done to make implementation and compliance with special education law less problematic.

RESEARCHER PERSPECTIVE

My foundation of knowledge stems from both personal and professional experiences. I am a white male from a working class, blue-collar background. I am in my mid-forties and have been employed in both public and private education since 1982. My undergraduate degree was earned in history at the University of California, Santa Barbara. In 1987, I earned my master's degree in special education at Western Oregon State College. Following experiences in special education classrooms, I worked for 11 years as a special education consultant with Linn-Benton-Lincoln Education Service District's Education Evaluation and Consultation Center.

In the last six years, I have had the opportunity to teach a variety of classes at Western Oregon University (formally Western Oregon State College), Portland State University, and Marylhurst University. My doctoral practicum was completed with the Office of Special Education, Oregon Department of Education. I have served and currently serve on a variety of state and national committees including

the Oregon Department of Education Special Education Advisory Board, the Oregon Department of Education Case Load Study Committee, and the Council for Exceptional Children/Education Testing Service PRAXIS Review Committee.

My interest in special education compliance issues and special education law are a result of my teaching experiences and work on committees where issues of compliance and law were often discussed. Because of my interest and expertise, I was often included on committees and projects where my knowledge of the IDEA and Oregon special education rules were needed.

One of the greatest struggles I experienced in my doctoral program is identifying an epistemology that specifically states my theory of knowledge and how I would determine the limits and validity of knowledge theories. In my employment as an educational diagnostician and consultant, I use *test studies* of individual students. Once test data are collected, decisions are generally made by comparing the results of the student's test performance studies statistically with national normative data. Given this daily activity, I understand positivists' positions. I often criticize this process, however, because it ignores the qualitative nature of the student's experience in school.

I have become interested in qualitative research that uses the epistemologies adopted by many describing themselves as Post Modernists in that research is subjective and framed by the lens of observer. My proposed dissertation study is exploratory because it examines a topic in which there has been little prior research.

Exploratory research leads to further inquiry. Analysis of the data was completed using the beginning stages of “Grounded Theory” as proposed by Glaser and Strauss (1967). Grounded theory is theory that is discovered or generated from data. Grounded theory is developed by: (1) entering the fieldwork phase without a hypothesis; (2) describing what happens; and (3) formulating explanations as to why it happens on the basis of observation. In order to operationalize this method, I have to recognize I have bias based both on past experiences and lack of experiences. Specifically, I am a practitioner having experienced the difficulties of meeting compliance issues while attempting to provide services to students. These biases make it difficult entering the research study without having some hypotheses regarding what will be found and how I may write the descriptions and explanations of my observations.

My preference, at this time, is to recognize that both qualitative and quantitative perspectives and methods contribute to knowledge. My reading of Karl Popper (1968, 1979) has led me to recognize that there is no absolute secure starting point of knowledge and nothing is known with such certainty that possibility of future revision is removed. In Karl Popper's words:

The question about the sources of our knowledge...has always been asked in the spirit of: “What are the best sources of our knowledge—the most reliable ones, those which will not lead us into error, and those to which we can and must turn, in case of doubt, as the last court of appeal?”

I propose to assume, instead, that no such ideal sources exist—no more than ideal rulers—and that all “sources” are liable to

lead us into error at times. And I propose to replace, therefore, the question of the sources of our knowledge by the entirely different question: "How can we hope to detect and eliminate error?" (p. 25).

The abandonment of the notion that knowledge is built on an unshakable foundation does not mean that the traditional notions of truth have been abandoned.

Popper constantly reminds us that truth is an essential regulative ideal.

The status of truth in the objective sense, as correspondence to the facts, and its role as a regulative principle, may be compared to that of a mountain peak [sic] which is permanently, or almost permanently, wrapped in clouds. The climber may not merely have difficulties in getting there—he may not know when he gets there, because he may be unable to distinguish, in the clouds, between the main summit and some subsidiary peak. Yet this does not affect the objective existence of the summit...The very idea of error, or of doubt...implies the idea of an objective truth, which we may fail to reach (p. 226).

Popper's writings influenced my view of knowledge and learning. I find value in all sources of research. All opinions and debate contribute to the knowledge base and therefore, I would like to think I am unable to discount much of anything due to epistemology of the researcher. I have to understand that my viewpoints are certainly influenced by my environment, my experiences, and my immediate goals. Indeed, I have strong biases that blind me to *truths* outside my comfort zone. The challenge is to view sources of knowledge with a critical eye and not fall into acceptance (or nonacceptance) because of habit. I recognize the contributions of epistemological philosophies and methods. My goal, as a producer and consumer of knowledge, is to do as Popper suggests — try to locate, detect, and challenge my own prejudices and habitual assumptions.

A discussion of the literature review follows in the next chapter, beginning with an overview of the literature review process. A summary of the federal influence on public education and special education history follows the review process discussion. Specific points of compliance with the IDEA then are presented. Justification for further research, additionally, is presented.

CHAPTER 2: LITERATURE REVIEW

An exhaustive literature search and review was conducted from October 1998 through April 2002 using electronic computer databases, texts addressing special education law, dissertations addressing special education, relevant court decisions, and review of reports. Many cited references in the original documents retrieved were also reviewed. The literature review continued well into the study as themes emerged from the data. The computer searches were conducted using four databases, the Educational Resources Information Center (ERIC), Education Index, Psychological Abstracts, and Dissertation Abstracts. Terms used in the search came from the Thesaurus of ERIC Descriptors and Thesaurus of Psychological Index Terms. The Education Index was limited in its references because it listed only periodicals from 1983 to the present.

Computer database searches included three major descriptors: special education, Individuals with Disabilities Education Act, and Education of All Handicapped Children Act. Minor descriptors included terms such as compliance (legal), educational legislation, federal legislation, federal regulations, and Oregon. Finally, terms and descriptors of major compliance areas such as individualized education programs and least restrictive environment were included. To assure cross-referencing, terms from all three sets were combined.

The literature review was limited to English language journals, documents, and dissertations. In total, 1,306 references were reviewed. Articles, journals, documents, and dissertations addressing issues in Australia, Great Britain, New Zealand, and Canada were eliminated. References addressing instructional methodology and opinions regarding methodology also were discarded. Finally, references publishing sections of the law or regulations without analysis were eliminated.

This literature review contains four sections. The first section provides a historical summary of the federal government's role in public education and a discussion of historical events pertaining to special education. The second section addresses the state's role in assuring compliance with the Individuals with Disabilities Education Act. The third section addresses specific issues of compliance discovered in the literature review. Finally, the fourth section addresses implications for further research.

FEDERAL INFLUENCE ON EDUCATION

Historically, federal involvement in public education is a recent phenomenon. Public education in the United States is viewed as a birthright that leads to an educated electorate and a viable democracy (Levine & Wexler, 1981). A common misconception is that the federal Constitution provides for and guarantees

public education. In fact, education is the business of the states. The Tenth Amendment to the U.S. Constitution implies that education is the responsibility of state governments.

Beginning in 1785, the federal government provided "land grants" to encourage states to build public education institutions. Since 1824, the federal government, through the Bureau of Indian Affairs, has operated schools on reservations. In 1917, with the passage of the Smith-Hughes Act, the federal government began to issue funds to states for vocational education. During the Depression of the 1930s, several New Deal programs assisted state and local agencies with funding for specific education projects. With these exceptions, the states held nearly total control of educational practice until the 1940s. In 1941, the Lanham Act provided funding to support local education in federally impacted areas, generally near military bases and large federal projects. Rapid expansion of federal influence in education began with the various G.I. Bills. The Vocational Rehabilitation Act of 1943 and the Servicemen's Readjustment Act of 1944 guaranteed nearly all veterans federal funds for educational purposes. Federal support for research in the areas of science and technology was available through the National Science Foundation of 1950, the Cooperative Research Program of 1954, and the National Defense Education Act of 1958. The Vocational Act of 1963 increased federal involvement in vocational education (Campbell,

Cunningham, Nystrand & Usdan, 1990; Guthrie, Garms & Pierce, 1988; Sroufe, 1994).

In summary, federal involvement in public education is, historically, a recent phenomenon with no Constitutional provisions. The primary responsibility to provide public education falls with individual states.

Path to Federally Mandated Special Education

While the influence of federal policy on local educational practice was virtually nonexistent until the 1950s, federal policy relative to special education before the 1960s was non-existent. Before the 1970s, educational policy for children with disabilities was decided at the state or local level (Cremins, 1983; Winzer, 1993; Yell, Rogers & Rogers, 1998). Significant federal special education policy changes in the 1960s and 1970s led to the Education of All Handicapped Children Act (EAHCA), Public Law 94-142 (1975). The EAHCA was the outgrowth of a struggle between two interest groups: groups of school officials and advocates for children with disabilities (Chambers & Hartman, 1983; Tweedie, 1983; Yell, Rogers & Rogers, 1998; Zettel, J.J. & Ballard, J., 1982). According to one study (Chamber & Hartman, 1983, pp. 3-4), "School officials were reluctant to include all handicapped children in their programs, were unlikely to institute program reforms to develop and provide appropriate educational programs and

services, and were unable or unwilling to demand additional resources sufficient to fund the needed expansion of special education."

Despite compulsory laws enacted by many states, students with disabilities were systematically excluded from the public school system. A brief historical overview describes the extent of these exclusions.

In 1893, the Massachusetts Supreme Judicial Court ruled that a child who was "weak in mind" and could not benefit from instruction, was troublesome to others, and was unable to take care of himself, could be expelled from the public school (*Watson v. City of Cambridge*, 1893). In Wisconsin, the State's Supreme Court (*Beattie v. Board of Education*, 1919) ruled that school officials could exclude a student who had been attending the public school first through fifth grades because the boy had a condition that caused him to drool and have facial contortions. In 1934, the Cayahoga County Court of Appeals in Ohio ruled that the state statute mandating compulsory attendance for children ages 6 through 18 years gave the state the authority to exclude certain students (Winzer, 1993). As recently as 1969, courts have upheld decisions by school districts to exclude students with disabilities and, in fact, have made it illegal for parents to persist in seeking admission of their child with a disability once excluded (Weber, 1992).

To counter the exclusionary practices of schools, interest groups worked to improve the rights of students with disabilities. These interest groups developed a confrontational approach using the court system as opposed to previous attempts to

cooperate with school officials (Chamber & Hartman, 1983; Yell, Rogers & Rogers, 1998; Zettel, J.J. & Ballard, J., 1982). Two groups deserve special mention in recounting the history of the development of special education: The Pennsylvania Association of Retarded Citizens and an unnamed group of parents who gathered to bring a class action suit (*Mills v. Board of Education*, 1972) on behalf of children in the Washington, D.C. school system.

The Pennsylvania Association of Retarded Citizens challenged the policy of the state of Pennsylvania that excluded children with severe retardation from the public schools (*Pennsylvania Association for Retarded Children (PARC) v. Pennsylvania*, 1971). *PARC* claimed the policy was a denial of the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. Further, assignment of students to special programs without notice or hearings was considered a denial of due process as stipulated in the Fourteenth Amendment. The state, through a consent agreement, agreed to: (1) identify children with mental retardation; (2) provide them with a suitable education; (3) integrate them into the regular education program if possible; and (4) provide a system of due process for parent complaints (Goldberg, 1982; Horowitz, 1977; Sage & Burrello, 1986; Yell, Rogers & Rogers, 1998; Zettel, J.J. & Ballard, J., 1982).

Seeking to expand the principles in *PARC v. Pennsylvania*, a parent group sued the Washington, D.C. School Board. This suit, *Mills v. Board of Education* (1972), resulted in a judgment against the school board mandating that the board

provide a publicly supported education to all children with disabilities. In addition, the court ordered the district to provide due process safeguards. The court clearly outlined due process procedures for identification, placement, and exclusion of students with disabilities (Zettel & Ballard, 1982). In part, procedural safeguards include requirements of written notice at all stages of the special education process and written consent at critical decision-making stages. The safeguards outlined in the *Mills* decision became the framework for the due process component of the Education of All Handicapped Children Act in 1975 (Prasse, 1998).

Federal Laws and Regulations

Although states provided some education for children with disabilities before 1975, these services were inconsistent and often provided minimum benefit. In response to an increasing docket of litigation, the federal government responded with a variety of legislative measures. Initially, these measures provided incentives for states to develop specialized educational programs. In 1975, with the passage of the Education of All Handicapped Children Act (20 U.S.C. § 1401 et seq. 1975), special education became mandated. Since then, numerous revisions and additions have been enacted with the most recent set of changes passed in 1990 as the Individuals with Disabilities Education Act (20 U.S.C. § 1401 et seq. 1990) and amended in 1997 (20 U.S.C. § 1401 et seq. 1997). Although there have been numerous changes in federal special education law since 1975, the basic

foundations remain the same and compliance remains problematic. Table 1 chronicles the evolution of federal laws affecting the education of children with disabilities from 1965 to the present (Levine & Wexler, 1981; Martin, 1999; Mattison, 1994; Prasse, 1998; Podemski, Marsh, Smith & Price, 1995).

Table 1. A Chronology of Major Federal Statues Relating to the Education of Children with Disabilities

1965 Elementary and Secondary Education Act (ESEA): Public Law 89-10

- Provided direct federal aid for the first time to states for economically disadvantaged regular education students (Title I funds)
- Precursor of direct aid for students with handicaps/disabilities

1965 Amendments to Title I of ESEA: Public Law 89-313

- Provided funds for state-operated programs for the "handicapped," such as state schools for the deaf, blind, and retarded.

1966 ESEA Amendments of 1966: Public Law 89-750

- Created the federal Bureau of Education for the Handicapped, since named the Office of Special Education Programs (OSEP)
 - Authorized funds to states to expand handicapped programs (Title VI)
-

Table 1. (continued) A Chronology of Major Federal Statues Relating to the Education of Children with Disabilities

1968 ESEA Amendments of 1968: Public Law 90-247

- Established the “discretionary” grant programs to serve handicapped students

1970 Education of the Handicapped Act (EHA): Public Law 91-230

- Consolidated Title VI of the ESEA and the discretionary grant programs of EHA
- Expanded basic state grant programs for the handicapped
- Provided indirect aid to handicapped students through discretionary grants for higher education teacher training, regional resource centers, and media programs

1973 Section 504 of the Rehabilitation Act of 1973: Public Law 93-112

- A civil rights provision prohibiting discrimination against “otherwise qualified” handicapped persons in programs or activities receiving federal financial assistance

1974 Education Amendments of 1974: Public Law 93-380

- Expanded the funding base for EHA basic state grants
 - Incorporated the rights established in the *PARC* and *Mills* cases
-

Table 1. (continued) A Chronology of Major Federal Statutes Relating to the Education of Children with Disabilities

1974 Family Education Rights and Privacy Act (FERPA) Title V, Section 513(a) of Public Law 93-380

- Gave parents and “eligible” students (over the age of majority) access to the student's educational records
- Prohibited access to unauthorized persons without parental permission

1975 Developmentally Disabled Assistance and Bill of Rights Act: P.L. 94-103

- Established a right to treatment and appropriate placement for institutionalized individuals with disabilities in states accepting developmentally disabled (DD) funds
- Required creation of protection and advocacy systems in all states, to help the developmentally disabled pursue legal, administrative, and other remedies

1975 The Education for All Handicapped Children Act (EAHCA): Public Law 94-142

- Extensively amended EHA (EAHCA was EHA Part B)
 - Provided for direct federal aid to states for eligible students with one of the specified handicaps
 - Elaborated the rights of Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) established in Public Law 93-380
-

Table 1. (continued) A Chronology of Major Federal Statues Relating to the Education of Children with Disabilities

1975 The Education for All Handicapped Children Act (EAHCA): Public Law

94-142 (continued)

- Required an Individualized Education Program (IEP)
- Expanded procedural safeguards, such as parental participation, due process hearings, fair and nondiscriminatory assessment, and access to student records (incorporating much of FERPA)

1981 Education Consolidation & Improvement Act (ECIA): P.L. 97-35 (later repealed by P.L. 100-297)

- Continued to fund state-operated programs (formally P.L. 89-313)
- Consolidated categorical education programs into block grants

1983 EHA Amendments of 1983: P.L. 98-199

- Expanded and extended the discretionary EHA grant programs
 - Created a new transition program to help students with disabilities prepare for employment, independent living, and postsecondary education
-

Table 1. (continued) A Chronology of Major Federal Statues Relating to the Education of Children with Disabilities

1986 Handicapped Children's Protection Act: P.L. 99-372

- Amended EHA Part B to provide an award of attorney's fees to parents who prevailed in a due process hearing or court case nullifying a Supreme Court decision to the contrary

1986 EHA Amendments of 1986: P.L. 99-457

- Created new incentives for states to educate infants with disabilities (birth through age 2) via early intervention programs
- Extended EHA Part B to 3- to 5-year olds in participating states
- Extended EHA discretionary grant programs

1990 The Americans with Disabilities Act (ADA): P.L. 101-336

- Prohibited discrimination on the basis of disability in public and private employment, public accommodations, state and local government services (including education), transportation, and telecommunications
 - Where ADA standards are higher, they replace other provisions in related statutes
-

Table 1. (continued) A Chronology of Major Federal Statues Relating to the Education of Children with Disabilities

1990 Carl D. Perkins Vocational and Applied Technology Act: P.L. 101-392

- Expanded the term “special populations”
- Interwove the EHA to provide full vocational educational opportunity to students with disabilities

1990 EHA Amendments of 1990: P.L. 101-476

- Renamed EHA the Individuals with Disabilities Education Act (IDEA)
 - Extended IDEA discretionary grant programs
 - Added traumatic brain injury and autism as new categories of disability
 - Added IEP requirement for transition planning by at least the age of 16
 - Provided that states are not immune under the 11th Amendment to the Constitution from lawsuits in federal court for violations of IDEA nullifying an earlier Supreme Court decision to the contrary
 - Redesignated “handicapped student” as “students with disabilities”
-

Table 1. (continued) A Chronology of Major Federal Statutes Relating to the Education of Children with Disabilities

1997 IDEA Amendments of 1997: P.L. 105-17

- Added major new IEP requirements
 - Added major new discipline procedures
 - Modified eligibility and evaluation procedures
 - Expanded parental participation
 - Required states to offer mediation prior to due process hearings
 - Clarified effect of Office of Special Education policy letters
 - Provided more funding flexibility to local education agencies
 - Established new restrictions on private school placements
 - Reorganized Parts C-H into Parts C (early intervention) and D (all discretion grant programs)
-

IDEA Compliance by the Office of Special Education Programs

The Office of Special Education Programs (OSEP), a division of the United States Department of Education, monitors and enforces compliance of the IDEA nationally. OSEP conducts monitoring visits at the state level, issuing reports on compliance and noncompliance based on samplings of various records produced by the state, individual school districts, and other public education agencies. Each

state, in its part, monitors local education agencies for compliance of IDEA and state mandates. Each education agency assigns administrators, teachers, and other specialists to carry out the IDEA mandates. The state education agency, however, is ultimately responsible for overall compliance of the IDEA (Podemski, Marsh, Smith & Price, 1995).

During the week of April 28, 1997, OSEP conducted an on-site review of the Oregon Department of Education's implementation of the IDEA. The purpose of this review was to determine whether the Oregon Department of Education was meeting its responsibility to ensure that its educational programs for children with disabilities were administered in a manner consistent with the requirements of federal law (U.S. Department of Education, January 8, 1998).

Because OSEP conducted the on-site review prior to the June 4, 1997 enactment of the IDEA Amendments of 1997, the Office of Special Education Program's compliance determinations and the findings in the report were based upon the requirements of IDEA that were in effect prior to the enactment of the 1997 Amendments. Although Oregon complied with most areas of the IDEA, the monitoring report focused on areas of noncompliance. OSEP found that the Oregon Department of Education did not ensure that:

1. special education programs in youth and adult county correctional facilities were monitored for compliance with IDEA requirements;
2. all students with disabilities received a free appropriate public education, including the provision of related services and extended school year services, as appropriate;

3. parent notice of an IEP meeting included, for students aged sixteen and older, that transition would be a purpose of the meeting, and that the child and, as appropriate, other agency representatives would be invited to attend the meeting; and statements of needed transition services included all required components and were, as a part of students' IEPs, reviewed and revised, as appropriate, on no less than an annual basis
(U.S. Department of Education, January 8, 1998, p. 3).

Criticism of the Federal Monitoring

A recent report (National Council on Disability, January 25, 2000) criticized the OSEP in its monitoring and enforcement of the IDEA. The National Council on Disability (NCD) analyzed federal monitoring reports issued from 1994 to 1998. From the reports, the NCD found that every state, to some extent, failed to ensure compliance with the requirements of the IDEA. More than half of the states failed to ensure compliance in major compliance areas. For example 88 percent of the states (n=44) failed to ensure compliance with IDEA's secondary transition service provisions; 80 percent of the states (n = 40) failed to ensure compliance with the law's free appropriate public education (FAPE) requirements; 78 percent of the states (n = 39) failed to ensure compliance with the procedural safeguards provisions; and 72 percent (n = 36) failed to ensure compliance with the placement in the least restrictive environment. Additionally, 44 percent of the states (n = 22) failed to ensure compliance with the individualized education program while 38 percent (n = 19) failed to ensure compliance with protection in the evaluation process.

OREGON EDUCATION

Oregon's public school system was created by the Territorial Legislature in 1849. The Oregon Constitution assigns the legislature primary responsibility for establishing a public school system and provides for an elected state superintendent of public instruction. In 1951, the legislature established the State Board of Education, which is responsible for setting policy for administering and operating public elementary schools, secondary schools, and community colleges.

The Department of Education serves 198 school districts which educate approximately 575,000 elementary and secondary students, and 13 education service districts which offer expertise and specialized resources to school districts. In addition, the department manages the Oregon School for the Blind, the Oregon School for the Deaf and education programs for students in correctional facilities (Oregon Secretary of State, 2002).

Oregon Special Education History

Oregon legislation in 1941 and 1943 strongly emphasized education for disabled students and placed the central responsibility for direction and program coordination with the superintendent of public instruction (Oregon Department of Education, 1989). The primary goals of the resulting program were to provide for the "(1) actual instruction and reeducation of children already handicapped, and (2)

prevention of the occurrence or development of handicaps" (Oregon Board of Education, 1945, p. 3). Categories of handicaps included "vision, hearing, speech, crippled, low vitality, and maladjusted" (Oregon Board of Education, 1945, p. 4). These programs remained in place until 1962.

In 1962, a general reorganization of the Oregon Department of Education added the Division of Special Education. This division administered teacher education, certification, and accreditation; special programs for the handicapped, retarded, able and gifted children; special schools guidance; migrant education; driver education; and vocational rehabilitation. In 1966, further realignments produced the Division of Special Services with oversight of teacher education and certification; special programs for the handicapped, mentally retarded, able and gifted; as well as guidance programs and special schools. In response to the passage of the Education of All Handicapped Children Act, the Office of Special Education was formed to oversee special education, the School for the Deaf, and the School for the Blind (Oregon Department of Education, 1989).

Based on child count data from 2000, nearly 73,000 Oregon children and youth (birth - 21 years) with disabilities receive special education or other services. Of the 68,691 who are school age (5 years - 21 years), 98 percent attend a regular public school where they participate in the general curriculum and receive specially designed instruction and related services. Other students with disabilities receive

their education and special education services in a state-operated or state-supported program (Oregon Secretary of State, 2002).

Oregon Law and Regulations

The U.S. Department of Education assigns the Oregon Department of Education (ODE) general supervision responsibilities for statewide special education services in the IDEA Regulations (1998). This responsibility includes ensuring that the requirements of IDEA are implemented throughout Oregon. In response to federal laws and regulations, the Oregon Legislation charges the Oregon Department of Education with the responsibility of complete oversight of Oregon's public schools through Oregon Revised Statutes (ORS). In turn, the Oregon Department of Education issues regulations, known as Oregon Administrative Rules, through the office of the Secretary of State. The Oregon Department of Education assigns oversight of special education compliance to the Office of Special Education, a division within the Oregon Department of Education. The Office of Special Education assures compliance with the IDEA and Oregon special education provisions in three ways by monitoring, investigating complaints, and coordinating due process hearings.

Oregon Compliance Process

Oregon uses three avenues in assuring compliance with the IDEA:

monitoring of school districts and other educational agencies providing services to children with disabilities, investigation of complaints alleging violations of IDEA, and coordination of due process hearings.

Monitoring

Assurance of due process and procedural safeguards, in part, are addressed in state compliance monitoring. Up until August 2001, monitoring of each of Oregon's school districts and educational agencies took place at least once every six years. Under this monitoring plan, districts were visited and special education records reviewed and audited for compliance in a variety of areas outlined in the IDEA and Oregon Administrative Rules (OAR). If, in the review of records, the district or agency was unable to demonstrate compliance to IDEA and OAR, they are found *out of compliance*. Typically, the district or agency was then required to write a plan outlining how they would bring themselves into compliance and assure future compliance, usually within a calendar year. In some cases, the district or agency may be liable for repayment of state and federal funds received in past years (Martin, 1999; Smith & Tawney, 1983; Taylor, 1990).

This monitoring process was multi-faceted. When the Office of Special Education monitored a school district or educational agency providing services to students, kindergarten through age 21, selected student files were reviewed using the Individual Student File Review Form (Oregon Department of Education, Office of Special Education, 2000c). The Individual Student File Review Form contains 129 separate data items. The Individual Student File Review Form does not review or include demographic data (e.g., student name, date of birth, school, or grade placement).

In addition to student files, each district and educational agency must provide documentation of compliance in eleven policy and procedure areas:

1. child find;
2. confidentiality;
3. personal development;
4. participation in regular education by students with disabilities;
5. individual education programs (IEP);
6. procedural safeguards;
7. evaluation;
8. eligibility;
9. free appropriate public education;
10. private school placement by the parent; and
11. private school placement by the district

A total of 61 data items are addressed in this process (Oregon Department of Education, Office of Special Education, 2000b).

