

**Efforts to Improve Instruction for One and All:  
Policy Reforms in Special Education**

by

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## **DEDICATION**

To my family, with unending love and gratitude.

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## ABSTRACT

There have been significant achievements in the improvement of educational opportunities for students with disabilities over the last four decades. Nevertheless, concerns about the quality of special education persist and abound. How students are identified, the overidentification of poor and minority students, levels of inclusion, and disagreements about what constitutes appropriate instruction are long-standing issues in the field of special education. Today, we expect schools to support *all* students in meeting the same rigorous standards while also attending to the *individual* needs of students. This three-article dissertation explores two federal special education policy instruments that have helped to shape these expectations for schools and have also tried to provide a means by which schools might achieve these aims.

In telling the story of these two policy instruments, the Individualized Education Program (IEP) and Response to Intervention (RTI), as well as the story of one state's efforts to craft a statewide RTI policy, this dissertation illustrates a case of problem solving in which policymakers tried to address fundamental social problems while also contending with the consequences of past efforts. In the stories of the IEP nationally and Tennessee's version of RTI, policymakers sought to manage the collision of ambitious aims and weak capabilities that were features of the environment in which these policy instruments were designed and that affected the solutions policymakers put forth. Both the IEP and Tennessee's RTI reflected and tried to manage critical features of the environment in which they were produced. Most notably, this environment was defined by legal and structural features designed to limit the centralized control

and power of government, a limited knowledge and practice base for educating all students, and strong ideological and philosophical beliefs about the equalizing effects of education and the responsibilities of schools. These features of the environment were reflected in the designs of the IEP and Tennessee's RTI as policymakers attempted to support schools and districts in meeting their ambitious aims while having little leverage with which to do so.

In trying to understand how policymakers managed this collision between ambitious aims and weak capability, this dissertation draws on the work of Cohen and Moffitt (2009), who argue that a gap exists between policy and practice that can be managed with four types of actions and resources: aims, instruments, capability, and the environment. In using this analytic frame, I illustrate the ways in which central features of the environment shaped these special education reform efforts and how policymakers, in turn, endeavored to manage the policy-practice gap that they created. Their efforts came in the form of 1) procedures (found in both the IEP and Tennessee's RTI) and broad guiding principles, 2) a range of other instruments to support implementation, and 3) a process of designing and redesigning as policies are put into practice.

## **CHAPTER ONE**

### **INTRODUCTION**

Starting in the 1950s with the civil rights movement and the unanimous Supreme Court ruling in *Brown v. Board of Education*, the federal government sought to address problems of quality and inclusivity in America's public schools. The 1960s and 1970s were marked by expanding federal policies related to education (most notably Title 1 of the Elementary and Secondary Education Act) and direct efforts by the federal government to ensure access, increase integration, and improve services in America's public schools. Despite some progress, even as late as the early 1970s, students with certain disabilities were still legally excluded from some of America's public schools, and of those students who made it through the school doors, many were said to be receiving an inappropriate education (Children's Defense Fund, 1974). Congress set out to address these problems with the Education for All Handicapped Children Act (PL 94-142), passed in 1975 and later renamed the Individuals with Disabilities Education Act (IDEA) in 1990.

PL 94-142 created "a base of civil rights and legal protections" (U.S. Department of Education Office of Special Education and Rehabilitative Services, 2002, p. 4) for students with disabilities, guaranteeing them access to a "free appropriate public education" (PL 94-142, 1975, Sec. 3, c). This notion of access to a free appropriate public education was incredibly ambitious at a time when many students with disabilities did not have access to a public education and the appropriateness of the public education provided to students who were categorized as disabled

was questioned. Trying to achieve these ambitious aims with weak capabilities – in the form of both limited federal control and authority and a varied knowledge and practice base for educating students with the wide variety of disabilities included under the legislation – Congress created the IEP, the primary policy instrument for PL 94-142.

The IEP was an effort by policymakers to define what a free appropriate public education looked like for all students with disabilities and to help schools and teachers – who had previously excluded and mistreated these students – provide that free appropriate education. The design of the IEP consisted of a set of procedures for educators to use when identifying students with disabilities and determining an appropriate individualized education program. Each special education student's IEP, resulting from an IEP meeting with the student's teachers and parents/guardians, was supposed to include personalized learning goals while also prioritizing the least restrictive environment in which to meet those learning goals. In designing the IEP, lawmakers provided many procedural specifications and a few guiding principles to states, schools, and districts about how to implement the IEP, but they left schools and families to figure out the substantive details, such as what constituted appropriate assessments for identifying students with disabilities and what goals and methods of instruction were appropriate for educating students with disabilities. The IEP did not address educational outcomes; that was left to local authorities. It identified a process. In effect, performing the process became the law's desired outcome.

This design for the IEP made sense at the time as policymakers tried to manage the collision of their ambitious aims and the weak capability available to achieve those aims. A product of its environment, the IEP was shaped by the American system of government (particularly the legal and structural features designed to limit central control and protect people

from abuses of power), the varied knowledge and practice base available to address the wide variety of disabilities included under the legislation, and strong ideological and philosophical beliefs about schools and the education of students with disabilities that existed at the time. Despite representing significant reach by the federal government into the work of teachers and schools, the law also tried to leave control with individual teachers, students, and families.

As schools and states put IEPs into place and went about implementing the other guidelines and procedures of PL 94-142, the same features of the environment that influenced the IEP's design had important implications for its implementation. In the years that followed the passage of PL 94-142, schools and districts went to work writing IEPs, hiring special educators and support staff, and changing existing policies. And yet, the fragmented and weak system of governance in the United States, along with the varied knowledge and practice base for educating all categories of disability, meant that schools differed in the knowledge, skills, and resources they brought to bear on implementation. This resulted in significant variations in interpretations and uses of the IEP from school to school and from state to state, though, by and large, schools ensured that they achieved at least minimal procedural compliance with the legislation.

As the early implementation of the IEP and PL 94-142 unfolded, schools and districts created new problems and exacerbated existing ones. In particular, the original federal legislation resulted in a set of organizational and institutional structures, further dividing general and special education and magnifying the challenges of identifying students with specific learning disabilities. Thus, the IEP and PL 94-142 helped to create and reify an institutionally and organizationally distinct system of special education. Many schools and districts already had separate special education classes for students they deemed unfit for general education, and the

bureaucratic demands of PL 94-142 (e.g. separate funding sources, additional staff, and new assessments, meetings, and paperwork) resulted in a separate system of special education that existed alongside general education – even as the IEP was intended to maximize the integration of special education students into general education classrooms. These separate systems created tensions, both practical and ideological, between special and general education, as special education was designed to provide individualized programs for a small group of students within a larger batch-processing system of general education.

I tell the story of the IEP in the first article (Chapter Two) of this three-article dissertation. In this article, I describe the design and early implementation of the Individualized Education Program, focusing on features of the environment that shaped this major federal policy forty years ago. Starting with the federal government's first forays into questions about the quality and validity of special education in the 1970s, this article examines the early design and implementation of the primary instrument of PL 94-142. Through an analysis of primary and secondary sources related to the original legislation, I argue that three features of the environment (Cohen & Moffitt, 2009) significantly influenced both the IEP's design and early implementation. These three salient features were: 1) the American system of government, particularly the legal and structural features designed to limit centralized control and protect people from abuses of power, 2) a varied knowledge and practice base available to address the wide variety of disabilities included under the legislation, and 3) strong ideological and philosophical beliefs about schools and the education of students with disabilities that existed at the time.

As noted above, while PL 94-142 established important rights to education for students with disabilities, the law and its primary instrument, the IEP, also exacerbated existing problems

and created new ones. Trying to address these problems almost three decades later, Congress introduced a new instrument into federal special education policy with the reauthorization of IDEA in 2004: Response to Intervention (RTI). Drawing on the work of scholars and practitioners in those intervening decades, the RTI approach offered a new way to identify students with specific learning disabilities and encouraged the use of research-based interventions with students before they were identified for special education. RTI provided new solutions to problems that had existed prior to the IEP and PL 94-142 and that had been compounded by the significant growth of special education. For example, RTI represented another attempt by the federal government to address the overidentification and differential treatment of poor and minority students (also referred to as disproportionality<sup>1</sup>) as well as the effects of bad instruction on student outcomes (Children’s Defense Fund, 1974; Dunn, 1968).

At the same time, RTI was also an attempt to address consequences of PL 94-142 and a changing educational and political landscape, including the rise of standards-based reforms and an increased focus on accountability and student outcomes. For example, RTI provided a way of diverting special education dollars to provide intervention services to struggling students in general education and offered an alternative method for identifying students with specific

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<sup>1</sup> Disproportionality most often refers to the overrepresentation and differential treatment of Black and Latinx students in special education (Ahram, Fergus, & Noguera, 2011). Scholars have also called out the disproportionate identification of students based on socio-economic status, gender, and other racial and ethnic classifications as well as the intersection of these social identities (see, for example, National Research Council, 2002; O’Connor & Fernandez, 2006; Skiba et al., 2008). Kauffman, Nelson, Simpson, and Mock (2011) offer a broader definition, defining disproportionality as “a difference between a given group's proportion of the child population and that group's proportion of children identified for a particular category of special education or for special education without reference to category” (p. 20). They point out that “[d]isproportionality may involve any identifiable group and may be characterized by over-representation or under-representation” (p. 20), but acknowledge that the attention given to the issue in the field stems from the overidentification of poor and minority students in classes for the “mildly retarded” (see Dunn, 1968 for some of the earliest scholarship on this issue).

learning disabilities. This approach was aimed at the organizational divide between general and special education and was seen by many as a superior alternative to the original method for identifying students with specific learning disabilities. The original method was introduced in PL 94-142's 1977 regulations and was criticized as a "wait-to-fail" method in which schools needed to wait for students' academic performance to drop low enough to reflect a discrepancy between their expected and actual achievement before the student could be identified as eligible for, and start to receive, special education services. RTI was also part of a set of recommendations by the President's Commission on Excellence in Special Education (U.S. Department of Education Office of Special Education and Rehabilitative Services, 2002) to more closely align the legislation with the No Child Left Behind Act of 2001 and the rise of standards-based reforms.

RTI was an effort to address some of the same fundamental problems that PL 94-142 had first taken on while also attempting to solve some of the unintended consequences of the original legislation. This type of problem solving, in which policymakers attempt to address the unintended consequences of previous policies while also returning to the larger fundamental social problems that undergird those policies, is common to major policy reforms in education. For example, we see a similar story in the evolution of Title 1 from the Elementary and Secondary Education Act.

In addition, scholars have drawn attention to aspects of this type of problem solving. Bereiter and Scardamalia (1993), in their efforts to study experts and a "process of expertise," describe a type of problem solving that they term *progressive problem solving*. They write:

[T]he effect of progressive problem solving is not only to advance in dealing with the complexities already known to exist but also to expand knowledge in ways that bring more complexities to light. Some of these may be complexities created by previous attempts at solution (side-effects of drugs, for instance), but others have always been there (such as the extraordinary complexity of nutrition, where one compound influences the body's utilization of another) (pp. 96-97).

This description captures some of what we see in the case of RTI. RTI was addressing complexities created by PL 94-142, like the significant increase of students identified with specific learning disabilities and the organizational and institutional divide between general and special education, as well as others that had always been there, like the overidentification of poor and minority students for special education. Bereiter and Scardamalia, however, suggest that progressive problem solving results in a better understanding of the fundamental problems and their complexities, and it is not clear that that is the case with RTI.

Similarly, Argyris and Schön (1978) have written about a process of double-loop learning, which they contrast with single-loop learning and which requires “questioning or altering the underlying values of the system” (Argyris, 1992, p. 8). This return to the underlying values in the system is akin to returning to the fundamental problems, as we see in the case of RTI, but, like Bereiter and Scardamalia, Argyris and Schön, suggest that returning to these underlying values will result in improvement. While RTI resulted from a problem solving approach that returns to the fundamental problems, it did not necessarily represent an improvement over the solutions that came before.

The approach to problem solving described in this dissertation also differs from approaches that only attempt to fix the failings or unintended consequences of a prior policy but never take up or return to the fundamental problems. An approach that only builds on the policies before it is reminiscent of Lindbolm’s (1959) method of “successive limited comparisons”, which he contrasts with a “rational-comprehensive” method to policy formation that starts over again from the fundamentals. Comparing the two, Lindbolm characterizes their differences as follows:

More impressionistically and briefly—and therefore generally used in this article—they could be characterized as the branch method [successive limited comparisons] and root method [rational-comprehensive], the former continually building out from the current situation, step-by-step and by small degrees; the latter starting from fundamentals anew each time, building on the past only as experience is embodied in a theory, and always prepared to start completely from the ground up (p. 81).

The type of problem solving I describe here is a bit of a hybridized approach. RTI started from fundamentals anew, returning to many of the same problems that motivated the creation of the IEP and PL 94-142, but also built out from the then-current situation, working within the existing system created by PL 94-142 and trying to address unintended consequences of the past solutions.

While the IEP, which was specified by the federal government, was intended to be inclusive of all students with disabilities (while defining the categories of disability covered under the legislation), and was focused on individualized special education in the least restrictive environment, the next iteration, RTI, framed the problems a bit differently. RTI was approved for use by the federal government, but the federal government decided to let states and localities determine whether or not to use it. In addition, the federal government did not specify a particular RTI model or elaborate what RTI would look like in practice. Instead, those decisions were left up to states and localities that decided to adopt RTI. In addition, RTI was intended to replace the identification criteria for just one category of disability – specific learning disabilities. And, rather than focusing on individuals, RTI provided a procedure for identifying and educating smaller groups of “struggling students” under the umbrella of general education.

Looking at RTI in the case of one state, we get a glimpse of what was required to turn this federal policy instrument into a statewide policy in Tennessee. Tennessee’s statewide version of RTI, which they titled Response to Instruction and Intervention (RTI<sup>2</sup>), reflected an

effort by the Tennessee Department of Education (TDOE) to manage, yet again, a collision of ambitious aims and weak capabilities. In Tennessee, policymakers were working in the age of standards-based reforms and attached multiple, broad, and ambitious aims to RTI<sup>2</sup>, hoping that this policy would help them achieve high academic achievement for all students, as standards-based reforms required, and allow them to reshape both general and special education. Like the federal government with the IEP, however, the TDOE operated in an environment in which its power and control was purposefully limited. Similarly, the knowledge and practice base for RTI was still constrained, particularly since Tennessee was trying to develop a K-12 RTI framework for both English language arts and mathematics. As a result, the TDOE's statewide RTI<sup>2</sup> framework, like the federal government's model of the IEP, relied heavily on a set of procedures and guiding principles, and refrained from providing many substantive details about specific assessments, curricular materials, or methods of instruction.

Unlike the federal government, however, the TDOE was positioned closer to practice and tried (and continues to try) to build up the capabilities of schools and districts through the creation of materials, supporting sessions, and technical assistance. These efforts at capacity building came in the form of additional policy instruments that the TDOE developed alongside the elaborated framework of RTI<sup>2</sup> that they created. In addition, the TDOE engaged in a process of designing and redesign over time and in response to practice. This process of designing, along with the range of other policy instruments to support the implementation of RTI<sup>2</sup>, reflected additional efforts by the TDOE to manage the collision of ambitious aims and weak capability.

The second and third articles (Chapters Three and Four) pick up this case of problem solving in which policymakers attempted to address fundamental problems while also trying to fix the unintended consequences of previous policies. Telling this story at the level of a state

department of education, these articles examine Tennessee's efforts to design and implement their own version of RTI. Drawing on interview data, policy documents, State Board of Education meetings, and Department of Education conference presentations, these articles explore the nature of policy design in the case of Tennessee's Response to Instruction and Intervention (RTI<sup>2</sup>). At the state level, the features of the environment that shaped the design of the IEP forty years prior were amplified, as were the implications of practice on policy.

The second article describes the ways in which RTI and Tennessee's design of RTI<sup>2</sup> were efforts to address some of the enduring questions about the quality and validity of special education and to repair some of the unintended consequences of the IEP and PL 94-142. An historical account of RTI helps position this newest special education reform as a policy response to some of the expected and unexpected consequences of the original PL 94-142 and as yet another effort to improve the quality of general and special education, the validity of some of the categories of disabilities served under the federal legislation, and the treatment of poor, minority, and low-performing students.

The third article uses the case study of Tennessee's RTI<sup>2</sup> to discuss the relationship between design and implementation. In this account of Tennessee's RTI<sup>2</sup>, the design for the policy is described as existing across a distributed network of people, ideas, materials, and interactions, which pushes against the tidy distinctions between policy design and implementation in the education policy literature. RTI<sup>2</sup> was not a single, complete, and unchanging policy. Rather, there was a process that included multiple, incomplete, and evolving ideas that were negotiated and renegotiated over time and in response to practice. Within that process certain aspects of the policy persisted while other aspects changed. One central feature of this process was an effort to appease constituents and lessen the political strain that arose from

how the original design affected practice. Another represented efforts by the TDOE to manage the collision of ambitious aims and weak capability.

\* \* \* \* \*

Special education has been a great success in some obvious ways: Today roughly 6.4 million students, about 13% of all students enrolled in prekindergarten through 12<sup>th</sup> grade nationally, receive special education services (Kena et al., 2015). That represents a significant increase in the educational opportunities for students with disabilities over the last half-century. There have also been significant improvements in special education services over time, several of which have been discussed here. Despite that, concerns about the quality of special education persist. Several of these concerns will be taken up in the articles that follow.

Across these articles, this dissertation provides opportunities to consider critical features of policy designs (e.g., aims and instruments), influences on those designs (e.g., decentralized government and limited knowledge base), and the process of designing policy (e.g., revisions and elaborations) at the federal and state levels. Grounded in the education policy literature, drawing upon careful analysis of state and federal policy, and supported by interviews with state-level policymakers, this dissertation contributes to the education policy literature by describing how policies are designed and factors affecting their designs, highlighting the perspectives of policy designers who, to date, have received limited attention in the literature. In doing so, this dissertation illustrates the ways in which policymakers design policies that return to fundamental problems while also taking on the consequences of past policies. At both the federal and state level, the policy instruments and related policies studied in this dissertation reflect the ambitious aims and weak capability of the environment in which they were created, as well as some of the ways in which policymakers have tried to manage the collision of these aims and capabilities.

Efforts to manage this collision have included procedures and broad guiding principles (found in both the IEP and RTI<sup>2</sup>), along with a range of other instruments to support implementation and the process of designing and redesigning as policies are put into practice (found in the case of RTI<sup>2</sup>).

This dissertation also identifies two predicaments that stood out in looking specifically at Tennessee's design and process of designing and redesigning a statewide RTI policy. The first was the way in which Tennessee's Department of Education and its RTI<sup>2</sup> framework relied on the improvement of instruction for all students while having little leverage on it. The second predicament was the extent to which the leverage they did have may have inadvertently perpetuated some of the problems RTI was originally intended to address. These two predicaments help to highlight important issues that are worth exploring in other state contexts and raise important questions for future research related to RTI models.

## References

- Ahram, R., Fergus, E., & Noguera, P. (2011). Addressing racial/ethnic disproportionality in special education: Case studies of suburban school districts. *Teachers College Record*, 113(10), 2233–2266.
- Argyris, C. (1992). *On Organizational Learning*. Cambridge, MA: Blackwell Publishers Inc.
- Argyris, C., & Schön, D. A. (1978). *Organizational Learning: A Theory of Action Perspective*. Reading, Mass: Addison-Wesley.
- Bereiter, C., & Scardamalia, M. (1993). *Surpassing Ourselves: An Inquiry Into the Nature and Implications of Expertise*. Chicago: Open Court Publishing Company.
- Bobrow, D. B. (2006). Policy design: Ubiquitous, necessary and difficult. In B Guy Peters & Jon Pierre (Eds.), *Handbook of public policy* (pp. 75–96). Thousand Oaks, CA: SAGE.
- Cohen, D. K., & Moffitt, S. L. (2009). *The ordeal of equality: Did federal regulation fix the schools?* Cambridge, MA: Harvard University Press.
- Cohen, D. K., Peurach, D. J., Glazer, J. L., Gates, K. E., & Goldin, S. (2013). *Improvement by Design: The Promise of Better Schools*. Chicago: University of Chicago Press.
- Dunn, L. M. (1968). Special education for the mildly retarded: Is much of it justifiable? *Exceptional Children*, 35(1), 5–22.
- Howlett, M., & Lejano, R. P. (2013). Tales From the Crypt: The Rise and Fall (and Rebirth?) of Policy Design. *Administration & Society*, 45(3), 357–381.
- Kauffman, J. M., & Hallahan, D. P. (2011). *Handbook of Special Education*. New York, NY: Routledge.
- Kauffman, J. M., Nelson, C. M., Simpson, R. L., & Mock, D. R. (2011). Contemporary Issues. In J. M. Kauffman & D. P. Hallahan (Eds.), *Handbook of Special Education* (pp. 15–26). New York, NY: Routledge.
- Kena, G., Musu-Gillette, L., Robinson, J., Wang, X., Rathbun, A., Zhang, J., ... Dunlop Velez, E. (2015). *The Condition of Education 2015* (NCES 2015-144). Washington, DC: U.S. Department of Education, National Center for Education Statistics.
- Lindblom, C. E. (1959). The Science of “Muddling Through.” *Public Administration Review*, 19(2), 79–88.
- National Research Council. (2002). *Minority Students in Special and Gifted Education*. Washington, D.C: National Academies Press.

O'Connor, C., & Fernandez, S. D. (2006). Race, class, and disproportionality: Reevaluating the relationship between poverty and special education placement. *Educational Researcher*, 35(6), 6–11.

Rowan, Brian P., Correnti, Richard J., Miller, Robert J., & Camburn, Eric M. (2009). School Improvement by Design: Lessons From a Study of Comprehensive School Reform Programs. In Schnieder, B. & Sykes, G. (Eds.), *Handbook of Education Policy Research*. London: Taylor & Francis.

Skiba, R. J., Simmons, A. B., Ritter, S., Gibb, A. C., Rausch, M. K., Cuadrado, J., & Chung, C.-G. (2008). Achieving Equity in Special Education: History, Status, and Current Challenges. *Exceptional Children*, 74(3), 264–288.

U.S. Department of Education Office of Special Education and Rehabilitative Services. (2002). *A new era: Revitalizing special education for children and their families. President's Commission on Excellence in Special Education*. Washington, DC: U.S. Department of Education Office of Special Education and Rehabilitative Services.

## CHAPTER TWO

### THE DESIGN AND IMPLEMENTATION OF THE IEP: UNDERSTANDING THE ENVIRONMENT'S ROLE IN EFFORTS TO INDIVIDUALIZE EDUCATION

The Supreme Court started off 2017 by hearing arguments in a case that is being called one of the most significant special education cases to reach the court in the last three decades: *Endrew F. v. Douglas County School District*. At issue in this case was what kind of educational benefit schools owe children with disabilities. Drawing on the legal precedent set in *Board of Education v. Rowley* in 1982, courts had been using a standard of “some educational benefit,” often interpreted as “merely more than de minimis.” Lawyers for the plaintiff, however, argued that schools should “provide instruction and related services to the child that are reasonably calculated to provide substantially equal educational opportunities” (*Endrew F. v. Douglas County School District*, 2017). During oral arguments, there was considerable debate about the substance of the law, the procedural provisions of the Individualized Education Program, and what one or both mean for the education of students with disabilities and the benefits they should derive from their education.