The Oregon OSE may also perform a comprehensive case study by reviewing the record of a specific student and interviewing the parent(s), school

personnel, and other service providers. The case study addresses nine areas with 31 probes (Oregon Department of Education, Office of Special Education, 2000a).

As of August 2001, the Oregon Department of Education began using the Continuous Improvement Monitoring System (CIMP) replacing the old monitoring system. The CIMP process consists of the following phases:

Self-assessment - The State appoints and works with an Executive Steering Committee and a full Steering Committee, composed of key stakeholders representing diverse perspectives, to develop and implement a Self-Assessment that analyzes how successful the State has been in achieving compliance and improving results for children with disabilities and their families. This process may already be underway in parts of the State. Once the monitoring cycle is complete, the State reviews its Self-Assessment and revises it as appropriate.

Reporting to the public - OSEP's report reviewing the State's performance in the implementation of IDEA '97 is made available to the public. The report addresses strengths noted in the State, areas that need improvement and areas of noncompliance; in some cases, it may prescribe specific corrective actions. The report is made available to the public in accordance with the dissemination plan agreed to by the Steering Committee and OSEP.

Improvement planning - Based on the Self-assessment and validation results, the Steering Committee develops an improvement plan that addresses both compliance and improvement of results for children with disabilities, and includes timelines, benchmarks, and methods to verify improvement.

Implementation of improvement strategies - The State implements its improvement plan and evaluates the effectiveness of the plan.

Verification and consequences - based upon documentation that OSEP receives from the State and its Steering Committee, as well as other sources, OSEP verifies the effectiveness of the actions taken in implementing the improvement plan. Where the State has been effective in achieving verifiable improvement, the State may be

rewarded with public recognition. 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 of funds in whole or in part or other enforcement actions.

(Oregon Department of Education, Office of Special Education, 2001)

Complaint Process

If a parent believes a school district or other educational agency has violated federal special education law they may submit a complaint to the Oregon Department of Education. The ODE, OSE is required to investigate possible violations upon request of parents or their representative. When the Oregon Department of Education receives a complaint, it assigns one of its employees within the Office of Special Education to complete the investigation. The investigating officer may visit the school or district or conduct telephone interviews. Generally, the district is asked to provide written documents addressing the allegations. After completing the interviews and reviewing the documents, the investigating officer issues a written decision. The state has 30 calendar days to complete the investigation. A complaint investigation is termed informal and attorneys generally are not involved (Oregon Secretary of State, 2000).

Due Process Hearing

A due process hearing is a formal hearing that results in a legal order. It may be requested if the parties disagree with the identification, evaluation, educational placement, or other issues relating to a child's education. Due process hearings are more formal and require the district to be represented by an attorney. An impartial hearing officer conducts due process hearings. In Oregon, the hearing officer must be an attorney. The parent has the right to be accompanied and advised by an attorney. Both the parent and district have the right to present evidence and confront, cross-examine, and compel the attendance of witnesses. The hearing generally is tape recorded and transcribed. A verbatim record of the hearing is made available to the parent and district. Regardless of the outcome of the hearing, the district must pay the cost of the hearing officer and recording of the hearing. If the parent prevails with part or all of the hearing, the district may be liable for part or all of the parent's attorney fees (Oregon Secretary of State, 2000).

Districts also can request due process hearings to overturn parental refusals for evaluation and placement. In addition, decisions from complaint investigations can be appealed via due process hearings. Due process hearings may be appealed through the state or federal court system (Oregon Secretary of State, 2000).

Oregon Compliance Issues

Monitoring reports are not public documents and, therefore, are not reviewed in this study. In Oregon, in the three-year period between September 1, 1996 and August 31, 1999, 186 complaints against school districts and other educational agencies were filed (Harris, September, 1998b, September, 1999; Oregon Department of Education, September, 1998). In a two-year period, September 1, 1997 to August 31, 1999, 105 due process requests were filed (Harris, September, 1998a; Manoogian-O'Dell, 1999). Not all requests for complaint investigations or due process hearings result in a hearing or investigation. Of the 186 complaints filed, 79 were fully investigated. Of the 105 due process requests filed, 16 went to hearings with 7 pending cases in the 1998-99 school year. In reviewing the findings of these complaints and hearings, 95 cases in all, the following types and number of violations were found (noncompliance in more than one area is typical in any given complaint or due process investigation) as noted in Table 2.

Table 2. Types and Number of IDEA Violations in Oregon from 1996 to 1999

Type of Violation	Number of Violations
Individual Education Program	60
Evaluation/Reevaluations	33
Written Notice	21
Eligibility	8
Records	6
Child Find	4
Consent	1

The review of due process hearings and complaint investigations provides evidence that implementation of particular areas of the IDEA are more problematic than other areas. Again, no published research has been found addressing the barriers contributing to the implementation of IDEA areas such as the IEP, evaluation, eligibility, placement, and written notice from the viewpoint of front line personnel. The question of why these areas of the IDEA are problematic has not been addressed. Because the IEP and placement are consistently cited problem areas, some effort has been made to investigate and discuss the individualized education program and placement requirements of the IDEA.

AREAS OF COMPLIANCE

School districts can be found out of compliance if they fail to provide written notice, obtain written consent, develop, or implement an individualized education program, or conduct a comprehensive evaluation. In some cases, districts can be liable for damages if found out of compliance. Not all violations result in litigation or findings of noncompliance. Minor procedural violations that do not deprive the student of a free appropriate public education probably will not result in a due process hearing or a lost court case, but these violations can contribute to a breakdown in the communication between the district and parents (Maloney, 1993; Mattison, 1994). The National Council on Disability report (January 25, 2000) listed procedural violations as a major noncompliance area but failed to disclose if those violations denied children with disabilities a free appropriate public education. Below are discussions of IDEA compliance areas identified in the literature as problematic.

Paperwork Requirements

Barrick and Enell (1980) studied the impact of federal and state requirements for special education paperwork. They surveyed and collected data from every school district and educational service unit in the state of California during the fiscal year 1979-1980. In their study, they found that in the process of

documenting procedural safeguards, the school or agency providing special education services collected from 79 to 213 data items per student, including demographic items. In 2000, Oregon had 129 student specific data items, not counting demographic items as discussed earlier (Oregon Department of Education, Office of Special Education, 2000c). Their study, although limited to one state, provides insight into the variation in compliance documentation to special education statutes and regulations. However, the study did not address whether districts or agencies actually complied with the statutes or regulations in place at the time.

The paperwork requirements of special education providers' jobs have been cited as major reasons in attrition and stress (Billingsley, 1993; Billingsley, Gersten, Gillman & Morvant, 1995; Billingsley & Tomchin, 1992; Brownell & Smith, 1993; McLaughlin, Smith-Davis & Burke, 1986). Yet, studies of special education teacher training programs have shown that there is minimal attention given to the subject of paperwork demands (Buck, Morsink, Griffn, Hines & Lenk, 1992; Rosenberg & Rock, 1994; Silver, October, 1986).

In their well-designed and researched study, McLaughlin and Verstegen (1998) address what is required in the administration of special education programs and the perceptions of administrators. The authors interviewed 58 individuals representing 8 states, 11 local school districts, the Department of Education, and selected national organizations. Participants in this study responded to a number of

questions regarding how their state or local school districts were attempting to increase flexibility in implementing the IDEA and other federally mandated education programs. McLaughlin and Verstegen (1998) found that administrators were wary of breaking from traditional models of compliance or service delivery because of fear of fiscal audits and concerns about the legality of newer practices. Lack of information, policy, and training were also cited as primary barriers toward change in practice.

Maloney (1993) discussed legal consequences relating to the completion of paperwork documenting procedural compliance. Maloney reported that those procedural violations most likely to lead to due process hearings were, in part: 1) insufficient notice of proposal or refusal to change placement; 2) failure to obtain consent; 3) incomplete or insufficient individualized education programs; and 4) substantially or procedurally deficient IEP teams. All four areas above are typically the responsibility of the special education service provider to arrange, obtain, and document. Maloney (1993) reviewed due process hearings, noting commonalties and developed a list of recurring errors. She did not identify the type, number, and date of the due process hearings she reviewed. Regardless of limiting factors, this study provides excellent information for individuals and agencies.

States and districts have developed forms that make the notice and consent requirements of the IDEA more convenient. One intended use of these forms is to provide effective and clear communication between the district and parents. Failure

to complete the forms accurately and professionally, or obtain consent, may constitute procedural violations and result in the denial of a free appropriate public education (FAPE) to the child with a disability. According to Mattison (1994), a district's failure to meet the IDEA's procedural protections were adequate grounds, in and of themselves, for due process or court findings that the school district failed to provide FAPE. A number of courts have ruled that procedural violations can subject a school district to liability for damages, compensatory education, or tuition reimbursement (*Burr v. Ambach*, 1988; *Evans v. Douglas County School District No. 17*, 1988; *Salley v. St. Tammany Parish School Board*, 1993; *W.G. v. Target Range School District No. 23*, 1992). Carmichael (1993) studied a 1980 court decision addressing the Boston Public Schools' lack of compliance with PL 94-142 and state statutes governing special education. Carmichael's study carefully analyzed both the federal and state law as cited in the *Allen v. McDonough* court case. The court found the Boston Public Schools grossly out of compliance with numerous areas the Education of All Handicapped Children Act and affirmed the parents' rights to place their children in private schools at public expense. Lack of parental notification was one area of noncompliance cited by the court.

Compliance Monitoring from Other Perspectives

Haggett (1980) and Kukic (1981) used state monitoring reports, similar to those described above, in their studies of compliance with the Education of All

Handicapped Children Act, now known as the Individuals with Disabilities Education Act. Both studies found districts out of compliance in some areas of the Education of All Handicapped Children Act but did not elaborate on specific compliance areas. Haggett's study (1980) was limited to the Philadelphia School District while Kukic's study (1981) included five school districts in rural Utah. Neither study included interviews with school personnel nor addressed the question of why the districts were out of compliance.

Special education service providers, such as special education teachers, speech pathologists, school psychologists, or assessment specialists, usually are charged by the district to fulfill IDEA mandates, particularly the requirements of notice and consent (Silver, 1986; Yell, Rogers & Rogers, 1998). Surprisingly, no studies have attempted to look at issues facing front line personnel in fulfilling IDEA mandates.

Districts were monitored for compliance with the IDEA on a regular basis. Monitoring has typically relied on review of documents produced by the district in the form of notices to parents, individualized education programs, and reports. This paperwork trail has been cited as one reason special education teachers choose to leave the profession. The monitoring process rates the district's level of compliance with special education laws but has not addressed issues such as barriers to compliance or what might be done to make compliance less problematic.

Monitoring is only one method of addressing compliance. Compliance can also be addressed using informal and formal avenues of litigation or dispute resolution forums.

The Individualized Education Program

The movement to improve rehabilitation services for adults with retardation was a major stimulus for the IEP provision of the IDEA. In 1972, a federal court ordered individualized habilitation plans (IHP) for all residents of Alabama's Partlow State School and Hospital (*Wyatt v. Stickney*, 1972). The plan had many components of the current IEP: description of present limitations and needs, long-range and intermediate goals with a timetable for their attainment, specification of the professional responsible for goal attainment, and a statement of the least restrictive setting necessary. With the movement toward the passage of special education law in 1975, many advocated establishing legal contracts, involving parents as equal participants in the plan, using objective measures of goal attainments, and developing punitive consequences for failure to deliver (Abeson, Burgdorf, Casey, Kunz & McNeil, 1975; Gallagher, 1972). Congress adopted, in part, these recommendations with the passage of the EAHCA of 1975 but was less punitive toward the schools in the legislation (House Report, 1975).

A number of studies have investigated the IEP as a document of compliance. Smith (1989) found significant procedural problems in the IEPs of 120

fourth, fifth, and sixth grade male students with behavioral and learning disabilities. Significant differences were found between the student classification (learning disability v. behavior disorder) and delivery model (resource classroom v. self-contained classroom). Smith (1989) found problems in the number of academic, behavior, and other goals, short-term objectives met, and congruency between annual goals and present level of performance. Smith concluded that the lack of IEP procedural compliance and congruence suggests that the IEP may be a less than adequate indicator of appropriate education and more a document of compliance.

Huefner (2000, p. 197) stated, "much has been written about the problems involved in producing effective and legally compliant IEPs." Huefner cited only six references. All six references were opinion papers discussing various aspects of the amended IDEA. Much of her argument centered on analysis of the changes in the 1997 IDEA amendments specific to the IEP rather than empirical studies or prior research.

Bateman (1996) provided an opinion on how IEPs should be written, citing court decisions, without discussion or reference, specific to sections of the IDEA IEP provisions. Bateman offered no discussion as to the problems involved in developing legally compliant documents but, rather, provided the reader with ideas on producing defensible IEPs.

Butera, McMullen & Henderson (1997) concluded that IEPs, specific to students with behavior problems, were problematic because administrators expressed perceptions and opinions that the IEPs were too procedural, cumbersome, and time-consuming. According to the participants (administrators), the IEPs addressed academic needs but neglected the social, emotional, and behavioral needs of the students. No discussion was provided about the "legality" of the IEPs. Additionally, the study was confined to the State of West Virginia and specific to IEPs of students identified as having emotional or behavioral disabilities, comprising less than 5% of the student population eligible for special education services in the State at that time (U.S. Department of Education, 1998, Appendix AA1 and AA2). Some survey participants also indicated a lack of knowledge of behavior modification skills influencing the effectiveness of teaching students with behavioral and emotional problems.

Goodman and Bond (1993) provided a review of the forces that led to the inclusion of the IEP in federal law. Their opinion emphasized that the IEP regulations make it difficult to pursue a child-directed, interactive teaching approach because the emphasis has been toward writing specific measurable goals and objectives. They provided no discussion on the legal issues in writing and implementing the IEP.

Smith (1990) reviewed research and position papers from 1975 to 1989, concluding that IEPs were inadequate and schools engage in "passive compliance"

(p. 11). Smith's review of research was limited to the review of three special education teacher-perception studies published in 1982, 1983, and 1985. Results of these studies were consistent with attrition and stress studies previously referenced (Buck, Marsink, Griffn, Hines & Lenk, 1992; Rosenberg & Rock, 1994; Silver, 1986). All three studies surveyed teachers and found concerns of increased workload, excessive paperwork, insufficient support, and lack of adequate training. In general, however, the studies indicated that teachers felt the IEP contributes to an understanding of the child and could be used as a general reference.

Least Restrictive Environment

One of the underlying principles of the IDEA is that the education of children with disabilities is to be provided in the least restrictive environment (LRE). In the first ten years after the passage of the Education of All Handicapped Children Act, the appropriateness of placement was essentially left to the discretion of school districts. Beginning in the late 1980s and early 1990s, cases such as *Daniel R.R. v. State Board of Education* (1989), *Sacramento City Unified School District v. Rachel H* (1994), *Orberti v. Board of Education of Borough of Clementon School District 19* (1993), and *Barnett v. Fairfax County School Board* (1989) provided judicial interpretations and definitions of the principle of LRE and inclusive education (Behrmann, 1993; Kavale & Forness, 2000; Osborne, 1994; Siegel, 1994). In a broad sense, the court stated that the overriding rule is that

placement must be made on an individual basis and school districts must provide a continuum of placement options beginning in the child's neighborhood school and, as appropriate, in the general education classroom with supplemental aids and services.

Courts have equally supported placements outside the general education classrooms because the child's needs could not be appropriately met in that setting (Kavale & Forness, 2000; Osborne, 1994; Yell & Drasgow, 1999). Cases such as *Drew P. v. Clarke County School District* (1989), *Ash v. Lake Oswego* (1991), and *Geis v. Board of Education* (1985) illustrate decisions favoring placement in special programs, special schools, and residential centers.

Newcomer and Zirkel (1999) reviewed 414 cases argued before state and federal courts from January 1995 through March 1995. They found that in cases involving placement, parents were seeking more restrictive settings rather than the one proposed by the district in 76% of the cases. In the cases reviewed, districts won 59.9% of the time before any appeal. Parents won 32% of the time. In 8.5% of the cases, the courts provided split decision, neither fully favoring the parent or the district.

Inclusion is a concept that children with disabilities can and should be educated in their neighborhood school and general education classroom along side children without disabilities. There is little agreement regarding the appropriateness of inclusive educational practices. Following the *Oberti* decision, Judith Heumann,

then Undersecretary of Education stated, "Separate but equal is not acceptable...[segregated special education is] immoral" (Heumann, 1993 pg. 86). As a counter point to this opinion, Ginger Greaves, a parent of a child with disabilities, stated, "My son was the victim of the failed approach to mainstreaming. Five years have been literally wasted for him. The damage is done and irreparable" (House Committee on Education and Labor, 1989, pg 102). One paradox of inclusion and the requirement of LRE were reflected in the lineup of proponents and opponents. The debate is not only between parents and school districts but also between parents and parents, professionals and professionals, and advocates of one group and advocates of another (Behrmann, 1993; Siegel 1994).

Full inclusion refers to the practice of providing the student's entire education within the general education setting. Partial inclusion refers to the practice of educating students with disabilities in general education classrooms for some portion of their school day, while they spend the other portion of the day receiving instruction in a special education classroom.

Historically, Oregon has maintained a high percentage of inclusion and participation in regular classroom environments with limited placements in special schools or classrooms. In the 1995 – 1996 school year, 83.81% of Oregon students with disabilities were placed in their neighborhood schools and spent at least part of their day in the regular education environment. In the 1997-98 school year, the last year data were available, 96.38% of Oregon students with disabilities were placed

in their neighborhood schools and spent at least part of their day in the regular education environment (U.S. Department of Education, 1997,1998, 1999, 2000).

In a November 23, 1994 memorandum to the Chief State School Officers, the U.S. Department of Education offered clarification regarding Individuals with Disabilities Education Act's LRE provisions and inclusion.

IDEA does not use the term "inclusion;" consequently, the Department of Education has not defined that term. However, IDEA does require school districts to place students in the LRE. LRE means that, to the maximum extent appropriate, school districts must educate students with disabilities in the regular classroom with appropriate aids and supports, referred to as "supplementary aids and services," along with their nondisabled peers in the school they would attend if not disabled, unless a student's IEP requires some other arrangement. This requires an individualized inquiry into the unique educational needs of each disabled student in determining the possible range of aids and supports that are needed to facilitate the student's placement in the regular educational environment before a more restrictive placement is considered.

In implementing IDEA's LRE provisions, the regular classroom in the school the student would attend if not disabled is the first placement option considered for each disabled student before a more restrictive placement is considered. If the IEP of a student with a disability can be implemented satisfactorily with the provision of supplementary aids and services in the regular classroom in the school the student would attend if not disabled, that placement is the LRE placement for that student. However, if the student's IEP cannot be implemented satisfactorily in that environment, even with the provision of supplementary aids and services, the regular classroom in the school the student would attend if not disabled is not the LRE placement for that student.

(Heumann & Hehir, November 23, 1994, p. 3)

The "inclusion movement" arose from the practice of removing children with disabilities from the neighborhood school and general education classroom

and placing them in self contained classes or separate facilities. In some cases, placement was based on the student's disability rather than the student's needs. (Kavale & Forness, 2000). According to the U.S. Department of Education (1995, 1997, 2000), rural districts tend to include students in general education programs within the neighborhood school more so than suburban and urban districts. One reason for this is the lack of available alternative placements within the district, distance to alternative placements, and cost of placement in alternative settings.

Although the IDEA has been referred to as a "mainstreaming law" (Siegal, 1994, pg. 12), the IDEA never uses the terms "mainstreaming," "inclusion," or "integration." The IDEA does not require so-called inclusion or mainstreaming in all cases (Yell & Drasgow, 1999). Instead, the IDEA Federal Regulations state:

(1) That to the maximum extent appropriate, children with disabilities, including children in public and private institutions or other care facilities, are educated with children who are non-disabled; and (2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (*Code of Federal Regulations* Title 34 §300.550 (b)(1)-(2))

The language of IDEA brings to question issues such as the child's need verses placement that affords a free appropriate public education, the balance between integration and segregation, and whether the placement of the child is least restrictive or most restrictive based on the unique needs of each child (Crockett, 1999; Rueda, Gallego & Moll, 2000, Siegal, 1994).

Child Find

Under the IDEA, the state has an obligation to identify, locate, and evaluate all children, ages 3 through 21, entitled to special education. Oregon has expanded this requirement to include children from birth through age 21. In Oregon, this *child find* mandate includes children in private schools, children being educated at home, and incarcerated youth (Oregon Secretary of State, 2002 [OAR 581-015-0037]). Public schools and, in some cases, education service districts fulfill the responsibility of child find through a variety of activities including, but not limited to, screening programs, public awareness, and interagency cooperation (Podemski, Marsh, Smith & Price, 1995; Rothstein, 2000).

Litigation and complaints in the area of the child find requirements have been minimal. One court decision clarified the IDEA requirement that a school district's child find requirement extends to all children who reside within the district regardless of enrollment status (*Robertson County School System v. King*, 1996). In Oregon, due process hearing decisions have focused on the activities school districts take to comply with child find requirements. In the case of *Lake Oswego School District #7J* (1990), the decision of the hearing officer found that so long as the agency widely publicized available services, so that parents would contact the appropriate authorities, the district had not violated IDEA requirements. In contrast, in the case of *P.R. and Hillsboro School District* (Oregon Department of Education, November 6, 1998) the District was found to have violated the

Individuals with Disabilities Education Act (IDEA). The District had utilized approved procedures for notifying and finding children with disabilities, and the district was unaware of the student's existence before the time his mother inquired about evaluation and services. Despite the finding of violation, the hearing officer did not find the district liable for any reimbursement of expenses (private school tuition) because of its failure to locate the student. The hearing officer based this on the consideration that the district had implemented appropriate child find activities. Nevertheless, failure to identify and evaluate a child (school age in this case) when the agency had reason to suspect the child as having a disability violates child find provisions of the IDEA and can result in liability for costs of compensatory education as in the *Eagle Point School District #9* (1992) case. In this case, the district knew of the child, suspected the child had a disability and, yet, failed to evaluate the child in a timely manner. The district was found liable for the cost of compensatory education.

Between September 1996 and August 1999, there were only four violations of child find requirements in Oregon (Harris, September, 1998a, September, 1998b, 1999; Manoogian-O'Dell, 1999; Oregon Department of Education, September 1998, November 2000).

Evaluation & Eligibility

Before a child can receive special education services, an evaluation and determination of eligibility are required under the regulations of the IDEA (Rothstein, 2000; Turnbull, 1999; Yell, 1998). The IDEA also requires that parental notice and consent occur before an evaluation can be made (OSEP Policy Letter, 1994; Rothstein, 2000). Both IDEA and Oregon regulations require that districts evaluate children when there is a suspicion of a disability. The district determines the need for an evaluation based on referral or screening that indicates that a student may have a disability (Guernsey & Klare, 1993). Referrals from teachers, parents, and others typically will lead to an evaluation by the district although the district is not obligated to conduct an evaluation if there is no reasonable basis to suspect that a disability exists (Williams, 1993). According to Algozzine, Christenson, and Ysseldyke (1992), approximately 92% of all referrals lead to a comprehensive evaluation.

Although the federal statutes and regulations do not establish a specific time limit from referral to completion of the evaluation, Oregon states that the evaluation must be completed within 60 school days (Guernsey & Klare, 1993; Oregon Secretary of State, 2002). Delays in evaluations have resulted in due process hearings, court actions, and imposition of remedies (Williams, 1993).

The IDEA and Oregon regulations detail the specific requirements of the evaluation procedures and materials in an evaluation. The IDEA Regulations, (34

C.F.R. § 300.532) list the requirements regarding the selection of evaluation materials and procedures to follow in conducting an evaluation.

1. Test and other evaluation materials must be
 - Provided and administered in the student's native language or mode of communication unless not feasible to do so
 - Validated for the specific purpose for which they are used
 - Administered by trained personnel in conformity with instructions.
2. The evaluation must be tailored to assess specific areas of educational need.
3. The evaluation must be designed to reflect the student's aptitude or achievement level rather than reflecting the student's disabilities, unless intended to do so.
4. No single procedure is used as the sole criterion to determine free appropriate public education.
5. A team including one person knowledgeable in the area of suspected disability makes decisions.
6. The student is assessed in all areas of suspected disability.

Oregon statutes and regulations differ little from the IDEA (Oregon Secretary of State, 2002).

Both the IDEA and Oregon regulations require districts to select and administer tests that are not racially or culturally discriminatory. This requirement, however, is not specific and does not provide guidance to the district in determining if an assessment measure is discriminatory or whether local norms were needed to adjust for economic deprivation or discrimination (OSEP Policy Letter, 1992; Salvia & Ysseldyke; Yell, 1998). In *Larry P. v. Riles* (1979, 1986), a federal district court banned the use of standardized intelligence tests to evaluate minority students for mental retardation and, in 1986, expanded the ruling to all disability categories in California. The court ruled that such tests contained racial

and cultural bias. In contrast, a year later, in *Parents in Action on Special Education v. Hannon* (1980), a different court arrived at an opposite conclusion regarding standardized intelligence tests. The Larry P. ban was later overturned once test instruments were revised and updated (*Crawford v. Honig*, 1994). To assist school personnel in conducting appropriate multicultural and multilingual evaluations, the Oregon Department of Education has published a technical assistance document (Education Evaluation Center, Teaching Research Division, Western Oregon University, 2001).

When the evaluation is completed, a team consisting of district personnel, the parents, others having knowledge of the evaluation and suspected disability, must draw on the results of all the instruments used, as well as other information provided in the decision making process to determine eligibility and need for special education. The law requires that professional judgment be relied on; sole reliance on formulas or quantitative guidelines is not permitted (Bateman, 1996). Recognizing that the evaluation and determination of learning disabilities is problematic, the Oregon Department of Education has a technical assistance document available (Oregon Department of Education, August, 1999).

The decision of the eligibility or noneligibility must be documented in written form (U. S. Department of Education, Office of Special Education and Rehabilitative Services, June 24, 1999; Rothstein, 2000).

Both the IDEA and Oregon law require that students in special education be reevaluated every three years or more frequently if requested by the student's parents or teachers (U. S. Department of Education, Office of Special Education and Rehabilitative Services, June 24, 1999). The reevaluation does not have to be identical to the initial evaluation or previous evaluations. As long as the reevaluation addresses the child's current educational needs, different assessment procedures may be used (Shaver, 1990). As with the initial and prior evaluations, informed parental consent is required for a district to conduct a reevaluation. Eligibility for special education must be reestablished at least every three years (Yell, 1998).

If the parents disagree with the district's evaluation, they may request an independent educational evaluation (IEE) at public expense. An IEE is an evaluation conducted by a qualified examiner who is not employed by the district. Upon receiving a request for an independent educational evaluation, the district must provide information about where the IEE may be obtained. Although the district is under no obligation to accept the results of the IEE, it must consider the evaluation as part of its decision making process (Freedman, 1996).

Between 1996 and 1999, 33 violations of evaluation and eligibility requirements were found via the complaint and due process hearing processes in Oregon (Harris, September, 1998a, September, 1998b, 1999; Manoogian-O'Dell, September, 1999; Oregon Department of Education, September 1998, January,

2000). One example of a violation of both evaluation and eligibility is illustrated in this complaint investigation 98-010-014 (Oregon Department of Education, November 2, 1998). After several years of home schooling, a student with attention deficit hyperactivity disorder (ADHD) enrolled as a seventh grader in March 1997. In November of his eighth grade year, the school district acknowledged that the student's ADHD was interfering with his classroom performance, developed a Section 504 plan for him, and included him in a special education class. The school district did not conduct a special education evaluation or determine his eligibility under the IDEA. The Oregon Department of Education found that this violated the IDEA by not conducting a comprehensive evaluation, placing the student in special education without developing an individualized education program or obtaining parental consent for placement. The Oregon Department of Education required the school district to provide 50 hours of compensatory education services to the student and to provide training to staff.

Procedural Safeguards

The IDEA procedural safeguards include: (a) notice and consent requirements (b) examination of relevant records; (c) procedures to protect the rights of a student when parents are unavailable; (d) the independent educational evaluation (discussed above); (e) voluntary mediation; and (f) the due process hearing (discussed above). Additionally, in Oregon, parents may challenge the

actions of a school district via the complaint process. Parents are also entitled to file suit in state or federal court (EDGAR, 34 C.F.R. §§ 76.651-76.662; Office of Special Education Programs, 1994). In the review of Oregon complaint investigations and due process hearing from 1996 through 1999 (Harris, September, 1998a, September, 1998b, 1999; Manoogian-O'Dell, 1999; Oregon Department of Education, September 1998, November 2000), 21 violations of the written notice provisions, six violations of student records provisions, and one violation of the consent provision were found. In one case, it was noted that, to be valid, consent must be "knowing" or "informed." Parents must be fully informed of all information relevant to the activity for which the consent is sought. For example, in one case, parent consent was not "informed" when the parents reasonably believed they were giving written consent for an independent educational evaluation and instead the same educational agency as before conducted the evaluation (Oregon Department of Education, October 14, 1999). In another case, the district erred when it asked a parent to sign and "backdate" a three-year evaluation consent form (Oregon Department of Education, October 26, 1999).

Parent Involvement

The IDEA requires that parents be afforded the opportunity to participate in the special education decision-making process. Oregon special education

regulations parallel the IDEA requirements stating, "districts shall provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child" (Oregon Secretary of State, 2002 [OAR 581-015-0063]). If the child does not have a parent, the parent cannot be located, or the child in the ward of the state, the IDEA and Oregon regulations requires that a surrogate parent be appointed (U. S. Department of Education, Office of Special Education and Rehabilitative Services, June 24, 1999; Oregon Secretary of State, 2002 [OAR 581-015-0099]).

Notice

The IDEA and Oregon regulations require districts to notify parents at various stages in the special education process regarding their procedural rights. Notification must be in writing. The district must inform the parent of any actions proposed regarding the identification, evaluation, educational program or placement, or provision of a free appropriate public education of their child. The district must also notify parents if it is refusing to make any requested changes. All written notices must be understandable to the general public and provide enough information within a timely manner so that parents can participate in the special education process (IDEA Regulations, U. S. Department of Education, Office of

Special Education and Rehabilitative Services, June 24, 1999; Oregon Secretary of State, 2002 [OAR 581-015-0075]; Osborne, 1995).

Consent

Parental consent prior to the initial evaluation and placement of a child in special education is required by both the IDEA and under Oregon law (IDEA Regulations, U. S. Department of Education, Office of Special Education and Rehabilitative Services, June 24, 1999; Oregon Secretary of State, 2002 [OAR 581-015-0039]. Oregon has additional consent requirements specific to evaluation of the child using individual intelligence tests and all tests of personality (Oregon Secretary of State, 2002 [OAR 581-015-0039(c)(3)). When obtaining consent, the district must ensure that the parents understand and agree to the proposal in writing, that the parent understand that giving consent is voluntary, and that consent may be revoked at any time (Oregon Secretary of State, 2002 [OAR 581-015-0039; Williams, 1991).

Student Records and Confidentiality

Both the IDEA and Oregon law contain requirements concerning parental access rights to their child's school records. Districts must permit parents to inspect and review all educational records collected, maintained, and used by the district

concerning the student's special education. Districts must provide access to records without unnecessary delay. Confidentiality of information requirements direct districts to keep a record of parties obtaining access to the child's records, the purpose of for which the records were used, and the date accessed (U. S. Department of Education, Office of Special Education and Rehabilitative Services, June 24, 1999; Oregon Secretary of State, 2002 [OAR 581-015-0055 and 581-015-0079]).

Mediation

The IDEA Amendments of 1997 added voluntary mediation requirements to the procedural safeguards (Yell, 1998). Oregon provided voluntary mediation beginning in 1992 (Oregon Secretary of State, 2001 [ORS 343.531]).

Discipline

Specific guidelines regarding the discipline of students with disabilities were not written into the Individuals with Disabilities Education Act until the IDEA Amendments of 1997 (20 U.S.C. § 1401 et seq. 1997). Prior to that time, districts had to operate on guidelines extrapolated from the decisions of administrative agencies (e.g., Office of Special Education Programs and Office of Civil Rights) and case law. Although students with disabilities are not immune

from a district's disciplinary procedures, districts must address the needs of these students in the student's individualized education program, behavior plans, and placement decisions. If disciplinary actions are taken, procedural safeguards must be provided via the written notice process. Additional evaluations may be needed to determine if there is a relationship between the student's misbehavior and the disability (manifest determination). District's must also provide interim alternative settings if unilateral placement is exercised to address situations where students with disabilities bring weapons to school or they use, possess, or sell illegal drugs (Rothstein, 2000). The Oregon Department of Education (August, 2000) published a technical assistance document, *Behavioral Support, Intervention, and Discipline in Special Education*, to assist districts in complying with the 1997 IDEA requirements.

Funding Issues

Over six million children with disabilities between the ages of 3 and 21 receive special education services nationally. The U.S. Department of Education estimates the cost of special education to be 2.2 times the national average per pupil expenditure, currently approximately \$6,300. Thus, the average per pupil special education cost could be greater than \$13,650 (National Education Association, 2001).

Since 1975, the federal government has pledged to fund 40 percent of the average nationwide per pupil expenditure to help meet the costs of educating students with disabilities. In 2000, actual federal expenditures provided \$5 billion in IDEA funding, only 12.6 percent of the average per pupil expenditure. In addition, under current rules, 75 percent of funds allocated through IDEA are distributed to school districts for special education services. The remaining funds go to state Departments of Education for monitoring and administration expenses. Thus, states and local districts must provide the bulk of the cost for special education services (Moran, February 24, 1999).

For the fiscal year 2002 (July 1, 2001 through June 30, 2002) Oregon will receive approximately \$1,133 for each IDEA eligible child (Moran, February 24, 1999). In addition to federal IDEA grants, districts receive twice the basic state school support for up to 11% of their IDEA eligible student population. In Oregon, federal funds are dedicated exclusively to special education programs. State and local funds may be used for any district expense. Thus, special education funds are not dedicated to individual students but, rather, to specific programs and school wide programs (Oregon Secretary of State, 2000).

IMPLICATIONS FOR RESEARCH

Research has focused on noncompliance with the IDEA without addressing the underlying reasons for the noncompliance. Other than the use of surveys with

district administrators and state officials, document analysis, and interviews with administrators and parents, no studies have addressed what barriers intermediary policy implementers face in successfully implementing the IDEA, perceptions of why implementation is problematic, or perceptions of what might be done to make compliance with IDEA less problematic.

Based on this review of the literature, compliance with IDEA statutes and regulations are clearly problematic. The development and implementation of the IEP is the single most difficult provision based on the studies, reports, and reviews of due process hearings and complaints cited. Missing from the literature are discussions regarding why specific provisions of the IDEA are problematic to implement and the barriers special education professionals perceive or experience in complying with mandates. Also missing is literature addressing the perspectives of special education teachers, speech and language pathologists, and school psychologists concerning why implementation of and compliance with the IDEA is problematic and what might be done to better assure compliance.

CHAPTER 3: METHODS

This study explores what areas of IDEA policy special education teachers, speech and language pathologists, and school psychologists, find most difficult or problematic to implement; why these areas are difficult to implement; and what recommendations they have to make compliance with or implementation less problematic. There are no studies pertaining to the viewpoints of special education professionals regarding implementation of and compliance with the IDEA. No research has asked why certain areas of the IDEA are difficult to implement. Additionally, the research has failed to address the barriers that impede compliance with the IDEA. This study uses an exploratory and descriptive research approach, combined with a comparative quantitative research approach to address these issues. This study addresses five questions:

1. What area(s) of the IDEA do special education teachers, speech and language pathologists, and school psychologists find most difficult to implement and why?
2. What recommendations do special education teachers, speech and language pathologists, and school psychologists offer to make compliance with and implementation of the IDEA less problematic?

3. Are there differences in responses based on the participants' job description, the participants' years of experience, and size of district where they worked?
4. What are the compliance areas of IDEA that result in due process hearings and complaint investigations in Oregon?
5. Do the special education teachers, speech and language pathologists, and school psychologists identify problematic implementation and/or compliance with the same areas of IDEA that are identified in Oregon due process hearings and/or complaint investigations?

RATIONALE

Using Marshall and Rossman's (1995) framework for developing qualitative research designs, the purpose of this study was exploratory. I was interested in gaining an understanding of what areas of the IDEA are viewed by special education teachers, speech and language pathologists, and school psychologists as most problematic to implement and why. Additionally, I was interested in whether there is a difference in the perceptions among the participants based on their jobs (special education teachers, speech and language pathologists, and school psychologists) and where they worked (small districts, medium sized districts, large districts) specific to compliance or implementation of the IDEA. Investigating research areas where little has been done or observed, I was interested in identifying salient themes, patterns, and interpretations that have relevance to

special education professionals. The study gathered and analyzed baseline data needed to understand the phenomena of IDEA compliance issues in Oregon as perceived by the participants.

RESEARCH DESIGN

This study used both qualitative and quantitative designs. The majority of the study is descriptive qualitative research, one that involves the collection of data in order to answer questions concerning a particular phenomenon. Qualitative research provides a holistic understanding of phenomena from the perspective of the participants (Gay, 1987). Open-ended questions from a multi-page mailed survey and focused interviews were used to obtain qualitative data (see Appendix B). A review of Oregon due process hearings and complaint investigations also provided qualitative data.

Participants completing surveys answered open-ended questions and ranked the difficulty of specific areas of the IDEA via a Likert scale. A review of Oregon due process hearings and complaint investigations allowed enumeration of litigated areas. From the interviews, a compilation was made of the areas identified as most difficult to implement. By comparing the survey rankings and the themes emerging from the interviews, responses on open-ended questions from the survey and the documents, similarities and differences were analyzed establishing a baseline of data.

DATA COLLECTION

Multiple methods in the data collection process included the use of surveys, semi-structured interviews, and document analysis. Using multiple methods of data collection is imperative when attempting to gain an understanding of the phenomena under investigation in qualitative research. Multiple methods of assessment (e.g., printed material combined with interviews and observations) serve as a strategy of triangulation in qualitative analysis increasing the credibility and trustworthiness of a study and helping to ensure construct validity (Bogdan & Biklin, 1998; Denzin, 1970; Lincoln & Guba, 1985; Patton, 1995). Data of qualitative inquiry from the words and behaviors of the participants involved in the data collection serve the goal of obtaining accurate and thick description of the phenomenological experiences of the participants (Lincoln & Guba, 1985).

Data collection allowed for quantitative analysis using ordinal ranking of responses, comparisons in perceptions of among the participants and comparisons of themes derived from documents with those of the participants. Also provided are statistical comparisons between participants from different specialties (special education teachers, speech and language pathologists, and school psychologists), with different amounts of experience and from different district sizes.

INCLUSION CRITERIA

Criteria for inclusion as a survey and interview participant in this research study included the following: 1) current employment as a special education teacher, speech and language pathologist, or school psychologist; 2) current employment with a school district or education service district in Oregon; 3) licensure in the area of practice; and 4) a willingness to participate in the study.

SURVEY

This study used mailed survey questionnaires. Surveys may be used when investigators are interested in understanding the perceptions of participants or learning how participants come to attach certain meaning to phenomena or events, thus allowing for collection of baseline data from a broad representative group (Bailey, 1997; Berg, 1995; and Salant & Dillman, 1994).

According to Bailey (1997), advantages of using mailed questions include: considerable savings of money and time, convenience to the participant, greater assurance of anonymity, standardized procedures for data gathering, no interview bias, and accessibility to participants from widely separated geographic areas. Primary disadvantages of using mailed questions are nonresponses, completion by individuals not intended to be part of the study, and collaboration in completion of the questions. Although not employed in this study, research has demonstrated that

the response rate to mailed surveys can be increased by the use of monetary gratuities (Hopkins & Gullickson, 1992), which I was unable to offer. Collection of specific demographic data addresses, in part, who is completing the form. This assumes honesty in completion by the participant. Careful analysis of answers to questions can identify unusual patterns of responses raising questions of collaboration among respondents and completion by unintended participants (Salant & Dillman, 1994).

Survey Participants

In 1997, approximately 2,700 special education personnel, not including administrative or support staff, were employed in Oregon (U.S. Department of Education, 2000, p. A213). Gay (1995) recommended a sampling of 10 to 20 percent of the population for descriptive studies. In this study, 300 participants (11% of the estimated population) received the questionnaire. The survey was developed and mailed to randomly selected special education teachers ($n = 200$), speech and language pathologists ($n = 70$), and school psychologists ($n = 30$) in Oregon school districts and education service districts. The ratio of mailings matched, roughly, the ratio of special education personnel based on job descriptors provided in the U.S. Department of Education (2000, p. A213) and student populations in each county (Oregon Department of Education, 2000).

Names of participants were obtained from district web sites, phone calls to districts, and names provided by the Oregon Council for Exceptional Children (OCEC), Oregon Speech and Hearing Association (OSHA), and Oregon School Psychologist Association (OSPA). Selection of participants was done by first pooling districts into county units then selecting addresses from those county units that roughly matched the state student population within that county. For example, approximately 19% of the student population attend schools within Multnomah County, therefore, 57 surveys were mailed to addresses in Multnomah County (38 targeted toward special education teachers, 13 to speech and language pathologists, and 6 to school psychologists). Participants were assured of complete confidentiality (see Appendix A).

Survey Design

Survey questions and the survey design were developed and reviewed by a small Delphi group of five special education teachers, three speech and language pathologists, and one school psychologist for clarity as recommended by Salant & Dillman (1994) and Adler & Ziglio (1996). A four point Likert scale (1 = not a problem, 2 = low, 3 = medium, 4 = high) was used to provide participants an opportunity to rank specific special education compliance areas based on perceived difficulty of implementation. The nine descriptors of compliance areas included in

the Likert scale were chosen by the Delphi group based on personal experiences and my review of the research on compliance.

Of particular interest is why certain procedures are difficult to implement and what might be done to make implementation (and compliance) less problematic. These topics were addressed using open-ended questions (see Appendix B). Additionally, the surveys sought a variety of data such as participant position, education, gender, and experience. To maintain participant confidentiality, there was no linkage between comments and individual participants or specific school, district, or county locations.

Once questions and the design were established, participants were mailed the survey with a cover letter (Appendix A) and stamped return envelope. For tracking purposes, each survey was numbered. From the first mailing, 165 surveys were returned and the corresponding participants' names were removed from the mailing list. One hundred thirty-five reminder letters (Appendix C) were sent to those who did not return the questionnaire within five weeks of the initial mailing. From the second mailing, 53 individuals responded. In total, 72.7% ($n = 218$) of the surveys were returned. Of the returned surveys, 169 surveys were usable (56.3%). Fifteen blank surveys were returned and 34 returned surveys were unusable because the individuals did not meet one or more of the participation criteria. Of those surveys completed by individuals not meeting participation criteria, 11 identified administrators, two were retired, eight private practice, one taught was a

private school teacher, eight were university professors/researchers and four worked in hospitals.

There was no pattern of nonrespondents based on geographic location (county). Every county was represented in the study via the survey process. Forty-five percent of targeted special education teachers did not respond. Thirty percent of the targeted speech/language pathologists did not respond and 70% of the targeted school psychologists did not respond.

INTERVIEWS

Using interviews as a data collection method captured the exact words and language used by the participants through audiotaping, transcription, field notes, and member checks. Due to the nature of the design, a semi-structured protocol was used for obtaining data (see Appendix F). The initial interview questions were intended to be broad and flexible in order to gain in-depth information regarding the opinions and experiences of the participants.

In an effort to determine if the interview questions would elicit focused responses, sample questions were presented to an independent panel of eight professionals in a Delphi format (Adler & Ziglio, 1996). The panel included three special education teachers, three speech and language pathologists, and two school psychologists. Interview questions were revised for clarity (Salant & Dillman, 1994).

Recruitment

A purposeful selection of participants provided rich information and specific insight into the participants' experiences as directed by the research questions (Bogdan & Biklin, 1998; Morse, 1998). Purposeful sampling used the notion of *information rich cases* so that a greater degree of depth could be obtained regarding the participants' experiences and the focus of inquiry (Lincoln & Guba, 1985; Patton, 1995). Sample size was related to the purpose of the inquiry, establishing a level of credibility, and more practically, what data could be gathered in a limited time and with available resources (Patton, 1995). The selection of participants attempted to get the most diverse group possible based on gender, years of experience, number and type of schools served, geographic location, and disabilities served.

Study participants were recruited through personal referrals from leaders of the Oregon Federation of the Council for Exceptional Children, the Oregon Speech and Hearing Association, and the Oregon School Psychologists Association. Participants were recruited from around the state using the same criteria as for the survey (noted earlier). Initially, 47 potential participants were identified and informed about the nature of the study (see Appendix D). Eleven individuals agreed to participate. The full range of school district sizes were represented including districts in the Portland metropolitan area, Willamette Valley, rural eastern Oregon,

and the southern coastal counties of Oregon. Participants provided written informed consent agreeing to participate in the study (see Appendix E).

Individual Interviews

Face-to-face interviews were conducted in locations that were private, comfortable, and convenient for the participants. At the beginning of the interview, I introduced myself, provided an outline of my background, discussed the study, and answered participant questions. Participants then were given time to read and sign the letter of consent. Interviews were audiotaped. I transcribed the audiotapes, verbatim. Transcriptions were offered to each participant to read and edit for meaning and clarity. Five participants requested transcripts. One participant requested minor editing of two possible identifying references. Those references were deleted from the comments used in this study.

Field Notes

Field notes were taken during and following each interview. This allowed me to record observations, thoughts, and insights throughout the process. Field notes served as an additional source of data increasing the trustworthiness of the study, as well as strengthening the validity and reliability of the data collection

process. Field notes were “mapped” into the transcripts as well as analyzed separately (Bogdan & Biklin, 1998; Lincoln & Guba, 1985; Patton, 1995).

DOCUMENTS

Documents were used as a source of data in this research study. The purpose of this aspect of the research was to provide comparisons between what participants describe as areas of difficulty and the areas most litigated based on a review of due process hearings and complaint investigations in Oregon. Bogdan and Biklen (1998) described three types of documents for data collection: 1) personal documents, 2) official documents, and 3) popular culture documents. Official documents were used exclusively in this study.

Initially, 199 complaint investigations filed from January 1998 through August 2001 were reviewed with 128 included in this study. Ninety-seven due process hearings filed from January 1999 through August 2001 were initially reviewed with 19 included in the study. Only due process hearings and complaint investigations that resulted in a final ruling were included in the study. This was done because cases that were dismissed or withdrawn did not include components needed for evaluation (e.g., allegations, facts, discussion, and decision). Documents were obtained from the ODE, OSE, in both hard paper copy and electronic format.

DATA ANALYSIS

Qualitative data analysis began following the collection of all documents, completion of all interviews, and four months after the initial mailing of the surveys. Analysis of surveys included ranking of responses to specific problem areas for comparison to other participants and with the documents. Open-ended questions were analyzed using a process of induction, utilizing the categorical procedures of grounded theory for coding purposes (Berg, 1995; Lofland & Lofland, 1995; Strauss & Corbin, 1990). Data was organized based on the participants' job description, years of experience, and size of district where they worked. Data was also organized and ranked across participant groups.

Analysis of interview data included interview transcripts and field notes. Interview transcripts were reviewed repeatedly and coded in the same fashion as the open-ended questions from the surveys (Berg, 1995; Lofland & Lofland, 1995; Strauss & Corbin, 1990). Perceived problem areas of the IDEA were counted and rank ordered by number of coded commonalities.

The documents were reviewed for specific areas of the IDEA that had been litigated. Documents also were analyzed for specific themes, language similarities, and references and then coded in a similar format as the open-ended questions from the surveys and interviews. Themes were delineated and rank ordered by number of occurrences (Berg, 1995; Lofland & Lofland, 1995; Strauss & Corbin, 1990).

After the documents, surveys responses, and interviews were analyzed separately, they were combined and coded again. Initial coding information focused on key words and phrases. In addition to general ideas generated from the literature, coding schemes emerged from the data. Within this first step, instances mentioned by participants on specific areas of the IDEA compliance and recurring themes from the documents were the major focus. The initial coding effort helped label, separate, and organize the data. A more focused coding strategy followed in which subcategories were developed within initial codes, ensuring that the codes adequately describe the data. Overarching themes and essential concepts were then identified (Miles & Nuberman, 1994).

The themes that emerged from survey respondents, based on their answers to what areas of the IDEA are problematic, included: least restrictive environment, evaluations, the individualized education program, parent involvement, meeting timelines, eligibility, obtaining parent consent, and discipline procedures. Terms referencing paperwork requirements, often mentioned in the survey responses, lacked sufficient details for analysis. It was possible that the Likert scale may have prompted survey participant answers on open-ended questions although the scale was presented after the questions. The same themes emerged from the written responses and the interviews and the ranking whereas the ranking of themes derived from the survey questions did not match the same order with those of the Likert scale.

Emergent themes from the interview participants included paperwork, placement issues (least restrictive environment), the individualized education program, evaluation, eligibility, and parent participation. The ability to probe interview participants allowed for richer information regarding paperwork.

Because I did not use a second rater in the coding process, a qualitative analysis software program, winMax, was used to assure reliability in coding. The program identified identical themes as the hand coding. The coding process, via winMax, was used eight months after hand coding was completed.

Themes derived from the due process hearings and complaint investigations paralleled those of the survey and interview results, but differed in their rankings. In the reviewed documents, the individualized education program was the most noted theme followed by least restrictive environment, evaluation, prior written notice, training of personnel, records, consent, independent education evaluations, discipline, extended school year, eligibility and parent participation.

Analysis of quantitative data included ordinal ranking of specific compliance issues from due process hearings and complaint investigations, ranking of problematic areas from the survey participants completion of the Likert scale, and ranking of compliance area themes, based on frequency of terms emerging the coding process of the survey participants' responses to open ended questions and interview participants' comments.

SPSS Version 10.1 for Windows was used to compute mean, standard deviation, analysis of variance, and the Mann-Whitney test for the study based on the Likert scale response. A comparison was made of the rankings between participant perceptions (interviews and surveys) and issues from due process hearings and complaint investigations. Differences seen in perceptions among participants, the ordinal ranking of issues among participants, and ranking of issues from documents were compared.

CONCLUSION

The purpose of this study was to examine implementation and compliance issues of the IDEA from the viewpoints of special education teachers, speech and language pathologists, and school psychologists. Using both qualitative and quantitative methods, the study expanded understanding of what areas of the IDEA are most problematic concerning implementation and/or compliance as viewed by the participants. By comparing the data collected, congruence between participant experience and opinion and what is being litigated was investigated. Additionally, since little is known of the perceptions about why certain provisions of the IDEA are difficult to implement, this study provided an initial understanding of the issues from the perspective of the policy intermediaries. In the attempt to understand the complexity of these issues, an exploratory research design and analysis were warranted.

CHAPTER 4: SURVEY RESULTS

The purpose of this study was to describe the perceptions of special education service providers regarding compliance with and implementation of the IDEA. Data were collected from survey responses completed by Oregon speech and language pathologists, school psychologists, and special education teachers; interviews with selected speech and language pathologists, school psychologists, and special education teachers; and a review of due process hearing results and complaint investigation results. This study addressed five questions:

1. What area(s) of the IDEA do special education teachers, speech and language pathologists, and school psychologists find most difficult to implement and why?
2. What recommendations do special education teachers, speech and language pathologists, and school psychologists offer to make compliance with and implementation of the IDEA less problematic?
3. Are there differences in responses based on the participants' job description, the participants' years of experience, and size of district where they worked?
4. What are the compliance areas of IDEA that result in due process hearings and complaint investigations in Oregon?

5. Do the special education teachers, speech and language pathologists, and school psychologists identify problematic implementation and/or compliance with the same areas of IDEA that are identified in Oregon due process hearings and/or complaint investigations?