The Supreme Court issued a unanimous ruling in March of 2017, finding that a “child’s educational program must be appropriately ambitious in light of his circumstances” and that, “The goals may differ, but every child should have the chance to meet challenging objectives” (580 U.S. \_\_\_\_ (2017), p. 3). In doing so, the Supreme Court raised the bar on the educational benefits guaranteed to students with disabilities and revisited questions that date back to the original federal legislation passed over 40 years ago.

The *Education for All Handicapped Children Act* (PL 94-142), passed into law in 1975, sought to ensure access to public education for all students with disabilities while simultaneously improving the quality of that education for this group of students. At the time, students with certain disabilities were excluded from America's public schools and others who attended public schools were said to be receiving an inappropriate education (Children's Defense Fund, 1974, Nelson, 2005; Winzer, 1993). In drafting and passing this landmark legislation, Congress sought to "assure all handicapped children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs" (PL 94-142, 1975, Sec. 3, c). What constituted an appropriate education for students with disabilities and how schools that were excluding and mistreating these students would come to provide that education, however, were not easy questions. In addition, how the federal government, which had played a limited role in the public education system, would change educational practices for a group of students whose educational needs were enormously varied loomed large for lawmakers.

In an effort to help answer these questions, Congress defined a "free appropriate public education" for children with disabilities as special education and related services which:

(A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State education agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individual education program" (PL 94-142, 1975, Sec. 4, a, 18).

It was the last part of Congress's definition – the individual education program – that served as the primary solution to address modest capabilities (including limited knowledge of effective ways to integrate and teach students with many disabilities) in the face of ambitious aims. It is the design and initial implementation of the Individualized Education Program, popularly

referred to as the IEP, that this article seeks to understand. In doing so, this article will examine how the IEP was designed to manage both the ambitious aims of PL 94-142 and the weak capabilities of the environment, resulting in a procedural response. In addition, this article will explore the two driving tenets of the IEP – individualization and the least restrictive environment – and consider what these meant in an existing system of education designed to batch process students.

### **Research Questions**

In an effort to understand the IEP and follow its initial implementation into local schools, this article seeks to answer the following questions: What was the design of the IEP? And why was it structured that way? In addition, this article explores two additional questions related to implementation of the IEP: What do we know about how schools, local education agencies (LEAs), and states interpreted and used the IEP? And why did they interpret and use the IEP as they did?

### **Literature Review**

Initial accounts of the IEP's design and its early implementation can be found in governmental and non-governmental reports, publications by professional organizations committed to improving the educational success of individuals with disabilities (e.g., Council for Exceptional Children), and educational journals, particularly those concerned with the education of students with disabilities (e.g., *Exceptional Children* and *The Journal of Special Education*). These reports and publications were written for two primary audiences: those implementing the IEP in some capacity or assisting others in its implementation, and lawmakers and federal

government officials who were responsible for the legislation and were monitoring the early implementation of these efforts.

Accounts of the original design were included in primers, handbooks, and guides for educators, administrators, and families trying to make sense of the legislation and put IEPs into practice. The Council for Exceptional Children (CEC) published books (see, for example, Torres, 1977) and printed articles to help their readers understand the law, implement IEPs, and advocate for the rights of students with disabilities.<sup>1</sup> Similarly, the Council of Great City Schools published a report based on four regional trainings they held to support large city school systems in understanding the IEP and creating comprehensive systems of professional development (Kowalski & Payne, 1977). In addition, the National Advisory Committee on the Handicapped devoted all meetings of its 1976-77 term to the IEP and used their 1977 annual report, titled *The Individualized Education Program—Key to an Appropriate Education for the Handicapped Child*, to reflect their deliberations and provide recommendations to both the Commissioner of Education and Congress.

Accounts of early efforts to implement the IEP appear in both governmental and non-governmental reports. For example, the U.S. Department of Education's Office of Special Education began writing annual reports to Congress on the implementation of PL 94-142 in

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<sup>1</sup> In an editorial comment written by the CEC's Assistant Executive Director, Frederick Weintraubat at the start of Abeson and Zettel's journal article, "The End of the Quiet Revolution: The Education for All Handicapped Children Act of 1975" (1977), published in the CEC's journal *Exceptional Children*, Weintraubat makes the CEC's intentions clear, stating: "The following article is only part of the continuing effort by CEC to help all of us better understand P. L. 94-142 and our role in its implementation. This article will not tell you all that you need to know but rather give you a sense of background in where this law came from. Articles in future issues and in other CEC publications and products will try to unfold the complete story. We urge you to invest in learning the law and its meaning accurately. It is the knowledge of this public policy that will be the arsenal to use with advocates and to deal with detractors. We must not be swayed by rhetoric but must look at what is actually required. CEC and its federations through their political action network will be working to help you to understand the law" (p. 114).

1979. In addition, The Research Triangle Institute, under contract with the Office of Special Education, conducted a national survey of IEPs in the first years of implementation (Pyecha et al., 1980), and SRI International conducted a longitudinal study of 16 local education agencies implementing PL 94-142 over four years (Wright, Cooperstein, Renneker, & Padilla, 1982). Scholars also analyzed these early implementation efforts and published their findings in academic journals (see, for example, the entire April, 1981 issue of the *Journal of Special Education* dedicated to the topic). While much of the literature on the IEP's original design and early implementation was written in the first five to seven years after the law's passage, a few other scholarly works have attended to the original design and early implementation of the IEP, and their work is also taken up in this review (e.g., Goodman & Bond 1993; Itkonen, 2007; and Nelson, 2005).

Early literature on the IEP sought to interpret and bring clarity to the legislation for a larger audience. Smith's (1990) review of the IEP literature from 1975-1989 describes the early literature as "a 'normative' phase or a period of prescribing IEP norms and standards during which authors described, detailed, and explained, based on some proactive concerns, the concepts and provisions of the EAHCA [Education for All Handicapped Children Act]" (p.6). This normative literature contained a variety of responses to and interpretations of the IEP. Some authors lauded the IEP, arguing, as the National Advisory Committee on the Handicapped (1977) did, that the IEP process would "enforce a view of handicapped children as individuals," "provide accountability," "foster greater trust between school and community," and introduce "an interdisciplinary, team approach" to identifying and educating students with disabilities (p. 6).

Others met the IEP with a good deal of fear and apprehension, concerned that the IEP would create unnecessary bureaucratic demands on the system. Writing about the IEP, Rinaldi (1976) said, “[j]ust about everyone is scared to death about that provision, particularly with reference to what it will mean in terms of cost, in terms of accountability, or in terms of man hours” (p. 151), and he cautioned that “we may end up with something that is mostly a paper compliance” (p. 152). In addition, while some argued that the IEP “represents a considerable break with existing practice” (National Advisory Committee on the Handicapped, 1977, p.6), others considered it to be “a refinement of already existing policies and procedures” (Kolowki and Payne, 1977, p. 16).<sup>2</sup> Regardless of whether the IEP was welcomed or feared, in line with current special education or breaking from existing practice, it was recognized that, at a minimum, the IEP was a document resulting from a set of procedures that needed to be written for every special education student in the country.

This procedural interpretation was consistent with the legislative design, which conceived of the IEP as a process-based response intended to provide an appropriate and individualized education for each student who qualified for special education. The legislation defined the IEP as a written statement created in a meeting by educators, parents or guardians, and, when appropriate, the student. The IEP was required to include information about the special education program and services the student would receive, and it was supposed to define the “least restrictive environment” for each student, maximizing the extent to which he/she could participate in regular education programs. Schools were responsible for implementing and at least annually evaluating the student’s progress in relation to the specific goals outlined in the

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<sup>2</sup> Similar interpretations of the IEP are found in studies that document early responses to the IEP by teachers and administrators (i.e. Pipes, 1978).

IEP. Congress provided significant amounts of detail for certain aspects of this procedure, while offering only general guiding principles for others.

In accounting for the origins of the IEP, the existing literature has put forward prior legislative examples from states, legal precedent from landmark cases, and existing educational practices representing both the best and worst practices for students with disabilities as explanations and justifications for the design of the IEP (Abeson & Zettel, 1977; Goodman and Bond, 1993; National Advisory Committee, 1977; Nelson, 2005; Schrag, 1996; Zettel and Ballard, 1982). The IEP was modeled, at least in part, after some relatively new policies adopted in several states, notably Massachusetts, Pennsylvania, New Jersey, and Washington D.C (Nelson, 2005). It also borrowed language, due process procedures, and an emphasis on the least restrictive environment from prominent special education lawsuits like *PARC v. Commonwealth of Pennsylvania* (1971) and *Mills v. Board of Education* (1972) (Zettle & Ballard, 1982). Additionally, the IEP can be seen as an effort to change the actual practices that were found objectionable in special education at that time. For example, the 1977 report by the National Advisory Committee on the Handicapped declared that the IEP would allow children with disabilities to be seen for more than their labeled disability, that the IEP would replace “random instructional activities based on standardized goals with particular activities calculated to achieve goals important to particular students,” and that the IEP would foster more open and trusting relationships between parents and schools (p. 6).

Others have argued that the individualization of the IEP also stemmed from best practices in education and trends nationally to make instruction more individualized. Schrag (1996) writes, “[a]t the time leading up to the passage of Public Law 94-142, educators had begun utilizing a number of strategies in order to meet the individual needs of students, including team teaching,

open schools, differentiated staffing, and computer-assisted instruction” (p. 2). Similarly, the report by the National Advisory Committee on the Handicapped (1977) repeatedly suggested that the IEP was rooted in best practice. For example, the report included statements like, “the concept of individualized programs or learning plans is not a recent innovation, progressive teachers having used versions of such an approach virtually since the beginning of pedagogy” (p. 1), “the IEP will essentially mean the formalization and perhaps elaboration of what the teachers in many if not most school systems have long accepted as good practice” (p. 7), and “[i]n its call for an ‘individualized education program’ (IEP) for each handicapped child, P.L. 94-142 can be credited with having codified what has long been recognized as superior teaching practice. In doing so it may very well speed the use of the approach for all children” (p. 6).

Turning to early reports of the IEPs implementation, national studies of the implementation of PL 94-142 indicated that the IEP received significant attention and widespread compliance in the initial years of implementation. In the Third Annual Report to Congress by the Office of Special Education Programs (1981), it was reported that there had been “intense activity on the part of state and local education agency personnel throughout the country to implement P.L. 94-142’s IEP provisions” (p. 43). By December 1, 1978, 95% of special education students sampled in the Research Triangle Institute’s study (Pyecha et al, 1980) had IEPs. In addition, reports by the State Program Implementation Studies Branch, part of the Bureau for the Education of the Handicapped, indicated that all but one of the 16 states visited in the 1978-1979 Program Administrative Reviews had state policies that were consistent with federal requirements, and nearly all of the educational facilities (269 out of 281) had IEPs in place. A five-year longitudinal study by SRI International (Wright et al., 1982) found that “the IEP provision of PL 94-142 received the most initial attention from LEAs,” and that within the

first few years “the IEP procedures and forms were refined, streamlined, and incorporated as routine practice” (p. 120).

Along with this procedural compliance, however, came significant variation as well as instances of noncompliance. While the majority of special education students had some version of a written IEP by 1978, a report by the Education Advocates Coalition (1980) documented that “[m]any handicapped children still have not received an individual evaluation or an individualized education program” (p. 5). Of the IEPs that had been written, the Research Triangle Institute’s (Pyecha et al, 1980) study of 2,650 IEPs from 208 school systems in 42 states found that the average length of an IEP was about five pages, that approximately half of the IEPs were three and a half pages or less, and that the IEPs ranged in length from one to 47 pages. In addition, the study found that while almost ninety percent of the IEPs in the study contained the majority of required content, only one-third of the IEPs contained all of the required content. The content most frequently missing from these IEPs included proposed evaluation criteria and a statement regarding the least restrictive environment.

The quality of the IEP documents varied as well. The longitudinal study by SRI (Wright et al., 1982) found that while some schools drafted very specific short-term learning objectives that were revised every six weeks, others included very broad long-term learning objectives (e.g., “to increase reading”) in the IEPs. And in Mississippi, the report by the Education Advocates Coalition (1980) documented that IEPs could not be read without a manual of codes since they contained “a series of computer generated behaviors and performances...written down (by number to save time)” (p.53). While these variations did not necessarily mean the IEPs were in violation of the legislation, their utility, as constructed, was called into question.

Variation and noncompliance existed not just in the IEP document, but in the IEP process as well. Examples of noncompliance with the IEP process included failing to keep records of efforts to contact parents/guardians and failing to develop the IEP with the appropriate multidisciplinary team (Office of Special Education Programs, 1981; Pyecha et al., 1980). In addition, there was significant variation in how students were referred and evaluated, and the extent to which parents participated in the creation of the IEP.<sup>3</sup>

Accounting for all of this variation in the early implementation of the IEP, scholars have argued, quite convincingly, for the role that some or all of the following played: financial resources, professional development and support, monitoring practices and penalties for noncompliance, pressure from parents and advocacy groups, and legal cases (Bureau of Education for the Handicapped, 1979; Bureau of Education for the Handicapped, 1980; Nelson, 2005; Office of Special Education Programs, 1981; Pyecha et al., 1980; Wright et al., 1982; Zettle, 1982). These assessments of what led to variations in implementation efforts, however, frequently focused on very specific elements of the policy (i.e. the identification procedures in

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<sup>3</sup> Weatherly's (1979) study of Chapter 766, Massachusetts's individualized approach to special education, provides insight into just how significant the variation could be, even among three relatively similar school districts. System A's stance to the evaluation process was "reactive and defensive," characterized by haphazard recordkeeping, limited efforts to generate referrals (and in some cases active efforts to cut back on referrals), and the smallest enrollment of special education students (p. 45). System B "tended to be dominated by completing forms properly and speedily" (p. 47). They brought in outside consultants to design a "system for central oversight," undertook "[a]n aggressive case finding effort," and dedicated little time or deliberation to the assessment meetings (p. 46). System C emphasized the individualization of instruction. They had "a high degree of quality control" (p. 47); administrators worked to know all the special education cases; and their meetings to develop the education plan were characterized by greater parent involvement and "group problem solving" (p. 48). The comparison of these school systems exemplifies how the process by which schools went about identifying and evaluating special education students, the systems of recordkeeping that they put in place, the ways in which they held their IEP meetings, and their efforts to inform and involve parents along the way differed despite the fact that the school systems were implementing the same procedural response in the same state.

particular states) and did not often take into account either the design of the federal policy itself or features of the environment.

These accounts of the IEP's design and its origins point to a critical feature of policy: policy draws on practice while trying to change it. When trying to address a problem in practice (here the exclusion and mistreatment of students with disabilities), policymakers look to existing ideas and efforts to resolve this problem (in this case other state policies and judicial rulings). Similarly, these accounts of the implementation of the IEP point to two well-documented features of education policy implementation in the United States: namely that it is marked by great variation across schools and districts, and that differences in resources like money, professional development, and organizational structures contribute to these variations.

However, to understand the origins of the IEP only in light of the earlier policies and practices that influenced its design or to attribute variations in the interpretations and uses of the IEP primarily or exclusively to variations in resources would be to miss a number of other factors about the environment that shaped the IEP. In addition, these works generally do not use explicit theoretical or analytical frames to explore why the IEP was designed, interpreted, or used as it was. To better understand the IEP's design and early implementation and address this gap in the literature, I use a framework offered by Cohen and Moffitt (2009) that helps to delineate how the aims, instruments, capabilities, and the environment shaped the policy-practice gap.

### **Analytic Frame**

Cohen and Moffitt (2009) argue that a gap exists between policy and practice. As they explain, “[p]olicies create a gap with practice by moving at least a bit beyond it” (Cohen & Moffitt, 2009, p. 30). This is particularly problematic since policymakers “identify problems and offer solutions, . . . yet the key solvers are the offending, needy, or damaged people and

organizations that the policy aims to correct” (p. 17). This was the case with PL 94-142. In establishing a policy that sought to ensure access and improve the quality of public education for students with disabilities at a time when public schools were isolating, misidentifying, mis-educating, and discriminating against students with disabilities (Children’s Defense Fund, 1974; Dimond, 1973; Comptroller General of the United States, 1974; Task Force on Children Out of School, 1971), Congress created a gap between the legislation and existing practice. Closing and managing this policy-practice gap would depend on America’s education system, but it was this same education system that, in Congress’s own estimation, had excluded and failed the students it was now meant to serve. It would be in the interests of both policymakers and practitioners to find ways to manage and close this gap.

Managing the gap between policy and practice can be done in a number of ways. Cohen and Moffitt (2009) offer four types of actions and resources that can be used to manage the distance between policy and practice: aims, instruments, capability, and the environment. How large the gap is depends on how ambitious the aims of the policy are; as Cohen and Moffitt (2009) point out, the more that the aims differ from existing practice the greater the need will be for resources to help close the gap. At the same time, “[t]he more ambiguous the aims are, the more difficult it will be for policymakers to know how to craft suitable instruments and for practitioners to figure out what to do in order to achieve these aims” (p. 25).

The aims of PL 94-142 were ambitious, making the gap between policy and practice quite large. Schools were called upon to educate a population of students who had previously been excluded, provide a new set of services to meet a greater range of student needs, and improve the educational experiences of students with disabilities. At the same time, these aims were not clearly defined. The first stated purpose of PL 94-142 was to “assure all handicapped

children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs” (PL 94-142, 1975, Sec. 3, c). But what did an appropriate education for a given student with disabilities look like?

Closing this gap would rely on the remaining three resources: instruments, capabilities, and the environment. Instruments are “the capability that policy brings to relations with practice” (Cohen and Moffitt, 2009, p. 25). And, while PL 94-142 employed multiple instruments “intended to encourage assent to policy” and “help realize aims in practice” (p. 25), the cornerstone of the legislation and key instrument – designed to define and ensure a free appropriate public education for students with disabilities – was the Individualized Education Program. The IEP was defined as a written document reflecting the personally tailored education program developed for each special education student in an IEP meeting, and it constituted a procedural response intended to ensure that each special education student’s unique needs would be met within the least restrictive environment appropriate for that student, maximizing the time that each special education student spent with his/her regular education peers. This procedural response reflected the interests and values of these policymakers and the environment in which the IEP was designed, but how effective it would be in closing the policy-practice gap was not dependent on the design of the IEP alone.

Cohen and Moffitt (2009) explain that the “strength and salience of policy instruments are relative; they depend on the instruments’ relationship to capability in practice and the environment and to policy aims” (p. 32). Schools, LEAs, and states needed to interpret and use the IEP to bring practice closer to the aims set by PL 94-142, and their interpretation and use depended on the resources that schools, LEAs, and states brought to the policy. Cohen and Moffitt (2009) refer to the “resources that practitioners and others bring to relations with policy”

as “capability,” and write that these resources include “interests, resources, practices, ideas (which comprise knowledge, values, and skill), will and money” (p. 25). The capabilities of schools, LEAs, and states would significantly shape the implementation of the IEP and the distance between policy and practice.

Finally, the environment shapes all of the resources that manage the gap between policy and practice. Cohen and Moffitt (2009) write that “[p]olicies are designed in environments, instruments and capabilities are formed in and operate through them, and practitioners work in them” (p. 25). For example, PL 94-142 was designed during the civil rights era at a time of increased federal influence in schools, and when school reform was particularly concerned with access, especially in the form of integration, and with quality increasingly defined in terms of academic achievement and accountability. These features of the environment cannot be ignored when understanding how PL 94-142 came to be. This article is particularly interested in the role of the environment in the initial design and implementation of PL 94-142’s primary instrument, the IEP. While there has been a great deal written about the IEP’s design and implementation, little attention has been given to the features of the environment and how those features have contributed to the design of the IEP.

In exploring the environment, I argue that that the IEP’s design was an effort to manage the particularly large policy-practice gap that was created by PL 94-142. In trying to manage this gap with the legislation’s primary instrument, the IEP, lawmakers had to contend with the weak capabilities of their environment (including the limited power of the federal government and the varied knowledge and practice base for integrating and educating all students with disabilities) and the strong ideological and philosophical beliefs about schools and the education of children

with disabilities. What resulted was a set of procedures and two guiding principles for identifying and creating individualized education programs for students with disabilities.

### **Data and Methods**

To conduct this historical analysis of federal policy, I drew upon both primary and secondary sources related to the IEP's design and implementation. Primary sources for the design included the original federal legislation for PL 94-142, House and Senate reports related to the legislation, as well as influential publications (i.e., Children's Defense Fund, 1974), state special education plans (i.e., Texas Education Agency, 1970), and legal cases (i.e., *PARC v. Commonwealth of Pennsylvania*, 1971) that supported the initial legislation. Secondary sources for the design included reports, books, and journal articles written about both the IEP specifically and PL 94-142 more generally. Sources for the story of implementation included annual reports by the U.S. Department of Education to Congress, research reports commissioned by the Department of Education, and other articles, studies, and published interviews. In my analysis of these sources, I attended to questions of who the authors were, who their intended audience was, and the intended purposes of the document. As I made sense of the IEP, I created a timeline of important events and used Cohen and Moffitt's (2009) analytic frame to organize features of the IEP and PL 94-142. Memo writing helped me explore and later revisit early ideas in relation to my research questions.

### **Findings**

*What was the design of the IEP? And why was it designed that way?*

*The IEP Design*

The Individualized Education Program was a process-based response focused at the level of the individual and intended to provide an appropriate education for each student identified for special education. Congress provided significant amounts of detail for certain aspects of the IEP, while offering only general guiding principles for others. A closer look at the design of this process as it was imagined in the legislation can provide a better understanding of the instrument Congress created. This overview includes details about the referral and evaluation procedures, the IEP meeting, the contents of the IEP document, and the process for reviewing the IEP.

*Referral and Evaluation:* Preceding an IEP meeting and the creation of an IEP, a student needed to be referred and evaluated for special education services. The referral could be made by a teacher, parent, or other individual, but the evaluation could not take place prior to providing the child's parents or guardian written notice of the evaluation in their "native language." This written notification was one of the procedural safeguards guaranteed by the law and came into effect any time the educational agency "propos[ed] to initiate or change, or refus[ed] to initiate or change, the identification, evaluation, or educational placement of the child" (PL 94-142, 1975, Sec. 615, C). The law specified that the evaluation itself could not be "racially or culturally discriminatory," and it had to be "administered in the child's native language or mode of communication" (PL 94-142, 1975, Sec. 612, 5, C). In addition, no one procedure could be "the sole criterion for determining an appropriate educational program for a child" (PL 94-142, 1975, Sec. 612, 5, C). Lawmakers hoped that an evaluation process meeting these specifications would correctly identify those students who needed services while ensuring that students were not improperly placed in special education. They did not, however, go so far as to name specific tests that should be administered or criteria to be used for particular disabilities. These decisions were

left to the states, LEAs, and schools, which, in turn, would be legally responsible for ensuring that the tests and criteria they chose would meet the requirements specified by the law.