This chapter addresses the first three questions as reported by survey participants. Chapter 5 also addresses the first three questions as reported by interview participants. In chapter 6, Document Results, the last two questions are addressed. An overview of the survey responses are described followed by information on participants' job description, years of experience, and size of district where they worked. The results from the first three research questions are organized by themes derived from the grounded theory analysis.

SURVEY RESPONSES

Surveys were mailed to 300 individuals. In total, 72.7% (n = 218) of the surveys were returned. Of the returned surveys, 169 surveys were usable (56.3%). Usable surveys were completed by 111 special education teachers (65.7%), 49 speech and language pathologists (29%), and 9 school psychologists (5.3%). Of those identifying themselves as special education teachers, seven identified themselves as early childhood special educators and grouped accordingly because of the unique qualities of their responses.

The participants represented a relative approximation of the population of targeted special education providers of whom 67% are special education teachers, 23% are speech and language pathologists, and 10% are school psychologists (U.S. Department of Education, 2000).

PARTICIPANT DEMOGRAPHICS

Females represented 75.7% of the participants ($n = 128$). Males represented 24.3% ($n = 41$). The majority of participants held master's degrees ($n = 160$). Five held a bachelor's degree with specific endorsements (e.g., teacher of the deaf/hard of hearing). Two participants held doctorates. Two participants did not respond to this item but indicated certification as handicapped learner specialists. Forty-nine participants were licensed as speech language pathologists, nine as school psychologists, and 111 held handicapped learner/special education endorsements. Ten participants held two endorsements (e.g., handicapped learner and school psychologist).

Years of experience, as reported by participants, varied from 1 to 30 years and are summarized in Table 3. Those working in early childhood special education (ECSE) programs had the least amount of experience.

Table 3. Survey Participants' Years of Experience

Participant	n	M	Range	SD
Teachers	104	14.1	1 - 30	9.17
Speech & Language Pathologists	49	14.0	1 - 29	8.49
School Psychologists	9	13.9	5 - 24	6.13
Early Childhood	7	5.3	2 - 9	6.13
Total	169	13.7	1 - 30	8.79

Note. (n = 169).

Most survey participants (n = 158) provided information regarding the ages/grade served as summarized in Table 4.

Table 4. Ages/Grades Served by Survey Participants

Age/grade levels served	n
Ages 3 – 5	8
K – 5	10
K – 6	70
K – 8	20

Table 4. (continued) Ages/Grades Served by Survey Participants

Age/grade levels served	n
6 – 8	22
9 – 12	19

Note. (n = 158)

Only 113 survey participants listed the disability conditions the children they served had as summarized in Table 5.

Table 5. Types of Disabilities Served by Survey Participants

Type of disability served	n
Speech and Language Only	13
Speech and Language, Mental Retardation, Autism & Learning Disabled	18
Behavior/Emotional Disorder	16
Hearing Impaired	1
Visually Impaired	1
All Disabilities	64

Note. (n = 113).

School districts vary in size across the state (Oregon Department of Education, 2000). Two-thirds of the districts (66.4%) in Oregon serve 2000 or fewer students. The majority of students (70.4%) are served by 18.3% of Oregon districts ($n = 36$). Smaller districts are not necessarily located in isolated rural areas just as larger districts are not exclusive to the northwestern population center of Oregon. Table 6 provides a summary of district sizes based on student enrollment and the percent of students served by those districts. No data are available in respect to the number of students served in early childhood special education (ECSE) programs by education service districts.

Table 6. District Size by Student Enrollment in Oregon

Size (number of students enrolled)	Number Districts	Percent of Districts	Percent of Students Served
<1000 - 3000	148	75.6%	21.8%
3000 - 5000	19	9.7%	13.4%
5000+	29	14.7%	64.8%

Note. (Oregon Department of Education, 2000)

All district sizes were represented by the participants as summarized in Table 7. Early childhood special education teachers all worked for education service districts. Based on percentage of students served by the district, there was

an over-representation of participants from small and medium sized districts (3000 or fewer students and 3000 to 5000 students respectively). The largest districts with more than 5000 students were under-represented in this survey.

Table 7. Participants by District Size (number of students)

District Size	Number of Participants	Percentage Of Study Sample
3000 or fewer	51	31.5
3000 to 5000	47	27.8
More than 5000	64	37.9
Education Service Districts	7	4.1

Most participants ($n = 151$) provided brief descriptions of job duties. These duties included testing (93%), consulting (91%), case management (70%), teaching special education classes (56%), providing speech and language therapy (27%), supervision of paraprofessionals (4%), psychological counseling (3%), and teaching in general education (2%). Only speech and language pathologists provided speech and language therapies while school psychologists were the only group indicating psychological counseling duties.

RESULTS BY THEMES

Overall, major themes that emerged in the study from all data sources were: paperwork demands, least restrictive environment, the individualized education program, evaluation, eligibility, prior written notice requirements, and parent participation. Results differed among data sources. Differences were also evident in how survey participants responded to the open-ended questions and how they responded on the Likert scale.

Participants provided two measures of response to the first research question: What area(s) of the IDEA do special education teachers, speech and language pathologists, and school psychologists find most difficult to implement and why? Participants answered open-ended questions and completed a Likert scale (discussed later) specific to implementation of specific areas of the IDEA.

From the survey, 95 percent ($n = 160$) of the participants answered the first open-ended question, "In your opinion and experience, what area(s) of the IDEA are most difficult to comply with?" By far, the response "paperwork" was given most often to question one and was the highest ranked "theme" from this data source. The paradox in this theme is that compliance with the IDEA is largely measured by documentation of procedures and services via the completion of various paper forms. It was impossible to gain specifics from surveys unless the participant provided some written explanation. "Paperwork," "overwhelming amount of paperwork," "redundant paperwork," and "ridiculous amount of

paperwork” were typical responses. Paperwork was not analyzed as a separate theme because of the lack of more amplified participant discussion.

The majority of area-specific responses were three to five words in length with little elaboration. Those giving longer responses provided significant insight. All participants discussed two or more compliance areas of the IDEA in response to the first open-ended question. Areas of concern, by frequency of terms, included: Least Restrictive Environment ($n = 109$), Evaluations ($n = 83$), Individualized Education Programs ($n = 77$), and Parent Involvement ($n = 59$). Other areas of concern included meeting timelines ($n = 17$), eligibility ($n = 13$), obtaining parent consent ($n = 9$), and discipline procedures ($n = 4$).

Outside of the least restrictive environment (LRE) issue, participants were inconsistent in their written responses to the open-ended questions and their rankings on the survey’s Likert scale. On the Likert scale, participants rated least restrictive environment (LRE) as the most difficult area of IDEA to implement, matching their written responses. In their ratings of the compliance issues, LRE was followed by parent involvement, evaluation, written notice, the individualized education program, meetings, eligibility, discipline, and child find. This contrasts to written responses ranking evaluations, the IEP, and parent involvement as top concerns after LRE. Survey participants’ rankings of problematic compliance areas, based on their responses to the Likert scale, are presented in Table 8.

Table 8. Participants' Rankings of Problematic IDEA Compliance Areas

Area	M	SD
Least Restrictive Environment	2.49	.99
Parent Involvement	2.46	1.02
Evaluation	2.43	1.05
Written Notice	2.30	.97
Individualized Education Program	2.23	.99
Meetings	2.22	.99
Eligibility	2.18	.96
Discipline	2.06	.94
Child Find	2.03	1.01

Note. (n = 169). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Theme 1 - Least Restrictive Environment

Based on the responses to the Likert scale and answers to the open-ended question, the majority of survey participants indicated "Least Restrictive Environment" or "Placement" as the most difficult area of IDEA compliance. As a group, those providing Early Childhood Special Education (ECSE) services expressed the greatest concerns in this area. All eight ECSE teachers spoke to the

problem of not having enough certified community preschools or other appropriate placement options. One participant stated, "There is only one accredited preschool in our area, so having options for LRE outside of self contained peer models or Head Start are very limited." Even in suburban areas (based on additional information from this participant), the problem of appropriate placement options was expressed. "For preschool children, this is very difficult as there are very few appropriate preschools here and all have waiting lists for placing kids."

Those working with school age children also expressed appropriate placement and LRE as the most problematic concern. Inclusion in regular education settings was often mentioned. One participant wrote, "Finding inclusion opportunities for severely impaired kids that meet their needs and are staffed by tolerant, progressive teachers" as a major concern. The sentiment of "tolerant staff" was expressed by a number of teachers, and was stated by one participant, "The law must be obeyed, but it really depends on who wants the student in the classroom to start with."

There is a suggestion that larger school districts have more placement options and, thus, teachers from these districts expressed less concern. "This is my first year in the district. I came from a very small district. I'm amazed how many options for placement we have here. If a student needs a day treatment environment, it only takes a few days to make those arrangements. I love it."

Speech and language pathologists and school psychologists survey participants ranked the LRE issue as somewhat problematic on the Likert scale but, with the exception on one participant, did not discuss the concern in their written responses.

Theme 2 - Parent Participation

There are specific provisions in the IDEA for “parent participation” in the decision-making process involving the special education of their child. Although participants ranked parent participation second on the Likert scale, the area was ranked fourth based on written comments. Most participants cited “nonparticipation” as the single most problematic issue specific to the area of parent participation. A speech and language pathologist stated, “We often invite parents and they just don't show up. I'd much rather work with an actively involved, well-informed parent than one who just doesn't care. Having parents involved at meetings and in the special education process usually means the parent can be counted on to assist in interventions. The student benefits.” A teacher from a district of 4000 to 5000 students commented on lack of parent participation, stating, “It is tough when parents don't show up to meetings. Even with new rules saying all we have to do is invite, parents insist on having their say. They get upset when we carry on with a meeting and demand new meetings, then, again, don't show up.” Another participant noted, “At the high school level, parents are seldom seen in the

building at anytime, let alone during IEP meetings. Students don't even attend their own IEP meetings.”

Other participants provided some insight from a parent's point of view. A participant illustrated this view, stating, “Parents are scared of the process. We have three to seven district people sitting at the table with one parent. I'd be scared too. I try to meet with parents prior to formal meetings to let them know what will happen and to encourage their participation.”

Finally, a common theme in the area of parent participation was that of “confrontation” as noted by this respondent, “With the new law, parents think they have more power to demand all services for their child. I know it is not their 'right' but a team decision. It is tough to get my principal to understand that the parent is not the demander only a participant.”

Theme 3 - Evaluations

“Evaluation” was the third most identified area of concern. The most surprising responses come from the smallest districts regarding medical components of evaluations. A special education teacher from a small district (2000 – 3000 students) wrote, “Getting evaluations completed on time. Our major problem is with ADHD¹. We don't have a doctor within 100 miles that really knows

¹ Attention Deficit Hyperactive Disorder

anything about ADHD. The doctor in town just prescribes medication if the parent asks. We need good medical evaluations. CDRC² is 9 hours away.” A speech and language pathologist from a small district (1000 – 2000 students) shared the same issue. “I see kids with hearing problems that I would like an ENT³ doctor to see. We’d have to send them to [city] 70 miles away and wait up to three months for an appointment. The school district won’t pay for it. So, we rely on the local general practice doctors.”

One area of IDEA specific to evaluation is that students be evaluated in all areas of suspected disability. Two ECSE teachers provided counter points to this issue. One participant suggested that the requirement was too broadly applied in her work environment. “ECSE automatically requires evaluation in all developmental areas even when there are no concerns in a specific domain.”

A second participant provided a different view:

What does it really mean to “evaluate in all areas of suspected disabilities?” We don’t do it. We give the same battery of tests to each child referred. We don’t even look at the referring question. So, unless the child is obviously physically handicapped or is sensory impaired, all our children are either developmentally delayed or communication disordered. I try to bring this up at our staff meetings, but my supervisor says it’s the best we can do.

A school psychologist, addressing the issue of evaluation of all areas of suspected disability, stated, “Testing time - adequate time to test will insure quality

² Child Development and Rehabilitation Center, Oregon Health Sciences University, Portland, Oregon

³ Ear-nose-throat

eligibility statements and appropriate services. 'Down and dirty' just doesn't cut it! We're sometimes forced to cut corners, provide the minimum to get by." The same participant also expressed a concern regarding the provisions of nonbiased assessments for children with English as a second language and children from different cultures. "It is difficult isolating environmental/cultural differences from handicapping/disability criteria and identifying students from non-mainstream backgrounds," wrote one participant.

More than one participant indicated a lack of knowledge, experience, or training in evaluation procedures. One stated, "I feel I'm not always the best trained person to evaluate kids. There's rumors resource teachers will have to give the WAIS⁴ in this district."

Theme 4 - Individualized Education Programs

Many wrote "IEP" in response to question one, "what area(s) of the IDEA are most difficult to implement and why?" Few expanded on the issue and those who did provided a variety of different views. The IEP is a complex requirement of the IDEA and, as noted in the literature review and later in the results of the review of documents, is the number one litigated component of the IDEA. Comments regarding the IEP varied but generally fell into four areas: meetings, writing goals,

⁴ Wechsler Adult Intelligence Scale

implementation, and progress reports. The IEP meeting was the area on which most participants elaborated.

Convening meetings, specific to the development or revision of the IEP, was seen as problematic. "Having all required participants at meetings" was a theme that repeatedly occurred. Many participants also found the number of meetings problematic. "Having to reconvene the IEP team to make any changes in the IEP or placement" and "I have found that the requirements for IEP team meetings for seemingly 'every little thing' are especially burdensome" represent typical participant comments.

Many participants commented on the difficulty with writing goals and objectives. A speech and language pathologist wrote, "Stating special education and related services on the IEP so they are understandable" in response to the question. A teacher with the primary responsibility of providing and overseeing transition services to high school students described, "Trying to write measurable goals for living skills with measurable outcomes..." as problematic. Writing "general curriculum" goals was also seen as problematic. Many special education teachers included "writing and meeting CIM⁵ goals" in their comments.

The major issue around implementation of the IEP concerned the involvement of other school personnel, outside agencies, and other service

⁵ Certificate of Initial Mastery. The certificate given when a student demonstrates mastery of basic performance standards in content areas via submitted work samples and testing.

providers. The transition teacher, mentioned earlier, found “finding appropriate related services then, once found, actually getting them implemented through the life of the IEP is very difficult.” Many teachers and speech and language pathologists commented on issues involving general education teachers. “I also find many general education teachers are not trained to modify, accommodate, and differentiate curriculum,” offers one illustration of the issue. “Having time to train and support teachers in modifying curriculum/teaching and accommodating students in the regular classroom,” was also a common theme expressed by participants. Others reported that providing “specially designed instruction in the regular classroom” as problematic.

Finally, participants found the requirement of sending out progress reports “at least as often as [grade] reports are sent to nondisabled students” problematic. Obtaining progress data was seen as an issue as noted by the comment of a special education teacher. “My district requires that we get ‘progress reports’ from every teacher every six weeks, asking just for evaluation of each [special education] student's progress on the IEP goals. The district says this is a requirement of the IDEA. We also are required to give grades every six weeks.” Also illustrative of the data collection issue regarding both implementation and progress reports, one participant wrote, “Time consuming, but worthwhile. Trying to record quarterly on each IEP goal for each student has added significant time requirements. This does get communication going between regular education teachers and special education

teachers, but some teachers have to be repeatedly reminded to submit current writing and math samples.”

WHY AREAS ARE DIFFICULT TO IMPLEMENT

Question two of the survey, addressing the second part of the first research question, asked, “Why is this area (are these areas) difficult to comply with and/or implement?” Only 87 participants (49%) completed this part of the survey. Most responses were very short answers of one to five words. The may be due the time of year and amount of paperwork required to complete by the end of the school year.

Of the 87 responses, 46 of the participants identified “large caseloads” and “overwhelming paperwork” followed by lack of placement options ($n = 31$), lack of money ($n = 29$), and lack of trained staff ($n = 15$). Some participants provided answers that were more detailed although they constituted single response within secondary themes. Those comments included:

“Huge gap between those who make the law and those who actually work with the children. The law makers don't understand the educational process, how schools work, and what teachers do on a daily basis.”

“Medical services are difficult to access and pay for. Most of our students are not covered by insurance and doctors don't see kids on the Oregon medical plan.”

“Regular education teachers already have so many demands on their time, they resist IEP meetings.”

“The process is too complex. One needs a rulebook to follow. At a law conference I went to, an attorney joked, ‘Don’t try this at home.’”

“Administrators do not push issues or stand ground because they fear lawsuits.”

“With the rush to complete forms, I forget to check a box even though I did the task.”

While most responses were short, one participant provided a lengthy opinion on implementation barriers:

The success or failure of the IDEA comes down to support - administrative and parental. Special education directors may or may not be knowledgeable about special ed. I have worked for someone whose position was a stepping-stone to superintendency. He didn't know squat about special ed., so he was completely dependent on his secretary for help. He was more concerned with keeping other administrators happy and moving on than with developing a successful program, so there was a lot of talk about doing things for kids, but not much action. I now work for a special ed. director who has experience as a special ed. teacher. There is a level of understanding and support she is able to provide, that her predecessor was unable to.

Building administrators may or may not be knowledgeable and caring about special ed. matters. I've worked for a principal who was ignorant about special ed., and so focused on high achieving students that special ed. kids were really not her concern. Unfortunately, building administrators aren't really accountable to special ed. directors, so unless the superintendent gets involved, a building administrator can get away with doing little or nothing for special ed. kids. This becomes a big issue when you're trying to mainstream kids, and staff aren't supportive because they know the

principal won't do anything. Big frustration to the special ed. teacher!

The success of the student is so dependent on parental support. I have some parents who attend IEP meetings, and some who just can't seem to keep an appointment. Some parents value reading and read to their kids; others don't. Some have figured out that their kids need more help - cleaning out the backpack, organizing the binder, turning off the TV; others see it as something the kid needs to do himself, teacher should do for him, or just don't think about it. As much as the school might try to "parent" the kid, we can't. Kids without that support at home really suffer.

REASONABLE RECOMMENDATIONS

The last open-ended question on the survey asked, "What recommendations or solutions would you suggest to make implementation/compliance realistically less problematic?" This question was answered by 43% of the participants (n = 76). An answer pattern similar to questions one and two was evident. Typically, one to seven-word responses were made. The following suggestions were typical of those responding:

- Lower/smaller caseloads (n = 70)
- More money/full funding of IDEA (n = 55)
- Require districts to use only state forms (n = 38)
- More technical support from the ODE (n = 20)
- More specific guidelines from ODE (n = 10)
- Federally mandated forms (n = 2)

Seven participants found that the paperwork demands have become less burdensome because of the recent use of computer software (Records Manager or RECMAN). This program permits the user to input student demographic data that

are then placed on all subsequent special education forms from initial referral through the IEP and placement process. The software also has a goal and objectives bank which assists in writing the individualized education program.

RESPONSE DIFFERENCES

Specific to the question of what areas of the IDEA are most problematic to implement, differences were evident in the responses given by specialist groups and participants from different district sizes. Teachers, as the largest cohort, influenced the overall results although the order of their ratings differed from that of the combined survey population. Teachers rated evaluation as the most problematic area of IDEA to implement followed by least restrictive environment, meetings, and parent involvement. Teachers' ratings of compliance issues are summarized in Table 9.

Table 9. Teachers' Ranking of IDEA Compliance Areas

Area	M	SD
Evaluation	2.73	1.00
Least Restrictive Environment	2.56	1.15
Meetings	2.46	1.00

Table 9. (continued) Teachers' Ranking of IDEA Compliance Areas

Area	M	SD
Parent Involvement	2.46	1.05
Individualized Education Program	2.41	.89
Written Notice	2.34	1.05
Discipline	2.25	.93
Eligibility	2.15	1.049
Child Find	2.11	1.060

Note. (n = 102). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

In their written comments, participants' report of least restrictive environment was the area most often mentioned (n = 85), followed by evaluation (n = 70), the IEP (n = 66), and parent involvement (n = 35). In their written comments, teachers from the larger school districts (3,000 or more students) expressed more concern about parent involvement than those from the smaller districts.

Based on the Likert scale responses, speech and language pathologists ranked parent involvement as most problematic. In contrast, in their written comments, speech and language pathologists addressed LRE more often (n = 18)

than any other area. Their expressed LRE issues were similar to those expressed by other participants.

Unlike responses from other specialist cohorts, speech and language pathologists were more concerned with parents being involved so that parents could provide supportive therapy at home rather than a total lack of parent involvement as mentioned by others. "If we could get parents to give feedback on a regular basis regarding their child's speech behaviors, we'd have a better picture of how the child is progressing in all his environments," wrote one speech and language pathologist. The participant continued, "...[It] seems when the child gets older, parents lose interest, or hope, in the remediation process. It's easy to understand when we've worked on the problems for six or seven years with what might appear minimal progress."

Eligibility, rated third most difficult to implement by speech and language pathologists, generated nine written comments from this cohort. Unique to speech and language pathologists was the theme of "a true the team decision process in eligibility determination." One pathologist stated that team relied on her to provide a "yea or nay decree" regarding the eligibility of any given student. Other comments addressed the over-reliance of standardized tests in the decision making process. "Students may do relatively well on tests but have a heck of a time in classes and at home. These kids are not identified when they would benefit from just a few hours of service each month. Teachers would see an increase in the

student's vocabulary and organization. My services would help them in the language arts and might prevent future referrals for academic concerns in third or fourth grade," wrote one participant. Table 10 summarizes the ranking of compliance issues by speech and language pathologists.

Table 10. Speech and Language Pathologists' Ranking of IDEA Compliance Areas

Area	M	SD
Parent Involvement	2.55	.93
Least Restrictive Environment	2.30	1.04
Eligibility	2.26	.86
Written Notice	2.12	.85
Child Find	1.98	.98
Meetings	1.77	.84
Individualized Education Program	1.73	1.03
Evaluation	1.71	.89
Discipline	1.59	.81

Note. (n = 49). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

School psychologists rated the individualized education program and discipline equally as number one issues, followed by equal ratings of least restrictive environment and written notice as number two, noted in Table 11.

Table 11. School Psychologists' Ranking of IDEA Compliance Areas

Area	M	SD
Discipline	2.66	1.00
Individualized Education Program	2.66	1.00
Written Notice	2.55	.52
Least Restrictive Environment	2.55	.52
Parent Involvement	2.44	1.01
Evaluation	2.00	.70
Eligibility	2.00	.70
Meetings	1.77	.66
Child Find	1.55	.72

Note. (n = 9). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Written comments regarding discipline came exclusively from school psychologists. One participant wrote, "The process of conducting a manifestation

determination⁶ is time consuming, and, at best, guess work.” Expressed discipline issues included implementation of behavioral programs, goals, objectives, and services as well as due process in disciplining students who violate school rules.

“I think of one student,” writes one school psychologist specific to the behavior plan of the IEP, “and the difficulty we’ve had in implementing any part of the IEP with consistency. Teachers don’t get it, parents don’t get it, and, worse [sic] of all, administrators don’t get it. It has been hit and miss for years now and it’s a firefight when things go wrong. If the IEP were consistently implemented, I don’t think we’d have any problems with the kid.”

One school psychologist wrote, “I worry about serial suspensions. I’m not clear about the legality of such discipline actions but don’t really have a say in the administrative decision.”

Those working in ECSE programs rated least restrictive environment as most problematic followed by equal ratings of evaluation and written notice. In their written comments, all eight participants mentioned lack of placement options as problematic. As noted earlier, issues around evaluation were also mentioned. No written comments were made regarding written notice outside of the generic use of the word “paperwork.” Table 12 summarizes ratings by participants working in ECSE programs.

⁶ A process conducted by the IEP team (along with other necessary qualified personnel) to investigate whether there is a relationship between the student’s action(s) of concern and his/her disability. The team must decide whether the student’s action(s) were a reflection of his/her disability or perhaps the result of it.

Table 12. Early Childhood Special Education Specialists' Ranking of IDEA Compliance Areas

Area	M	SD
Least Restrictive Environment	2.87	.83
Written Notice	2.75	.70
Evaluation	2.75	1.16
Individualized Education Program	2.62	.91
Meetings	2.50	1.06
Eligibility	2.37	.74
Parent Involvement	2.25	.70
Child Find	1.87	.64
Discipline	1.75	.70

Note. (n = 7). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Statistical Analysis Based on Participant Discipline

A one-way analysis of variance (ANOVA) was used to assess whether or not differences in the perceptions of Oregon special education teachers, speech and language pathologists, school psychologists, and early childhood special educators were statistically significant. Table 13 details the results of the analysis of variance

based on grouping by cohort (special education teachers, speech and language pathologists, school psychologists, and early childhood special educators).

Table 13. Results of One-Way Analysis of Variance for Rankings by Survey Participants (Special Education Teachers, Speech and Language Pathologists, School Psychologists, and Early Childhood Special Educators)

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
CF	Between	3.11	3	1.03	1.00	.39
	Within	170.67	165	1.03		
	Total	173.78	168			
PI	Between	1.11	3	.37	.34	.79
	Within	176.95	165	1.07		
	Total	178.07	168			
ELIG	Between	.79	3	.26	.28	.84
	Within	156.51	165	.94		
	Total	157.31	168			
EVAL	Between	28.88	3	29.62	10.14***	.001
	Within	156.58	165	.94		
	Total	185.46	168			

Table 13. (continued) Results of One-Way Analysis of Variance for Rankings by Survey Participants (Special Education Teachers, Speech and Language Pathologists, School Psychologists, and Early Childhood Special Educators)

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
IEP	Between	18.04	3	6.01	6.68***	.001
	Within	148.48	165	.90		
	Total	166.53	168			
LRE	Between	3.64	3	1.21	1.01	.38
	Within	196.60	165	1.19		
	Total	200.24	168			
DISC	Between	18.09	3	6.03	7.52***	.001
	Within	132.19	165	.80		
	Total	150.28	168			
MEET	Between	17.80	3	5.93	6.54***	.001
	Within	149.64	165	.90		
	Total	167.45	168			

Table 13. (continued) Results of One-Way Analysis of Variance for Rankings by Survey Participants (Special Education Teachers, Speech and Language Pathologists, School Psychologists, and Early Childhood Special Educators)

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
WN	Between	3.54	3	1.18	1.24	.29
	Within	156.45	165	.94		
	Total	160.00	168			

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

*** $p < .001$

The ANOVA demonstrated significance in four compliance areas based on Likert scale responses. These areas include evaluation ($F(3, 165) = 10.14, p < .001$), the individualized education program ($F(3, 165) = 6.68, p < .001$), discipline ($F(3, 165) = 7.52, p < .001$), and meetings ($F(3, 165) = 6.54, p < .001$).