The evaluation process was meant to determine the eligibility of an individual student for services and inform the IEP itself. To qualify for special education the Act contained what Weintraub (1977) defined as a “two-pronged criteria for determining child eligibility” (as cited by Abeson and Zettel, 1977, p. 27). This meant that the evaluation needed to find that the student had one or more of the disabilities specified under the law and that he/she required special education services. Weintraub (1977) explained, “Not all children who have a disability require special education, many can and should attend school without any program modification” (as cited by Abeson and Zettel, 1977, p. 27).

While the legislation did not make clear how a school or evaluator would determine if special education was required, it named the disabilities that would be covered by the Act. The Act defined “handicapped children” as “mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities” (PL 94-142, 1975, Sec. 602, 1). In addition, the legislation contained an elaborate definition of “children with specific learning disabilities,” specifying that these children had “a disorder in one or more of the psychological processes involved in understanding or in using language, spoken or written” and that the term did not include children whose learning problems were “primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage” (PL 94-142, 1975, Sec. 602, 15). Following an evaluation – conducted in accordance with the specifications set out in the legislation – that

found a student to have a legally recognized disability and to require special education, the school or school district would then call an IEP meeting.

*IEP Meeting:* The IEP meeting was intended to bring together a specified group of people, including a person “qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children” (typically a special educator), the child’s teacher, the parents or guardians, and the child (when appropriate), to collectively develop the student’s Individualized Education Program (PL 94-142, 1975, Sec. 602, 19). A House report justifying the inclusion of the IEP in the legislation explained that “all principals in the child’s educational environment, including the child, should have the opportunity for input in the development of an individualized program of instruction” (H.R. 94- 332, 1975, p. 13).

Initially the language in the House and Senate bills differed with respect to the role of parents and guardians in this meeting. The Senate imagined that all parties would “meet jointly to develop and review” the IEP, while the House bill stated that the IEP would be “developed jointly by the local education agency and an appropriate teacher in consultation with the parents or guardians of the child.” In the end, the House conceded, and the final version of the legislation intended that all parties would actively participate in the creation and review of the IEP (Senate Conference Report No. 94-445, 1975, p. 30; Shrag, 1996).

A report on the IEP by the National Advisory Committee on the Handicapped (1977)<sup>4</sup> documented additional purposes for parents and guardians to participate in the IEP meeting. They wrote, “frequent conferences were seen as enabling the parents to get a better understanding of their children’s needs and problems, to receive professional counseling, and to learn how to bolster the child’s school experience by providing supplementary educational

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<sup>4</sup> The National Advisory Committee on the Handicapped was established under a provision of Title VI of PL 89-10, the Elementary and Secondary Education Act.

experiences in the home” (p. 9). Although the meeting could take place with just a special education teacher and the student’s teacher, providing the school could demonstrate that they had made considerable efforts to involve the parents or guardians and that it was inappropriate to involve the student, it was only when all members were present that the IEP was “likely to meet the expectations of Congress and to be of optimum scope, content, and effectiveness” (National Advisory Committee on the Handicapped, 1977, p. 7).

*IEP Documentation and Content:* The Individualized Education Program itself was the written document created in the IEP meeting. The law stated that the IEP needed to include:

(A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved (PL 94-142, 1975, Sec. 602, 19).

This specified content was meant to emphasize individualization, the least restrictive environment, and accountability.

A House Report justifying the inclusion of the IEP in the legislation focused extensively on the importance of individualization and explained that “each child requires an educational plan that is tailored to achieve his or her maximum potential” (H.R. 94- 332, 1975, p. 7). It was thought that by focusing on the individual student, educators would see the strengths and weaknesses of that student and would be able to tailor an educational program in response to his/her unique needs (Abeson and Zettel, 1977; Turnbull and Turnbull, 1978). Legislators were careful to ensure that all five components of the IEP were referenced to the individual child,

preventing an IEP from being applied universally to all children with disabilities or even to a group of children with a specific disability.

The individualized educational program was also supposed to prioritize the least restrictive environment for the special education student. Although the IEP's content requirements forced the group to assess the amount of time the student should and would participate in regular education classes, there were no clear guidelines for parents or educators about what constituted the least restrictive environment for any given child. The law specified that states needed to establish "procedures to assure that, to the maximum extent appropriate, handicapped children...are educated with children who are not handicapped" (PL 94-142, 1975, Sec. 613, 13, B). The legislation went on to state that "special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily" (PL 94-142, 1975, Sec. 613, 13, B). Thus, the least restrictive environment reflected a pervading ideology in the legislation with respect to the integration of special education students with regular education students (i.e., that students with disabilities should be educated with their regular education peers to the greatest extent possible), but as a guiding principal for practice it was poorly defined, nearly impossible to monitor, and easy to evade.<sup>5</sup>

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<sup>5</sup> The least restrictive environment was defined using vague terms. There weren't guidelines for determining what was appropriate or what was supposed to be maximized. Were these decisions based on socialization, academic performance, or comfort and safety? To what extent did appropriateness relate to the demands that a child's placement put on teachers, staff, or peers? Additionally, the least restrictive environment was determined on an individual basis through the process of an IEP meeting. If the least restrictive environment was to be monitored and evaluated by an outside agency, what kind of information would these agencies require to properly evaluate and monitor these decisions and resulting actions? Even for parents, knowing if their

The requirement for educational goals and objectives to be included in the documentation reflects the fact that accountability with respect to the IEP was focused primarily at the level of the individual. Because each educational program was individualized, each IEP contained its own stated goals and objectives, and these needed to be monitored and evaluated over time. The House report explained: “individualization means specifics and timetables for those specifics and the need for periodic review of those specifics—all of which produce greatly enhanced fiscal and educational accountability” (H.R. 94- 332, 1975, p.13). Because of this individualized accountability, it was important to have a written document created in the IEP meeting (Goodman and Bond, 1993).

Lawmakers were initially torn about the extent to which they wanted to make schools accountable for these plans. In fact, there was a tension between whether the planning or the plan itself was more important. The Senate originally conceived of an “individualized planning conference” that would result in a written statement, while the House specified that the individualized education program would be a written document (Senate Conference Report No. 94-445, 1975, p. 41). While the Senate conceded on this point, both the Senate and the House agreed that the document should not “be construed as creating a contractual relationship,” and deleted language in the bill that “required objective criteria and evaluation procedures by which to assure that the short term instructional goals were met.” (Senate Conference Report No. 94-168, 1975, p. 11). This compromise protected school systems from being sued for breach of contract if the learning goals in the IEP were not met.<sup>6</sup> Nonetheless, this document was intended

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child’s educational program was being carried out in compliance with the IEP would require investigation.

<sup>6</sup> Itkonen (2007) explains that, “parent and professional groups disagreed with one another over the implementation monitoring and the compliance mechanism of the bill. Disability advocates preferred appeals procedures through which parents could file a due process hearing to challenge

to provide a form of accountability, particularly for the parents or guardians. The law stipulated that the IEP be given to the parents or guardians and kept on file with the district. It was to be kept confidential and was not to be sent to the state education agency due to privacy laws. The committee acknowledged, however, that these statements would be useful for the purposes of evaluation and audits by the state and should be available for inspection (National Advisory Committee on the Handicapped, 1977).

*IEP Review:* With the IEP in place, the law specified that it be reviewed at least once a year and that revisions to the program be made when appropriate and in consultation with the parents or guardians. The first year that an IEP was created, it was to be written in the fall, reviewed at least once in the spring, and then reviewed at least once every year following. No changes could be made without notifying the parents or guardians, and ideally they would participate in determining any appropriate changes. These stipulations sought to ensure that the student's progress was continually monitored and allowed for changes in the IEP as the school and family saw fit. This process of review and revision was meant to reflect the changing nature of a student's educational needs, ensure that educators were attending to the individual progress of their special education students, and provide due process procedures to protect the rights of parents and students (Abeson and Zettel, 1977; National Advisory Committee on the Handicapped, 1977; Turnbull and Turnbull, 1978).

Originally the Senate contended that an IEP review needed to take place three times a year to be effective and for "any benefit" to be derived from the IEP meetings. A Senate report explained that frequent monitoring of student progress was "the most useful tool in designing an

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a school district's decision. Education groups, in contrast, vehemently opposed the contractual nature of the individualized education program (IEP) and other due process provisions" (p. 10). This was resolved in committee.

educational program for not only the child but those who are responsible for its management in school and at home” (Senate Conference Report No. 94-168, 1975, p. 10). Even though the final legislation only required that these reviews occur on an annual basis, “many of the IEP’s proponents emphasized that the law obviously did not preclude more frequent meetings and that in fact additional sessions would serve such valuable purposes that a once-yearly schedule would probably be the rare exception” (National Advisory Committee on the Handicapped, 1977, p. 9). More generally, the procedural requirements for the IEP were seen as the minimum steps necessary to ensure that students with disabilities had access to a free appropriate public education that met their unique needs and protected their individual rights (National Advisory Committee on the Handicapped, 1977).

As this account makes clear, the design of the IEP was a procedural response intended to provide an *individual* and *appropriate* education for each special education student. The federal government specified processes and outlined desired content for the referral and evaluation of students, the IEP meeting, the resulting IEP document, and the review of the IEP over time. Across these aspects of the design, the IEP operated at the level of the individual, was intended to provide protections (in the form of valid assessments and due process procedures) and accountability (in the form of a written education plan), and was meant to be reviewed and revised annually. Finally, the IEP was meant to prioritize the least restrictive environment, maximizing the time that special education students spent in general education settings.

### *Influences on Design*

Prior legislative examples from states, legal precedent, and educational practices representing both best and worst practice have all been forwarded as explanations and justifications for the design of the IEP (Goodman and Bond, 1993; National Advisory

Committee, 1977; Nelson, 2005; Schrag, 1996; Zettel and Ballard, 1982). These explanations help us understand particular aspects of the IEP, but they leave out significant features of the environment. Using the analytical framework introduced earlier from Cohen and Moffitt (2009), I identify the following salient features of that environment, enriching our understanding of the IEP as a whole: 1) the American system of government, particularly the legal and structural features of the government designed to limit centralized control and protect people from abuses of government power, 2) the varied knowledge and practice base that accompanied the wide variety of disabilities included under the legislation, and 3) the strong ideological and philosophical arguments about schools and the education of children with disabilities. Cohen and Moffitt (2009) point to the importance of the environment and the ways in which it shapes the other three actions and resources – aims, instruments, and capabilities – that can be used to close the policy-practice gap. Here we see how these three features of the environment shaped the IEP and the creation of a federally sponsored system of special education.

*American System of Government:* America’s public schools operate in a fragmented governmental system designed to thwart centralized power. Cohen and Spillane (1992) write, “Authority in education was divided among state, local, and federal governments by an elaborate federal system, and it was divided within governments by the separation of powers” (p. 5). They go on to explain, “These divisions were carefully calculated to inhibit the coordinated action of government” (p. 5). As a result of such divisions, the federal government has historically had relatively little authority or influence in America’s public schools, and the majority of control has been concentrated at the local level.

When PL 94-142 was passed in 1975, federal influence in public schools was limited but growing (Cohen and Moffitt, 2009). Only ten years prior, Title I of the Elementary and

Secondary Education Act was passed, bringing federal dollars and a mission to improve education for the poor to America's schools. As Cohen and Moffitt (2009) point out, even this barrier-breaking legislation was greatly constrained in the federal influence it could exert. For example, to be politically successful, Title I had to distribute federal dollars widely but decisions about how to spend these dollars were delegated to the states and localities. In this context, PL 94-142, which mandated specific procedures for teachers, parents, and students in every school across the country, was seen as one of the most intrusive and prescriptive education policies in the history of federal education reform (Melnick, 1995; Glaser, 1982). But, even if the IEP was revolutionary in terms of the level of influence and control that the federal government was able to exert on the day-to-day operations of America's public schools, the IEP was also significantly shaped by the weak and fractured system of government in which the legislation was crafted.

Although the IEP was a significant departure from previous federal education policy reform instruments, it was still the product of and imbedded in the United States' system of government and would need to operate through it in order to change the practices of educators. Specifically, this meant that the IEP would have to rely on the states, LEAs, schools, and ultimately teachers that had been the problem to put it into practice, while employing other, more traditional instruments (i.e. funding) to motivate compliance and ensure accountability.

Because state governments were, by law, the central authority over public schools, PL 94-142 used federal dollars to incentivize implementation of the IEP by applying preconditions for the receipt of federal funds. To receive these federal dollars, states needed to demonstrate to the Commissioner of Education that they had a plan in place to assure that a free appropriate public education would be available for all children with disabilities ages 3 – 18 by September of

1978, and for all children with disabilities ages 3 – 21 by September of 1980.<sup>7</sup> This plan needed to include IEPs as they were specified in the legislation, and states (along with LEAs) had to establish and maintain procedural safeguards for children with disabilities and their parents or guardians. In addition, the states were responsible for monitoring the implementation of the law and ensuring that special education programs were established, reviewed, and revised. Failure to do so could result in the federal government withholding funds. Of course, this funding was dependent on a state plan, as apposed to the actual implementation of that plan, which was just another sign of the weakness of the federal government in this arrangement.

Because states delegated most of their authority to LEAs, PL 94-142 also stipulated that LEAs, in order to receive special education funds, needed to submit an application to the state assuring that they were identifying, locating, and evaluating all students with disabilities in their jurisdiction. Additionally, they were responsible for creating and reviewing IEPs for all children with disabilities and keeping copies of these IEPs on file. And, of course, LEAs were reliant on teachers, parents and guardians coming together to create IEPs for individual students that were in compliance with the legislation.

Similarly, accountability in the legislation was delegated almost entirely to states, LEAs, schools, and most significantly to the parents and guardians of special education students. The law was particularly reliant on parents and guardians for accountability because of the individualized nature of the IEP and because the very weak capability at the federal and state level limited the extent to which legislators could expect these entities to monitor and enforce the proper implementation of the legislation. The Act included some basic monitoring and record-keeping requirements for each of the levels of government, but these requirements represented,

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<sup>7</sup> States did not need to serve children under the age of 6 or over 17 when doing so conflicted with their own state laws or practices.

at best, “oversight-at-a-distance” by federal and state governments. Cohen and Spillane (1992) explain that such oversight typically includes “written program evaluations, grant recipients’ reports on operations, and the like,” and they acknowledge that within the American system of governance, “State and federal officials rarely can effectively oversee local program implementation” (p. 11). Issues related to the quality of the education students were supposed to be receiving were, to a significant extent, left to be raised by students’ parents and guardians.

Another way in which the weak and fractured system of government affected the design of the IEP is in those aspects of the legislation that went unspecified, leaving much of the important decision-making to local institutions and individuals. If the legislation creating the IEP can be characterized as the most intrusive piece of federal legislation affecting education to date, it can also be seen as one of the most localizing. Although the IEP mandated that schools carry out evaluations, hold meetings, and write IEPs, a great deal of the decision-making was left up to states and LEAs, and even more was decided in each individual IEP meeting by those in attendance. The legislation specified that states and LEAs would determine what evaluation criteria to use and what tests to employ when identifying students for special education. In addition, states were responsible for creating due process procedures to protect the rights of parents, guardians, and students, and for ensuring that the requirements of the law were met by schools and school districts. All other important decisions related to ensuring a free appropriate education for students with disabilities were determined on an individual basis. What constituted the least restrictive environment and what would be appropriate in terms of the curriculum, teaching methods, learning goals, and methods of evaluation were all decided in the IEP meeting. While locally elected school boards, along with teachers and administrators, made most of the decisions about the educational experiences of regular education students, the IEP

localized the source of decision-making for special education students even further with teachers and parents/guardians.

Finally, the inclusion of due process procedures in the IEP was a product of America's governmental system and constitutional provisions designed to guard against the abuse of governmental power. Due process of law, guaranteed by the Fifth and Fourteenth Amendments of the US Constitution, has been interpreted as ensuring that the government cannot impinge upon an individual's rights without following legal procedures. To protect the individual rights of students with disabilities and their parents, PL 94-142 declared that public schools, as governmental agencies, were required to put due process procedures in place. This aspect of the legislation's design drew on the legal precedent set in *PARC v. Commonwealth of Pennsylvania* (1971) and *Mills v. Board of Education* (1972). These cases found that schools, through exclusionary policies and the labeling of students, were violating the rights of students with disabilities and their parents. For example, it was determined that the labels given to students in special education could be socially stigmatizing. A previous ruling involving the labeling of man in Wisconsin as "a drunk" had found that the government needed to follow due process procedures prior to labeling an individual in potentially harmful ways (Kirp, 1973). This precedent was applied to the labeling of special education students in these landmark cases and incorporated into the design of the IEP in PL 94-142 as a way of protecting students and their parents from schools.

These due process procedures, the ambiguous and highly localized nature of certain aspects of the IEP, and the systems of accountability featured in the IEP's design were all products of the US system of government in which PL 94-142 was created. Despite the fact that PL 94-142 and the IEP were seen to be somewhat anomalous in relation to other federal

education policy and policy instruments, they were still significantly shaped by, and would have to operate through, the legal and structural features of an American government system designed to limit centralized power and protect people from abuses of that power. The effect of this structural factor was only amplified by the varied knowledge and practice base for educating student with disabilities. This knowledge and practice base in the context of a law that sought to be inclusive of all disabilities necessitated an individualized, process-based approach, increasing the level of ambiguity and local decision-making embedded into the legislation.

*Varied Knowledge and Practice Base:* The knowledge and practice base for educating students with disabilities varied by disability and was generally quite weak at the time PL 94-142 was being drafted. Congress was unable to establish a simple count of the students with disabilities America’s public schools would need to serve, let alone identify appropriate programs or services that schools should provide.<sup>8</sup> This is not surprising given that the history of special education in the United States prior to this time reflected a patchwork of educational opportunities, services, and providers, including everything from highly specialized educational settings to exclusion and neglect. In this context, a significant research and practice base was developed for educating some groups of students with disabilities, i.e., the blind and deaf, while there were other types of disabilities for which even an agreed-upon definition could not be found. House Report 7217 (1975) stated, “The Committee is aware of the problems in obtaining a precise definition of learning disabled child and urges the Commissioner of Education fully to study the definition and the population group identified as having a learning disability” (p.4).

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<sup>8</sup> The federal government commissioned a number of studies and reports in the years prior to the legislation that tried to establish how many students with disabilities there were, what the best special education practices and programs looked like, and roughly how much it would cost (Comptroller General of the United States, 1974; Rossmiller, Hale, & Frohreich, 1970).

This lack of a strong knowledge and practice base for identifying and educating students with disabilities had significant implications for the program’s design.

The challenge faced by Congress in crafting the IEP against this educational backdrop was significant: how to assure that all students with disabilities were provided an appropriate education in the absence of even a common understanding of what a disability was or what an appropriate education looked like. In the absence of a clear definition or criteria for evaluating learning disabilities, Congress went to great lengths to explain what was *not* meant by “specific learning disabilities”<sup>9</sup> and placed limitations on the percentage of students (two percent) who could be counted under the federal legislation.<sup>10</sup> These efforts to clarify, however, did not provide educators with substantive guidance about how to identify or educate students with specific learning disabilities. The reality of this knowledge and practice gap essentially made it easier for Congress to focus on process and individualization in place of substantive guidance or a prescriptive program design. Politically, the inclusive nature of the legislation and its emphasis on individualization and local decision-making helped to make the legislation successful. PL 94-142 received significant bipartisan support and the organizations representing the rights of different disability groups came together to support the Act (Nelson, 2005). But, in aiming to serve all students with disabilities at a time when people struggled to identify the best ways to carry out that work, the law created significant challenges for those charged with its implementation.

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<sup>9</sup> For example, HR 7217 indicated that the definition did not include “children who may be slow learners.”

<sup>10</sup> HR 7217 provided a justification for the percentage cap, explaining that testimony heard by the Office of Education indicated that, lacking “clear or acceptable criteria for judging whether a child is significantly handicapped because of a possible learning disability...the entire lower quartile of any normal class could be classified as having some learning disability” (p. 8).

Given the weak knowledge and practice base that existed for some (but not all) of the disabilities contained in the legislation, Congress designed the IEP to favor process and ambiguity over a content-based response. The IEP provided educators with a procedure to follow when identifying special education students and determining their educational programs, but it did not specify particular tests or evaluation criteria to use in the identification process. Neither did it provide guidance about what reasonable learning goals might be for a student with a particular disability or what constituted the least restrictive environment for a particular set of needs. Instead, the IEP's design relied heavily on ambiguous language, general guidelines, and guiding principles to help shape and guide special education practice. For example, the legislation stated that the evaluations of special education students could not be culturally biased; the required content for the IEP stipulated that educators needed to include short term instructional objectives for each student; and every student was supposed to be educated in the least restrictive environment. These aspects of the design were a response to existing special education practices that were considered to have negative effects on special education students, but, in an environment that lacked more technical guidance and expertise, the resulting design was procedural and ambiguous. In addition, because Congress sought to create an instrument that was inclusive of all disabilities, the design focused on individualization.

It was understood that deaf children's educational needs differed from the needs of children who were seriously emotionally disturbed, whose needs differed from those who were orthopedically impaired, and so on. There was also concern at this time that schools were ignoring the very real differences across and within categories of disabilities and failing to recognize the individual strengths and weaknesses of their special education students. Crafting a

single solution to ensure an appropriate education for all of these students and their differing needs led to the creation of the individualized education program.

Individualizing the educational programs of special education students provided educators with the flexibility to adapt education plans to the great variability of needs that existed across and within types of disabilities. It also allowed Congress to leave the substantive decisions about how to identify and educate a given special education student up to the school (and school district) as well as the family/guardian. In each IEP meeting, decisions needed to be made about all aspects of the child's educational experience, including what special services to provide, what educational goals to set, and what curriculum to teach. Most of the accountability for these individualized education programs was supposed to be located at the individual level, since each of these programs was decided individually. Thus, the wide variety of disabilities included under the legislation and the varied knowledge and practice base that accompanied those disabilities contributed to the individualization and process-oriented nature of the IEP's design.

*Ideological and Philosophical Beliefs:* Finally, even though the knowledge base for educating all students with disabilities was weak and varied, there were some strong ideological and philosophical arguments that contributed to the design of the IEP. Ideas about access, integration, and the purpose of schooling were central to the ways in which legislators conceived of the free appropriate public education that PL 94-142 sought to guarantee all students with disabilities. Expanding access to public schools has been a significant and recurrent theme throughout the history of American public schooling. U.S. public schools were founded on principles of inclusion and equal access. In 1837, Horace Mann, a common school reformer, argued that public schools should offer “an equal welcome to each one of the same children,

whom a peculiar destination, or an impelling spirit of genius, shall send to its open doors” (1979, p. 32). However, like the complicated ways in which the U.S. was founded on principles of liberty and equality while relying on a system of slavery and White patriarchal power and authority, ideals of inclusion and access have not been applied universally in U.S. schools. Laws that made it illegal for enslaved children to learn to read, segregated schools in the Jim Crow south, special classes and tracks for different groups of students based on race, ethnicity, gender, and class have all stood in the way of these higher ideals.

In 1974, just one year prior to the passage of PL 94-142, Congress passed the Equal Educational Opportunities Act to prevent states from denying individuals access to equal educational opportunities based on race, ethnicity, sex, or national origin. But restricting access to students with disabilities was still prevalent at this time. In the statement of findings that begins PL 94-142, Congress responded, expressing concern that “one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through school with their peers” (PL 94-142, 1975, Sec 601, B, 4) and “more than half of handicapped children in the United States do not receive appropriate educational services which enable them to have full equality of opportunity” (PL 94-142, 1975, Sec 601, B, 3).

PL 94-142, following in a tradition of expanding access to public schools, guaranteed all students with disabilities access to a free appropriate public education. In doing so, the Act made the exclusionary policies of many states illegal and supported the more recent court decisions and state policies that assured students with disabilities the legal right to a publically funded education. PL 94-142 did not just provide students with disabilities access to the educational services that schools provided regular education students however. Instead, the Act provided

access to special education that was intended to prioritize individualization and the least restrictive environment.

Guaranteeing all students with disabilities access to a public education fit with changing ideas about the capabilities of students with disabilities and the purposes of schooling. Many exclusionary policies had been directed toward individuals with severe disabilities and had been based on the idea that schools could not educate the “uneducable.” These laws reflected beliefs about students with disabilities, but they also reflected notions about the work of schools. In more recent efforts to ensure that students with disabilities had access to a publically funded education, these beliefs about the capabilities of students with disabilities and about the work of schools were challenged. These more recent reforms supported ideas that all children were educable, that students with disabilities should have the purposes of their schooling individually tailored to their unique needs, and that public schools needed to provide these educational programs. In the *PARC* case, for example, the court heard testimony arguing that:

1. The provision of systematic education programs to mentally retarded children will produce learning.
2. Education cannot be defined solely as the provision of academic experiences to children. Rather, education must be seen as a continuous process by which individuals learn to cope and function within their environment. Thus, for children to learn to clothe and feed themselves is a legitimate outcome achievable through an educational program (Weintraub & Abeson, 1976, p. 8).

Enforcing notions that learning of any sort was a reasonable purpose for schooling and that schools should be responsible for providing all students with disabilities educational programs that would help them reach their individually defined learning goals, PL 94-142 aimed to assure the free appropriate public education to all students with disabilities emphasizing “special education and related services designed to meet their unique needs” (PL 94-142, 1975, Sec. 3, c).

To achieve this aim, the IEP's design dictated how access to this free appropriate special education would be achieved, what students with disabilities would have access to as a part of their education program, and what the purposes and priorities of a public education would be for a student with disabilities. Access was defined and achieved through the procedural regulations set forth in the IEP, and, because this was access to special education as opposed to regular education, the process was particularly concerned with correctly identifying those students who qualified for special education. Proper identification for access was critical to the success of the legislation because there was concern about misidentification of students and a belief that special education would be effective only if it was serving just those students who really needed it.

With access achieved, the individualized education program of a student with disabilities would be individually tailored, collectively determined, and would prioritize the least restrictive environment for each special education student. The least restrictive environment favored regular education programs and suggested that all students should participate in regular education programs with their regular education peers to the greatest extent possible. The least restrictive environment was intended to integrate special education students into the regular education system and combat previous special education practices that segregated special education students from regular education opportunities, including regular education school facilities, teachers, and children. The least restrictive environment provision in the IEP was vague and would be nearly impossible to monitor, but it was a strong statement about the principles/beliefs governing this new special education policy.

Goodman (1993) writes that, "starting in the 1970s, under the powerfully persuasive principles of 'normalization' (Wolfensberger, 1972) and 'mainstreaming,' strong advocacy developed for education in the least restrictive environment" (p. 410). Wolfensberger (1972)

defined normalization as “Utilization of means which are as culturally normative as possible, in order to establish and/or maintain personal behaviors and characteristics which are as culturally normative as possible” (p. 28) and argued that integration must be both physical and social. When normalization was extended to schools and school-age children, “it resulted in a parallel educational process known as mainstreaming” (Winzer, p. 381).

In these pervading ideological and philosophical arguments about the education of special education students, there were tensions about what the right to education meant for students with disabilities. The educational rights of students with disabilities were distinct from those of regular education students who would attend school and be batch processed through the system with their age-grade peers. The Act stipulated that students with disabilities had a right to an education that prioritized individualization and “normalization” or “mainstreaming” – two priorities that were, themselves, somewhat at odds with each other since the “mainstream” was where batch processing (not individualization) happened. Such incongruities and tensions were not particularly problematic when written into the legislation, but they would complicate matters when the IEP was implemented in 1977.

*What do we know about how schools, local education agencies (LEAs), and states interpreted and used the IEP, and why they did what they did?*

In the Education for All Handicapped Children Act, legislators and policymakers defined a set of problems, introduced new aims for America’s schools, and designed instruments – most notably the IEP – to educate students with disabilities. But when President Ford signed the Act into law on November 29, 1975, it was not these legislators and policymakers who had to create the free appropriate public education that the legislation promised. Cohen and Moffitt (2009)

argue that although, “policymakers define problems and devise remedies, they are rarely the ultimate problem solvers; they depend on the people and organizations that have the problems to solve it” (p. 17). And so, following the law’s passage, it was states, LEAs, and schools that set about implementing the new and demanding legislation.

The law stated that, “a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State no later than September 1, 1978” (PL 94-142, 1975, Sec. 612, 2, B),<sup>11</sup> giving states roughly two and a half years to achieve compliance with the Act. This meant that, among other things, states would need to ensure that every child referred for special education and related services was evaluated, and that those students who qualified for special education had written IEPs before the September 1, 1978 deadline (Pipes, 1978). In reality, most States and schools tried to have IEPs written for their special education students by October 1, 1977. The federal aid connected with PL 94-142 began in 1978 and was based on the number of special education students served in a state. Under the legislation, a student could not be counted unless he/she had an IEP by October 1st of the year prior to disbursement, so to be eligible for funding in 1978, States needed to have written IEPs for their special education students by October 1, 1977. All the states but one, New Mexico, had submitted plans and were receiving funds by 1978.

By October of 1977, approximately 3.6 million IEPs had been written. This effort required states to reconcile their existing policies with the federal legislation, as well as write

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<sup>11</sup> The legislation also stated that a free appropriate public education needed to be provided “for all handicapped children between the ages of three and twenty-one within the State no later than September 1, 1980” (PL 94-142, 1975, Sec. 612, 2, B). These requirements did not apply to children aged three to five and aged eighteen to twenty-one in States where “applications of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the states” ” (PL 94-142, 1975, Sec. 612, 2, B).

new laws and policies.<sup>12</sup> LEAs and schools had to create new procedures and forms, hire new staff, and provide professional development. In addition, regular and special education teachers alike had to participate in IEP meetings and write IEPs, often devoting many hours outside of the school day to these tasks.

We know from the literature review that the IEP was largely interpreted as a procedural response and that the implementation of the IEP varied because its widespread adoption and use. I return to the themes from my analysis on what shaped the design of the IEP and argue that the procedural interpretation of the IEP and its varied uses were significantly shaped by the same three features of the environment that were so critical to the design of the IEP: 1) the American system of government, particularly the legal and structural features of the government designed to limit centralized control and protect people from abuses of power, 2) the varied knowledge and practice base that accompanied the wide variety of disabilities included under the legislation, and 3) the strong ideological and philosophical arguments about schools and the education of children with disabilities.

*American System of Government:* As explained in the design section, America's public schools operate in a fragmented system of government that has decentralized authority for public schools to the local level and has significantly limited federal influence. This fragmented and localized system of control meant that federal, state, and even local education agencies brought limited capability, in the form of "interests, practices, ideas (which comprise knowledge, values, and skill), will, and money" (Cohen and Moffitt, 2009, p. 25), to the implementation of the IEP. In fact, it is worth remembering, that this capability was so limited when the legislation was passed that the federal government and the state education agencies were unable to get an

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<sup>12</sup> Although many states were said to already have adopted policies that were similar to those required by PL 94-142 (Ballard, Ramirez, & Weintraub, 1982).

accurate count of the number of special education students being served at the time, or how many would be covered under the new legislation (Comptroller General of the United States, 1974; Rossmiller et al., 1970).

This was problematic. Under the Act, not only were these agencies required to create the basic record-keeping systems they lacked, but they needed to write new policies and procedures, educate community members, offer professional training to teachers and administrators, create new programs, provide new services (often in coordination with other service providers), and monitor the process to ensure that every special education student was receiving a free appropriate public education. Legislators acknowledged and sought to address some of the problems related to existing capability, primarily through supplementary funding and research, but their funds were limited and restricted,<sup>13</sup> and the research lagged behind implementation. In the end, the capabilities of federal, state, and local education agencies remained weak.

Lacking strong capabilities to implement the IEP, these agencies resorted to interpretations of the IEP that focused on procedural compliance. Even though it was no small task to ensure that schools followed the new IEP procedures and wrote IEPs for every special education student, focusing on procedural compliance was far simpler than, for example, ensuring that parents were active participants in creating the IEP. Achieving procedural compliance alone required considerable time and effort on the part of the agencies, but it relied on practices, such as “monitoring at a distance” (Cohen and Spillane, 1992), with which the agencies were familiar. Ensuring parent participation in an IEP meeting was something else entirely. Parent and guardian participation in the formation of the IEP was thought to be critical

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<sup>13</sup> States were required to pass on at least 75% of the federal funds onto LEAs and were allowed to use only 5% or \$200,000 for administrative costs related to the legislation. All other funds needed to be spent on direct support and services (PL 94-142, 1975).

to its success and utility, and yet studies found that coordinating this participation in meaningful ways was a persistent problem (Pyechea, 1980; Wright et al., 1982; Zettel, 1982).

Under procedural compliance, schools were required to document their efforts to include parents in the IEP meeting, but this record did not provide meaningful information about the role that parents played in creating the IEP, let alone provide schools with guidance or feedback on how to improve parent participation. There were documented ways for schools and educators to significantly influence parent participation in IEP meetings (Weatherley, 1979), but helping schools and educators improve these practices would have entailed complex, relational work, along with considerable time, human and fiscal resources, and a willingness on the part of all parties to learn in and from these efforts to improve. The reality was that U.S. education agencies did not have these capabilities, and so they used the limited capabilities they had to seek sustainable levels of procedural compliance that they believed would satisfy the legislative mandates and keep them in good standing with monitoring agencies.

Another product of this weak and fragmented system was great variability, both in terms of the capabilities that states, LEAs, and schools brought to the IEP process and in the IEP process itself. The IEP was, by design, intended to vary – not just by individuals, although that was essential, but also by states and LEAs. As the design section noted, the IEP's design was shaped by the fragmented system of government within which it needed to operate. As such, although PL 94-142 was more prescriptive than many other federal education policies, it left a number of decisions about the IEP up to states and local education agencies. This meant that rather than having just one IEP process for the entire country, the IEP would vary within and among states. Adding to this variation, of course, was the fact that IEP processes were carried out within local education agencies by administrators, teachers, and parents who also had

opportunities to shape the IEP process and product, and who brought different very capabilities to the process. As Cohen and Moffitt (2009) explain, “The growing congruence of race, social class, and wealth with jurisdictional boundaries has had a huge impact on the fiscal and educational capabilities of states and localities” (p. 42).

The capabilities of states, LEAs and schools relevant to the implementation of the IEP varied based in part on special education laws and policies that were in place prior to the federal legislation. Although the Children’s Defense Fund’s 1974 report, *Children Out of School in America*, documented exclusionary policies in almost every state in 1970, there were a number of states and schools that changed their policies leading up the passage of PL 94-142. By 1975, almost all states had “adopted some type of statutory provision calling for the education of at least the majority of their handicapped children” (Zettle and Ballard, 1982, p. 14).<sup>14</sup> A few of these state policies became models for PL 94-142. Massachusetts’ Comprehensive Special Education Law (Chapter 776), passed in 1972, was cited as “an exemplar of special education reform” (Weatherly, 1979, p.4) and was thought to go “even further than federal law” (p. 4). These variations in existing state policies and practices meant that some states had to do little to meet the new requirements of the federal legislation, while others had to revamp their entire system to achieve compliance. Given this state-to-state variation, it is not surprising that some saw the IEP as a refinement of their current practices and others perceived the IEP to be a radical shift. It is also not surprising, in light of these facts, that studies of the IEP’s implementation found that its interpretation and use varied within and between states.

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<sup>14</sup> House Report No. 94-332 acknowledged this fact but stated, “the essential factor to focus upon in this area of State law is that until recently there has been *little* or *no* enforcement of the mandates.”

In sum, the fragmented and weak system of governance in the U.S. meant that the capabilities that states, LEAs and schools brought to the IEP were weak and variable, resulting in procedural interpretations and uses of the IEP that varied from school to school and from state to state. These differences in interpretation and use were exacerbated by the varied knowledge and practice base that existed for educating student with disabilities.

*Varied Knowledge and Practice Base:* Had the knowledge and practice base for educating students with disabilities been strong nationally across all of the disabilities covered by the legislation, it is possible the IEP could have been implemented with less variation and have moved beyond procedural compliance, despite the limited capabilities of education agencies. However, the knowledge and practice base for educating students with disabilities varied considerably by disability and was, by and large, quite weak. Absent a stronger knowledge and practice base, the focus remained largely on procedural compliance, and those areas of the IEP that were the most ambiguous and relied most heavily on the choices of educators were subject to some of the most significant variations.

For example, the legislation required that evaluations be free of racial or cultural bias and rely on more than one criterion but did not name specific tests that should be administered or criteria to be used. Without widespread professional consensus on the appropriate criteria or which tests were culturally and racially unbiased, states, LEAs, and schools employed an array of evaluation criteria and procedures, hoping the ones they had chosen would stand up in a court of law. Nelson (2005) writes, “Since reliable diagnostic techniques did not exist in the late 1970s, schools typically made distinctions on other grounds—most often on the basis of money”

(p. 186).<sup>15</sup> From a federal perspective, there was nothing in the legislation that discouraged variation among schools and states or that prohibited money from being considered in the selection of evaluation procedures and criteria. What would be problematic was if these different criteria and tests did not all lead to reliable diagnoses, particularly if these diagnoses were disproportionately associated with racial and ethnic groups.

Unfortunately, national studies comparing states revealed significant variations in the overall percentages of special education students and in the percentages of students identified with particular disabilities (State Program Implementation Studies Branch, 1979; State Program Implementation Studies Branch, 1980; Zettel, 1982). In addition, issues of disproportionality by race continued even though states were found to have policies in line with the legislation's regulations. The reality was that the law called for reliable diagnostic techniques that did not exist in the environment, and, absent existing reliable techniques, other factors influenced the disparities in their rates of diagnosis – specifically, the ways in which disability categories were defined, the ways that professionals conducted their screening, the ways schools located potential special education students, and the ways in which special education funding was distributed in a state (Nelson, 2005).

Similarly, other aspects of the IEP that were particularly ambiguous left the decision-making to educators and parents, including what services special education students would be provided and the settings in which they would be taught. If there had been a strong knowledge and practice base for educating all students with disabilities, then it would be reasonable to

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<sup>15</sup> Nelson (2005) details how Boston changed their IQ cut-off in an effort to increase federal aid and decrease state aid. “In this way, state and local officials tailored diagnostic criteria to fit available resources—a practice that not only cast doubt over the validity of diagnoses but also confirmed public suspicions that the aim of many diagnoses was not to make appropriate placements but, rather, to secure financial reimbursements” (p. 185).

assume that educators would recommend similar types of services in similar types of settings for students with the same disabilities even though PL 94-142 did not prescribe what those services or setting should be. Lacking this strong knowledge and practice base and in the face of limited resources, however, educators tended to make these decisions on the grounds of what services were already available in the school or district, what the existing practices and beliefs were in the schools where they worked, and parental requests for particular services or educational settings (Weatherley, 1979; Weatherley & Lipsky, 1977). Considering that these choices often relied on the available resources, skills, and practices of schools or school districts and that these resources were extremely variable from district-to-district and state-to-state, it is not surprising that the aspects of the IEP that addressed the scope and content of the special education programs and services resulted in some of the greatest variation.

*Ideological and Philosophical Beliefs:* Finally, while the capabilities that states, LEAs, and schools brought to the IEP were weak and variable, the ideological and philosophical beliefs about educating students with disabilities were strong. For example, “normalization” or “mainstreaming,” efforts to include special education students into classes with their regular education peers, were met with some resistance. For many regular and special educators alike, this policy conflicted with their existing belief that separate specialized services were best for special students. Similarly, many parents of students with disabilities were reluctant to give up the separate services, classes, and even schools for mainstreamed classrooms, because they believed these separate services, classes, and schools could provide a greater level of attention and care and were better equipped to meet their children’s needs (Nelson, 2005; Wright et al, 1982; Zigler and Muenchow, 1979).

These conflicting ideologies and belief systems combined with limited resources and capability resulted in great variations in the ways in which both individualization and “mainstreaming” played out in the implementation of the IEP. Attempts at individualization in school systems designed to batch process students proved to be a significant barrier because more often than not, attempts at individualization were handled in generic – i.e. batch-processing – ways. Although meetings were held for each individual student, very few IEPs were truly individualized and decisions about mainstreaming varied. Weatherley (1979) describes an “informal triage between routine and complex cases” that “allowed school personnel to intervene in a limited number of cases with an individualized approach, consistent with their training and personal self image...maintain[ing] some pride in the quality of their services while at the same time routinizing their responses to most children” (p. 74). The ideological and philosophical beliefs that guided the legislation and defined a free appropriate public education were not necessarily achieved through simple procedural compliance with the IEP, particularly when the ideological and philosophical beliefs of school administrators and other stakeholders were at odds with those of the legislation. This meant that schools could and often did meet the letter of the law without achieving the law’s intent to ensure that “the individual child's needs be matched with appropriate special education and related services in the least restrictive environment” (Wright et al., 1982, p. 105). In short, it was easier to promote changes in procedures than changes in beliefs or the capability for practice.

### **Discussion and Conclusion**

PL 94-142 and the IEP reflected a significant incursion of the federal government into American schools and classrooms. Not before and not since has a federal law dictated the practices of educators with children so precisely as was the case with the IEP. And yet, as this

analysis suggests, the design of the IEP and its resulting implementation are not surprising given the nature of the American system of government, the weak and varied knowledge and practice base, and the ideological and philosophical beliefs that shaped the policy. This account of these features of the environment and the ways that they shaped the IEP's design and early implementation provide a more comprehensive analysis of this significant policy effort establishing a federally sponsored system of special education.

The design and early implementation of the IEP represented a collision between ambitious aims and modest capability when it came to policy reform for America's public schools. The legislation stated that all "handicapped children" have a right to a free appropriate public education that prioritizes the least restrictive environment. This language reflected a commitment to the idea that all children with disabilities were "educable," that the individual needs of a child with disabilities – regardless of what those needs were – constituted reasonable purposes for schooling, and that – to the extent possible – schools should be integrated mini-societies. At the same time, the IEP was a set of procedures and requirements for individualized education programs, providing little in the way of substantive guidance and reflecting both the limited centralized power and control of the federal government and the weak and varied knowledge and practice base for educating all students with disabilities.

With the passage of PL 94-142, America's schools served more special education students, increased the number of special education programs and services provided, and put significant time and energy into ensuring that every special education student had an IEP. The federal government estimated that between 1976 and 1980 an additional 480,000 students with disabilities were receiving special education and related services, resulting in a total of 4.18 million special education students nationally (Office of Special Education Programs, 1981).

Along with these special education students came increased programs and services<sup>16</sup> and millions of IEPs and IEP meetings.

Under the legislation, states were required to provide a free appropriate education to all students with disabilities, but lawmakers did little to answer the question of how schools would meet the needs of these students or what constituted an "appropriate" education. Instead, the federal government mandated a procedural response that accommodated the great diversity of needs and disabilities but left schools and families to figure out the appropriate goals and methods of instruction for each student. This meant that some schools were able to leverage significant capability and expertise to meet the needs of their special education students while other schools achieved procedural compliance without changing their teaching practices or improving the educational experiences of young people (Meyer & Rowan, 1977). The only substantive guidance came in the way of the tenets of individualization and the least restrictive environment, two priorities that themselves were somewhat at odds in a school system geared toward batch processing rather than individually tailored education.

PL 94-142 and the IEP created basic individual rights to education for students with disabilities and established a federally supported system of special education that, in its implementation, became organizationally and institutionally distinct from general education. Unfortunately, the legislation did not universally improve the quality of the education to which it guaranteed students access, and, as schools and states put IEPs into place and went about implementing the other guidelines and procedures of PL 94-142, the collision of those ambitious

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<sup>16</sup> A five-year longitudinal study by SRI International found that the LEAs in the study had “increased the scope and comprehensiveness of their special education programs and related services,” including special education and related services at “the preschool, elementary, and secondary levels particularly for SLD [specific learning disabilities], SED [seriously emotionally disturbed], and SMR [severely mentally retarded] children” (Wright et al., 1982, p. 133).

aims and weak capabilities resulted in the creation of new problems and the magnification of existing ones. Questions of how best to identify students eligible for special education, problems surrounding the overidentification of poor and minority students, disagreements about the settings that would best meet the educational needs of students with disabilities, and concerns about the educational needs of all students persisted and were magnified in this federally sponsored system that expanded significantly in the decades that followed.