The Mann-Whitney U test is a non-parametric technique based on the idea that there will be considerable intermingling of rankings when the scores of two similar groups are ranked together (Popham & Sirotnik, 1992). In other words, the Mann-Whitney test compares two samples for possible significant differences

(Tuckman, 1994). This study used the procedure to compare the Likert scale rankings of the participants (special education teachers, speech and language pathologists, school psychologists, and early childhood special educators).

When the responses of special education teachers were compared to speech and language pathologists, significant differences were demonstrated in the rankings of evaluation, individualized education programs, discipline, and meetings. When the responses of special education teachers were compared to school psychologists, significant differences were demonstrated in the rankings of evaluation meetings. No significant differences were demonstrated between the responses of special education teachers compared to early childhood special educators. Table 14 details the differences found between special education teachers and other survey participants.

Table 14. Results of Mann-Whitney U Test of Rankings by Special Education Teachers Compared to Speech and Language Pathologists, School Psychologists, and Early Childhood Special Educators

Area	Assumed Significance (2-tailed)		
	Special Education Teachers v. Speech and Language Therapists	Special Education Teachers v. School Psychologists	Special Education Teachers v. Early Childhood Special Educators
CF	.50	.13	.66
PI	.57	.47	.71
ELIG	.36	.81	.60
EVAL	.001***	.02*	.91
IEP	.001***	.44	.63
LRE	.15	.86	.54
DISC	.001***	.22	.27
WN	.24	.51	.35
MEET	.001***	.04*	.97

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

* $p < .05$, two-tailed. *** $p < .001$, two-tailed.

Significant differences were demonstrated in the ranking of the individualized education programs ($p = .01$) and discipline ($p = .002$) between the responses of speech and language pathologists and those of school psychologists. When compared to early childhood special educators, a significant difference was demonstrated in evaluation ($p = .02$). Table 15 details the differences found between speech and language pathologists and school psychologists and early childhood special educators.

Table 15. Results of Mann-Whitney U Test of Rankings by Speech and Language Pathologists and Those of School Psychologists and Early Childhood Special Educators

Area	Assumed Significance (2-tailed)	
	Speech and Language Pathologists	Speech and Language Pathologists
	v. School Psychologists	v. Early Childhood Special Educators
CF	.25	.91
PI	.32	.46
ELIG	.35	.95
EVAL	.45	.02*
IEP	.01**	.18
LRE	.33	.16

Table 15. (continued) Results of Mann-Whitney U Test of Rankings by Speech and Language Pathologists and Those of School Psychologists and Early Childhood Special Educators

Area	Assumed Significance (2-tailed)	
	Speech and Language Pathologists	Speech and Language Pathologists
	v. School Psychologists	v. Early Childhood Special Educators
DISC	.002**	.30
WN	.12	.10
MEET	.82	.11

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

* $p < .05$, two-tailed. ** $p < .01$, two-tailed.

No significant differences were demonstrated in the rankings of school psychologists when compared to early childhood special educators. Table 16 details the differences found between school psychologists and early childhood special educators.

Table 16. Results of Mann-Whitney U Test of Rankings by School Psychologists Compared to Early Childhood Special Educators

Area	Assumed Significance (2-tailed)
School Psychologists v. Early Childhood Special Educators	
CF	.35
PI	.64
ELIG	.41
EVAL	.16
IEP	.86
LRE	.52
DISC	.09
WN	.72
MEET	.20

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

Statistical Analysis Based on Participant Experience

Survey participants were placed into four categories to determine if there were differences in responses based on experience. Forty-three had one to

five years of experience, 38 had six to 10 years of experience, 46 had 11 to 19 years of experience, and 42 had 20 or more years of experience. No significant differences were demonstrated based on the amount of experience.

Statistical Analysis Based on Participants from Different District Sizes

Participants from districts with 3,000 and fewer students rated least restrictive environment more problematic compared to ratings from participants in larger districts (districts with 3000 or more students). Participants from the largest districts, those with 3,000 or more students, rated parent involvement as more problematic. In the analysis of written responses, more comments on least restrictive environment came from participants of smaller districts ($n = 53$). There were no patterns of comments in other compliance areas based on district size. Table 17 summarizes the ratings of compliance areas based on districts with fewer than 3000 students.

Table 17. Ranking of IDEA Compliance Areas, Districts with Fewer Than 3000 Students

Area	M	SD
Least Restrictive Environment	2.92	.99
Written Notice	2.58	.96
Eligibility	2.49	1.02
Evaluation	2.41	1.00
Individualized Education Program	2.17	1.03
Child Find	2.15	.90
Meetings	2.09	.98
Parent Involvement	1.98	.88
Discipline	1.98	.98

Note. (n = 51). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Table 18 summarizes the ratings of compliance areas based on districts with 3000 to 5000 students. Whereas participants from smaller districts (3000 or fewer students) ranked parent involvement eighth out of nine, participants working in districts with 3000 to 5000 students ranked parent involvement as the most

problematic compliance area. Least restrictive environment ranked second followed by written notice.

Table 18. Ranking of IDEA Compliance Areas, Districts with 3000 to 5000 Students

Area	M	SD
Parent Involvement	2.51	1.12
Least Restrictive Environment	2.44	1.03
Written Notice	2.27	.90
Eligibility	2.23	.93
Child Find	2.19	1.05
Evaluation	2.14	1.14
Individualized Education Program	2.08	1.08
Discipline	2.00	1.00
Meetings	2.00	1.04

Note. (n = 47). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Table 19 summarizes the ratings of compliance areas based on districts with 5000 or more students. As with the ranking by participants from districts with 3000 to 5000 students, parent involvement ranked most problematic for participants from

largest districts. Least restrictive environment dropped to sixth in ranking compared to first by participants from districts with fewer than 3000 students and second by participants from districts with 3000 to 5000 students.

Table 19. Ranking of IDEA Compliance Areas, Districts with 5000 or More Students

Area	M	SD
Parent Involvement	2.84	.94
Evaluation	2.62	.96
Meetings	2.46	.92
Individualized Education Program	2.35	.89
Discipline	2.20	.89
Least Restrictive Environment	2.15	1.11
Written Notice	2.06	1.00
Eligibility	1.89	.89
Child Find	1.84	1.08

Note. (n = 64). Four-point Likert scale (1 = not a problem, 2 = low problem, 3 = medium problem, 4 = high problem).

Based on the size of district where they work, significant differences were demonstrated in the areas of parent involvement ($F(2, 161) = 11.02, p < .001$), eligibility, ($F(2, 161) = 5.20, p < .004$), least restrictive environment ($F(2, 161) = 7.47, p < .001$), written notice ($F(2, 161) = 4.23, p < .016$), and meetings ($F(2, 161) = 3.64, p < .028$). Participants from education service districts, all early childhood special educators, were excluded from the sample because “district size” could not be determined. Table 20 details the results of the analysis of variance based on survey participants grouped by district size.

Table 20. Results of One-Way Analysis of Variance for Rankings by Survey Participants Grouped by District Size

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
CF	Between	4.23	2	2.11	2.02	.13
	Within	166.45	159	1.04		
	Total	170.69	161			
PI	Between	21.23	2	10.61	11.02***	.001
	Within	153.16	159	.96		
	Total	174.40	161			

Table 20. (continued) Results of One-Way Analysis of Variance for Rankings by Survey Participants Grouped by District Size

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
ELIG	Between	10.40	2	5.20	5.76**	.004
	Within	143.40	159	.90		
	Total	153.80	161			
EVAL	Between	6.14	2	3.07	2.88*	.06
	Within	169.31	159	1.06		
	Total	175.45	161			
IEP	Between	2.19	2	1.09	1.10	.33
	Within	157.80	159	.99		
	Total	160.00	161			
LRE	Between	16.70	2	8.35	7.47***	.001
	Within	177.74	159	1.11		
	Total	194.44	161			
DISC	Between	1.77	2	.88	.96	.38
	Within	145.34	159	.91		
	Total	147.11	161			

Table 20. (continued) Results of One-Way Analysis of Variance for Rankings by Survey Participants Grouped by District Size

Area	Source	Sum of Squares	df	Mean Square	F	Sig.
WN	Between	7.85	2	3.92	4.23**	.01
	Within	147.50	159	.92		
	Total	155.36	161			
MEET	Between	6.99	2	3.49	3.64*	.02
	Within	152.44	159	.95		
	Total	159.43	161			

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

* $p < .05$. ** $p < .01$. *** $p < .001$

The Mann-Whitney U Test demonstrated significant differences in the responses of survey participants from districts with 3000 or fewer students and those from districts with 3000 to 5000 students in the areas of parent involvement and least restrictive environment. When compared to responses from participants working in districts with 3000 or fewer students to participants working in districts with more than 5000 students, significant differences were demonstrated in the

areas of child find, parent involvement, eligibility, least restrictive environment, written notice, and meetings. A final comparison was made between responses given by participants from districts with 3000 to 5000 students and those given by participants from districts with 5000 or more students. Evaluation and meetings were two areas demonstrating significant differences. Table 21 summarizes the differences found between responses by survey participants from different district sizes.

Table 21. Results of Mann-Whitney U Test of Rankings Based on a Comparison Between Responses by Participants from Different District Sizes

Area	Assumed Significance (2-tailed)		
	3000 or less v. 3000 to 5000	3000 or less v. 5000 or more	3000 to 5000 v. 5000 or more
CF	.99	.03	.05
PI	.01	.001	.12
ELIG	.22	.002	.05
EVAL	.18	.23	.02
IEP	.58	.23	.08
LRE	.02	.001	.14
DISC	.93	.16	.18

Table 21. (continued) Results of Mann-Whitney U Test of Rankings Based on a Comparison Between Responses by Participants from Different District Sizes

Area	Assumed Significance (2-tailed)		
	3000 or less v. 3000 to 5000	3000 or less v. 5000 or more	3000 to 5000 v. 5000 or more
WN	.09	.005	.20
MEET	.03	.55	.01

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings

CONCLUSION

This chapter presented the results of 169 survey participants' perceptions of compliance areas of the Individuals with Disabilities Education Act. Participants identified specific areas of the IDEA they found difficult to implement or comply with and why these areas present problems. Based on their response to the Likert scale section of the survey, least restrictive environment, parent involvement, evaluation, and written notice were the top four areas identified as problematic. Based on participant written responses, paperwork was the most cited problem, but was not analyzed because participant offered no discussion of the theme. Because I was able to probe the paperwork issue with interview participants, analysis was

completed and discussed later in this study. Specific areas of difficulty in compliance with the IDEA were identified by survey participants in their responses. These included: least restrictive environment, evaluations, the individualized education program, and parent involvement. The individualized education program was ranked fifth on the Likert scale responses.

The most often cited reason for why specific areas of the IDEA are problematic was "overwhelming paperwork." Funding and caseload size were also cited as reasons why implementing the IDEA was difficult. Participants suggested lower case load sizes, full funding of the IDEA, and standardization of forms for making compliance and implementation the IDEA less problematic.

Significant differences were found between participant groups based on their specialties. Special education teachers ranked evaluation, least restrictive environment, meetings, and parent involvement as their top four concerns. Speech and language therapists ranked parent involvement, least restrictive environment, eligibility, and written notice as the top four problem areas. Discipline, the individualized education program, written notice, and least restrictive environment were the top four areas identified by school psychologists. Those serving preschool students identified least restrictive environment, written notice, evaluation, and the individualized education program as their top four issues.

Few differences, outside of the LRE issue, were seen in the analysis of responses based on geographic location. No differences were seen based on participants' years of experience.

Significant differences were found between participants based on the size of the district where they are employed. Child find and eligibility were ranked less problematic by respondents from the districts serving 3000 or more students compared to respondents from districts serving fewer than 3000 students. Respondents from the largest districts (more than 5000 students) ranked parent involvement more problematic. Participants working in districts with fewer than 5000 students ranked the compliance area of least restrictive environment more problematic. Respondents from districts serving 3000 to 5000 students ranked written notice less problematic than did those in smaller and larger districts. Participants from the largest districts ranked evaluation and meetings as less problematic. Those from the smallest districts (up to 3000 students) also ranked meetings as less problematic.

CHAPTER 5: INTERVIEW RESULTS

In this chapter, data collected via interviews with selected speech and language pathologists, school psychologists, and special education teachers are discussed. Three questions concerning special education practitioner perceptions of IDEA compliance and implementation are addressed:

1. What area(s) of the IDEA do special education teachers, speech and language pathologists, and school psychologists find most difficult to implement and why?
2. What recommendations do special education teachers, speech and language pathologists, and school psychologists offer to make compliance with and implementation of the IDEA less problematic?
3. Are there differences in responses based on the participants' job description, the participants' years of experience, and size of district where they worked?

DEMOGRAPHICS

Eleven individuals agreed to participate in the interview process of the study. The participants included two school psychologists (identified as P1 and P2), three speech and language pathologists (identified as S1, S2, and S3), and six

special education teachers (T1, T2, T3, T4, T5, and T6). Participants included eight females and three males.

On average, participants had 11.9 years of special education experience (range 2 – 24) and 6.5 years in their current positions (range 1 – 14). All participants had Masters degrees.

The full range of school district sizes was represented. Participants worked in major population centers such as the Portland Metropolitan area and Willamette Valley. School districts in rural eastern Oregon, and in the southern and coastal regions of Oregon were also represented.

RESULTS BY THEMES

Interviews were conducted across the state over a three-month period. Participants chose the time and place of the single interview. Most participants were interviewed in their classrooms, school offices, or at their homes. One participant was interviewed next to a river while fishing. The interview protocol was followed with each participant. Initially, participants spoke freely, without direction, before interview questions were asked.

Specific themes were not difficult to distinguish, but participants interjected multiple themes in their dialogues. For example, a participant began talking about IEP development and intertwined issues concerning parent participation, teacher involvement, reasonable placement options, and civil rights for students into their

discussions. Therefore, in an attempt to capture the specific theme, yet not diminish the aggregate of the participant's comments, unedited quotations are presented.

Quotes were selected based on the dominant themes of paperwork (n = 11), placement issues (n = 8), evaluation and eligibility (n = 6), parent participation (n = 2), and the individualized education program (n = 2)⁷.

Like survey participants, those interviewed identified paperwork as the most problematic issue and barrier in complying with the IDEA. Placement issues, as a specific area of IDEA, were identified by 8 of the 11 participants as problematic. Other areas of compliance included the IEP, evaluation and eligibility concerns, and parent participation.

Theme 1 - Paperwork

As noted in Chapter 4, it was impossible to gain specific details from surveys unless the participant provided some written explanation. In conducting the interviews, it was possible to probe for more specifics about how paperwork impedes compliance with IDEA. When probed, the interview participants identified two major areas. First, all participants expressed frustration over the amount of time needed to complete paperwork and the time they perceived paperwork took away from serving students and fulfilling other duties, thus creating additional

⁷ Only two interview participants discussed the individualized education program without interviewer prompting.

compliance issues. A smaller number felt that the paperwork was either confusing and/or redundant. One speech and language pathologist (S2) stated this concern:

Getting paperwork done within the legal timelines is the biggest difficulty when you're working in the public schools and you're suppose to be teaching. But, you have the IEPs that are supposed to be written and kids that have to be tested and the meetings that have to be held and to get that done, you just cancel the kids. So, they don't get the time of services on their IEPs anyway. You are either illegal on one end or the other. I would think that is the biggest constant difficulty. The sheer volume of kids and paper. It's too much to do. When the administration is saying the paperwork must be done, it must be done and paperwork drives the funding. If you don't have funding, you don't have programs. In order to get paperwork done you have to limit or cancel time with students. You don't have any more time in the day.

Another participant, T6, stated:

Well, most difficult? It runs the gamut...passing out reams and reams of paper so we can document what we're doing, why we're doing it, and justify ourselves in case we end in some due process proceeding. In other words, we're covering our ass. It's the paperwork requirements. And, occasionally, we actually work with the students. You'll have to pardon any sarcastic slant here. With large numbers like this, and four school buildings, and traveling distances up to 100 miles one way, it is hard to provide appropriate services and allow time to complete all the testing and paperwork necessary to comply with IDEA.

A school psychologist (P1), when asked to elaborate on the paperwork issue, stated:

There is more of it. More emphasis on being procedurally correct as opposed to providing decent programs for students. The emphasis is actually on dotting the "i"s and crossing the "t"s and making sure our backs are covered rather than making sure we are providing that quality program. The response to that, naturally, aren't these things making sure and assuring you're providing a good program? Well,

no, not necessarily. Given the limited resources including money, personnel, time, the rubber band only stretches so far.

One participant, T4, felt that completing forms, specifically the medical statement needed for the evaluation and eligibility determination, were confusing.

The form is really generic and, with certain physicians, that's the way they prefer it. They can mark the yes or the no box. For others, I've had physicians who want specifics. What are we looking at? What am I to write? On page two of the record's manager, it has an explanation that if you're looking a such and such disability, answer questions such and such. The problem is, a lot of the eligibilities aren't referred to specifically in the medical statement, such as autism. I think its question 8 on the form, 'Are there any sensory, motor problems, la-de-la-di-dah.' But on the back form, it doesn't say, answer question 8 for autism. Last time I shot this off to a doctor, he called and asked which one was autism. And, so, the form could be a little bit more specific and categorical. Like, question one would ask about other health impaired. Question two about speech problems. But, I think if the form were anymore lengthy or complex, physicians just won't do it.

Complexity of forms and redundancy of information were discussed by another participant, T3:

What do you put in that blank? Is it the same for blank 9 on form 10 as it is for blank 2 on form 3? In 12-years I have yet to get a straight answer from anyone. [hesitation] I've been told I sometimes sit and stare at forms for minutes at a time wondering what it is I'm supposed to write in the blank space. It's like [hesitation] for example, I write into the present level of performance that the student reads six-years below his grade level peers, scores at or below the first percentile on standardized measures, and needs specially designed instruction to gain educational benefit. Then, I have to somehow justify why reading instruction needs to focus on life skills as opposed to meeting CIM standards. Then, I have to use the same words to justify placement outside the general classroom. I don't know. It seems like a no-brainer to me but, it has to be written over and over again.

Paperwork, as discussed by both the interview participants and survey participants was a major and central theme. According to the participants, paperwork demands have increased and taken time away from students. The participants recognize that funding for special education programs are contingent upon the completion of paperwork. In addition, paperwork provides documentation of services and serves to protect the rights of the parents and students. Some paperwork demands were viewed as confusing and redundant.

Theme 2 - Least Restrictive Environment

Eight of the 11 participants expressed concern about least restrictive requirement (LRE) and placement issues. This, as on the surveys, was the most difficult specific compliance area of the IDEA reported. With the exception of the speech and language pathologists, the most salient theme imbedded within the area of placement was the concept of inclusion or full inclusion. One participant, T1, stressed:

It is ridiculous to think that all students with the variety of disabilities we see can be educated in the general education environment. I'm thankful we have more placement options within our district and our surrounding area than other districts across the state. The law is pretty specific about having placement options and we're very careful about placing a child back in the classroom without some well-defined supports and services. I think we also have the resources to make placement work for our kids. It is an area of concern and I think we do a good job addressing it.

Another participant, T4, also addressed placement issues and inclusion.

We have full inclusion. This is not appropriate for some students. Some students need extensive behavior interventions and we have trouble providing those services in the general education classroom without drawing attention to the student or disrupting the class.

Again, I'm the only teacher for four schools. Some students would benefit from a more self-contained program but I can't be in two, three, or four places at once. I have aides at each school, but I don't think it's appropriate to staff programs with paraprofessionals. It may even be illegal? Between the four schools, the caseload is too low to justify another learning specialist. So, we ignore LRE requirements.

Recognizing that not having options for placement violates the IDEA, T5, from a larger district, expressed these concerns:

I wish we had more options for student placement. We are a so-called full inclusion school but still maintain some pullout services. They are kinda under-the-table in implementation. We try not to be too specific on the IEP about services outside the classroom. We don't even consider other options for placement unless the parent pushes the point. Other than providing services in the general education classroom, which I think we do well, the resource room is really the only option we have. So far, in all the years I've been with the district, we have not had need for placement outside my school building. I do worry that with the increase of students being identified as autistic and emotionally disturbed, we may need to look at options that the district does not have or have access to.

Others expressed concerns regarding placement and LRE issues. These concerns came out when participants were asked why implementation was difficult and are discussed below. Primary in the discussion around placement issues was the lack of options available. This was particularly true for participants from rural areas and smaller schools. When inclusion was discussed, the lack of consistent

services and questions of addressing the needs of the child were common among all participants, regardless of their discipline or where they worked.

Theme 3 - Evaluation and Eligibility

Six of the 11 participants spoke to the issues of evaluation and eligibility.

T2, from a rural district, felt medical evaluations were the most problematic area.

Basically, the biggest challenge I've found is, for evaluation and eligibility purposes, requiring a doctor's diagnosis or doctor's opinion on a medical statement has been challenging. Just due to the fact that the physician looks at it from a medical standpoint and you need an educational standpoint. And, I've discovered that often times they're really not working with you. They are almost working against you. They really aren't open to the fact that when you looking at, oh, other health impaired and other things of the sort, that you need them to just acknowledge that symptoms are present or no they're not so we can rule them out.

Both school psychologists spoke to evaluation issues. P1 was especially concerned about difficulties in providing non-biased, multicultural evaluations of students.

We have a growing population of non-English speaking students, students from central and South America and Eastern Europe. It appears to me that some of these students are referred within one year of arriving in the United States because they are having difficulty with English, which is viewed as a handicapping condition. So, my first problem is convincing teachers and administrators that English language acquisition takes time. At the next level are students who have been in the United States and may even have been stable in the district for a number of years, but speak Russian or Spanish as their primary language and English as their academic language. They may even be getting academic instruction in their native language through their church or community. How

does one test or assess those students? At what point does the culture and environment cross over and interfere with learning? I'm not sure I have ever read or heard a good accounting for these factors.

We also get a good share of students who move a lot, sometimes a dozen times before they get into 4th or 5th grade. I question whether the development of our test instruments ever take disruptions in education as a factor in standardization. So, I'm very cautious in over-reliance on standardized tests but understand that many resource teachers rely heavily on scores to make determinations of eligibility and program planning.

The second school psychologist, P1, emphasized that over reliance on standardized test was a concern.

We try to make everything fair, everything even - thus a heavy reliance on standardized tests. I've never been through a due process hearing but I would guess "my professional judgment" wouldn't hold much water whereas a 78 standard score on the WISC would be viewed as credible. Why? I don't know. It could be we're tied into this is the way we've always done it. I think money talks and publishers have some influence on how we do our jobs and what we use to get the job done. We are creatures of habit and introducing something new or different takes...is either rejected or viewed with skepticism. Things do change but it is a slow process. The IDEA sometimes pushes people into new practices without allowing time to adjust, time to gain understanding, or time to get appropriate training or assistance.

T2 discussed, in great length, the evaluation and eligibility process. This participant was the only one to discuss the referral process. Although not included in this discussion, she explained, in detail, the eligibility criteria for learning disabilities, attention deficit disorder as a health impairment, and mental retardation. She discussed the issue of students who do not meet eligibility criteria under the IDEA. She included in her discussion the need to comply with Section

504 of the Rehabilitation Act of 1973. This participant was the only one to discuss provisions of Section 504 of the Rehabilitation Act of 1973. Regarding the referral process and team decision-making, she said:

The ESD full-day testing is used for new referrals to determine eligibility. This testing requires that each teacher turn in a questionnaire about the student and then the team meets to discuss these questionnaires in regards to whether it seems that this student might need Special Education services. If the team decides that this student needs testing to determine whether or not there is a need for Special Education then the other necessary paperwork is gathered and sent to the ESD. The process is designed to be a team process, but often the team looks to the Special Education teacher for a recommendation of whether or not this student should be tested.

Specific to the needs of students who do not qualify for IDEA services, but may qualify for Section 504 of the Rehabilitation Act of 1973, T2 continued:

Some problems we are facing here at the high school and across the state, according to many other teachers I have spoken to, is that these categories let some students "fall through the cracks," so to speak, who need help but are not necessarily special education eligible. For example, students with a low IQ, between 71-80, often are not able to understand the complexity of lectures and instruction, textbooks, etc. especially as they enter the high school curriculum.

Some special ed. lawyers have said they are eligible under 504 under the category of a disability in learning. Other Special Ed. lawyers have said specifically 'being less bright' is not a disability in learning, but instead a school should make services available for all students, even those that are less bright, without having to label them under a certain legal category. But since it is 504 law, it is open to interpretation, and districts can set their own policy.

Certain students still can't read for example. One new student moved here from [deleted] this year, 16 years old, still can't read. After close review of the file, I found that he has no discrepancy between academics and IQ so he became eligible under speech, since he has a slight stutter. His IQ is low, around 72, and not only has great

difficulty reading, but also cannot tell you who his teachers are or what his classes are, for example. I help him every day on his work, but I can see he has great trouble understanding the complexity of the subjects. There is a history in the file of teachers giving him reading instruction and this should definitely continue, but there are many issues he must deal with. This is a hard working student who wants to be treated like everyone else, but he truly is getting lost in this CIM/CAM struggle. He is very proud and has high hopes for the future. I'm afraid our transition services will not be of much service to him. Every trade at [deleted] requires some reading ability. This student qualified under speech. We have others like him who do not qualify for special [education] but require our services.

What do I do when parents cry out for services when the student truly does not qualify but is sitting through classes that he cannot understand?

Two participants began their careers before the passage of federal special education law. S1 discussed eligibility issues in a historical view.

I think that working in the schools for many, many years, that following the law [hesitation] I mean, I started when there was no IDEA. I was there when it was put into place and it seemed so overwhelming. Up until then, you just had a conversation with a parent either on the phone or in a meeting and you talked about doing speech therapy with their child and everything was fine. But, I love that more people are brought on board and following the letter of the law is good. I like following this process and it has full intention of aiding the child all the way through.

I think, if there are problems, it's with, number one, I'd love it if there were no eligibility label. You just determine if the child is eligible and in need of some service based on past records and testing but you don't have to name them and give them a category. I'd love that.

Evaluation issues centered on obtaining all necessary components needed to make an eligibility determination. As seen in the survey responses, participants from smaller, more rural schools identified problems with obtaining medical examinations and medical statements. Use of standardized testing was also discussed, as was evaluation of multicultural, multilingual students. In the area of eligibility, lack of guidelines was seen as problematic as stated by one participant. Viewing the evaluation process with an historical viewpoint, one participant provided some information, from her experience, of the evolution of special education since 1975.

Theme 4 - Individualized Education Program

Much like the results from the surveys, the IEP was of less concern than other areas. Only two participants, T1 and T5, mentioned the IEP in their initial comments but each participant was asked to comment on the IEP at some point in the interview. All but one participant, S3, stated that completing the IEP was time consuming. She stated, "The IEP...you answer the legal stuff, fill in all the blanks. That's all it is." Speech and language pathologists indicated getting their goals and objectives written and to the special education teacher who compiled the entire document were their primary responsibilities in the IEP writing process. Two participants elaborated on the IEP process. Both spoke to the issue of writing measurable goals and objectives as illustrated in the comments of T1:

The IEP has become much more complicated and massive. It is not the special factors part that I've had problems with the actual writing of appropriate goals and objectives. I'm not always confident that the goals and objectives are 'measurable.' Then there is the question of measured against what, by what, and with what. When I began in the field, we used standardized test scores. That is what the colleges taught. That created problems with the continual use of tests and the time it took to test kids. Now, I seldom use standardized tests and rely on curriculum-based measures. I have had some issues when teachers, parents, and even administrators ask how the student is doing on tests. So, I'm not sure I'm really being clear here, it is writing goals and objectives that are clear and measurable.

The one example, provided by the interview participant, parallels many of the concerns expressed by survey participants. Increasing documentation requirements, writing measurable goals and objectives, and measurement techniques were seen as issues.

Theme 5 - Parent Participation

Interviewees expressed concerns regarding parent participation. T6 felt it was his number one issue regarding IDEA compliance with a primary emphasis on parents whom, as he states, "take advantage" of the system. His comments tie in issues of responsibility, program planning, and service delivery. At the end of the interview, he was asked, as a point of clarification, to restate his major concern regarding IDEA compliance, and he, again, stated, "parent participation." T6 stated,

Parents should be knowledgeable but some parents take advantage of the basic framework of the IDEA. The fact of the matter is, the parent can be all wet and still demand hours and hours, and over the years, weeks and weeks of one's time. I have one student that over of

the last two years has had no fewer than 30 meetings. Um, trying to work something out. Quite often, these problematic students' issues lie not at school but at home. We can't impact things there. For example, the student doing homework and, completing and turning in assignments. We can only go so far to assure that occurs. Then the parent wants another meeting because they think we should be providing more, some magical cure to fix the kid, it's not possible. One has to experience the situation to truly understand it. I'm not sure it's possible to, with the time we have, to cover that issue. The way the system is set up, even if you are right, and put in hours and hours and a lot of money and be no further ahead. The total, where the rubber meets the road, is the time and energy taken away from kids and, um, if not wasted, at least diverted.

Regardless of how good a program is, how well it's planned out, everyone has to play their part to insure that works. That includes the student and the parent needs to be key players there. IDEA allows parents the right to participate, make demands, but, in the end, take no responsibility. That's my perception of things.

P2 also addressed the issue of parent participation intertwined with issues of evaluations, IEP reviews, and reevaluations. She was especially concerned with getting parents to the meetings.

The most difficult part to comply with is getting parents to come on a specific date. Early in my career, you were supposed to have it done the month it was due. It was much easier because there was more flexibility as far as having a parent come [sic] in the month of October for an annual review or to have a reveal. Now it's down to a certain day and it makes it difficult when someone comes up with parents who can't get a hold of them or they won't come in and that leads to other questions and issues of what constitutes parent participation.

Little concern was expressed about the process in securing parent participation, particularly the requirement of written notice. Equal concerns were expressed on the issue of parent participation. First was that of over demanding

parents and the energy and time taken for what is perceived as having little or no benefit to the student. Getting parents to attend meetings and holding timely meetings was the second concern.

WHY AREAS ARE DIFFICULT TO IMPLEMENT

In addressing the question of why compliance with the IDEA is problematic, participants all indicated lack of resources including money, materials, and personnel. Changes in interpretation of the law, procedures, and inconsistency in information were also cited. In addition to discussions on specific issues, two participants made interesting general comments. T1 stated, "I worked with special needs students in the early 70s, before IDEA was in place. I thought IDEA was an attempt to assure some consistency of services from state to state. I don't think that has happened." Specific to the paperwork issue, T2 stated with some frustration, "If I hadn't been involved in special education as an aide for so many years before getting my license, I would be clueless about completing notices and IEPs. I'd be completely lost. The training I got at the university level doesn't apply at all with what I actually do on the job. Not at all!"

Placement

A number of responses were offered concerning placement and LRE issues such as lack of placement options, lack of personnel to make inclusion effective, and the perception of placing one students' needs over those of other students. T5 elaborated on the issue of student needs:

It's an issue of least restrictive environment. I have a real problem with putting the needs of one individual student over the needs of the 30 other students in the classroom in the so-called inclusion model. For a general education teacher, it's a nightmare. It's not fair to all students including the student with special needs. The special education student may need a more structured, less distracting classroom environment that, even with all best intentions, can not be achieved in a regular classroom setting. But, there are no other choices here. It's either regular education classroom or home tutoring. I've had two students this year "boxed out" because the alternative school won't accept special education students. We don't have options for placement because the money doesn't follow the student.

Individualized Education Program

Varieties of views were offered about why compliance with the IEP provision of IDEA is problematic. Many of the comments referenced the time needed to complete IEPs, the increase in the number of items added by the 1997 reauthorization of IDEA, and inconsistency in how IEPs should be completed. T6 emphasized how time consuming the IEP has become.

It ties in with parent rights. There is so much concern over the procedural mandates and if you don't have those right that is where the district ends up paying. So, unnecessarily, a lot of time is spent documenting what you're doing, why it's done, when it's done, when it's not done, where it's done, how it's done, who's doing it as opposed to [hesitation] with most of these kids [hesitation] there has to be a lot of flexibility. You try something and it doesn't work, you have to be able to try something else. And, if every time you have to make a change, you have to go back and change the paperwork, it becomes a problem.

T3 also addressed the time needed to complete IEPs correctly, setting up meetings, getting the right participants to meetings and the use of the IEP in educating children with disabilities. He stressed that the IEP is a "mass produced paperwork process" with few others reading the documents.

No one reads them except me. I write them. Maybe someone from the state will read it every six or seven years. Giving the teachers a copy of the IEP, it's like building a house. The carpenter looks at the blueprint then begins building. You don't follow the blueprint exactly. Teachers kinda look at the kid and know what their issues are and they do their job. They don't follow the details. It's not their plan of instruction. They don't have the time and it's not their style of instruction.

And, there's not the support staff from special ed to go to that teacher and co-teach or help develop curriculum. It's back to numbers and money. It's extremely difficult. Too many meetings. Can't get a district rep. to the meeting. They have too many other places to be and only come if we indicate we really need them. If we can get coverage for the classroom teacher, they can attend. But, you're stretching the requirements of the law to get meetings set up and managed. If you can get to everyone prior to the meeting and know what is most important to discuss at the meeting, the meeting goes fairly well. Having a good support staff has been very helpful. They do all our up front work, scheduling, and making agendas.

S3 shared concerns regarding how the IEP expectations have changed and continue to change.

Problem is, every year you have these meetings and they say it's changed. And you adjust again. There was just a lot of that. It is time-consuming learning the new changes. We're told how to write an IEP one year and the next year they switch it and say, you know, the way we had been doing it. They'd just switch it.

S3 also continued to share her concerns about the language used in IEPs.

Language-wise, yeah. The way objectives were supposed to be stated. There are just all of these reactions to the new rules. But, I love we have rules to follow and the child is protected and the parents are protected. But, the reverse is true, when the parents come in with their lawyers in their back pockets and they're ready to frighten people into anything. That's horrible. I think the fear factor steps in and really makes people stressed out and worried. It takes the fun out of why you're there, to help the kid. The parent gets in the way. The lawyer gets in the way. And time.

Interview participants also mentioned the issue of classroom modifications in relation to implementation of the IEP. In a closing thought, S2 indicated the issue implementing the IEP in the general education classroom as sometimes problematic:

Lack of teachers making accommodations and modifications in the classroom after sitting in the IEP meeting and agreeing to them. The constant struggle of working with your peer who resents you because you don't work in a classroom and it puts you in a funny spot between the teacher and paper [IEP]. That's a compliance issue.

Consistency of Information

Having information that was consistent from source to source and across time was often mentioned by all the participants. On the issue of consistency, participants spoke to the problem both as a compliance issue and as a reason why compliance is difficult. T4 commented on her need to have information on compliance both accessible and straightforward, "I'd like to have a simple guide not the binders of laws. Just tell me what I'm supposed to do and don't change the answer on a weekly basis."

The subject of clarity and consistency came up during the interview with S1. She was asked, "Do you think the IDEA is clear enough for people to understand it? Or, the interpretation is clear?" To this, S1 responded:

Well, probably not. But, that's how lawyers make their living. Our language can always be manipulated. It's always intriguing to me as an itinerant to go from school to school and in one building they'd say 'oh, you have to do it this way' then you'd go across town to another school and they'd say 'oh, that's totally wrong, you must do it this way.' They both thought they knew the letter of the law and they were doing exactly what they were supposed to do.

Caseloads

All participants discussed the number of students seen by teachers, speech and language pathologists, and school psychologists as a barrier toward IDEA compliance and implementation. P2 stated, "There are too many students and not

enough time in the day. And, if you want to do a really good job, you should have a third of the students to work with. There are just too many students to work with and get all the paperwork done.”

REASONABLE RECOMMENDATIONS

The last question asked of the participants was, “What recommendations or solutions would you suggest to make implementation or compliance with the IDEA realistically less problematic?” Reduction of paperwork was the most common response. All participants commented that smaller caseloads and access to more resources would allow more time for teaching and completing required paperwork. Most indicated that no single solution would be easily achieved.

Paperwork

All participants suggested a reduction in the amount of paperwork needed to document IDEA compliance. Other areas of compliance were included in comments regarding paperwork as illustrated by the comments of T6:

Based on what I've said so far, let's reduce the paperwork. Let's make the thing simple. Add some versatility to it so that [hesitation] flexibility [hesitation] so that we're not tied to meetings and 14 pieces of paper that have to be completed and filed and agreed on before we can work with a student. I think the districts themselves need protection from [hesitation] the rights seem to be all with the parents and students and none for the district. And, the example is all the due process hearings where the hearing officer says, yeah,

you're right, but it still cost the district time and money. There needs to be more participation by other agencies. There are a lot of times when the problem is not a district, an education problem. We need mental health, SCF⁸, and other agencies in there doing what they're supposed to be doing. Leave the district with what we do, educate children, not taking care of dysfunctional families, providing health care, clothing and housing families.

Placement and LRE

Without offering specific recommendations, participants suggested a need for clarity in how placement decisions are made. Placement options were particularly emphasized. T1 stated:

Least Restrictive Environment is difficult to understand and implement, particularly since the concept of full inclusion hit us. I don't think it is a matter of finding the right placement but more a process problem. I have never had a clear picture of exactly how the decision is made or legally documented. Unfortunately, we avoid looking outside the classroom or resource room models if we can. Placement in self-contained classrooms or in the resource room more than an hour a day is pretty rare. I'm confused on how the team documents what options were considered, why they were rejected, what negative impacts certain options might have on the student or the classroom, and then, once a placement is selected, how do we indicate that it is LRE. I don't think we'll get into trouble unless a kid is hurt, doesn't make progress, or a parent demands placement in a private school. So far, in 11 years, I haven't had to deal with any of those scenarios.

⁸ Services to Children and Families (Social service agency providing child protective services and aid to families in crisis.)

Addressing placement options, T5 stated how difficult it was to find placement options for students.

I understand that parents want their child in the classroom as much as possible but I see, sometimes, not always, placement right back where they initially failed isn't right. As much as I can, I try to provide supports to the teacher, ideas they can use to modify the course work, other materials and the sort. But, I'm working with 23 teachers and have students in small groups come to the resource room. I don't have the time to co-teach, which I think would be highly desirable, or to meet with teachers often enough to assist them in including the kids. It's easier to pull them out and teach basic skills. We've cut back on aide time too. Things haven't gotten easier in the last five or six years. It would nice if we hired back the aides. They were a godsend. We have smaller class sizes than most schools but having an aide that can assist teachers would benefit all the children, not just the IDEA kids.

Finally, addressing both placement options and delivery of services, T4, from one of the more rural areas, commented on how placement options, combined with the lack of consistent services, potentially could put the district at risk.

We have few options, particularly for kids with emotional needs. The ESD's school psychologist is supposed to meet with two of our kids once a week for 40 minutes. I doubt it's happening. (So, is that a placement issue or service delivery issue?) Both I suppose. I think it's more a placement issue with the two kids I'm thinking of. They would benefit more from a more restrictive placement, like a half-day program where they get counseling and social skills training, then spend the remainder of the day in the regular classroom. It is a service delivery problem, too. If the school psychologist has referrals and testing to do, he has to fit it in somewhere. Schedules can't be written in stone because different jobs come up at different times of the year. There may be a dry spell on referrals then the floodgates open. When the flood comes, then services to kids shift, for a little while, and [hesitation] it's like a big messy circle. We set aside the IEP for a bit to finish up evaluations and we skimp on placement options so we can afford aide time and we do paperwork when we should be seeing children. So, to jump to your why

question, we don't have enough people to do the work in a timely and effective manner.

Caseload Caps

Capping the number of students special education teachers, school psychologists, and speech and language pathologists serve was suggested by 7 of the 11 participants. One participant, T3, discussed the issue of caseload caps tied to funding issues. He was clear in his belief that school funding was limited and, to achieve movement in one area, other areas would suffer. T3 concluded, "If you fund caps you'll lose music, sports, and increase general class sizes."

T4 felt that finding and hiring additional personnel could achieve limiting the number of students she served. In her geographic area (eastern rural), she saw this as problematic, stating:

There is a great need for more special education teachers. We've had an opening for the last year with no applicants. Having another teacher will cut down on time lost driving between schools and balance the caseload. But, who wants to work out here when you can easily work in Portland for twice the pay and half the caseload? I'm here because I have family. There's not much else to attract young people out here.

All three speech and language pathologists talked of caseload limits using speech assistants. Mixed feelings were expressed about the issue of using paraprofessionals to achieve the goal of reducing caseloads. S3 stated:

It would be wonderful if the team you worked with had more information and you had time to plan and work together as a team.

So, there is never anything like time for planning and teaming. And that would be the best way to do the best job I think.

[hesitation] About speech assistants? I have mixed feelings. I think the best way is for the therapist to work with the child. But there are people who can do paperwork and clerical work that keeps the therapist away from students.

When asked about caseload mandates, what that might look like, and having assistants deliver services, S2 noted that her professional association recommends caseload limits.

The American Speech Language Hearing Association recommends 40 to 45 students maximum in a model such as most of us are using. I don't know many therapists who have that kind of caseload. Mine is typically double as are others in my district.

Evaluation and Eligibility

No recommendations were made specific to evaluations or eligibility. When asked, those that discussed these issues shrugged or said they had no recommendations.

RESPONSE DIFFERENCES

In the analysis of responses, those interviewed had fewer differences in their views than those responding to the survey's open-ended questions. In the analysis, instances mentioned by participants on specific areas of the IDEA compliance and recurring themes were the major focus. The coding effort helped

label, separate, and organize the data. Overarching themes and essential concepts were then identified.

Medical statements and evaluations were identified by participants from the more rural areas but not mentioned by other participants. Other than the medical issues, no distinguishing differences in responses were evident between participant specialty and the geographic area in which they worked. The major issues of paperwork and placement were equally discussed. Evaluation, eligibility, although discussed by few participants, did not come from any specific specialist group or geographic area. Spontaneous discussion of the individualized education program came from two teachers but each participant discussed the issue when asked.

CONCLUSION

In this chapter, results from interviews with 11 participants were presented. Participants identified specific areas of the IDEA they found difficult to implement or comply with and why these areas present problems. Paperwork was the number one issue identified by participants based on the number of times the theme emerged in the analysis of the data. Least restrictive environment, evaluation, eligibility, the individualized education program, and parent participation were specific compliance areas noted. The lack of appropriate placement options, time needed to complete the IEP, and consistency of information were identified as barriers to compliance and implementation.

Interview participants also provided suggestions for making compliance and implementation less problematic. Suggestions included reduction of paperwork, clarification of how to make placement decision are made, and reducing caseloads. Although some differences were seen between participant groups, responses were consistent across specialty groups and geographic areas.

CHAPTER 6: DOCUMENT REVIEW RESULTS

This chapter describes IDEA compliance issues from reviews of complaint investigations and due process hearings conducted in Oregon. Also discussed are the similarities and dissimilarities between the perceptions of special education professionals and specific issues discovered in the document reviews. The chapter addresses the last two questions of the study.

5. What are the compliance areas of IDEA that result in due process hearings and complaint investigations in Oregon?
6. Do the special education teachers, speech and language pathologists, and school psychologists identify problematic implementation and/or compliance with the same areas of IDEA that are identified in Oregon due process hearings and/or complaint investigations?

DOCUMENT REVIEW

A total of 147 documents were reviewed. The documents included 19 due process hearing and 128 complaint investigations. Each document included allegations, a summary of evidence and/or facts, a discussion of the law(s) relevant to the allegation(s), and the decision of the investigator or hearing officer. Only due process hearings and complaint investigations resulting in a final ruling were

reviewed. This was done because cases that were dismissed or withdrawn did not include components needed for evaluation (e.g., allegations, facts, discussion, and decision). In the review of each document, specific allegations were noted and categorized into themes.

This review of documents went beyond the annual review and summarization completed by the ODE. In most cases, the ODE reviews and reports cases resulting in decisions against the district. If decisions favoring a district were included in a summary, the case was unique. The ODE provides these annual summaries as technical assistance to special education personnel, parents, and other interested parties.

Except in one case (discussed in the next chapter), no attempt was made to enumerate outcomes of the complaint investigations or due process hearings in this study. This review addresses all allegations made in complaint investigations and due process hearings regardless of the outcome of the hearing or investigation. With few exceptions, each due process hearing and complaint investigation addressed more than one alleged violation of the IDEA; thus, there are a greater number of allegations than documents.

In this review of complaint investigations and due process hearings, violations of the IDEA specific to the IEP were alleged more than any other single area and more than all other areas combined. Recurring themes from the documents were the major focus. Again, the initial coding effort employed in both the

interviews and survey questions, helped label, separate, and organize the data found in the document review. Document themes included the individualized education program, the issues of placement, evaluation, and prior written notice, and the training of personnel, services provided by qualified staff, or supervision of special education providers. Records (access to records and/or copy of records), consent, independent education evaluations, discipline, extended school year, eligibility, and parent participation were also areas of alleged violations that emerged as themes.

Alleged violations of the IEP included a number of subcategories. Implementation of services indicated on the IEP and writing of goals and objectives that are appropriate and measurable were the areas of most concern. In addition, of concern were inclusions of behavior plans in the IEP, having the appropriate participants at IEP meetings, reporting the child's progress toward meeting annual goals, and provisions for the child's participation in nonacademic and extra-curricular activities.

Placement issues were limited to the questioning proposed or actual placement by the district, the procedures for determination of placement including whether the district included someone knowledgeable about placement options on the team, and whether or not parents could place their child in a private school at public expense.

Evaluation issues included allegations that the district delayed the evaluation or delayed the completion of the evaluation, failed to conduct a

complete evaluation, or were overdue in beginning or completion of the reevaluation.

In the review of due process hearings and complaint investigations, allegations concerning prior written notice ranked fourth. More detailed discussion of this issue is provided below. Table 22 provides multiple comparisons between the number of allegations/themes emerging from the document review, overall rankings by survey participants on the Likert scale, themes emerging from survey responses to open-ended questions, and themes emerging from the interviews.

Table 22. Ranking of Allegations of IDEA Violations made in Oregon Due Process Hearings (January 1999 to August 2001) and Complaint Investigations (January 1998 to August 2001), Overall Likert Scale Rankings, Ranked Survey Responses to Open-Ended Questions, and Ranked Themes Emerging from Interviews

Allegations	Likert Scale Ranking	Survey Responses	Interviews
IEP (n = 166)	LRE	LRE (n = 109)	Paperwork (n = 11)
LRE (n = 45)	PI	EVAL (n = 83)	LRE (n = 8)
EVAL (n = 33)	EVAL	IEP (n = 77)	EVAL & ELIG ^a (n = 6)
PWN (n = 27)	PWN	PI (n = 59)	PI (n = 2)
Training ^b (n = 20)	IEP	Time ^c (n = 17)	IEP ^d (n = 2)

Table 22. Ranking of Allegations of IDEA Violations made in Oregon Due Process Hearings (January 1999 to August 2001) and Complaint Investigations (January 1998 to August 2001), Overall Likert Scale Rankings, Ranked Survey Responses to Open-Ended Questions, and Ranked Themes Emerging from Interviews

Allegations	Likert Scale Ranking	Survey Responses	Interviews
Records (n = 13)	Meetings	ELIG (n = 13)	-
Consent (n = 9)	ELIG	Consent (n = 9)	-
IEE (n = 9)	DISC	DISC (n = 4)	-
ESY (n = 8)	-	-	-
ELIG (n = 8)	-	-	-
PI (n = 6)	-	-	-

Note. CF = Child Find; PI = Parent Involvement; ELIG = Eligibility; EVAL = Evaluation; IEP = Individualized Education Program; LRE = Least Restrictive Environment; DISC = Discipline; WN = Written Notice; MEET = Meetings; IEE = Independent Education Evaluation; ESY = Extended School Year;

^aInterview participants discussed Evaluation and Eligibility as one topic;

^bTraining of personnel, services by qualified staff, supervision of special education providers; ^cMeeting timelines; ^dBased on spontaneous responses.

DIFFERENCES BETWEEN DOCUMENT FINDINGS AND PERCEPTIONS OF PARTICIPANTS

Special education teachers, speech and language pathologists, and school psychologists did rank the same areas of IDEA as problematic compared to those areas identified in Oregon due process hearings and complaint investigations. Survey participants and those interviewed in this study identified placement issues as the most problematic compliance area of IDEA. Although alleged placement violations was ranked second, it was far below the IEP as an issue leading to complaint investigations and due process hearings. The IEP was far down the list of concerns expressed by the study participants whereas the IEP was, by far, the most controversial issue brought before hearing officers and investigators with a total of 166 alleged violations.

On the issue of evaluations and eligibility, survey participants, overall, ranked this area as the second most problematic area of IDEA compliance. Interview participants also identified evaluations and eligibility as areas of concern. The perceptions of special education teachers, school psychologists, and speech and language pathologists closely match the rank order of evaluations and eligibility allegations presented in due process hearings and complaint investigations.

The issues around prior written notice from the document reviews were compared to comments regarding paperwork presented by those responding to the

survey respondents and interview participants. Many special education teachers, school psychologists, and speech and language pathologists found paperwork overwhelming and confusing. More than one provided comments such as “what do I put in the blank” and “which form do I use” in response to the issue of the written notice. Alleged violations specific to prior written notice requirements focused on failure to provide notice and failure to provide complete information on written notices.

Parent participation was ranked fourth by survey participants and was subject to numerous comments by those interviewed whereas parent participation was ranked last of alleged violations of the IDEA.

CONCLUSION

In this chapter, results from a review of due process hearings and complaint investigations were presented and compared to the perceptions of survey participants and interview participants. The individualized education program was the most often alleged violation followed by least restrictive environment issues, evaluations, and prior written notice. Differences exist between IDEA violations alleged in the reviewed documents and those areas identified by survey and interview participants. Survey and interview participants identified least restrictive environment issues as their top issue and, although the second most alleged

violation in Oregon due process hearings and complaint investigations, was a distant second to the individualized education program.

CHAPTER 7: DISCUSSION

Since 1975, compliance with special education laws has been problematic. The mandates of special education were born out of litigation and legislation. The *PARC* agreement and *Mills* decision established provisions in the law for the identification of children with disabilities, suitable education in an integrated environment, and a system of due process for parent complaints (Goldberg, 1982; Horowitz, 1977; Prasse, 1998; Sage & Burrello, 1986; Yell, Rogers & Rogers, 1998; Zettel, J.J. & Ballard, J., 1982). Litigation and legislation continue to define special education and compliance continues to present issues to states, districts, and individuals delivering services to children with disabilities (Carmichael, 1993; Levine & Wexler, 1981; Martin, 1999; Mattison, 1994; Prasse, 1998; Podemski, Marsh, Smith & Price, 1995; Yell, Rogers & Rogers, 1998).

This study addresses the lack of research on the perceptions and experiences special education professionals have complying with or implementing provisions of the IDEA. The study sought the opinions of participants about possible solutions that would make compliance with, or implementation of the IDEA, less problematic. The study compared the responses of participants with issues seen in Oregon due process hearings and complaint investigations to determine whether

there consensus or a disconnect between participant perceptions and litigated issues.