## References

- Abeson, A. & Zettel, J. (1977). The end of the quiet revolution: The Education for All Handicapped Children Act of 1975. *Exceptional Children*, 44(2), 114-128.
- Ballard, J., Ramirez, B.A., & Weintraub, F.J. (Eds.). (1982). *Special Education in America: Its Legal and Governmental Foundations*. Reston, VA: The Council for Exceptional Children.
- Children's Defense Fund. (1974). *Children out of school in America*. New York, NY: Gertrude Bloch.
- Cohen, D.K., & Moffitt, S.L. (2009). *The ordeal of equality: Did federal regulation fix the schools?.* Cambridge, MA.: Harvard University Press.
- Cohen, D.K. & Spillane, J. (1992). Policy and practice: The relations between governance and instruction. In G. Grant (Ed.), *Review of Research in Education*, 18, 3-49. Washington, DC: American Educational Research Association.
- Comptroller General of the United States. (1974). *Federal programs for education of the handicapped: Issues and problems: Report to the Congress*. Washington, DC: U.S. General Accounting Office.
- Dimond, P.R. (1973). The Constitutional right to education: The quiet revolution. *Hastings Law Journal*, 24(6), 1087-1128.
- Education Advocates Coalition (1980). Federal compliance activities to implement the Education for All Handicapped Children Act (PL 94-142). A report.
- Gallagher, J.J. (1972). The Special Education Contract for Mildly Handicapped Children. *Exceptional Children*, 38(7), 527-535.
- Gallagher, J.J., (1974). Current Trends in Special Education in the United States. *International Review of Education*, 20(3), 277-297
- Glaser, R. (1982). A conversation with Terrel H Bell. *American Psychologist*, 37 (9), 1025-1030.
- Goodman, J.F. & Bond, L. (1993). The Individualized Education Program: A Retrospective Critique. *The Journal of Special Education*, 26(4), 408-422.
- Horace Mann, First Annual Report, in *The Republic and the School: Horace Mann on the education of free men*. (1979), Lawrence Cremin (Ed.) New York, NY: Teachers College Press.
- House Report No. 94-332, Prepared by the Committee on Education and Labor, June 26, 1975.
- Itkonen, T. (2007). PL 94-142: Policy, Evolution, and Landscape Shift. *Issues in Teacher Education*, 16(2), 7-17

- Jordan, J. B. (Ed.) (1977). *Exceptional child education at the Bicentennial: A parade of progress*. Reston, VA: Council for Exceptional Children
- Kirp, D.L. (1973). Schools as sorters: The Constitutional and policy implications of student classifications. *University of Pennsylvania Law Review*, 121(4) 705-797.
- Melnick, R.S. (1995). Separation of powers and the strategy of rights: The expansion of special education. In M. K. Landy & M. A. Levin (Eds.), *The new politics of public policy*. Baltimore, MD: The John Hopkins University Press.
- Meyer, J. W., & Rowan, B. (1977). Institutionalized Organizations: Formal Structure as Myth and Ceremony. *American Journal of Sociology*, 83(2), 340–363.
- National Advisory Committee on the Handicapped. (1977). *The individualized education program: Key to an appropriate education for the handicapped child: 1977 annual report*. Washington: Dept. of Health, Education, and Welfare, Office of Education.
- Nelson, A.R. (2005). *The elusive ideal: Equal educational opportunity and the federal role in Boston's public schools, 1950-1985*. Chicago, IL: The University of Chicago Press.
- O'Connor, C. & Fernandez, S.F. (2006). Race, class, and disproportionality: Reevaluating the relationship between poverty and special education placement. *Educational Researcher*, 35(6), 6-11.
- Office of Special Education Programs. (1981). *Third annual report to Congress on the implementation of Public Law 94-142: The education for all handicapped children act*. Washington, D.C.: U.S. Department of Education Publication
- Pipes, L. (Ed.). (1978). *Teachers talk: PL 94-142 reaches the classroom: a look at early reactions to the Education for All Handicapped Children Act*. Washington, D.C: ERIC Clearinghouse on Teacher Education
- Public Law 94-142, Education for all handicapped children act, Nov 29, 1975.
- Pyecha, J. N., Cox, J. L., Dewitt, D., Drummond, D., Jaffe, J., Kalt, M., Lane, C., & Pelosi, J. (1980). *A national survey of individualized education programs (IEPs) for handicapped children*. Durham, NC: Research Triangle Institute.
- Rinaldi, R. T. (1976). Urban schools and P. L. 94-142: One administrator's perspective on the law. In R. A. Johnson & A. P. Kowalski (Eds.), *Perspectives on implementation of the "education for all handicapped children act of 1975"* (pp. 135-152). Washington, DC: Council of the Great City Schools.
- Rossmiller, R. A., Hale, J. A., & Frohreich, L. E. (1970). *Educational programs for exceptional children: resource configurations and costs*. Madison, WI: Dept. of Educational Administration, University of Wisconsin

- Schrag, J. A. (1996). *The IEP: Benefits, challenges, and future directions: final report*. Alexandria, VA: National Association of State Directors of Special Education.
- Senate Conference Report No. 94-445, Joint Exploratory Statement of the Committee of Congress, November 14, 1975
- Senate Report No. 94-168, prepared by the Senate Committee of Labor and Public Welfare, June 2, 1975
- Smith, S.W. (1990). Individualized education programs (IEPs) in special education -- from intent to acquiescence. *Exceptional Children*, 57(1), 6
- State Program Implementation Studies Branch of the Bureau of Education for the Handicapped. (1979). *Progress toward a free appropriate public education: a report to Congress on the implementation of Public Law 94-142: The education for all handicapped children act*. Washington, D.C.: U.S. Dept. of Health, Education, and Welfare Publication
- State Program Implementation Studies Branch of the Bureau of Education for the Handicapped. (1980). *Second annual report to Congress on the implementation of Public Law 94-142*. Washington, D.C.: U.S. Dept. of Health, Education, and Welfare Publication
- Task Force on Children Out of School. (1971). *The way we go to school: The exclusion of children in Boston*. Boston, MA.: Beacon Press.
- Turnbull, H. R., & Turnbull, A. P. (1978). *Free appropriate public education: Law and Implementation*. Denver: Love.
- Vautour, J.A.C. & Vautour, M.E. (1977). The individual education program: Some observations. In R. A. Johnson & A. P. Kowalski (Eds.), *Perspectives on implementation of the "education for all handicapped children act of 1975"* (pp. 135-152). Washington, DC: Council of the Great City Schools
- Weatherley, R. (1979). *Reforming special education: Policy implementation from state level to street level*. Cambridge, Mass.: MIT Press
- Weatherly, R. & Lipsky, M. (1977). Street-level bureaucrats and institutional innovation: Implementing special education reform. *Harvard Educational Review*, 47(2), 171.
- Weintraub, F.J., Abeson, A., Ballard, J., & LaVor, M.L. (Eds.). (1976). *Public Policy and the education of exceptional children*. Reston, VA: The Council for Exceptional Children.
- Weintraub, F.J. & Ballard, J. (1982). Introduction: Bridging the decades. In *Special education in America: Its legal and governmental foundations*. Joseph Ballard, Bruce A. Ramirez, and Frederick J. Weintraub (eds). (1982). Reston, VA: The Council for Exceptional Children.
- Winzer, M.A. (1993). *The history of special education: From isolation to integration*. Washington D.C.: Gallaudet University Press.

- Wolfensberger, W. (1972). *Normalization: The principle of normalization in human services*. Toronto, Canada: Leonard Crainford
- Wright, A.R., Cooperstein, R.A., Renneker, E.G., & Padilla, C. (1982) *Local Implementation of PL 94-142: Final Report of a Longitudinal Study*. Menlo Park, CA: SRI International
- Zettle, J.J. (1982). Implementing the right to a free appropriate public education. In *Special education in America: Its legal and governmental foundations*. Joseph Ballard, Bruce A. Ramirez, and Frederick J. Weintraub (eds). (1982). Reston, VA: The Council for Exceptional Children.
- Zettel, J.J. & Ballard, J. (1982). The education of all handicapped children act of 1975 (P.L. 94-142): Its history, origins, and concepts. In *Special education in America: Its legal and governmental foundations*. Joseph Ballard, Bruce A. Ramirez, and Frederick J. Weintraub (eds). (1982). Reston, VA: The Council for Exceptional Children.
- Zigler, E. & Muenchow, S. (1979). Mainstreaming: The proof is in the implementation. *American Psychologist*, 34(10) 993-996.

## **CHAPTER THREE**

### **DESIGNING AN RTI MODEL: THE CASE OF TENNESSEE'S RTI<sup>2</sup>**

Public Law 94-142 represented a watershed moment in 1975 when it guaranteed students with disabilities the right to “a free appropriate public education.” In establishing these individual and civil rights for students with disabilities, however, PL 94-142 also prompted questions about who was disabled and who was not, what constituted a free appropriate public education, and what kind of education all students should have a right to. PL 94-142 and its primary instrument, the Individualized Education Program (IEP), attempted to answer at least the first two of those questions, locating disabilities as intrinsic features of individual children and describing a free appropriate public education as one that met the individual needs of that student in the least restrictive environment as stipulated in his/her IEP.

As I describe in the first article (Chapter Two), these solutions were shaped by the American system of government and its decentralized authority, the varied knowledge and practice base for educating all students with disabilities, and the strength of the ideological and philosophical beliefs of researchers and practitioners at the time of the law's authoring. As a result, these solutions made sense in the context of their environment. There were, however, concerns about these solutions and, as the IEP and this federally mandated system of special education was put into place, dual systems of education emerged. The longstanding system of general education was intended to educate large numbers of students in age-grade classrooms in a set of academic subjects while the new system of special education was intended to provide services and supports to students with disabilities, meeting their individual needs by providing

them with IEPs that defined their individual learning goals and the least restrictive environments for their educations.

In reality, the system of special education that developed varied greatly depending on the knowledge, skills, beliefs, and resources that schools and districts around the country brought to bear on these problems, and in many schools and school systems special education became a separate place to educate students with disabilities. In addition, which students served by these dual systems of education varied, often by factors like race and ethnicity, calling into question the legitimacy of these two separate systems and the ways that students were placed into special education. To complicate things further, in the decades that followed the passage of PL 94-142, policymakers and educators focused on the question of what kind of education all students should have a right to as they turned their attention toward standards-based reforms, accountability, and student outcomes. In this shifting environment, supporting the lowest performing students (in general and special education) and improving the quality of instruction to meet the needs of those students became particularly pressing.

It was in this environment, almost 30 years after the introduction of the IEP, that the federal government tried, once again, to address some of the fundamental questions raised by the passage of PL 94-142 and to repair some of the unintended consequences of the IEP through the introduction of Response to Intervention (RTI). RTI is the most recent, large-scale effort to change special education in the United States, and it represents a case of problem solving in which policymakers try to find new solutions to longstanding problems while also addressing the consequences of past policies. While RTI is not the sweeping mandate of the IEP from the initial federal legislation, the consequences of RTI could be significant.

With the passage of the Individuals with Disabilities Education Improvement Act of 2004 (P.L. 108-446), also known as the reauthorization of the Individuals with Disabilities Education Act (IDEA), RTI became an acceptable way to identify students with specific learning disabilities (34 CFR 300.307(a)(2)). The law also allowed all local education agencies (LEAs) to allocate a portion of their federal special education dollars to support early intervening services for students requiring academic and behavioral assistance (34 CFR 300.226(a)), and required those LEAs determined by their states to be struggling with significant issues of racial and ethnic disproportionality in their special education programs to use the maximum portion of those federal dollars for early intervening services.

The reauthorization of IDEA in 2004 was intended to align IDEA with No Child Left Behind and the Elementary and Secondary Education Act (U.S. Department of Education, Office of Special Education and Rehabilitative Services, 2010). Like these other accountability reforms, RTI models drew on theories for improving instruction that essentially supposed that merely by identifying instruction in need of improvement schools and teachers would improve. In addition, RTI allowed “struggling students” to receive additional interventions and supports without being identified for special education services. Using assessments of students and fidelity checks of interventions, teachers and administrators could identify when instruction was not meeting the needs of most students and could adjust according. When instruction was meeting the needs of the majority of students, the lowest performing students would receive additional interventions to improve their individual achievements.

Since the legislation went into effect, states and districts have flocked to RTI models to reform special (and regular) education (Berkeley, Bender, Peaster, & Saunders, 2009; Zirkel & Thomas, 2010). And yet, each school, LEA, and state that has done so has had to design its own

version of RTI. This is because, while there are many commonly agreed-upon principles that guide existing models, including high quality general class instruction, universal screening, research-based interventions, continued progress monitoring, and fidelity measures of implementation (Bradley, Danielson, & Doolittle, 2005; O'Connor & Sanchez, 2011), there is not just one single model for RTI, and the reauthorization of IDEA left these design decisions up to states and localities. In addition, despite the general enthusiasm for RTI, more than ten years after the reauthorization of IDEA (2004), little is known about how policymakers design and implement RTI models in their local contexts.

In this article I seek to understand one state's efforts to design a statewide RTI policy and answer the following questions: 1) what were the aims the state set for, and the problems they were trying to address with, RTI? and 2) what instruments (mandates, money, ideas, etc.) did the state marshal to achieve those aims? This article uses Cohen and Moffitt's (2009) conception of aims, instruments, capabilities, and the environment as an analytic frame to make sense of this policy effort. Recent efforts to understand policy and policymaking point to conceiving of policy as "an intentional attempt by members of one group to influence the practice of members of another group" (Cobb & Jackson, 2012, p. 488). Conceiving of policies in this manner provides a way of thinking about the instruments or resources policies and policymakers bring to promote change in others, as well as the constraints that policymakers face.

This article will elaborate on those instruments in relation to the specific aims set forth in one state, Tennessee, as it participated in one of the largest special educational policy reforms in recent decades and designed its own statewide RTI policy. In describing Tennessee's aims and instruments, this article illustrates the ways in which Tennessee used their instruments to try to

manage the large policy-practice gap (Cohen & Moffitt, 2009) created by their ambitious aims and the weak capabilities of their environment.

In order to understand Tennessee's design of a statewide RTI policy, this article begins by considering the historical and theoretical foundations for RTI nationally. Making a case for the problem solving efforts that led to the federal adoption of RTI, this history illuminates the work of scholars and practitioners who endeavored to address persistent problems related to special education and the unintended consequences of the IEP and PL 94-142. Important implications of this account are taken up in the discussion and the conclusion as they relate to our understanding of one state's RTI policy efforts and future research of RTI models and policies.

### **Historical and Theoretical Foundations for RTI**

The history of RTI is intricately linked to a much larger and longer set of debates about the quality of instruction in both general and special education and the validity of various disability categories and their evaluation processes (Heller, Holtzman, & Messick, 1982), including, but not limited to, specific learning disabilities. These debates intersect directly with concerns regarding schools' unequal treatment of students based on race, economics, and perceived intellectual abilities, and date back to before the creation of the Education for All Handicapped Children Act, PL 94-142. Both the federal legislation and its primary instrument, the IEP, were efforts to help address many of these problems (see Chapter Two). In this longer history, RTI can be understood as a response to some of the expected and unexpected consequences of the original PL 94-142 and yet another effort to try to improve the quality of general and special education, the validity of special education categories, and the treatment of poor, minority, and low-performing students.

The years leading up to the passage of PL 94-142 were significant and tumultuous in the field of special education. Special education was experiencing both support and scrutiny at the time, which Jones and MacMillan (1974) described this way:

Special education is in a state of ferment. At a time when many parents, educators, and federal officials are bemoaning the inadequacy of provisions for exceptional children in the schools and seeking facilities for increased numbers of special classes there are other groups demanding that children in self-contained special education classes—particularly those children labeled educable mentally retarded, emotionally disturbed and learning disabled—be returned to regular classes (p. 1).

Lawsuits like *PARC v. Commonwealth of Pennsylvania* (1971) and *Mills v. Board of Education* (1972) questioned the exclusion of disabled students from public schools, while *Larry P v. Riles* (1972) questioned the placement of African American students in Educable Mentally Retarded classes based on IQ scores. There was great optimism about all that special education could make possible for students with disabilities, while at the same time there was concern about the stigmatizing and deleterious effects of disability labels, questions about the utility of particular disability categories in supporting the designs of “specialized instructional systems,” and calls for the “improvement of regular school programs as a resource for exceptional pupils (Reynolds & Balow, 1972, p. 365).

In Dunn’s (1968) seminal article, *Special Education for the Mildly Retarded: Is Much of It Justifiable?*, he argued that the placement of poor and minority students in self-contained schools and classes was an educational and civil rights issue, and that schools needed to stop labeling students as mentally retarded and “stop segregating them by placing them into our allegedly special programs” (p. 6). Dunn also called into question the efficacy of the labeling process and the treatment students received once labeled, and suggested that this system

contributed “to the delinquency of the general educations since we remove the pupils that are problems for them and thus reduce their need to deal with individual differences” (p. 20).

The IEP was developed in an effort to address many of these issues. The following purposes are identified within PL 94-142: 1) “to assure that all handicapped children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs,” 2) “to assure that the rights of handicapped children and their parents or guardians are protected,” 3) “to assist States and localities to provide for the education of all handicapped children,” 4) “and to assess and assure the effectiveness of efforts to educate handicapped children” (PL 94-142, 1975, Sec. 601, C). These purposes indicate the government’s efforts, through the IEP, to “(a) improve how children with disabilities were identified and educated, (b) evaluate the success of these efforts, and (c) provide due process protections for children and families” (U.S. Department of Education, Office of Special Education and Rehabilitative Services, 2010, p. 5).

The IEP guaranteed all students with disabilities the right to a free appropriate public education. It detailed a procedural process for referrals and evaluations that was intended to properly identify only those students who needed special education services and to stop the disproportionate identification of poor and minority students through stipulations that evaluations could not be racially or culturally discriminatory and could not rely on a single criterion for determining an appropriate educational program. Finally, the IEP encouraged individualized educational programs that were designed by a team of educators and family members who were supposed to come together to identify a student’s individual strengths and weaknesses and develop a personalized education program that would prioritize the least restrictive environment,

limiting the segregation of students and personalizing the educational program to the individual rather than treating the child based on his/her category of disability.<sup>1</sup>

While the IEP tried to ensure that students were not inappropriately labeled with a disability, PL 94-142 required a disability diagnosis for a child to receive special education services. In addition, special education funding from the federal government was based on the number of children identified for special education. The original legislation included the following disability categories: “mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities” (PL 94-142, 1975, Sec. 602, 1). Of particular note on this list was the inclusion of specific learning disabilities, which would go on to significantly shape special education in the years to come.

At the time of the original legislation, specific learning disabilities was a relatively new disability category. The term “learning disability” was introduced in the early 1960s and was then quickly and widely adopted.<sup>2</sup> Yet, despite the warm reception for this new category of disability,<sup>3</sup> how to

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<sup>1</sup> In these ways, the IEP seemed to be responsive to researchers like Hammill (1971), who argued that the instruction and evaluation of students with disabilities needed to be linked so that instruction could inform evaluation and evaluation could inform instruction.

<sup>2</sup> The term “learning disability” is said to have been coined by Samuel Kirk, a prominent scholar of special education at the University of Illinois (Hallahan & Mercer, 2002; Bateman, 2005; Danforth, Slocum, & Dunkle, 2010). In the first edition of his book, *Educating Exceptional Children* (1962), Kirk wrote: “A learning disability refers to a retardation, disorder, or delayed development in one or more of the processes of speech, language, reading, spelling, writing, or arithmetic resulting from a possible cerebral dysfunction and/or emotional or behavioral disturbance and not from mental retardation, sensory deprivation, or cultural or instructional factors.” (p. 263). A year later, in April of 1963, Kirk introduced the term “learning disability” at a national conference titled the *Exploration into Problems of the Perceptually Handicapped Child* that was held in Chicago. Recalling the event, Kirk (1984) wrote that he and other scholars in the field were “invited by this organization to present their points of view concerning children who did not fall into the traditional categories of exceptional children but who nevertheless appeared to be handicapped in learning” (p. 40). He recounted that they were “seeking an inclusive name for their national organization” and “decided that The Association for Children with Learning

define learning disabilities and how to identify those with specific learning disabilities was the source of great debate. In the years that followed the introduction and wide-spread use of the term, many sought to define this new category of disability,<sup>4</sup> and the federal government wavered on how best to account for learning disabilities in legislation like the Education of the

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Disabilities (ACLD) was an appropriate designation” (p. 40). “At the heart of the definition of LD is the idea of anomaly or discrepancy in intellectual functioning. That is, individuals are surprisingly unable to learn or reason in a particular area, and this failure is inconsistent with other evidence of their intellectual ability” (Shepard, 1983, p. 4).

<sup>3</sup> Sleeter (2010) argues that the category of specific learning disabilities was introduced by White middle class parents in an effort to distinguish their children from low-income, low-achieving, minority children, suggesting that the category, “offered their children a degree of protection from probable consequences of low achievement because it upheld their intellectual normalcy and the normalcy of their home backgrounds, and it suggested hope for a cure and for their ability eventually to attain higher status occupations than other low achievers” (p. 210).

<sup>4</sup> For a comprehensive account of many of these early definitions, see Hallahan & Mercer (2002). Among the stories they tell is that of the federal government’s cosponsored project titled “Minimal Brain Dysfunction: National Project on Learning Disabilities in Children,” which consisted of three task forces that started their work in 1963. The first task force was intended to address terminology and identification, the second services, and the third research (Clements, 1966), but members of the second task force rejected the definition of the first, arguing that as educators they could not work within the medical framework that the first task force had proposed. Instead, they wrote that they needed a definition that would encourage: “(1) facilitation of services for children; (2) breadth for inclusion of all children needing these services; (3) exclusiveness for avoidance of inefficient overlap with other services; and (4) flexibility” (Minimal Brain Dysfunction, 1969, p. 2). They went on to provide three “educational” definitions used by other organizations at the time, including one from the Council for Exceptional Children, Division for Children with Learning Disabilities and another from The National Advisory Committee on Handicapped Children, and offered two more definitions that they had crafted. Across these five definitions, they concluded that, “Since none of these proposed definitions is acceptable to all educators, it is unlikely that any one educational definition could find total acceptance at the present time” (p. 3) and argued, “What is highly important is to recognize that any educational classification of children must always be secondary to, and for the purpose of, providing maximally effective learning environments. Definitions should vary as they are designed to facilitate educational adaptations within a particular content and must identify behavioral components that are functional to educational treatment” (p. 3). This small anecdote says a lot about early efforts to define the new disability category of learning disability including, as Hallahan and Mercer (2002) point out, “the division in the field at the time over the relevance and validity of attributing neurological causes to learning disabilities” (p. 24) that can be found even in the title of the project.

Handicapped Act, leaving it out in the first passage of the Act in 1966 (see Hallahan & Mercer, 2002 for an account).

With the passage of Public Law 94-142 in 1975, however, learning disabilities were listed as one of the nine categories of disability covered under the law and the legislation defined learning disabilities as such:

The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage (PL 94-142, 1975, Sec. 602, 15).

Even still, House Report 7217 (1975) stated, “The Committee is aware of the problems in obtaining a precise definition of learning disabled child and urges the Commissioner of Education fully to study the definition and the population group identified as having a learning disability” (p.4). Without a precise definition, Congress went to great lengths to explain what was not meant by “specific learning disabilities”<sup>5</sup> and placed limitations on the percentage of students (two percent) who could be counted under the federal legislation.<sup>6</sup> In 1977, when the U.S. Office of Education (USOE) released the final federal regulations, the two percent cap on students identified with specific learning disabilities had been removed, and the idea of an

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<sup>5</sup> For example, HR 7217 indicated that the definition did not include “children who may be slow learners.”

<sup>6</sup> HR 7217 provided a justification for the percentage cap, explaining that testimony heard by the Office of Education indicated that, lacking “clear or acceptable criteria for judging whether a child is significantly handicapped because of a possible learning disability...the entire lower quartile of any normal class could be classified as having some learning disability.”

ability-achievement discrepancy had been introduced to help schools determine the existence of a specific learning disability.<sup>7</sup>

While the USOE had originally introduced a specific formula quantifying a severe discrepancy, this formula was removed in the final regulations due to negative public response, leaving only the idea of an ability-achievement discrepancy within the regulations (Hallahan & Mercer, 2002). The final criteria for determining the existence of a specific learning disability under the regulations were as follows:

- (a) A team may determine that the child has a specific learning disability if:
  - (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, when provided with learning experiences appropriate for the child's age and ability levels; and
  - (2) The team finds that a child has a severe discrepancy in intellectual ability in one or more of the following areas:
    - (i) Oral expression;
    - (ii) Listening comprehension;
    - (iii) Written expression;
    - (iv) Basic reading skill;
    - (v) Reading comprehension;
    - (vi) Mathematics calculation; or
    - (vii) Mathematics reasoning.
- (b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
  - (1) A visual, hearing, or motor handicap;
  - (2) Mental retardation;
  - (3) Emotional disturbance; or
  - (4) Environmental, cultural or economic disadvantage (USOE, 1977, p. 65083).