ANALYSIS

Participants in both the survey and interviews were asked to identify why compliance with the IDEA was problematic. Paperwork was the major point of discussion with a variety of specific issues embedded in responses. Placement and least restrictive environment mandates were identified by participants as significant compliance area issues despite the fact that the literature, outside of specific court cases, and findings from document reviews indicated few problems, if any, in this area. Other areas, such as evaluations, parent participation, and provisions of written notice, were also identified as issues of compliance.

Paperwork

Virtually every study participant spoke to the issue of paperwork. Inherent to most comments was the amount of paperwork required to document compliance with the IDEA. Participants felt particularly strong regarding the amount of time paperwork took away from other responsibilities such as student contact time. Consistent with the participants' observations and experiences, the literature addressed and discussed issues of increased documentation and its impact on special education providers (Barrick & Enell, 1980; Billingsley, 1993; Billingsley,

Gersten, Gillman & Morvant, 1995; Billingsley & Tomchin, 1992; Brownell & Smith, 1993; Huefner, 2000; McLaughlin, Smith-Davis & Burke, 1986; Silver, 1986; Yell, Rogers & Rogers, 1998).

Based on the findings of this study, the IEP was identified as the most time-consuming paperwork requirement. It was also most often the primary issue in due process and complaint investigations and supported by previous studies (Barrick & Enell, 1980; Billingsley & Tomchin, 1992; Brownell & Smith, 1993). Survey participants embedded discussions of the IEP in their comments on paperwork. Initially, interview participants discussed paperwork in broad terms but then were more explicit in their discussion as the interviews progressed. Broad statements such as "The sheer volume of kids and paper. It's too much to do," and "...passing out reams and reams of paper so we can document what we're doing, why we're doing it and justify ourselves..." were typical. From these broad statements, more detailed comments were made specific and primary to the IEP, written notices, and obtaining medical information.

Some participants commented on the confusing nature of completing particular documents. Participants addressing this area expressed concern on what information goes in the various blanks and the duplication of information from page to page and document to document. Participants also were frustrated by redundancy and expressed frustration when confronted with conflicting instructions

on how to complete forms. This was particularly true in the discussion around writing IEP goals and objectives.

Observed in the comments from a number of interview participants were tones of resigned resentment regarding the paperwork demands. For example, "In order to get paperwork done you have to limit or cancel time with students" was stated with some resentment, but a sad overtone.

One participant provided a strong condemnation specific to her training and the paperwork demands of her job, "The training I got at the university level doesn't apply at all with what I actually do on the job. Not at all!" Studies of special education teacher training programs have shown that there is minimal attention given to the subject of paperwork demands (Buck, Marsink, Griffn, Hines & Lenk, 1992; Rosenberg & Rock, 1994; Silver, 1986). The McLaughlin and Verstegen's (1998) study also mentioned lack of training as one compliance barrier faced by administrators.

Individualized Education Program

The IEP was the number one violation alleged in due process hearings and complaint investigations reviewed in this study. This finding was consistent with the current literature where the IEP and its components were identified as the most problematic area of IDEA compliance (Harris, September, 1998a, September, 1998b, 1999; Huefner, 2000; Maloney, 1993; Manoogian-O'Dell, 1999; National

Council on Disability, January 25, 2000; Oregon Department of Education, September 1998, November 2000). In contrast to the literature and reviewed documents, survey participants ranked the IEP and its components as the fifth most problematic area. Given that the IEP constitutes a significant amount of the IDEA documentation requirements, the Likert scale ranking is puzzling given the extensive discussion given to *paperwork* by the participants. Interestingly, many participants in the study emphasized the increased amount of documentation required in the IEP since 1997. Overall, study participants used paperwork and IEP interchangeably. More detailed responses through probing interview participant responses. Not having a member check component as part of the survey proved problematic in gaining more specific responses. More detailed inquiry is needed in this area.

From the survey, special education teachers, school psychologists, and early childhood special educators ranked the IEP as more problematic than did speech and language pathologists. Using comments from the speech and language pathologists interviewed, their responsibility for completion of the IEP is generally limited to their services and not the completion of the total document. Thus, the survey rankings, based on the participants' disciplines, are not surprising.

Based on my own perceptions and bias, I would have thought some difference would have been seen based on years of experience. Based on my work experiences, I would have thought participants new to the profession would have

identified the IEP as most problematic because they typically have less experience in completing the document. Neither the amount of survey participants' experience nor where they worked (the size of the district) influenced the ranking of the IEP. These results may suggest an equal amount of concern based on the changing requirements of the IEP, or lack of clarity given on how the IEP forms should be completed. Another possible explanation is that the Likert scale, as it was designed, was not sensitive enough to measure differences based on participant experience.

Time Requirements

Some study participants expressed frustration over the time needed to complete the IEP documents. "The IEP has become much more time consuming. The coversheet has gone from one page to two pages," is illustrative of participants' comments. Butera, McMullen & Henderson (1997) noted that administrators also found IEPs "time-consuming." Although not specifically stated in connection to discussions about IEP requirements, participants noted that completing paperwork reduced direct contact time with students.

District Participant Requirements

In the development of the IEP, the IDEA mandates participation of specific district personnel. Study participants expressed some concern regarding this issue, with a primary emphasis on poor meeting attendance by district representatives (generally an administrator). Due process hearing and complaint investigation allegations made against districts for failure to have appropriate district personnel at meetings were secondary, alleged in combination with other IEP issues such as implementation and questions of whether the IEP provided educational benefit to the child.

Based on the document reviews, common allegations made against districts included implementation of services as indicated on the IEP and lack of appropriate services to provide educational benefit. In combination with other issues, many participants commented on the decreased time available to work with students. Some participants noted that decreasing time spent delivering services can and does lead to violations as alleged in many due process hearings and complaint investigations.

Measurable Goals and Objectives

Writing measurable goals and objectives, mentioned by a small number of study participants, was viewed as problematic. Comments in this area included: "Trying to write measurable goals for living skills with measurable outcomes..." as problematic, and "... I've had problems with the actual writing of appropriate goals and objectives. I'm not always confident that the goals and objectives are 'measurable'. Then there is the question of measured against what, by what, and with what." Many due process hearing and complaint investigations contained allegations specific to IEP goal and objectives that were not measurable. Again, this specific issue was secondary to broader allegations.

Summary

Based on the results, the problem appears circular in nature. Writing IEPs is a time consuming process. Failure to complete IEPs in a timely manner was alleged in the due process hearings and complaint investigations reviewed. To complete this process, study participants indicated that time is taken from other tasks, such as contact with students. When time with students is reduced, issues of IEP implementation arise. Failure to implement part or all of the IEP was alleged in many due process hearings and complaint investigations. In addition, some

participants found writing measurable goals and objectives difficult and this, too, was an issue addressed in due process hearings and complaint investigations, as well as in the literature. For example, Goodman and Bond (1993) concluded that writing specific measurable goals and objectives made it difficult to pursue a child-directed teaching approach which one participant alluded to in his use of the "blueprint/carpenter" metaphor. Finally, the district must provide specific representatives at IEP meetings which was a noted problem in due process hearing and complaint investigation allegations, comments by participants and in the literature (Maloney, 1993).

Placement Issues

Survey and interview participants identified placement as the number one IDEA compliance issue. Only the NCD report (National Council on Disability, January 25, 2000) identified this issue as problematic. It is interesting to note the concern of study participants given that no violations of placement or LRE were found in Oregon due process hearings or complaint investigations reviewed for this study or in past reports (Harris, September, 1998a, September, 1998b, 1999; Manoogian-O'Dell, 1999; Oregon Department of Education, September 1998, January 2000). Based on an analysis of the information, the problem may be less with *making* appropriate placements and more an issue of *having* appropriate placement options (emphasis added). Those providing early childhood services

were clear in their concern regarding the lack of placement options available. Those from more rural and smaller districts also expressed more concern regarding the availability of placement options compared with those from larger districts. Studies completed by the U.S. Department of Education (1995, 1997, 2000) supported this concern.

Placement and Delivery of Services

The focus on this issue may be an expression of concern regarding the delivery of services so that a particular student can fully benefit from special education. This concept is illustrated by the comment of one participant, "It is ridiculous to think that all students with the variety of disabilities we see can be educated in the general education environment." The concept of "inclusion" and "full inclusion" often was mentioned in conjunction with service delivery. The IDEA mandates placements that maximize participation of students with disabilities with their nondisabled peers in the least restrictive environment (LRE) but does not mandate any specific program or service delivery model. The concept of "inclusion" and "full inclusion" may be confused with the mandates of LRE and addressing the needs of the child.

Concerns of service delivery in inclusive settings included the availability of personnel trained to deliver specialized services, inconsistency in the delivery of

services due to multiple roles of the specialist, and the needs of individual students that available services did not adequately address. Specifically, participants from schools relying on itinerant services expressed concern that some services, such as counseling services were sometimes interrupted because the school psychologist providing those services also provided evaluation services. Concerns were expressed that students with multiple needs were not receiving adequate services because of limited placement options available within the district. This concern was particularly true for participants from early childhood special education programs and smaller, rural districts.

As noted in the literature (Behrmann, 1993; Kavale & Forness, 2000; Siegel 1994) there has been a concerted effort to move students with disabilities from segregated environments to settings that are more inclusive. The concepts of least restrictive environment and inclusion are blurred. One possible explanation for confusion between inclusive practices and LRE requirements is the emphasis given to high profile cases challenging segregated placements. With few exceptions, most texts and journal articles spotlight cases such as *Daniel RR* and *Rachel H.* in discussions of LRE. Because the United States Supreme Court has yet to hear a case of placement, no clear guidelines are available nationally.

Also noted by the U.S. Department of Education (1995, 1997, 2000), small, rural schools have fewer placement options available and, thus, have historically maintained placements that are more inclusive. Assuming that many of the

participants from smaller districts also represent rural districts, their responses to the question of LRE are substantiated by the U.S. Department of Education reports (1995, 1997, 2000). Results from the surveys show that participants from smaller districts rate LRE more problematic than participants from larger districts. Based on their comments, interview participants showed agreement with survey participants.

Placement Issues in Hearings and Investigations

The IDEA suggests a preference in placing students with disabilities in the regular classroom with supplemental aides and supports so long as the placement meets the needs of the student. This, in and of itself, creates a dilemma for school personnel who must balance the needs of the child with that of a expressed *preference* within the law. An interesting point regarding placement in the least restrictive environment is the nature of the allegations in due process hearings and complaint investigations reviewed in this study. The primary issue of all hearings and investigations addressing placement was not placement in the regular classroom or even at the student's local school. Instead, placements in so called "more restrictive" settings, such as day treatment programs, residential treatment programs, and self-contained classrooms, were sought by the parents.

As noted above, the literature has focused on high profile cases in which districts sought segregated placements but the courts ordered placements in more inclusive settings (neighborhood schools and regular classes). In Newcomer's and Zirkel's (1999) study, more cases have been argued for so called more restrictive placements such as self-contained classrooms and special schools. Based on the document reviews, Oregon appears to be following the general path of seeking placements that are less inclusive.

Decision-Making

Concerns regarding the decision-making process made this issue paramount over other issues in the eyes of participants. As noted by one participant, "Least Restrictive Environment is difficult to understand and implement, particularly since the concept of full inclusion hit us. I don't think it is a matter of finding the right placement but more a process problem. I have never had a clear picture of exactly how the decision is made or legally documented." In the decision making process, ignoring the needs of the child in deciding least restrictive environment may increase the likelihood of a due process proceeding based on (citation) findings and the results found in the document review. In addition, the documentation of procedural compliance was noted as a problem area that might result in due process (Maloney, 1993).

Summary

The discrepancy between participants' perceptions compared to data from the due process hearings and complaint investigations, as well as information from the literature, is puzzling. As determined in the analysis of the findings, there is a need for greater understanding as to why participants view placement with such a high level of concern. Do special education staff have appropriate training and technical information on the legal requirements of placement and LRE? Are special education practitioners concerned with the legal requirements of placement? Study participants also expressed concern regarding the attitudes and training of regular education faculty and how these might impact the student's chance for success in more inclusive settings.

Finally, there may be confusion between the legal requirements of placement and the concepts and ideology surrounding "inclusion." Indeed, the opinions and concerns of the study participants may be more in line with the courts and legal requirements of the IDEA than with the concept of inclusion. The participants requested more options in the placement of students in environments outside the classroom and school, rather than inclusion models of service. Of primary concern was the delivery of services in the regular classroom due to limited numbers of staff. Also of concern was the delivery of special education

services by itinerant personnel, such as school psychologist, especially when those personnel have multiple duties (e.g., evaluation, consulting, and counseling).

Evaluation Issues

The issues of evaluations fell into two distinct categories, complete evaluations and nonbiased evaluations, and were different for participants than those identified in the reviewed documents. Participants primarily were concerned with completing evaluations that address all areas of suspected disability and conducting nonbiased evaluations. Allegations of noncompliance with the IDEA in due process hearings and complaint investigations focused on delays in completing evaluations.

The greatest differences were seen between speech and language pathologists and participants for other disciplines (special education teachers, school psychologists, and early childhood special educators). The largest districts (5000 or more students) rated evaluations more problematic than districts with few students. Little in the study data or literature suggests a reason for the difference. Participants from smaller districts indicated fewer resources to complete evaluations (e.g., lack of access to school psychologists) that are counter to the overall findings. One possible explanation for the difference in ranking by school size is the impact non-English speaking, culturally diverse populations have in urban and suburban areas of the state where most of the larger districts are located.

Thus, personnel in larger districts require a greater sensitivity in selecting and conducting nonbiased assessment tools and procedures. An analysis of comments given in surveys and interviews from larger districts would suggest a combined concern for completing nonbiased evaluations in addition to completing comprehensive evaluations (evaluating all areas of suspected disability).

Timeliness in Completing Evaluations

Delaying evaluations or not completing evaluations in a timely manner constituted the bulk of alleged violations of the evaluation requirements of IDEA. However, few participants addressed the issue of completing evaluations within mandated time limits. Although impossible to determine conclusively from the responses given by participants, it is possible that smaller and more rural districts have fewer evaluation personnel available to them, relying on services from education service districts or through contracted providers. One participant alluded to the fact that the school psychologist assigned to the district had to juggle many responsibilities including counseling and evaluation services, "If the school psychologist has referrals and testing to do, he has to fit it in somewhere. Schedules can't be written in stone..."

Assessing All Areas of Suspected Disability

Of the comments made regarding evaluations, completing full evaluations was a common theme from participants. Special education teachers working in ECSE programs also expressed more concern regarding the requirement of assessing all areas of disability than other cohort groups. The ECSE participants did not mention external support or access to outside services suggesting that evaluations were primarily conducted “in house” with questions of what constitutes an evaluation of all areas of suspected disability.

Other participants addressed the issue of evaluation of all areas of suspected disability combined with issues of time, eligibility, and program development. “Testing time - adequate time to test will insure quality eligibility statements and appropriate services. ‘Down and dirty’ just doesn’t cut it! We’re sometimes forced to cut corners, provide the minimum to get by.”

Nonbiased Assessment

School psychologists expressed concerns about completing nonbiased assessments more so than other respondents. The concerns expressed were not so much a lack of training but more in the underlying issues of cultural and language differences as noted by one participant, “We have a growing population of non-

English speaking students ... referred within one year of arriving in the United States.” This participant expressed more concern with educating teachers and administrators that language learning takes time as opposed to the actual need to perform non-biased evaluations.

The literature focused on historical abuses of assessment tools in the identification of children with disabilities and how courts ruled to clarify the IDEA’s mandate for non-biased evaluations. As noted above, the issues of non-biased assessment came primarily from participants from the largest districts. School psychologists expressed more concern than did other participants.

Other Evaluation Issues

A small number of participants, primarily special education teachers and school psychologists, expressed concerns over the use of standardized tests as exclusive measures of student performance for the determination of eligibility and as baseline measures for program planning. A few participants, particularly teachers in the smaller and rural districts, questioned their competencies in using particular tests. Use of specific tests or measures were not issues in due process hearings or complaint investigations.

One participant briefly discussed how the decision to conduct an evaluation was made and expressed a concern that the process seemed to

lack a team approach. No other participants discussed issues of the team approach nor was this theme found in the documents reviewed or literature.

Parent Participation

Although a minor point when compared to all other compliance areas, parents alleged that they were prevented from participating in decision-making meetings as noted in the review of due process hearings and complaint investigations. In contrast, study participants focused on the lack of parent participation despite efforts to invite parents and to arrange mutually agreeable meeting times. Some study participants also expressed frustration concerning parents who had high demands and the amount of time these parents take away from service delivery and other job responsibilities. Still, some study participants expressed positive views of parent participation. For example, parent participation contributes to a higher level of student outcomes and better overall support for the student. As noted by one survey participant, parents generally are alone at meetings, surrounded by numerous school personnel, possibly placing the parents in an uncomfortable position.

Participants appear to want good working relationships with parents. For those participants who described the "over demanding parents" their desire did not seem to be a wish for no parent involvement, only relationships with less conflict. The majority of respondents expressed concerns regarding the less involved and

non-involved parent. For these respondents, involving parents appeared to be a desire and goal.

Personnel Issues

The training of personnel, services provided by qualified district staff, or supervision of special education providers was fifth on the list of alleged IDEA violations, based on a review of due process hearings and complaint investigations. Numerous study participants discussed the lack of trained personnel as a concern and a barrier toward compliance.

Allegations made against districts concerned the use of personnel in delivering services or conducting evaluations who may not have been qualified, properly trained, or appropriately supervised. Study participants did not suggest that districts were using staff inappropriately. Study participant concerns focused on increased caseloads, decreased time providing services, and the lack of paraprofessional support. Those from rural areas discussed problems related to recruiting and retaining certified staff.

Job Requirements

Variations were noted between responses from both survey participants and interview participants. Differences in responses, to some extent, can be explained

by job responsibilities, work locations, and the perceived availability of and access to resources. For example, only participants from rural areas and the smallest districts provided unsolicited statements regarding medical evaluations. Speech and language pathologists were candid in their minimal role in completing the IEP, only having to submit their goals and objectives to the special education teacher who typically served as the "case manager."

Special education teachers, speech and language pathologists, and school psychologists have different job responsibilities. Except in the cases of smaller districts, special education teachers working with children of school age are generally assigned to one or two buildings within a district. In some rural districts, special education teachers may be assigned to three or more buildings. With special education teachers working in more than two buildings, travel time was an expressed concern.

Expectations also were evident when comparing special education teachers working in different settings. Most evident were the differences between special education teachers working with preschool children and those working with school age children. Rules differ with regard to the number of meetings and parental consent requirements for preschool children. Those working in early childhood special education (ECSE) programs are required to review and revise the child's individualized program every six months, while those working with school age children generally meet only once a year. Because ECSE requires a minimum of

two meetings a year, it is assumed that twice the number of notices must be completed and sent to parents.

One special education teacher, the only special education employee in the district, reported more administrative duties. These duties included completing annual reports to the ODE, supervising paraprofessionals, coordinating and scheduling of contracted services, and meetings with other district administrators, in addition to planning student programs and teaching.

A major difference found between speech and language pathologists and teachers was that teachers generally took on the role of case manager when the student was eligible for special education services in more than one area or required multiple services. The speech and language pathologists interviewed in this study all reported that they generally did not schedule meetings with parents, complete notices, or complete more than goals and objectives specific to speech or language services on the IEP. Although not enough participants reported caseload numbers to make a valid comparison, there was evidence that speech and language pathologists see 15% to 40% more students than special education teachers do. Class size or caseload limits are addressed or mandated by Oregon Administrative Rules or the IDEA.

School psychologists had responsibilities focused on evaluation and counseling as opposed to completing paperwork. School psychologists also

reported more involvement in student discipline issues. Time to complete these varied responsibilities were mentioned in comments and responses.

Compliance Barriers

All participants reported lack of resources as a barrier toward compliance. Those from small, more rural districts expressed greater concern than those from larger suburban and urban districts. Lack of resources included money for programs and materials, placement options, and personnel. Speech and language pathologists expressed greatest concern regarding the lack of trained and licensed pathologists in Oregon and the possible use of assistants for providing services to students.

Participants cited the amount of paperwork and the time needed to complete the paperwork as the most problematic barrier, with most noting the irony that paperwork provides evidence of compliance and implementation but leads to loss of time working with students. Many participants expressed frustration about contradictory information and the lack of consistent information specific to completing required paperwork.

Reasonable Recommendations

Reasonable recommendations fell into two distinct categories: money and reducing paperwork. More money was the top recommendation made by the study participants. Many felt that state money generated on behalf of students with disabilities should be dedicated to special education programs and "follow the student." Those offering expanded answers felt that more money would allow districts to hire staff and obtain material resources for students with disabilities. A reduction in paperwork to document compliance also was a top recommendation. No participant offered specific recommendations regarding training or technical assistance as a means to improve compliance with the IDEA.

IMPLICATIONS FOR PRACTICE

Overall, completing paperwork as a means of documenting compliance with the IDEA was the most problematic area identified by special education professionals. Based on the survey participants' rankings on the Likert scale, no significant differences exist when grouped and compared by discipline on the paperwork theme. Based on written responses and interviews, disparities in perceived difficulty were noted among individual participants. This is most likely due to the job responsibilities reported by individual participants.

Three major implications can be drawn from the problems identified in this study. First, districts may not be able to fully comply with the IDEA because it is too complicated and is more a civil rights law rather than an education law. A thorough examination of the law, policies, and regulations is needed along with research on how decisions are made in further reauthorizations of the law. The relationship between funding and compliance should also be examined. Second, there is a need to examine the focus of training programs, professional development opportunities, and technical assistance and how these entities are addressing the paperwork issue in general and critical compliance issues. Third, issues around the individualized education program requirements must be addressed. Question of redundancy and usefulness emerged in this study. There, of course, is an overlap between the possible policy changes, needs addressing training and professional development, the difficulties of the IEP requirements. Secondary issues, not directly linked to compliance, may also influence the ability of districts to address compliance with the IDEA.

Other compliance issues, child find, evaluations, and eligibility also emerged but were specific to a specific to participant disciplines and size of districts. Parent involvement was also identified by study participants as problematic and influencing the ability of districts to implement the IDEA.

Policy

The IDEA is an extremely complicated law. Districts may not be able to fully comply with the IDEA because it is a civil rights law rather than an education law. The law was established to protect the rights of children with disabilities and afford their parents certain procedural safeguards. As stated earlier, an examination of the law, policies, and regulations is needed to determine what areas are redundant and may, in fact, impede the educational process. Research on how decisions are made in further reauthorizations of the law may contribute to revisions that make compliance less problematic.

Many participants in the study identified additional funding as one possible solution to problems of compliance with the IDEA. As discussed earlier, additional funding would allow districts to hire more personnel thus lessening the caseloads (the number one suggestion made by survey participants) of those currently providing special education services. Having additional personnel would allow an adjustment between needed time to complete required documentation and time with students. Funding may also provide districts with access to a wider range of placement opportunities for students. Because litigation in the area of least restrictive environment leans toward less inclusive settings (more restrictive settings) and higher levels of supports, districts, particularly smaller districts, will need greater access to such placements.

The relationship between funding and compliance should also be examined. In 1975, Congress set a goal of providing 40% of the actual cost of educating children with disabilities (House Report, 1975). As of 1998, funding for special education was at approximately 11% (Moran, February 24, 1999).

Finally, policy makers should take steps to assure all stakeholders have a voice in the development and implementation of future amendments to the IDEA. Special education professionals play a vital role in the delivery of services to children with disabilities, as well as attempting to provide procedural safeguards to the child's parent. Their voices must be heard in this policy development process to assure the success of the IDEA, both as a civil rights law and as a provision in the establishment of educational benefit to children.

Professional Development and Technical Assistance

Studies of special education teacher training programs have shown that there is minimal attention given to the subject of paperwork demands (Buck, Marsink, Griffn, Hines & Lenk, 1992; Rosenberg & Rock, 1994; Silver, 1986). Despite the lack of comment regarding university training by the participants, one participant did discuss the lack of training specific to the paperwork demands. Questions remain. Would greater emphasis on the paperwork responsibilities in preservice programs lead to greater levels compliance with the IDEA? In addition, because paperwork demands change over time, should districts and states focus

more effort and resources in providing professional development and technical assistance? The paperwork problem may be more a policy and funding issue than a training issue.

Overall, implications for training and technical support will depend on a thorough assessment of staff and faculty needs. Data gathered in this study suggest disconnects between participants' perceptions of difficult compliance areas and those actually leading to alleged violations of IDEA and serious areas of noncompliance. Although this study found no quantitative differences between the rankings of compliance areas by discipline (special education teachers, speech and language pathologists, and school psychologists), qualitative differences were evident. For example, school psychologists focused on issues of discipline probably due to the unique role they play in evaluation and counseling.

Despite the availability of technical assistance papers and documents through the Oregon Department of Education (August 1999; August 2000) and Education Evaluation Center, Teaching Research Division, Western Oregon University (2001), participants in the study did not indicate knowledge of these products. Perhaps the real issue of technical assistance is dissemination; making sure practitioners know the products are available and have time to use them.

Individualized Education Program

Based on the review of due process hearings and complaint investigations, issues around the IEP must be addressed to reduce possible litigation. Some participants suggested the use of the same document statewide. Except in a few cases where districts have applied and received waivers, the IEP has been standardized in Oregon.

Use of computer programs may assist in reducing the amount of time needed to complete required paperwork, such as the IEP. Computer programs may also reduce the chances of missing required components of notices and the IEP. Finally, computer programs may allow the completion of some areas of documentation before or after meetings that do not violate participation requirements. However, use of computer software may not reduce noncompliance because such issues go beyond the completion of forms and include the delivery of services not tied to specific documentation.

Some participants mentioned the computer software program RECMAN. While there are other computer programs available commercially, few can be tailored to the unique requirements of each state, thus limiting their usefulness to meeting federal regulations requirements only. RECMAN is specific to the State of Oregon, but still has limitations. The software "forms" have limited space, making it difficult to complete required sections such as the present level of educational performance and transition needs statements.

In all cases, resources toward the purchase of computer hardware and software will be required. The use of any new technology requires an extensive commitment of time and resources to assure appropriate and efficient use of the tool. In many cases, the use of computer technology to address part of the paperwork could be completed by clerical or technical staff, while the specific areas addressing educational goals and objectives could be left to the educational specialist. This division of labor would allow the educational specialist more time to deliver services to children. Still, highly trained personnel, with knowledge of compliance requirements and educational best practices, cannot be replaced by software in the current evolution of the technology for this purpose.

The concept of the individualized education program is in conflict with needs of "standardization." While the forms can be standardized, the content of the forms cannot, because the base concept of the IEP is individualization. Because goals and objectives must be individualized and address the needs of the child, the goals and objectives must also be measurable. Neither the IDEA nor Oregon regulations provide a definition or standards of measurability. Measurability is somewhat arbitrary and open to interpretation. In addition, one individual may not understand what may be clear to others. Placing definitions or standards within the law may be too constricting, thus defeating the individualization concept of the IEP.

Providing specific guidelines, examples, and technical assistance are some avenues to address the IEP goal and objective writing difficulties. Specific examples of measurable goals and objectives were lacking in all the literature reviewed in this study. Even Bateman's text (1996) lacked examples of what constitutes measurable goals and objectives.

Implementation of IEP services also was identified as problematic. Services require personnel. To attract, train, and retain personnel, districts must have funding. As noted in the literature, federal funding of special education programs has not been achieved at the 40% level cited by Moran (February 24, 1999). Some participants suggested use of paraprofessionals to deliver services. Others suggested a need for support in completing paperwork so they could spend more time providing services to children. Ideally, a balance of more professionals, use of paraprofessionals, and increased access to clerical assistance to complete requirements of documentation would make implementation of IEP services less problematic.

Finally, there is an on-going concern about the usefulness of the IEP (Smith, 1989; Huefner, 2000). Would IEPs be more useful to teachers in the education of children with disabilities by suggesting appropriate methodology and strategies rather than, or in addition to, specific educational goals and objectives? We do not wish to eliminate the civil rights protections afforded by the IDEA but the documentation must be useful as an educational guide and not just a compliance

document. As stated earlier, the compliance section of the IEP might best be completed by clerical staff, leaving the educational component to the educational staff.

In future development of the IEP, and possibly other special education forms, it is advisable to include special education professionals in the development of the forms. Careful field-testing and analysis of field data could identify areas on forms that are redundant and serve little use to the primary stakeholders (e.g., teachers, parents, and other service providers). Including parents of children with disabilities in this process is also advisable. After the completion of the field-testing then policy designers and legal advisors can work to assure the paperwork addresses the letter and intent of the law.

Child Find, Evaluations, and Eligibility

Child find, evaluations, and eligibility issues also need attention. As in other areas of compliance, the availability of professional personnel was a concern expressed by some participants. Early childhood special education providers were especially concerned with individualized evaluations and completing evaluations that address all areas of suspected disability. Participants from larger district expressed need in understanding the requirements of nonbiased evaluations, particularly with non-English speaking students. Eligibility, particularly the decision making process concerning the identification of autism, learning

disabilities, and attention deficit disorder, were specific areas of identified need by study participants.

As with areas addressed above, multiple implications for practice exist. Funding for more evaluation specialists is desirable. Short of providing additional personnel, technical assistance in conducting complete evaluations can be easily achieved given that the Oregon Department of Education provides forms detailing all evaluations needed for determination of eligibility under a particular disability category.

Although the Oregon Department of Education has provided a technical assistance paper (Education Evaluation Center, Teaching Research Division, Western Oregon University, 2001) addressing the assessment of culturally and linguistically diverse students, this information does not appear widely known to practitioners. Models of multicultural and multilingual evaluations do exist in the state such the Evaluation Center at Western Oregon State University and the Education Evaluation and Consultation Center at Linn-Benton-Lincoln Education Service District (Oregon Department of Education, 2001).

Parent Involvement

Participants from medium size districts (3000 to 5000 students) and the largest districts (5000 or more students) identified parent involvement as most problematic. Solutions to this problem are very difficult to address because districts

must make efforts to facilitate and encourage parental involvement but cannot require parents to participate. In comparison to allegations made in due process hearings and compliant investigations, the compliance concern over participation is unfounded. The benefits of parent involvement were discussed more so than actual concerns of compliance with IDEA. Also discussed were frustrations experienced when parents were “over demanding” or “unreasonable.”

Parent involvement may be more an issue of differences found between smaller districts and larger districts. Although a stereotypical generalization, schools in smaller districts may be viewed as centers of the community and, thus, more accessible to parents and other community members. Some literature suggests this to be true (Dolan, 2001; Keyes & Gregg, 2001; Pardini, 2001). Parents and community members may view larger districts as less accessible and more institutional than a center of the local culture. Rather than a change in process or training of special education personnel, the overall structure of the educational system may be needed to encourage active involvement of parents, not only in the special education process, but also in the daily education of their child.

SUMMARY

In the available literature and the data gathered in this study, the issue of paperwork is significant in the implementation of the IDEA. Documentation provides evidence that districts are implementing and complying with the IDEA,

yet, participants in this study find documentation requirements confusing, time consuming, and a barrier toward other areas of compliance and implementation. Participants see the demands of completing paperwork interfering with what they view as their primary purpose: providing services to children with disabilities. Most participants recognized the need to provide documentation but resent the task. To what extent does policy and the lack of funding contribute to noncompliance?

Participants ranked various compliance areas of the IDEA as more problematic than other areas. Most striking was the participants' ranking of placement as the most problematic issue, despite no record of violations in Oregon. Many study participants expressed concerns specific to the practice of inclusion with the literature justifying their concerns in that litigation has tended to place students in more restrictive, specialized settings, rejecting inclusive placements.

Participants' rankings differed from identified areas in the literature and alleged violations brought in due process hearings and complaint investigations. The most significant difference was in the area of the IEP. Participant views of the compliance issues varied little across disciplines but significant differences exist among participants based on district size.

Ideally, solutions to the compliance issues presented in this study could be achieved with higher levels of funding. Funding would make it possible to increase special education personnel and reduce caseloads. Reducing the amount of paperwork by eliminating extraneous and redundant fields within the documents

would save personnel time. The use of computers to complete paperwork, in time, may make completion of required documentation less time consuming.

Immediate implications for practice included increased focus what training programs and technical support emphasize. Can the areas of documentation (paperwork), the IEP, and the evaluation and eligibility process be effectively taught without sacrificing instruction and support in educational strategies and best practices in instruction?

Finally, participants recognized the benefits of parent participation in the special education process. Nonparticipation of parents was viewed as most problematic because participants felt this negatively impacted the child's education. The over demanding parent was also seen as problematic because of the time needed to address their issues.

CHAPTER 8: CONCLUSION

Special education is governed by a complicated set of rules and regulations. Special education also involves numerous stakeholders including, but not limited to, the child, parents, teachers, school and district administrators, and state and federal officials. A single study, in and of itself, can scratch only the surface of the issues faced by stakeholders in assuring educational programs and benefits to the child. As with all research, this study has its limitations.

STUDY STRENGTHS & LIMITATIONS

At the onset of this research, I recognized possible limitations to the study. A thorough literature review was conducted with publications as new as 2001 reviewed. The literature review was discontinued in April 2002. Limitations that are more significant included a specific population of participants and selective review of documents. Therefore, generalization of the findings must be cautioned.

Sample

The participant sample of the study represents Oregon special education teachers, speech and language pathologists, and school psychologists. Participants

represented different geographic areas and school districts of varying size.

Although two district sizes were over represented while one was underrepresented, overall, all district sizes and locations were represented.

The participants included in this study represent three distinct professional disciplines. Those participating in this study closely represented the population of special education professionals in Oregon. The response rate of 72.7% from the survey contributes to the strength of the study. Having the diverse representation of regions, district sizes, and disciplines from both survey and interview participants also strengthens the study. Nevertheless, because participation in the study was voluntary, those not responding to the survey and not willing to participate in the interviews may have differed in their point of views, thus influencing the outcome of this study. Further validation of the study interpretations through a debriefing process with participants would have been desirable.

This study addressed issues where no research existed and included participants who lacked representation in prior research. Although the sample was exclusive to Oregon special education teachers, speech and language pathologists, and school psychologists, this research provided the opportunity to conduct an in-depth, systematic exploration of the perceptions and recommendations of the participants. By using in depth interviews, the study was able to focus on a select group of participants' experiences and the issues they found most important in their practice as special education providers.

In reviewing documents, some understanding of compliance issues could be gained from the viewpoint of parents. Reviewing documents alone did not capture the voice of parents and advocates. Instead, the data obtained from the documents were specific points the author of each report found salient, providing edited views of the stakeholders involved in the due process hearings and complaint investigations. Despite the noted limitations, however, the trustworthiness of the findings was enhanced by the use of multiple source of data collection that engaged multiple perspectives. Emergent themes from the survey respondents closely matched those of the interview participants. Parallel themes to those of the study participants also emerged in the review of documents.

Analytical Process

In many qualitative studies, researchers use second investigators to read and code transcripts to check the validity of particular categories. In this study, a second rater was not used. Morse (1998) argued that bringing a second rater into a research process during coding might affect the study negatively. Morse also argued that the primary investigator has a cumulative and broad knowledge base for conducting the research to which the second rater may not have access. For these reasons, additional raters were not used in this project. Coding efforts in this study employed rigorous research methodology. Coding of the information focused on key words and phrases. In addition to general ideas generated from the literature,

coding schemes emerged from the data. Within this first step, instances mentioned by participants on specific areas of the IDEA compliance and recurring themes from the documents were the major focus. The initial coding effort helped label, separate, and organize the data. A more focused coding strategy followed in which subcategories were developed within initial codes, ensuring that the codes adequately describe the data. Overarching themes and essential concepts were then identified (Miles & Nuberman, 1994). Eight months after hand coding was completed, recoding of the data, using the software winMax, was completed to assure overall reliability.

This study focused on the experiences, perceptions, and recommendations of Oregon special education teachers, speech and language pathologists, and school psychologists and documents from the OSE, ODE. This research can be generalized only to the state of Oregon and to the demographic profiles of the participants. However, this is the first study giving voice to a group of educators overlooked in prior research.

FURTHER RESEARCH

This study relied on surveys and interviews with Oregon special education teachers, speech and language pathologists, and school psychologists. Expanding this research to include participants from other states would be beneficial in gaining a broader view of compliance issues foremost in the experiences of special

education professionals. Additionally, including other stakeholders, such as general education teachers, school administrators, and parents, would add another layer to the overall picture of IDEA compliance at the district front line level. Of particular interest would be the voices of general education teachers because they serve students with disabilities approximately 70% of the school day (U. S. Department of Education, 2000) and may be delivering some portion of their special education.

There are many questions not answered in this study opening entirely new lines of inquiry concerning the issues of compliance. Not fully addressed in this study are questions of why special education teachers, speech and language pathologists, and school psychologists differ in their views of compliance areas. Could factors such as prior training, availability of administrative, professional and peer support, access to professional journals and technical assistance influence responses? Also, why did the participants identify issues that differ from those found in due process hearings and complaint investigations? One possible explanation might be that these documents, although available to the public, are not widely advertised as public documents. Also, even if practitioners had ready access to the information, do they may not have the time or the interest to research such topics. Is the knowledge of litigated issues important in the daily practice of special education personnel? If so, what is the most preferred method of information dissemination? Looking at each group of special education professionals,

separately, in three different studies, may provide answers to the questions posed above.

Refining the focus of interviews and questioning on surveys could yield additional insight as to why implementation of the IDEA is difficult, what specific barriers stand in the way of compliance, and whether more detailed recommendations can be solicited. It would be important to determine if differences exist based on the participants' discipline and job location and perhaps why years of experience did not contribute to differences in responses. In hindsight, using the Likert scale with the interview participants would have added an additional layer for analysis.

Historically, the paperwork requirement of IDEA has been identified as problematic in the daily job requirements of special education teachers and other special education practitioners, yet appears of little or no concern in the recent actions of policy makers. Paperwork demands, as expressed in this study, add to the body of literature. Research into the policy decision-making may shed light about the increase in documentation requirements.

SUMMARY

Until now, no research has focused on the barriers contributing to the implementation of IDEA areas such as the IEP, evaluation, eligibility, and written notice as viewed by front line personnel. In this study, Oregon special education

teachers, speech and language pathologists, and school psychologists identified specific areas quite different from those identified in previous studies and different from areas of alleged violations of IDEA in due process hearings and complaint investigations.

Significant differences exist between alleged violations of the IDEA and study participant perceptions. The most litigated area of the IDEA is the individualized education program. Participants expressed great concern regarding least restrictive environment, focusing on the concept of inclusion. Although the second most litigated area in Oregon, least restrictive environment was a distant second to the individualized education program.

Study participants identified paperwork as the most problematic issue in complying with and successfully implementing the IDEA. As noted by a number of participants, paperwork drives the special education system in that districts are funded through the documentation trail, not by the individual services provided to the child. Imbedded in the issue of paperwork are issues of procedural protections, documentation of compliance, attrition and job stress. The literature supports the concerns of participants regarding paperwork issues (Barrick & Enell, 1980; Billingsley, 1993; Billingsley, Gersten, Gillman & Morvant, 1995; Billingsley & Tomchin, 1992; Brownell & Smith, 1993; Maloney, 1993; Mattison, 1994; McLaughlin, Smith-Davis & Burke, 1986). Completion of paperwork, attending meetings, and completing evaluations limits time spent with students, according to

many participants. Although only directly mentioned by one participant, the issue of training, as a contributing factor to why compliance is difficult, was substantiated by previous studies (Buck, Marsink, Griffn, Hines & Lenk, 1992; Rosenberg & Rock, 1994; Silver, 1986). In the analysis of specific issues, participant responses were inconsistent with issues identified in previous studies, reviewed literature, and due process hearing and complaint investigation allegations. For example, participants identified compliance with the least restrictive environment provision of the IDEA as most problematic while litigation and the literature focused more on the individualized education program.

Decreasing and simplifying the paperwork demands in special education has been debated for at least two decades (Barrick & Enell, 1980; Billingsley, 1993; Billingsley, Gersten, Gillman & Morvant, 1995; Billingsley & Tomchin, 1992; Brownell & Smith, 1993; Buck, Marsink, Griffn, Hines & Lenk, 1992; McLaughlin, Smith-Davis & Burke, 1986; Rosenberg & Rock, 1994; Silver, 1986). Paperwork provides a means of documenting the procedural safeguards provisions of IDEA established in the *Mills* (1972) decision and has been a foundational component of the federal mandate since the passing of the Education for All Handicapped Children Act in 1975 (20 U.S.C § 1401 *et seq*). Realistically, significant changes in the law and funding mechanism are the only methods that would substantially reduce or simplify the paperwork demands of the IDEA. Use of technology, such as computer software programs, would not simplify or reduce the

paperwork but would contribute to a speedier process. We practice our profession in a litigious society, therefore, documentation, for all of its perceived evils, allow special educators to spend time in classrooms rather than courtrooms.

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APPENDICES

APPENDIX A: SURVERY COVER LETTER

I am writing to ask your help with a project I am doing as part of my work as a graduate student. I am a Ph.D. candidate in the School of Education at Oregon State University. During the course of my studies, I have become interested in learning more about implementation of provisions of the Individuals with Disabilities Education Act professionals find problematic and why specific provisions are difficult to implement.

You are one of a small number of special education personnel in Oregon being asked to give their opinion on these matters. Your name was drawn from a list of all special education personnel obtained from school district web sites, phone calls made to districts and through the generous assistance of the Oregon Council for Exceptional Children, Oregon Speech and Hearing Association, and Oregon School Psychologist Association. In order that the results of the study represent the thinking of special education professionals, it is important that each questionnaire be completed and returned in the stamped envelope provided.

In my review of the literature, I found no studies of special education policy, compliance, or implementation that sought the viewpoint of building and classroom level professionals other than administrative staff. You have an opportunity to be involved in making the voices of special education teachers, speech and language pathologists, and school psychologists heard by completing and returning this survey.

You may be assured of complete confidentiality. The survey has an identification number for mailing purposes only. This is so that I may check your name off the mailing list when your survey is returned. Your name will never be placed on the survey itself or identified with your responses. Your participation is strictly voluntary. You may complete all, part, or no part of the survey.

I would be happy to answer any questions you may have about this study. I can be reached at 1-800-967-2025 ext. 2727 during the workday, or at home (541) 754-2936, or by email at richard_odell@lblestd.k12.or.us.

Thank you for your assistance.

Sincerely,

Richard Manoogian-O'Dell
4004 NW Witham Hill Dr. #161
Corvallis, OR 97330

APPENDIX B: SURVEY

Special Education Compliance Issues in Oregon Survey

Page 1

In your opinion and experience, what area(s) of the IDEA are most difficult to comply with?

Why is this area (are these areas) difficult to comply with and/or implement?

Special Education Compliance Issues in Oregon Survey**Page 2**

What recommendations or solutions would you suggest to make implementation/compliance realistically less problematic?

Special Education Compliance Issues in Oregon Survey**Page 3**

In prior IDEA compliance research, the following areas have been identified as problem areas. Please indicate to what extent you find each area problematic. Please feel free to add additional areas.

Area	How problematic is this area (your opinion and experience) (Please circle your answer)		
Child FindNot	Low	Medium	High
Parental InvolvementNot	Low	Medium	High
EvaluationNot	Low	Medium	High
EligibilityNot	Low	Medium	High
Least Restrictive Environment (Placement)Not	Low	Medium	High
Individualized Education Program ...Not	Low	Medium	High
IEP MeetingsNot	Low	Medium	High
DisciplineNot	Low	Medium	High
Written Notice and ConsentNot	Low	Medium	High
Other (Please specify)Not	Low	Medium	High
<hr/>			
Other (Please specify)Not	Low	Medium	High
<hr/>			

Special Education Compliance Issues in Oregon Survey**Page 4**

Demographic Information (please do not put your name on this form)

Degree held _____

Which best describes your current position (circle one)

Resource Teacher (noncategorical)

Self-contained special education teacher

Behavior specialist

Consulting teacher

School Psychologist

Speech and Language Pathologists

Teacher of the Deaf

Teacher of the Blind

Other: _____

Gender (F) (M)

Licensure(s) _____

Years in teaching _____

Years in special education _____

Years in current position _____

Age/Grade levels served _____

Types of disabilities served _____

Case load size _____

Employer (please circle) (ESD) (Local School District)

Size of district	less than 1000 students	1000 - 2000 students
(please circle)	2000 - 3000 students	3000 - 4000 students
	4000 - 5000 students	more than 5000 students

Description of job duties:

Thank you for your assistance.

APPENDIX C: REMINDER LETTER

Dear _____:

About two weeks ago, I wrote you seeking your opinions about the implementation of provisions of the Individuals with Disabilities Education Act professionals find problematic and why specific provisions are difficult to implement. As of today, I have not received your completed survey. I realize you may not have had time to complete it. However, I would genuinely appreciate hearing from you.

Again, you are one of a small number of special education personnel in Oregon being asked to give their opinion on these matters. You have the opportunity to make your voice heard on issues of compliance and implementation of the IDEA. Please consider completing the survey. This will be the final mailing concerning this study.

In the event that your survey has been misplaced, you may request another copy by calling or sending an email. I am happy to answer any questions you may have about this study. I can be reached at 1-800-967-2025 ext. 2727 during the workday, or at home (541) 754-2936, or by email at richard_odell@lblead.k12.or.us.

Thank you for your assistance.

Sincerely,

Richard Manoogian-O'Dell
4004 NW Witham Hill Dr. #161
Corvallis, OR 97330

APPENDIX D: LETTER TO POTENTIAL INTERVIEW PARTICIPANTS

Dear _____:

I am writing to ask your help with a project I am doing as part of my work as a graduate student. I am a Ph.D. candidate in the School of Education at Oregon State University. During the course of my studies, I have become interested in learning more about implementation of provisions of the Individuals with Disabilities Education Act professionals find problematic and why specific provisions are difficult to implement.

In the twenty-six years since the passage of the PL 94-142, no studies addressing compliance issues have been completed that include those charged to oversee and complete much of the compliance documentation (special education teachers, speech and language pathologists, or school psychologists).

For this study, I am seeking to give voice to those who implement special education programs based on the IDEA at the building and classroom level. I am asking for your participation in an interview format lasting approximately one to two hours. I will meet with you at your convenience. I am trying to interview a select group of 10 or more individuals who represent different areas of the state and different positions within special education (special education teachers, speech and language pathologists, or school psychologists).

If you are interested or have questions, please call or email me. Please feel free to pass this invitation on to others you might know and who would be interested in participating. If needed, I can provide a letter from my supervising professor whom supports me in this endeavor. I can be reached at 1-800-967-2025 ext. 2727 during the workday, or at home (541) 754-2936, or by email at richard_odell@lble.sdk12.or.us. Please contact me, as soon as possible, if you are interested in participating.

Thank you for your consideration.
Richard Manoogian-O'Dell
4004 NW Witham Hill Dr. #161
Corvallis, OR 97330

APPENDIX E: INFORMED CONSENT FORM

Project Title: Special Education Compliance Issues in Oregon

Investigators: Richard Manoogian-O'Dell (AKA: Richard O'Dell), Ph.D.
Candidate, Oregon State University, School of Education

LeoNora Cohen, Professor, Oregon State University, School of Education.

Purpose of the Project: The purpose of this study is to investigate how Oregon special education specialists view difficulties in the implementation of the Individuals with Disabilities Education Act (IDEA).

Procedures: I understand, as a participant in this study, that I will be asked to participate in a interview and asked to respond to questions posed by the investigator (Richard O'Dell) focusing on:

1. my experiences in implementing the IDEA;
2. concerns I have regarding compliance with the IDEA; and
3. possible ideas I might have to make implementation and compliance with IDEA less problematic.

The interview will last approximately 1 to 2 hours.

The information I give will not be personally identifiable. My responses will be identified by a pseudonym. My name will not be used in any way.

I understand the interview will be audiotaped. I understand the audiotapes will be labeled with a pseudonym to assure anonymity. My name or institution association will not be recorded or placed on the tape. Tapes will be maintained at the investigator's home and erased once no longer needed.

Transcriptions from the audiotape will be provided for my review and comments. I understand that my comments regarding the transcripts will be taken into consideration in editing and reporting of the results.

My responses, together with others, will be combined and used for summaries only.

Risks and Benefits:

Because anonymity is assured, there are no foreseen risks in participating in this study. My participation may provide benefit to the study of special education law and policy.

If I decide that I do not want to answer some questions, that is okay. At any time during the interview, I may choose not to participate further in this study.

If I have questions about the research study, I can contact Richard O'Dell at 1-800-967-2025 ext. 2727 or at (541) 754-2936. I understand that any questions regarding my rights as a research subject can be addressed to the Institutional Review Board Coordinator, Oregon State University Research Office, (541) 737-3437.

My signature below indicates that I understand the Special Education Compliance Issues in Oregon Research Project and agree to participate in this study. I understand that I will receive a signed copy of this form.

Participant's Signature

Name of Participant

Participant's Address

Participant's Phone Number

APPENDIX F: INTERVIEW PROTOCOL QUESTIONS

Participant Demographics

1. Degree held
2. Gender
3. Licensure
4. Years in the teaching
5. Years in special education
6. Years in current position
7. Age/grade levels served
8. Types of disabilities served
9. Case load size
10. Which best describes your position (circle one)

Resource Teacher (noncategorical)
Self-contained special education teacher
Behavior specialist
Consulting teacher
School Psychologist
Speech and Language Pathologists
Teacher of the Deaf
Teacher of the Blind
Other: _____

11. Description of job duties

Circle one: Employer ESD Local School District

Size of District: less than 1000 students
 1000 - 2000 students
 2000 - 3000 students
 3000 - 4000 students
 4000 - 5000 students
 more than 5000 students

12. Please describe your background and how you became interested in special education.

- When did you become interested in being a special educator?
- Do you think you have benefited from becoming a special educator?
- For what reasons did you choose your own degree over another degree?
- For what reason did you choose to work for your current employer?

Daily Life

13. Please describe your typical workday.

- Has your job changed in recent years?
- What makes working in your current position different from previously held positions?
- Do you spend time talking with other professional from other buildings or districts?
- What do you talk about?
- Do you spend time talking to other faculty or staff in your building?
- What do you talk about?

Issues Focus

14. Based on your experience, what part or parts of the IDEA do you find problematic to comply with or implement?

15. Why? What barriers do you experience?

--- may ask clarification on specific points

16. To what extent does noncompliance or compliance contribute to student outcomes?

17. What reasonable recommendations would you have to make implementation/compliance less problematic?

- may ask clarification or leading questions
 - resources
 - information
 - supports
 - changes in job description/responsibilities
 - training

Closure

18. Are there questions I have not asked that you feel are important?

DEFINITION OF ABBREVIATIONS

ADA	Americans with Disabilities Act
DOE	United States Department of Education
CIMP	Continuous Improvement Monitoring System
CFR	Code of Federal Regulations
ECSE	Early Childhood Special Education
EAHCA	Education of All Handicapped Children Act
EHA	Education of Handicapped Children Act (synonymous with EAHCA)
ESD	Education Service District
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FERPA	Family Education Rights and Privacy Act
IDEA	Individuals with Disabilities Education Act
IEE	Independent Education Evaluation
IEP	Individualized Education Program
LRE	Least Restrictive Environment
OAR	Oregon Administrative Rules
OCEC	Oregon Council for Exceptional Children
ODE	Oregon Department of Education

OSE	Office of Special Education, Oregon Department of Education
OSEP	Office of Special Education Programs, US Department of Education
OSERS	Office of Special Education and Rehabilitative Services, US Department of Education
OSHA	Oregon Speech and Hearing Association
OSPA	Oregon School Psychologist Association