This federal definition and the set of criteria for identifying students with specific learning disabilities would remain relatively consistent over the next two and a half decades, requiring

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<sup>7</sup> Bateman, a student of Kirk, offered a definition of “learning disorders” in 1965 that included “an educationally significant discrepancy between their estimated potential and actual level of performance related to basic disorders in the learning process” (p. 220). Inclusion of this discrepancy criterion in the regulation codified this notion of learning disabilities as, “unexpected underachievement in children who seem otherwise bright and capable (Lyon et al., 2001)” (Stuebing et al., 2002, p. 472).

educators to document a severe discrepancy between intellectual ability (as measured by IQ tests) and achievement (as measured by a set of academic achievement tests). In addition, this discrepancy could not be primarily attributable to a set of other issues set out in the exclusionary clause of the regulations that included other disabilities as well as environmental, cultural, or economic factors. This method of identification became known as the discrepancy or IQ-discrepancy model,<sup>8</sup> and in the years that followed, this method of identification, like the definition, would be strongly debated for everything from how it was quantified and the great variation that exists between states and localities in operationalizing this discrepancy (Kavale, 2002; Shepard, 1983) to questions about the validity of the model altogether and the underlying assumption that “IQ-discrepancy demarcates a specific type of LD that is distinct from underachievement and which involves different instructional needs” (Stuebing et al., 2002, p. 472).

In the years that followed the passage of PL 94-142, the number of students served in special education grew. The Third Annual Report to Congress on the Implementation of Public Law 94-142 (1981) found that just over 4 million students were receiving special education and related services in the 1979-1980 school year. In addition, they found that every state had increased its percentage of special education students between the 1976-77 and the 1979-80 school years, with 22 states showing a special education increase of 35 percent or more. While the overall percentage of students receiving special education and related services was increasing, not all categories of disability were experiencing increases. During that same time, the category of specific learning disabilities had a 60 percent increase, while the number of students identified as speech impaired and mentally retarded declined nationally. “[T]he majority

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<sup>8</sup> For a historical account of the discrepancy model and some of its origins see Bradley, Danielson, & Hallahan (2002) and Stuebing et al. (2002).

of children between the ages of 3 and 21 being served in school year 1979-80 were either learning disabled (32 percent of the total), speech impaired (29.5 percent), or mentally retarded (22 percent)” (State Program Implementation Studies Branch of the Bureau of Education for the Handicapped, 1980, p. 18).

Generally speaking, the initial increase in enrollment was both expected and welcomed since the legislation was intended to increase access to special education and related services. Nevertheless, concerns continued about the quality of general and special education and the validity of various disability categories. In the First Annual Report to Congress on the Implementation of Public Law 94-142 (1979), the authors outlined a set of concerns related to the classification of students with disabilities. They wrote:

The problem of special learning disabilities should be considered as part of a larger issue of the classification of handicapped children. The traditional categories under which special education programs have been organized tend to employ medical rather than educational terminology. These categories often do not correspond to the types of programs required to meet the educational needs of the child. It is the hope of the Committee that attempts to clarify the issue of special learning disabilities will lead to re-examination of the current system of classification of handicapped children in general. (p. 33).

The report described an urgent need for research and clarity about the category of specific learning disabilities and confusion that had resulted from “overlapping and competing programs under such headings as "minimal brain dysfunction," "dyslexia," "perceptual handicaps," etc.” (p. 33). In addition, Tucker (1980) argued that the introduction of learning disabilities provided a less stigmatizing (in contrast to the category of mental retardation) but still segregating category of disabilities that alleviated general education’s responsibility to struggling students while failing to serve those students and simultaneously maintaining the disproportionate number of Black students in special education overall.

In 1982, the National Research Council published a report titled, *Placing Children in Special Education: A Strategy for Equity*. This report was based on the work of The Panel on Selection and Placement of Students in Programs for the Mentally Retarded, who were tasked with making sense of the disproportionate placement of minority students and males in special education programs, especially “programs for mentally retarded students.”<sup>9</sup>

In its deliberations the panel came to view the statistics of disproportionality as symptomatic of a deeper educational problem: The key issue is not disproportionality itself, but rather the two issues of the *validity* of referral and assessment procedures and of the *quality* of instruction received, whether in the regular classroom or in special education settings (Messick, 1984, p. 4).

In calling out the quality of both general and special education as well as the validity of the referral and assessment process, they were particularly aware of the ways in which poor general instruction could result in a disability diagnosis and removal from the general education classroom. Recalling their deliberations, Messick (1984) wrote:

Because educational assessment typically focuses on learning outcomes rather than learning processes, there is a danger that children who have not learned because of poor instruction in the regular classroom will be judged unable to learn from *any* instruction in the regular classroom (p. 5).

To protect against such conclusions, the panel called for the introduction of multiple educational interventions on the part of the regular classroom teacher before a student was referred to special education for evaluation. They concluded that the ideal assessment process for students struggling academically would occur in two phases:

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<sup>9</sup> “The 1978 survey, for example, indicated that across the nation black children constituted 38 percent of the students in classes for educable mentally retarded students, although black students constitute only about 16 percent of all elementary and secondary students” (Heller, Holtzman, & Messick, 1982, p. ix).

The first phase, prior to any attempt to find problems or deficiencies in the child, is a systematic investigation of the learning environment and the instruction the child receives. The purpose of this phase, which is almost nonexistent in current practice, is to be certain that the child cannot perform adequately in a well-designed instructional setting. Only after deficiencies in the environment have been ruled out, by showing that the child fails to learn under several reasonable programs of instruction, is it legitimate to expose the child to the risks of stigma and misclassification that are inherent in any individual assessment process. The second phase is the comprehensive individual assessment itself (p. 47).

The authors of the report hoped that this first phase would significantly reduce the number of students referred for the second phase.

The two decades that followed the National Resource Council's influential report (Heller, Holtzman, & Messick, 1982) were marked by the continued growth of special education and the identification of students with specific learning disabilities. In the 1989-90 and 1998-99 school years, the federal government reported approximately 4.25 million and 5.54 million special education students respectively (about a 30 percent increase over almost a ten-year period). In the category of specific learning disabilities, the federal government reported approximately 2.06 million and 2.82 million students respectively (almost a 37 percent increase), and noted that over half of all students served by IDEA (the newest version of PL 94-142) were now being categorized as having a specific learning disability. These rates of growth outpaced both the rate of growth for the resident population and for school enrollment (U.S. Department of Education, 2000).

Along with this growth, evidence supporting the National Resource Council's (Heller, Holtzman, & Messick, 1982) concerns about the validity of the identification process and the quality of general and special education continued to mount.<sup>10</sup> Critiques of the existing system

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<sup>10</sup> Critiques of general education and efforts to improve the quality of general instruction extend beyond the scope of this article. Here I focus almost entirely on those who have written about

ranged from very specific analyses of particular practices and categories of disability<sup>11</sup> to much larger and more widespread appraisals of special education and the relationship between general and special education.<sup>12</sup> In addition, recommendations to reform the existing system ranged from particular changes to individual aspects of the existing system<sup>13</sup> to calls to overhaul or eliminate the system entirely.<sup>14</sup>

Critiques of specific practices and categories of disability focused particularly on the set of judgmental disability categories in special education. Unlike nonjudgmental categories – including hearing impairment, visual impairment, and orthopedic impairment – “whose diagnoses require limited inference on the part of professionals” (O’Connor & Fernandez, 2006, p. 6), judgmental categories of disability require a different degree of professional judgment and diagnosis. These categories include intellectual disability (previously called mental retardation), emotional disturbance, and specific learning disabilities, which are frequently identified only after a special education referral at school when the child has “failed to achieve in the general education classroom” (NRC, 2002, p. 209). This meant that the referral, evaluation, and

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and critiqued general education in relation to special education, but many have endeavored to improve general instruction and understand its improvement within America’s system of public schooling (see, for example, the Study of Instructional Improvement).

<sup>11</sup> See, for example, Shaywitz, Shaywitz, Fletcher, & Escobar (1990), who found that the increased prevalence of reading disabilities in boys was likely due to referral bias on the part of schools, and Haynes & Jenkins (1986), who studied reading room instruction and challenged the view that “special education programs are congruent with individual student needs. Instructional process variables seemed more a function of program and school context variables, such as district philosophy of curricula selection, than of student characteristics” (p. 188).

<sup>12</sup> See, for example, Carrier (1986) who applied a sociological framework to suggest that special education acts as one of the ways schools reproduced social inequities.

<sup>13</sup> See, for example, Fuchs and Fuchs (1986), who called for systematic formative evaluation procedures within special education to improve academic achievement and the formulation of successful IEPs.

<sup>14</sup> See, for example, Stainback and Stainback (1984), who argued that all students differed along a continuum and that individual differences did not necessarily require different treatments, and the Regular Education Initiative (Lloyd, Singh, & Repp, 1990), which proposed a merger of general and special education and was the topic of great debate in the late 1980s and early 1990s.

placement of children in special education for judgmental disabilities were particularly vulnerable to a much larger set of contextual factors, including the practices and beliefs of educators, the particular diagnostic criteria established by a state and district for the category of disability in question, and the services and supports available through both general and special education. Many participating in these debates were particularly concerned about the implications these questions had for students they considered to be struggling academically and behaviorally in school, regardless of whether or not they were placed in special education.

Studies of the referral-evaluation-placement system called into question the social and political motivations driving this system and pointed to many significant flaws (see, for example, Artiles and Trent, 1994 and Gerber & Semmel, 1984). From evidence that most referrals led to special education placement (Algozzine, Christenson, & Ysseldyke, 1982) and that educators recommended placement for students whose “psychoeducational” results were all within normal limits (Algozzine and Ysseldyke, 1981), to findings that great variation existed across states and districts in the percentage of students identified for special education, the frequency of the different disability categories, and the criteria used to define the categories<sup>15</sup> (Singer, Palfrey, Butler, & Walker, 1989), these studies, and many more like them, cast doubt on the validity of many of the disability categories themselves and the systems of identification being used in schools and districts across the nation.

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<sup>15</sup> “Consistency was greatest for those labeled hearing impaired and, to a lesser extent, physically/multiply handicapped and weakest for those labeled mentally retarded and emotionally disturbed; results for those labeled speech impaired and learning disabled fell between these two extremes” (Singer, Palfrey, Butler, & Walker, 1989, p. 278). Another study by Gelb and Mizokawa (1986) found that “None of the objective classifications could be related to social structure, but two subjective classifications, educable mental retardation and learning disabilities, were strongly and inversely associated with socioeconomic indicators” (p. 543).

Among the disability categories under scrutiny, specific learning disabilities received considerable attention for its popularity, growing enrollment, and associated costs. The IQ-discrepancy model was criticized as quickly as it was introduced. Reynolds and Birch (1977) wrote that the discrepancy formulation was the greatest potential weakness of the federal definition, locating the problem “in some mysterious physiological or psychological recess” (p. 351) rather than “*the consequences of failure to provide enough high quality individualized instruction*” (p. 351). Reynolds and Birch criticized congress for trying to distinguish learning disabilities from other school learning problems, and noted that the discrepancy formula “cannot be used where it is obviously not applicable, as in the preschool years” (p. 350). This critique would come to be known as “wait-to-fail,” because, as critics argued, schools allowed students to flounder in the early grades until the discrepancy between their IQ and their school performance was significant enough that they could be identified for special education and receive appropriate services (Fletcher, Coulter, Reschly, & Vaughn, 2004; National Research Council, 2002).

Shepard (1983) also identified measurement issues related to specific learning disabilities, highlighting many of the technical challenges of the IQ-discrepancy model as well as the “more serious problem of how discrepancy is typically assessed in practice” (p. 5). Shepard suggested that clinicians were selecting the wrong tests, interpreting results incorrectly, and generally lacked an understanding of the normal variability that exists within and across students. In addition, Shepard noted that some students were misidentified on purpose, that the learning disability label was overused because it was considered to be non-stigmatizing, and that teachers and schools would be less likely to inappropriately place students in special education if they could provide more help to struggling students within general education.

Based on these criticisms of the referral-evaluation-placement system of students in special education, particularly for the judgmental categories of disabilities broadly and learning disabilities specifically, calls for reforms and a set of prereferral reform efforts emerged (Carter & Sugai, 1989; Graden, Casey, & Bonstrom, 1985; Graden, Casey, & Christenson, 1985; Flugum & Reschly, 1994; Fuchs & Fuchs, 1994; Reschly, 1988; Reynolds, Wang, & Walberg, 1987). One of the first prereferral intervention system was proposed by Graden, Casey, and Christenson (1985) and was based on “an ecological model of viewing student problems in the context of classroom, teacher, and instructional variables as well as student variables and of attempting appropriate educational interventions that are not focused solely on the child” (p. 379). In particular, they were interested in “preventing inappropriate placements in special education and...preventing future student problems by increasing the skill and knowledge of regular classroom teachers to intervene effectively with diverse groups of students” (p. 397). Their prereferral system relied on a procedure for “problem solving (consultation) and intervention” (p. 377) that comprised six stages and included data-based instructional decision-making and teacher assistance. From the mid-1980s and through the 1990s, there was a proliferation of prereferral interventions (see Fuchs, Mock, Morgan, & Young, 2003 for a history of these interventions), with states like Ohio and Pennsylvania adopting such approaches to reform their special education systems. These prereferral models have been described as adaptations of Bergan’s (1977) behavioral consultation model (Fuchs, Mock, Morgan, & Young, 2003; Schulte, 2016).

At this same time that this prereferral work was occurring, there was also a body of research focused on prevention and early intervention with respect to reading disabilities (Lyon, 1996; Lyon et al., 2001; Torgesen et al., 1999; Torgesen, 2000; Vellutino et al., 1996). Unlike

the prereferral models, which took a problem-solving approach to interventions, this early reading research has been described as a “standard-protocol approach” to interventions, requiring “use of the same empirically validated treatment for all children with similar problems in a given domain” (Fuchs, Mock, Morgan, & Young, 2003, p. 166). Much of this research was funded by the National Institute of Child Health and Development (NICHD) and focused on better screening, diagnosis, prevention, and interventions for reading disabilities (Schulte, 2016).

Torgesen et al. (1999) explained that:

Discoveries about the core cognitive-linguistic problems of children who experience special difficulties learning to read are important to research on the prevention of reading disabilities for two reasons. First, they provide a means to accurately identify children at risk for reading disabilities before reading instruction begins (Torgesen & Burgess, 1998). This should allow preventive work to begin earlier in school and to focus accurately on children who are most in need of preventive intervention. Second, use of selection criteria involving phonological skills allows identification of a more theoretically coherent sample for study than is frequently the case. Most previous research has focused on children identified for intervention by teacher nomination or socioeconomic status (SES; Wasik & Slavin, 1993) (p. 579).

Using such measures, Torgesen et al. (1999) explored several instructional procedures for a specific subset of children who were at risk for reading difficulties. While these studies did not identify the conditions under which all children could achieve the reading skills the researchers were seeking, they were able to sharply reduce the number of children whose skills remained weak in these areas (Torgesen, 2000).

The phrases, “response to intervention” (Lyon, 1994), and “responses to instruction” (Torgesen et al., 1999), were used by the researchers in these reading studies and presented as an alternative to the existing definition of specific learning disabilities (Lyon et al., 2001), but RTI’s origins do not rest solely on this reading research. In fact, there are somewhat conflicting accounts of the origins of RTI. Schulte (2016) locates the origins of RTI with the reading

research and a longer history of prevention science in illness and infectious disease, but also identifies influences from special education and school psychology. Gresham (2002) describes the origins of RTI in terms of behavioral disorders, psychology, and the concept of aptitude x treatment interactions, but also acknowledges the important roles of reading researchers and special educators in their work to create potential RTI models that could redefine specific learning disabilities (Gresham, 2002).<sup>16</sup> Vaughn and Fuchs (2003) provide the most prominent account of RTI's origins within the field of special education. They link RTI to the National Research Council's study (Heller, Holtzman, & Messick, 1982) of special education placement and the report's focus on "(1) the validity of referral, assessment, and placement procedures and (2) the quality of instruction received, whether in the regular classroom or in special education settings" (p. 22).<sup>17</sup> In this account, RTI stems from the work of Lynn S. Fuchs (1995) (also see Fuchs and Fuchs, 1998) who operationalized these validity and quality criteria with four phases of assessments and adjustments in instruction based on these assessments.<sup>18</sup> The assumption was

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<sup>16</sup> In Gresham's 1991 article, *Conceptualizing Behavior Disorders in Terms of Resistance to Intervention*, he defined resistance to intervention as "a function of a number of factors including the severity, chronicity, generalization, and tolerance of the behavior, as well as the strength, acceptability, and effectiveness of interventions" (p. 23), introducing the first of the RTI acronyms I could find in the literature.

<sup>17</sup> For versions of this account, see Fuchs (2002), Fuchs, Fuchs, and Speece (2002), Gresham, (2007), Vaughn and Fuchs (2003). This account uses a treatment validity approach as the basis for identifying students with specific learning disabilities. Fuchs and Fuchs (1998) write that a treatment validity approach, "focuses its effort on maximizing regular education's potential effectiveness for all students and reserves judgment about the need for special education until (a) the effects of individual adaptations in the regular classroom have been assessed and (b) evidence verifies that a special education program enhances learning." (p. 205).

<sup>18</sup> The first phase of Fuchs and Fuchs (1998) treatment validity model assesses the "overall rate of responsiveness" to determine if "the instructional environment is sufficiently nurturing" (p. 206). The second phase assesses "individual students' levels of performance and rates of improvement" (p. 206) to identify those students performing dramatically lower than his/her peers. Phase three assessment "generates the database for enhancing instruction in the general education classroom and determining whether that regular education setting can, with adaptations, produce better growth and thus be transformed into an acceptable learning situation"

that “if corrective adaptations in general education cannot produce growth for the individual, then the student has some intrinsic deficit (i.e., disability) making it difficult for him or her to derive benefit from the instructional environment that benefits the overwhelming majority of children (Vaughn & Fuchs, 2003, p. 138).<sup>19</sup>

Despite these somewhat conflicting origins and the asynchronous development of the supporting bodies of research, particularly as RTI existed in “a problem-solving approach, rooted in the general education framework, and a standard, intensive instruction protocol approach, rooted in a prevention model” (Vaughn & Fuchs, 2003, p. 139), support for response-to- models grew in the late 1990s and early 2000s. These models were seen as potential ways to address issues regarding the validity of judgmental disability categories and to improve the quality of general and special education without dismantling the latter. This was particularly important for special educators who felt that special education was under attack and needed pragmatic solutions to help redefine its relationship with general education (Fuchs & Fuchs, 1994). Andrews et al. (2000) wrote that there were two distinct views of special education at the turn of the century: “One of the views on special education reform can be characterized as incremental improvement of a basically sound system; another is substantial reconceptualization of a fundamentally broken system” (p. 258). They argued that a “focus on early detection and

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(p. 206). When actions taken in phase three fail to produce improved growth, phase four assesses the effectiveness of special education services for the student. If no effectiveness can be found, “no compelling rationale exists for assigning a learning disabilities label” (p. 206).

<sup>19</sup> This work built off of the work that L.S. Fuchs and others (Fuchs, Deno, & Mirkin, 1984; Fuchs, Fuchs, & Fernstrom, 1993) had done with Curriculum Based Measurement (CBM), which provided “a set of methods for indexing academic competence and progress. In developing CBM, Deno and colleagues (see Deno, 1985) sought to establish a measurement system that (a) teachers could use efficiently; (b) would produce accurate, meaningful information with which to index standing and growth; (c) could answer questions about the effectiveness of programs in producing academic growth; and (d) would provide information that helped teachers plan better instructional programs” (Fuchs & Fuchs, 1998, p. 207-208).

prevention may represent one constructive arena for initiating this collaboration” (p. 260) between these two views.

In 2002, RTI received significant political and scholarly support.<sup>20</sup> In particular, three major publications that year supported the use of RTI to manage concerns about existing special education practices: the report of the President's Commission on Excellence in Special Education (2002), *A New Era: Revitalizing Special Education for Children and Their Families*; the National Research Council's (2002) *Minority Students in Special and Gifted Education*; and the Office of Special Education Programs' *Identification of Learning Disabilities: Research To Practice* (Bradley, Danielson, & Hallahan, 2002).

Both the President's Commission on Excellence in Special Education (2002) and the National Research Council (2002) recommended RTI's use generally. The President's Commission on Excellence in Special Education (2002) found that:

The current system uses an antiquated model that waits for a child to fail, instead of a model based on prevention and intervention. Too little emphasis is put on prevention, early and accurate identification of learning and behavior problems, and aggressive intervention using research-based approaches. This means students with disabilities do not get help early when that help can be most effective. Special education should be for those who do not respond to strong and appropriate instruction and methods provided in general education (p. 7).

In addition, the commission recommended incorporating RTI models into the assessment and identification process within IDEA: “Implement models during the identification and assessment

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<sup>20</sup> Fuchs, Mock, Morgan, and Young (2003) write that RTI “has recently been discussed or advocated by the Division for Learning Disabilities of the Council for Exceptional Children (2002); the International Dyslexia Association (Dickman, Hennessy, Moats, Rooney, & Tomey, 2002); the National Association of School Psychologists (2002); the National Association of State Directors of Special Education (Corpolongo, Pochowski, Lloyd-Jones, & Lenz, 2002); the National Center for Learning Disabilities (2002); the National Research Council (Donovan & Cross, 2002); the Office of Special Education Programs in the U.S. Department of Education (2002; Bradley et al., 2002); and the President's Commission on Excellence in Special Education (2002)” (p. 159).

process that are based on response to intervention and progress monitoring. Use data from these processes to assess progress in children who receive special education services” (p. 21).

Similarly, the National Research Council (2002) recommended that:

[F]ederal guidelines for special education eligibility be changed in order to encourage better integrated general and special education services. We propose that eligibility ensue when a student exhibits large differences from typical levels of performance in one or more domain(s) *and* with evidence of insufficient response to high-quality interventions in the relevant domain(s) of functioning in school settings (p. 362).

They wrote that this recommendation was an effort to provide help to students early, prevent unnecessary referrals, address existing flaws in the identification and referral system, and support students’ success in general education.

The Office of Special Education Programs’ Identification of Learning Disabilities: Research To Practice (Bradley, Danielson, & Hallahan, 2002) was the product of the Learning Disability Initiative,<sup>21</sup> which focused its findings and recommendations entirely on specific learning disabilities. They came to the following conclusions about the category of specific learning disabilities, the discrepancy model used to identify specific learning disabilities, and RTI as an alternative method for identification:

(a) Strong converging evidence supports the concept of SLD, which is specific in the sense that this disorder significantly affects a relatively narrow range of academic and performance outcomes; (b) IQ/achievement discrepancy is neither necessary nor

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<sup>21</sup> This initiative formed in response to concern expressed during the 1997 reauthorization of IDEA. The Office of Special Education Programs received a letter from the National Joint Committee on Learning Disabilities expressing their concerns about the existing identification procedures for students with specific learning disabilities. While the government did not take up those issues at that time, they committed to “carefully review research findings, expert opinion, and practical knowledge over the next several years to determine whether changes should be proposed to the procedures for evaluating children suspected of having a specific learning disability...” (Attachment 1 to the March 1999 final regulations of IDEA 1997, as cited in Bradley et al., 2002, p. xxvi). For a history of this initiative and to read the papers that came out of that work, see Bradley et al. (2002).

sufficient for identifying individuals with SLD—IQ tests do not need to be given in most evaluations of children with SLD; and (c) response to quality intervention is the most promising method of alternate identification—any effort to scale up response to intervention should be based on problem-solving models that use progress monitoring to gauge the intensity of intervention in relation to the student’s response to intervention (Bradley et al., 2005, p. 486-487).

Following this upswelling of support for RTI, the next reauthorization of IDEA in 2004 and the accompanying regulations finalized in 2006 included the following changes: First, with respect to the evaluation procedures for specific learning disabilities, the legislation now stipulated that local education agencies were not required to use a discrepancy model and were permitted to use “a process based on the child's response to scientific, research-based intervention” (CFR 300.307(a)(2)). In addition, local education agencies were required to determine that a child’s disability was not the product of poor instruction (4 CFR 300.306(b)(1)) and could divert up to fifteen percent of their Part B federal special education dollars to “develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment” (34 CFR 300.226(a)). In addition:

If a State identifies an LEA [local education agency] as having significant disproportionality based on race and ethnicity with respect to the identification of children with disabilities, the placement of children with disabilities in particular educational settings, or the incidence, duration, and type of disciplinary actions taken against children with disabilities, including suspensions and expulsions, the SEA [state education agency] must require the LEA to reserve the maximum amount of funds available to the LEA to provide EIS [early intervening services] to children in the LEA, particularly, but not exclusively, to children in those groups that were significantly overidentified (“IDEA - Building The Legacy of IDEA 2004,” 2007).

Taken together, these provisions in the reauthorization of IDEA in 2004 reflected the federal government's efforts to improve upon PL94-142's original criteria for identifying specific learning disabilities, support the provision of early intervening services prior to a disability diagnosis, and reduce existing issues of disproportionality.

In the wake of the 2004 reauthorization of IDEA, researchers scrambled to articulate what exactly RTI was, what research base existed for the approach, and what current studies might suggest about the challenges and limitations of such an approach (Bradley, Danielson, & Doolittle, 2005; Fuchs & Fuchs, 2006; Fuchs, Fuchs, & Compton, 2004; Fuchs, Mock, Morgan, & Young, 2003; Gersten & Dimino, 2006; Gresham, VanDerHeyden, & Witt, 2005; Jimerson, Burns, & VanDerHeyden, 2007; VanDerHeyden, Witt, & Barnett, 2005; Vaughn & Fuchs, 2003). Fuchs, Mock, Morgan, and Young (2003), for example, detailed the many challenges of the IQ-discrepancy model, wrote about the history of RTI in terms of both a problem-solving prereferral approach and a standard protocol approach, and advocated for careful scale-up and comprehensive evaluations going forward.

At the same time, many states and districts took steps to implement versions of RTI (Berkeley, Bender, Peaster, & Saunders, 2009; Zirkel & Thomas, 2010), and many organizations positioned themselves to provide support to these states and districts (Balu et al., 2015). In the study by Berkeley et al. (2009), conducted just one year after the final regulations of IDEA 2004 were released, they found that 15 states had adopted an RTI model, 22 states were developing models, and 10 states were providing districts with information and guidance related to RTI. In addition, they noted that "many school districts throughout the country have taken the initiative to begin implementing RTI on their own" (p. 87).

To support these efforts, the Office of Special Education Programs at the U.S. Department of Education “funded four national technical assistance centers to provide educators guidance in identifying valid, reliable, and diagnostically accurate tools for universal screening and progress monitoring and in identifying research-based language arts, math, and behavioral interventions” (Balu et al., 2015, p. 4). Balu et al. (2015) also reported that IES produced a practice guide titled *Response to Intervention in Elementary Reading*; the National Center for Learning Disabilities created an RTI Action Network; the International Reading Association published a framework; the National Association of State Directors of Special Education (NASDSE) produced a number of RTI Implementation Blueprints; and “as of the 2008-09 school year, all but two states reported having a state-level RTI task force, commission, or internal working group” (p. 5).

From these efforts to articulate what RTI looked like in practice and to support schools and states in implementing RTI came many variations of RTI. Across these models, however, some agree-upon principles as well as key practices and terms emerged that have helped form a unifying concept of RTI. In particular, RTI depends on high quality general class instruction. This general instruction is typically referred to as Tier I, core instruction, or primary prevention, and “focuses on effective instructional strategies, differentiation, and intensity mechanisms typically achieved through grouping strategies, progress evaluations, time management, instructional focus, and lesson structure” (O’Connor & Sanchez, 2011, p. 125). The quality of this instruction is critical to the success of the RTI model because RTI is trying to mediate against functional disabilities created by poor instruction. It is only through ensuring that all children have access to high quality general class instruction that the RTI model assures a child’s disability is not the product of poor instruction. Within Tier I, general class instruction, all

students are assessed using a universal screener. Fletcher & Vaughn (2009) write that universal screeners are a critical component of RTI models for identifying struggling students. Either norm or criterion referenced, these assessments are intended to be “quickly administered with adequate sensitivity and specificity” (Fletcher & Vaughn, 2009, p. 32). Fuchs, Fuchs, and Compton (2012) write that a “cut-point on the measure has been established through prior research, reflecting students’ likelihood of successful or unsuccessful performance on important future outcomes such as teacher grades or high-stakes tests” (p. 265).

Those in need of additional support beyond the general class instruction as identified by the universal screener are then selected to receive research-based interventions, frequently labeled Tier II and Tier III interventions, but also called secondary and tertiary prevention or level 2 and 3 supports. In some models, students must receive Tier II interventions before receiving Tier III interventions, while other models allow those students who are identified as needing the most significant supports to move directly from Tier I to Tier III. In both cases the amount of time devoted to these interventions, the staff providing these interventions, and the instructional methods used during these interventions can vary, but these interventions occur in addition to general class instruction and include continual progress monitoring, also known as ongoing assessment. Data gathered through the progress monitoring process is meant to inform decisions about how students move among the tiers of support. In addition, fidelity checks of implementation are meant to be carried out routinely to ensure that both the general class instruction and the tiered levels of intervention are being implemented as intended. These checks are critical, once again, to establishing that any continued struggle on the part of a student is due, not to flaws in the instruction and its implementation, but rather is the result of a learning

disability. Students who continue to struggle despite effective interventions are thus considered for special education services.

In sum, RTI's conceptual and historical foundations, extending back to even before the creation of PL 94-142, illustrate a story of problem solving that seeks to address some of the most pressing and significant educational challenges of the last half century. Rooted firmly in questions about how to improve the quality of general and special education, the validity of special education categories, and the treatment of poor, minority, and low-performing students, RTI has emerged as the most recent attempt to address these problems.

The federal government first sought to address these problems through PL 94-142's IEP. Through guidelines for the referral and evaluation process and the individualization of an educational plan, the IEP was intended to better identify students with disabilities and support the individual needs of students with disabilities in the least restrictive environment. The solution of the IEP, however, did not fully address existing quality and validity concerns. In addition, because PL 94-142 introduced a federally supported system of special education and sought to include and define specific learning disabilities in that system, PL 94-142 exacerbated existing concerns and introduced new ones.

In this trajectory, RTI can be understood as a policy response to some of the expected and unexpected consequences of the original PL 94-142 and yet another effort to improve the quality of general and special education, the validity of special education categories, and the treatment of poor, minority, and low-performing students. In this iteration, RTI tries to address these problems by calling for the improvement of general instruction, the provision of supporting services for smaller groups of students based on identified academic and behavioral needs in

general education, and the reconception of specific learning disabilities as a failure to respond to generally effective instruction and appropriate interventions.

The historical account of RTI presented here is critical to understanding the origins of RTI as a reform effort and better analyzing the implications of current RTI policies and practices. The federal government, however, left RTI policies and practices up to states and localities. And as such, telling the story of RTI benefits from studies of specific state and local efforts. This article does just that, shifting now to the case of one state's efforts to design and implement a statewide RTI policy.

### **Data and Methods**

This article draws on a study that used a qualitative case study design to examine one state's early design and implementation efforts as they relate to RTI. While other studies of RTI have provided insights into the intricate interworking of RTI models in researcher-controlled settings (see examples in O'Connor & Sanchez, 2011) or have tried to determine the RTI policies of all 50 states following IDEA (2004) (Berkeley, Bender, Peaster, & Saunders, 2009; Zirkel & Thomas, 2010), this study looked closely at the RTI policy of one state: Tennessee. Choosing Tennessee for the study was both strategic and fortuitous.

Tennessee offered a unique site to examine issues related to the statewide design and implementation of RTI because they decided to adopt RTI<sup>2</sup> as their sole criteria for identifying students with specific learning disabilities. The data from Berkeley et al. (2009) and Zirkel and Thomas (2010) suggest that the majority of states did not adopt RTI as the sole criteria for identifying students with specific learning disabilities in the years following the reauthorization of IDEA (2004). To comply with the law, the majority of states made it possible for schools and districts to use RTI as a method for identifying students with specific learning disabilities, but

did not develop or mandate a single statewide model. This makes Tennessee one of a smaller number of states that has adopted and implemented RTI statewide. In addition, the studies by Berkeley et al. (2009) and Zirkel and Thomas (2010) highlight the challenges of determining a state's laws and procedures for identifying students with specific learning disabilities when relying primarily on state statutes and state education agency websites. This study's close examination of a single state's RTI policy, made possible by the participation of Tennessee's State Department of Education, allows for a much more accurate and detailed analysis of one state's RTI policy.

It is also fair to say that this study would not have been possible without the fortuitous timing of Tennessee's adoption of RTI<sup>2</sup>. This study was designed in the spring and summer of 2014, and was therefore able to capitalize on the state's recent adoption of RTI<sup>2</sup> as well as their efforts to support the policy's phase-in implementation model that began with K-5 classrooms in the summer of 2014. Data collection for this study began in earnest in the fall of 2014 and continued through the 2014-2015 school year. Having the opportunity to interview key designers and staff at the TDOE as they engaged directly in the work was critical to the success of this study. In addition, I was able to take advantage of a number of publicly available sources of data, including video recordings of State Board of Education meetings and workshops that provided important insights into the policy and occurred before the study was underway.

In all, the study utilized a significant range of data sources, collected in multiple phases, to build as complete a picture as possible of both the state's RTI policy and the nature of policy design in the case of Tennessee's RTI<sup>2</sup>. Over the course of the 2014-2015 school year I conducted individual and small group, semi-structured interviews with TDOE staff and leadership who played a direct role in designing and/or implementing the policy. These TDOE

staff worked primarily in the divisions of Curriculum and Instruction and Special Populations and were helpful in identifying people within the department who could speak about the TDOE's previous and ongoing efforts related to RTI. No one declined to participate in the interviews and most interviews lasted between forty and ninety minutes. Participants in the interviews varied in the amount of time that they had worked at the TDOE and the extent to which their current role was focused on RTI<sup>2</sup>. Most participants spoke about previous professional experiences they had had with other RTI models, particularly as teachers or administrators in schools and districts in Tennessee and across the country.

In addition to interviews, I attended the TDOE's two statewide, multi-day conferences: the Annual Tennessee Educational LEADership Conference (LEAD) in October 2014 and the Partners in Education Conference (PIE) in January 2015. Both of these conferences dedicated multiple sessions to RTI<sup>2</sup>, including a full-day pre-conference session dedicated to RTI<sup>2</sup> at the PIE Conference. Presenters at the conferences included TDOE staff as well as national experts, district and school leaders, and state-contracted school psychologists. Sessions included: *Using Literacy Data to Drive Instruction and Intervention*, *The Culture of RTI<sup>2</sup>: Breaking Down the Walls of the Classroom*, *RTI<sup>2</sup> Guidance for Federal Funds*, *Quality Tier 1 Instruction in the RTI<sup>2</sup> Framework*, and *Response to Instruction and Intervention for Advanced Learners*. Data from these conferences included field notes, presentation materials, and conference agendas.

Along with interviews and the state conferences, I collected a wealth of publicly available materials, including all publicly available documentary sources—video recordings, agendas, minutes, and proposals—for the State Board of Education's meetings and workshops pertaining to special education and RTI<sup>2</sup> between 2013 and 2015; all RTI<sup>2</sup> resources posted on the TDOE website, including the *RTI<sup>2</sup> Manual and Implementation Guides*, downloadable files for schools

and districts, and informational videos (these resources changed over time and were collected regularly); and two studies conducted by the TDOE's Division of Data and Research (previously the Office of Research and Policy) into RTI<sup>2</sup>. Along with these publicly available files, I was also given access to internal documents, meeting agendas, PowerPoint presentations, and other materials made available by the TDOE over the course of interviews and meetings that I was allowed to observe during my visits. Finally, I collected organizational statements, newsletters, and annual reports by the TDOE, as well as news articles about the policy generated by a Lexis-Nexis search.

Data collection and analysis occurred in an integrated process, allowing me to develop and test working hypotheses about the design and implementation of RTI<sup>2</sup> throughout the study (Miles & Huberman, 1994). During this process, I wrote descriptive memos, attentive to my research questions, that offered opportunities to synthesize and analyze data from the myriad of data sources. All interviews were transcribed and all interviews and a set of key policy documents were coded. Initial descriptive codes were informed by the policy design and implementation literature (e.g., problems to be solved by the policy; policy instruments—ideas, money, mandates; capacity building). Refinement of these codes and the addition of categories grounded in the data (e.g., special and general education; standard versus skill) emerged throughout the process of analysis (Corbin & Strauss, 2008).

This analysis draws upon Cohen and Moffitt's (2009) four types of actions and resources that can be used to manage the gap between policy and practice: aims, instruments, capability, and the environment. In particular, because this article is attentive to the TDOE's design of RTI<sup>2</sup>, much of the analysis focuses on the aims that the TDOE set for the policy and the instruments that the TDOE developed to support RTI<sup>2</sup> in practice. Conceiving of policy design in relation to

aims and instruments is well supported by the policy literature (May, 2003; McDonnell & Elmore, 1987; Weiss, 1998) and not unique to Cohen and Moffitt (2009), but the other two actions and resources in their analytic frame, capability and the environment, as well as the gap that policy creates with practice, are important in fully understanding the design of RTI<sup>2</sup> and in anticipating what might come of these efforts. I return to issues of capability and the environment in the discussion and conclusion.

## **Findings**

*What were the aims of the policy?*

The aims articulated for RTI<sup>2</sup> were numerous, broad, and ambitious. In addition, these aims attended to everything from outcomes for students to changes in existing practices and goals for implementation. The majority of the stated aims contained in policy documents and supporting materials, as well as those articulated in interviews with policy designers and implementers, related to the improvement of student outcomes, particularly but not exclusively for “struggling” students. Another set of aims was targeted at changing longstanding organizational and institutional practices and beliefs that were seen to contribute to the underachievement of particular groups of students. A final set of aims related to implementation of RTI<sup>2</sup> and the TDOE’s hopes for the policy itself.

Goals related to the improvement of student achievement were described in all of the interviews and in numerous RTI<sup>2</sup> documents. In interviews with TDOE employees, many spoke of improving individual student test scores, ensuring that students were reading on grade level, and preparing all students to be career and college ready. Some went so far as to suggest that an ultimate goal of RTI<sup>2</sup> was to create productive community members and leaders and to support

economic and social goals for the state of Tennessee. These goals were explained in one interview as follows:

We can provide good, high-quality instruction and intervention, and we can save this child's life. And I take that very seriously because the data is very clear: if we're not teaching a kid to read by third grade, you have set them up for a trajectory to nowhere basically. Not gainful employment. They will not be providing for their families. Not just won't they be going to college, but they won't be providing for their families, they won't be tax-paying citizens. So I believe, long-term, that this isn't just going to impact the culture of our schools in meeting students' needs; it's going to impact the entire state of Tennessee in terms of business organizations, more students being prepared to graduate, more students being able to read so that we can actually employ them... If you don't at least do that for them, then they're not going to be productive citizens. And that's scary and for far too long we've had that happening.

Other goals related to student achievement included specific attention to improving test scores for the lowest performing students. For example, one person said they hoped to see “a lot more kids that are moving from below basic to basic and basic to proficient.” Others spoke about closing achievement gaps between groups of students.

Many of these aims were either implicitly or explicitly connected to larger TDOE goals and other TDOE improvement efforts. For example, the RTI<sup>2</sup> Manual (2013) begins with a letter from the then commissioner of the TDOE, Kevin Huffman, who stated, “Our goal in Tennessee is to become the fastest improving state in the nation in student achievement results by 2015. Changing practices in serving students who struggle academically plays a significant role in making that goal a reality” (p. 6). Similarly, the TDOE often made connections between their adoption and implementation of new standards and RTI<sup>2</sup>. The following paragraph was repeated in multiple RTI<sup>2</sup> documents:

The role of the public education system is to prepare ALL students for success after high school. The Tennessee Department of Education (TDOE) believes that the framework surrounding positive outcomes for ALL students in Tennessee is the Response to Instruction and Intervention (RTI<sup>2</sup>) model. This framework integrates Tennessee State

Standards, assessment, early intervention, and accountability for at risk students in the belief that ALL students can learn.

Here the TDOE stated a general purpose for public education and situated RTI<sup>2</sup> as a framework for achieving that purpose while integrating a set of other state policy efforts, including Tennessee's State Standards, into RTI<sup>2</sup>.

In addition, the use of "ALL students" in this paragraph and in other documents and interviews apparently played an important role in furthering the goals of the policy. "ALL students" could be interpreted as meaning that RTI<sup>2</sup> would have benefits for each and every student and not just discrete populations of students (the TDOE was very clear, for example, that RTI<sup>2</sup> was not "just a Special Education" initiative) (Revised Implementation Guide, 2014, p. 15). This was important politically in generating widespread support for the policy. At the same time, the way that "ALL students" was used here could also be understood in the context of a system that under-serves and miss-serves groups of students. In that context, ensuring that "ALL students" were successful in school allowed this policy to be much more targeted in its efforts to provide instructional support and resources to particular groups of students.

Many of the stated aims attended specifically to "struggling" students, and a subset of the stated aims focused directly on to the identification of students with specific learning disabilities and the operation of special education. Although not simply a special education policy, RTI<sup>2</sup> used a special education mandate to ensure widespread policy adoption, and TDOE staff spoke about RTI<sup>2</sup> identifying fewer students for special education, correctly identifying those students with specific learning disabilities, and helping students move out of special education.

While most of the articulated aims for RTI<sup>2</sup> were general, a few of the aims were very specific. In a PowerPoint presentation developed for districts, the second slide contained the

following: “Our goal: By 2017, the RTI<sup>2</sup> Framework will reduce the number of students scoring below basic on the NAEP.” Similarly, in a TDOE internal planning document, the department listed a set of “Student Achievement Goals” for RTI<sup>2</sup>:

By 2017, the percent of students scoring below basic will decrease by 5%.

By June 2015, there will be a 3-5% decrease in the percent of students performing below basic on TCAP.

By June 2015, students with disability LRE [least restrictive environment] percentage in the general education setting 80% or more will increase by 2-3% in K-5. [note: This goal is about increasing the percentage of K-5 special education students who spend the majority of their time in the general education classroom.]

These more specific goals, the first two of which focus on general education and the third of which focuses on special education, stand in contrast to the sweeping rhetoric and the other very broad and ambitious aims articulated for RTI<sup>2</sup>, but they also emphasize improving student achievement for the lowest performing students and attend to both general and special education students alike.

Related to the many goals identified for RTI<sup>2</sup> were the problems that the TDOE hoped RTI<sup>2</sup> would address and the institutional and organizational practices and beliefs they wanted to change. The TDOE was not shy about articulating some of the problems that the state faced when it came to existing student outcomes. In a PowerPoint slide used across many TNCore and RTI<sup>2</sup> presentations, the TDOE highlighted the following statistics that were identified as having an effect on “Tennessee’s competitiveness:” “TN ranks 46<sup>th</sup> in 4<sup>th</sup> grade math and 41<sup>st</sup> in 4<sup>th</sup> grade reading nationally;” “Only 16% of high school seniors in TN are college ready;” “Only 21% of adults in TN have a college degree;” and “54% of new jobs will require post-secondary

education.”<sup>22</sup> Similar concerns about current student performance were raised in interviews. TDOE staff spoke about students not reading at grade level, having limited math skills, and not being prepared for high school and beyond. They also commented generally about schools not “meeting the needs of students,” and raised concerns about existing teaching practices and beliefs. To address these problems, the TDOE asserted that RTI<sup>2</sup> would help improve both instruction and intervention practices, helping teachers “differentiate,” shifting perceptions of what students were capable of, and ensuring that all students were “well served and supported.”

In addition to these more general problems, RTI<sup>2</sup> was adopted to address some very specific problems related to special education, the identification of students with specific learning disabilities, and the relationship between general and special education. In presentations to the State Board of Education and in interviews, the prior model for identifying students with specific learning disabilities was criticized for being a “wait-to-fail” model that allowed students to spend too long struggling in classrooms before receiving important and necessary supports. Existing general and special education policies and practices were criticized for overidentifying and misidentifying students with specific learning disabilities, and general and special education were described as “operating in silos” and separating special education students from their general education peers. RTI<sup>2</sup> was intended to address these special education problems and reshape the way in which both general and special education operated by breaking down the barrier between general and special education and reshaping the practices, skills and beliefs of both general and special educators. One TDOE employee described RTI<sup>2</sup>’s role in reshaping the relationship between general and special education in this way: “this barrier between gen ed and

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<sup>22</sup> The TDOE used the following citation with these statistics: “Projections of Jobs and Education Requirements Through 2018” (The Georgetown University Center on Education and the Workforce), 2011 NCES NAEP data, ACT

special ed, held by this diagnosis if you will...RTI really is helping to break that down a lot more and have this continuous discussion along the way.”

Finally, some RTI<sup>2</sup> designers and implementers at the TDOE articulated aims related to the implementation of RTI<sup>2</sup> itself. In addition to improving student outcomes and changing problematic practices and beliefs, the TDOE also set aims for the implementation of the policy. The TDOE was interested in having a single statewide RTI<sup>2</sup> framework that would create continuity across all of Tennessee’s schools and districts. At the same time, the TDOE recognized that the state was a “local control state” in which “every district has a little bit different personality.” As a result, the goal for implementing RTI<sup>2</sup> was described in one interview this way:

And we have more than 140 districts in our state, and depending on where a child was located, it would be a different type of educational experience. So we wanted to solidify and have clean processes between districts to ensure that everyone had sufficient help. I don’t think that we will ever get to a place in Tennessee where it looks exactly the same, but I don’t think that’s necessarily a goal. I think the goal is to give districts enough flexibility to provide interventions and supports with sort of a local flair of what that might look like, but within an established set of guidelines.

In order to achieve this single statewide RTI<sup>2</sup> policy implemented with local flair, the TDOE had both specific and general aims for its implementation. On the specific end, an internal “Master RTI Management” document detailed a small set of measurable goals that were generally focused on the first year of implementation. These goals included targets for the number of schools and districts participating in specific meetings and the percentage of participants who strongly agreed that the meetings provided actionable information or would recommend the session to a colleague.

At the same time, TDOE employees spoke about more global aims for the implementation of RTI<sup>2</sup>. They wanted districts and schools to value the importance of Tier I

instruction within the model and to move beyond a procedural understanding of the policy that emphasized buying the right programs and filling out paperwork. To achieve these aims, TDOE employees frequently spoke about the policy needing a sustained commitment from the state, and schools and districts requiring anywhere from three to seven years to figure out the framework in their local context. Within this timeframe, some TDOE employees focused much more on a process of learning and continuous improvement for schools and districts while others focused more on fidelity to the framework. For example, in one interview, success of RTI<sup>2</sup> was described this way:

I think the success of RTI will come down to continuous improvement, how effectively schools and districts learn lessons from what works and improve. And that makes the first year very hard, right? Because there's a lot of lessons to be learned. But I do think we have found over and over again that the learning is in the doing, that even the best laid plans need to have sort of a strong sense of commitment behind them.

Another person described the long-term goals of RTI<sup>2</sup> as follows:

Well, long-term, I think that the policy is there, the infrastructure is there. We want to obviously support implementation so that the potential for the infrastructure and the potential for the framework can be realized. And so, long-term, I would say when it comes to the current framework the goal is to increase fidelity of the implementation and to increase the student outcomes as a result of implementation.

These different aims for the implementation of RTI<sup>2</sup> speak to some of the tensions in the policy design and help to illustrate the range of sometimes even contradictory goals that the TDOE had for RTI<sup>2</sup> and its implementation.

As the evidence here suggests, the TDOE had many ambitious aims for RTI<sup>2</sup>. These aims included improving outcomes for all students and specifically improving the academic achievement of “struggling” students. Many of the aims attended to long-standing organizational and institutional practices and beliefs in both general and special education and sought to change

the relationship between the two. And some of the aims were about the implementation of the policy itself. Across this set of aims, there was a small set of more specific and measurable goals that the TDOE set internally and used to track both student achievement and implementation efforts. The vast majority of the aims, however, were more broad and ambiguous and reflected the ambitious nature of this statewide policy effort.

*What were the policy instruments?*

Having created such broad and ambitious aims for RTI<sup>2</sup>, the TDOE had to try and find ways to support schools and districts to meet these aims and implement RTI<sup>2</sup>. The TDOE, however, faced the very real limitations of its environment. They were a small state agency with limited resources and authority trying to support 146 districts in their implementation of a major organizational and instructional redesign. These 146 districts varied greatly in size, student demographics, regional location, and prior experience with RTI models. They were also trying to implement RTI<sup>2</sup> in grades K-12 in both English Language Art and mathematics, pushing the model well beyond its early research base. These factors and more constituted very weak capabilities with which the TDOE needed to contend.

In an effort to contend with these weak capabilities and help schools and districts achieve the ambitious aims they set for RTI<sup>2</sup>, the TDOE developed a set of policy instruments. These instruments included 1) a special education mandate, 2) materials intended to provide information and resources for implementation, 3) informational sessions, regional support, and technical assistance, 4) methods of gathering information about the implementation process, and 5) the RTI<sup>2</sup> framework itself. The first three instruments/sets of instruments on this list attended specifically to the ways in which the TDOE sought to compel schools and districts to adopt RTI<sup>2</sup>,

and the resources and support the TDOE provided to districts and schools as they made sense of the policy and put it into practice in their local context. The fourth set of instruments was much less formalized, but included efforts on the part of the TDOE to understand the implementation of RTI<sup>2</sup> in schools and districts and use that information to inform their own efforts at the state level. The fifth instrument was the specific design Tennessee came up with for its RTI framework. It was through this design that Tennessee believed that schools could improve student achievement and change the organizational and institutional practices of both general and special education. Because there was not one agreed-upon model for RTI and Tennessee wanted to have a single statewide model, the TDOE had to design its own framework. As such, the RTI<sup>2</sup> framework served as a significant policy instrument. Together these five instruments reflected the TDOE's efforts to have RTI<sup>2</sup> actualized in practice.

The first of these instruments was a special education mandate in the form of new evaluation procedures for identifying students with specific learning disabilities. Approved by the State Board of Education, the new guidelines and standards for specific learning disabilities no longer allowed schools to use an IQ-discrepancy model. Instead, it laid out standards for the evaluation of specific learning disabilities intended to ensure, among other things, that specific learning disabilities were identified based on a student's inability to:

...make sufficient progress to meet age or State-approved grade level standards in one or more areas (i.e., Basic Reading Skills, Reading Fluency, Reading Comprehension, Written Expression, Math Calculation, Mathematics Problem Solving) when using a process based on the student's responsiveness to scientific, research-based intervention in each area of suspected delay.

Faced with a change in the evaluation procedures for the highest incidence category of disability in special education, Tennessee schools had little choice but to find some way to comply with the policy. At a minimum, not complying with the policy could quickly make schools vulnerable to

lawsuits from parents and disability rights organizations. One TDOE employee described the special education mandate this way:

That's why everybody's doing RTI is because the policy change came into effect that said, hey guys, you have to do RTI, and the reason you have to do RTI is because that's the only way you're going to be able to identify students with a specific learning disability. If you don't implement RTI you're not able to follow your Child Find obligation.<sup>23</sup> And so that's been a driving force.

Because the RTI<sup>2</sup> policy utilized this special education mandate as a policy instrument, the state ensured that virtually all Tennessee schools would find a way to comply with the mandate and put RTI into place. However, the three short pages that detailed the new guidelines and standards for specific learning disabilities and were approved by the State Board of Education provided only a few details about what RTI was expected to look like in practice. The new guidelines and standards made it clear that “underachievement” could not be due to “a lack of appropriate instruction,” and provided a few specific procedural details. For example, the evaluation standards required “formative assessment of student progress during intervention...provided to the student's parents at a minimum of once every four and one-half (4.5) weeks,” and “two systematic observations in the area of suspected disability” – one as a part of routine classroom instruction and the other during “intensive, scientific research-based or evidence-based intervention.” Of course, these standards did not provide enough detail to create the single statewide RTI model that the Deputy Commissioner for the TDOE had argued for when introducing this policy to the State Board of Education or that Tennessee's Common Core Leadership Council had concluded was needed “to promote consistency and improved

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<sup>23</sup> Child Find is a federal mandate requiring school districts to locate, identify, and evaluate all children with disabilities.

instruction” (2014, p. 9). To support the implementation of a single statewide RTI model and detail what the model looked like in practice, the TDOE created a second set of instruments.

The second set of instruments included all of the materials that the TDOE developed to provide information and resources to schools and districts about the RTI<sup>2</sup> framework and its implementation. These supporting materials included manuals, guides, videos, data tools, and more; and all of these resources could be used independently by districts and schools to try to make sense of RTI<sup>2</sup> and support their own efforts to put RTI<sup>2</sup> into practice. Of these materials, the TDOE’s *Response to Instruction and Intervention Manual* and their *Implementation Guide* were the most significant. Reflecting on these documents in the manual itself, the TDOE wrote, “The *Response to Instruction and Intervention Manual* marks a significant point in our state’s development, reflecting our state-level, collective intent to engage large-scale systems change. The purpose of the RTI<sup>2</sup> Implementation Guide is to assist LEAs with schoolwide problem-solving and to equip them with the practical decision-making tools that maintain the integrity of the RTI<sup>2</sup> framework” (2013, p. 10).

These documents, which were 88 pages and 278 pages respectively, contained detailed descriptions of district and school procedures related to RTI<sup>2</sup> and represented a considerable effort on the part of the TDOE to explain RTI<sup>2</sup> and support its implementation. The Manual was divided into six sections: an introductory section, a section devoted to general procedures, three sections for procedures related each of the tiers of instruction, and a final section on special education procedures. The five sections dedicated to RTI<sup>2</sup> procedures provided specific recommendations about school and district leadership teams, the percentage of students served in each tier, and the instructional time required for particular academic subjects, as well as

descriptions of universal screening procedures, data-based decision-making, and fidelity monitoring.

The larger Implementation Guide followed the same organizational structure as the Manual, but provided additional supporting materials for various subsections, including sample documents, schedules, and forms to be used by schools and districts. For example, while the Manual contained two paragraphs about the importance of contacting parents to support RTI<sup>2</sup>'s "culture of collaboration" (p. 19), the Implementation Guide contained 20 sample letters for different grade levels, instructional tiers, and academic subjects, as well as a parent contact log and a parents' brochure to educate families about RTI<sup>2</sup>.

In addition to the RTI<sup>2</sup> Manual and the Implementation Guide, the TDOE produced other materials to support schools and districts in their understanding and implementation of RTI<sup>2</sup>. When asked about their efforts to prepare for RTI's implementation in the fall of 2014, a leader with the TDOE said, "The state did a lot of work with providing guidance documents, online resources, printable resources." Some of these materials and online supports included videos, data management tools, and more supporting guides. Through PBS LearningMedia, the TDOE produced a series of short videos that provided an overview of RTI<sup>2</sup> as well as subject-specific RTI<sup>2</sup> guidance. These videos featured TDOE employees and could be streamed online or downloaded. The TDOE also created an Excel Data Graphing Tool and tutorial that could be downloaded from their website and allowed schools to enter and track particular kinds of student data related to RTI<sup>2</sup>.

In response to concerns about funding, the TDOE released a document titled *Response to Instruction and Intervention: Guidance for Federal Funds* that tried to specifically address how and in what ways Federal Department of Education grants such as Title I, Title II, Title III, and

IDEA, Part B, could be used to support RTI<sup>2</sup> activities. This document was thought to be particularly important because “The fact that an RTI<sup>2</sup> process is required by State Board policies has raised questions across the state about federal ‘supplement not supplant’ rules because they limit the ways ED grants can support state-law requirements” (p. 6, Response to Instruction and Intervention: Guidance for Federal Funds, 2014).

This collection of materials was intended to provide important information and resources to schools and districts as they implemented RTI<sup>2</sup>, and they were, for the most part, jointly produced by the two TDOE divisions responsible for RTI<sup>2</sup>: Special Populations and Curriculum and Instruction. Over time, this set of materials and resources grew, reflecting some of the TDOE’s efforts to respond to local concerns and to clarify and revise the RTI<sup>2</sup> framework. The TDOE put significant time and effort into developing these materials and frequently referred back to them when talking about the ways in which they were supporting the implementation of RTI<sup>2</sup>. This was particularly true of the Manual and the Implementation Guide. Nevertheless, the TDOE struggled with how these documents were sometimes interpreted by schools and districts. While they described the Manual’s framework and guidelines in terms of recommendations and guidance, they felt that schools and districts were interpreting these documents much more rigidly. In one interview, this problem was described as follows:

Our manual is based on recommendations. We give recommended ratios, recommended time – all of which there’s research to support. The team that developed that really went into great detail to look nationally at what was effective. But while those are recommended, many districts have made them a mandate, so I think one thing we’ve learned is that when we put something out there, whether you say recommended or required, folks make the recommendation a requirement. And for the schools that can leverage and meet those recommendations, that’s great and I think leadership works hard there. But a lot of districts, just because of resources and the needs of students, are going to have to apply some problem-solving.

The person went on to say:

[Schools and districts] take the manual or some of the guidance that we've said, and they take it so literally that it becomes a mandating compliance or process instead of what it's meant to be, which is a model that's built on leadership, collaboration, and early intervention and problem-solving.

As they tried to create a detailed vision of what RTI<sup>2</sup> might look like in practice and provide specific tools and resources for schools and districts, the TDOE also wrestled with how to frame these materials and shape how they were understood by their intended audience. To support the implementation efforts of schools and districts beyond material resources and to provide opportunities to interact with the TDOE around the policy, the TDOE had a third group of instruments.

This third set of RTI<sup>2</sup> instruments included informational sessions, regional support, and technical assistance. Some of these sessions and supports were provided by psychologists and other professional development providers contracted by the state, school and district leaders selected by the state to share their own RTI<sup>2</sup> experiences, and core regional office staff trained by the TDOE. Many of the informational sessions occurred at the TDOE's two major conferences: LEAD and Partners In Education (PIE). These sessions were intended to review and explain the general RTI<sup>2</sup> framework and answer participants' questions. Some of the sessions included school and district accounts of how they had been using RTI. Other sessions were focused on funding, the coordination of RTI<sup>2</sup> and ESL services, and early reading interventions, to name just a few. Some TDOE staff were experimenting with the use of "case studies" in their sessions, asking participants to simulate data team meetings around fictitious student data, for example. Describing such a session, a TDOE employee recalled:

And there was a question that said, should the student be referred to special education or should the student remain in Tier III and why? And you had some people and they were like, oh you're right, they've only been in Tier III for three weeks and they flatlined only

on one data point. So it's getting them to have conversations and understanding that it's okay to have those conversations.

Some of the presentation materials, including many of these case studies and some of the PowerPoint presentations themselves, became resources in their own right as districts and schools took them back to their local sites and shared them with their staffs.

The TDOE also made more regional presentations and technical assistance visits. More than one TDOE employee said that they had done over a hundred site visits across the state in the last year and a half providing technical assistance of one kind or another. A TDOE employee described the technical assistance this way:

This month I'll be gone almost two weeks out of the month, and so we do a lot of training. I spent two days in Knoxville last week and next week I'm in Bedford County; the following week I'm in Jackson, Tennessee. So RTI is always on that list of technical assistance issues. If they don't bring it up, I do and say, "How are you doing? What are your challenges?" Because sometimes if people aren't doing things well, they're afraid to say that and, to me, technical assistance is just that. It's not a way to slap them on their wrist; it's a way to help them build more capacity.

In another interview, the intimate nature of the technical assistance was described as follows: "It requires us to actually go out into the district and just sit down with them and say, 'let me see your schedules, let me see what you are doing, let me help you in that way,' and they're usually very appreciative of that." The unique needs of each school and district motivated some of this more direct support:

And now we're doing a lot more district-to-district support or school-to-school support because our biggest focus is saying, every school in Tennessee is going to be different. It looks different; the kids are different; school climate is different. So really providing that one-on-one support in the best possible manner we can, because [the Assistant Commissioner] always says you can't send an email or a fax if you can't understand where they're coming from. We've really got to walk the walk with them, not talk the walk.

While recognizing its value, the TDOE also acknowledged how demanding such direct technical assistance was for their small team and how much time it took to travel the state to make these visits. After almost two years of such travel they were trying to figure out how to shift some of that assistance to the regional core offices. “But getting to every single district is really a challenge and a lot of times that’s what they need. So we’re depending on the core offices to be able to get in there. Now we’re trying to pull back...we’ve traveled so much and some of us want to see our families.” As the TDOE made plans to shift away from individual district support and to use the core offices to provide more regional support, they spoke of the challenges of meeting individual district needs with a regional approach and of the work required to train the regional core office staff.

The TDOE also spoke about the ways in which their state model for training teachers could be used to support the implementation of RTI<sup>2</sup>, at least with respect to improving instruction in Tier I. This model was developed with Race to the Top dollars and primarily focused on educating teachers in the Common Core State Standards. As part of this work, the TDOE partnered with outside providers like Sopris Learning and the University of Pittsburgh’s Institute for Learning, and together they developed short, multi-day, professional development sessions to support teachers’ implementation of standards. The TDOE boasted that through these sessions and a group of roughly 800 core coaches they were able to reach upwards of 30,000 teachers a summer and make strides toward improving Tier I instruction.

This third set of instruments depended on both direct and indirect interactions between the TDOE and individual schools and districts, and, according to the TDOE, provided the greatest opportunities to tailor support, address individual needs, and learn about the experiences of schools and districts as they put RTI<sup>2</sup> into practice. It was also time-intensive and relational,

and, two years in, the TDOE was still refining this set of instruments and trying to make adjustments based on their perceptions of districts' needs and their own constraints and resources. One aspect of these interactions that they were attending to closely was who from the TDOE was participating in these interactions.

The TDOE was increasingly interested in having both Curriculum and Instruction and Special Populations share in the public messaging around RTI<sup>2</sup>. The TDOE recognized that their initial efforts to communicate about RTI<sup>2</sup> had come primarily from Special Populations and believed that this had led to the misperception by many school and district employees that RTI<sup>2</sup> was a special education initiative. One person reflected on this realization this way: "At first I think the support for RTI felt like it was coming more from special education, and as we realized that, we were able to address it. We've been able to combine that support in a much tighter way." Another TDOE employee spoke about just how carefully they tried to coordinate their efforts when interacting with districts and schools.

I think we have been very calculated in how we do these presentations, and how we give information, how we share information, how we talk about things as a model. [A special populations' colleague] and I went [to a district that] has really, really struggled with this issue, like yelling, screaming in RTI meetings, people stomping out. So [we] went out together...and we all kind of sat around the table and built relationships.... [Another colleague] and I pass slides off continuously, I mean we pass ideas off, we joke on purpose in front to show the relationship and everything that comes out, the K-5, 6-12, is [Curriculum and Instruction and Special Populations] talking about it together. So I think we've been very calculated, but I think we're still building relationships at our level and coming to some kinds of consensus at our level to get that message out in the field and we are very calculated about that.

These efforts to coordinate the support from Curriculum and Instruction and Special Populations became a significant feature of the way that TDOE thought about their messaging and interactions with districts and reflected a larger set of internal efforts by the department to coordinate the work on RTI<sup>2</sup> by the two divisions.

The fourth set of policy instruments reflected efforts by the TDOE to learn about the implementation experiences of schools and districts. Generally speaking, this set of instruments was the least formalized of the RTI<sup>2</sup> policy instruments and included everything from information they gathered in a phone call with a superintendent or in a district meeting or RTI<sup>2</sup> session to readiness surveys, implementation planning tools, and even more formalized studies conducted by the Office of Research and Policy within the TDOE. Reflecting on their most informal efforts to gather information and learn from district experiences, one TDOE employee described them as follows: “I think just being in the field and listening and observing and watching.” Creating some more opportunities to hear from districts and schools, another TDOE employee said:

We build out time within that conference to get stakeholder feedback on how things are going...In particular with RTI, we also issue a lot of surveys. We try not to bombard districts and schools but try to find simple ways to gain feedback on how things are going and what the needs are, how things are going and what some of that feedback is.

The TDOE staff talked a lot about capitalizing on their opportunities to interact with districts and schools, using these opportunities to gather information about how the implementation process was unfolding for particular schools and districts. They also used both readiness surveys and an implementation-planning tool to more systematically gather information about where schools were with respect to implementing various parts of the RTI<sup>2</sup> framework. The implementation tool was described this way:

We just sent out a tool, we call it an implementation planning tool, ‘cause it kind of lays out: what are you using for universal screening? what are you using for your interventions? basically, how are things going? how would you rate your implementation so far? those types of things. And I am going to say, we got probably about a 75% response rate back, which I thought was pretty good.

All of the efforts described to learn about how RTI<sup>2</sup> was unfolding were conducted primarily by Special Populations and Curriculum and Instruction.

There were also some other efforts to learn about the implementation of RTI<sup>2</sup> that occurred within the TDOE but outside of the divisions leading the work. The TDOE's Office of Research and Policy (now the Division of Data and Research) wrote a policy brief in September of 2014, *Implementing RTI<sup>2</sup>: Reports from the Field*, and presented the results internally. This brief was based on case studies of districts across the state and tried to reflect "the spectrum of district and school readiness."<sup>24</sup> The TDOE also included questions on their annual Tennessee Educator Survey that asked teachers about RTI<sup>2</sup>.<sup>25</sup> Based on the data from this survey in 2015, the Division of Data and Research conducted a second RTI<sup>2</sup> study, this one exploring effective RTI<sup>2</sup> practices in the early grades that supported student achievement. The extent to which these more formalized efforts within the TDOE were used by Curriculum and Instruction or Special

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<sup>24</sup> Findings from this research brief included: a) "Nearly all of the district and school administrators that we spoke with demonstrated a remarkably strong knowledge of the state's RTI<sup>2</sup> framework, suggesting that state communication and trainings have been quite successful in raising awareness of the new requirements," b) "Many schools still are struggling to successfully blend the silos of general and special education in order to create the collaboration that feels necessary for strong RTI<sup>2</sup> implementation," and c) "Most districts are still focused on identifying screeners and progress monitors and few have reached the point where they are thinking deeply about the interventions that will take place once deficits have been identified."

<sup>25</sup> These are the questions on the 2015 survey that were directly related to RTI<sup>2</sup>:

"To what extent do you agree or disagree with the following statement: Strongly Disagree, Disagree, Agree, Strongly Agree, Do not know

I believe that students will benefit from the RTI<sup>2</sup> framework for intervention."

~~Indicate which stage your school is in regarding implementation of RTI<sup>2</sup>: Not Sure, Not in~~

"Indicate which stage your school is in regarding implementation of RTI<sup>2</sup>: Not Sure, Not in place, Exploring, Partial Implementation, Full Implementation

Our school utilizes a universal screener or early warning system to identify students' skill deficits.

Our school provides a daily time for students to receive intervention, remediation, or enrichment.

Our school has an RTI<sup>2</sup> focused data team with roles and responsibilities for each member.

Our school delivers training to help staff understand the components of the RTI<sup>2</sup> framework.

Our school has a process for conducting ongoing progress monitoring."

Populations to inform their understanding of RTI<sup>2</sup>'s implementation or their work going forward was not clear.

The final TDOE instrument for RTI<sup>2</sup> was the state's framework itself. These ideas were contained in the set of instruments that served as materials and resources and they were the topics of sessions and technical assistance, but the ideas themselves were a critical policy instrument in their own right. A statewide model for RTI was an essential feature of the TDOE's RTI<sup>2</sup> efforts, and thus the framework they came up with was an essential policy instrument.

While some of the framework's details have changed over time (see Chapter Four), it is worth trying to summarize the RTI<sup>2</sup> framework in order to understand this policy instrument.

The RTI framework Tennessee developed was a three-tiered model. General classroom instruction, focused on academic standards and intended for all students, was called Tier I or core instruction. Tiers II and III were meant to be skill-based interventions provided to students who fell below a particular threshold on a chosen universal screener. These interventions were intended to be provided outside of Tier I instruction. While the "I" in most RTI models refers to intervention, Tennessee chose to include two "I"s in their model for both instruction and intervention, the distinction being that instruction happens in Tier I and interventions happen in Tiers II and III. Similarly, the TDOE worked hard to distinguish between the content taught in Tier I and the content taught in Tiers II and III. One TDOE employee described it this way:

Generally, most of our work has focused on standards, because we focus on Tier I instruction, but in Tier 2 and Tier 3, it's really about identifying where the skill deficits are that are leading kids to struggle with those standards.

As the quote above illustrates, Tier I was dedicated to state standards, while Tiers II and III focused on skills. This distinction between standards and skills was almost uniformly embraced by TDOE staff, lauded for helping teachers and school leaders make sense of the larger RTI<sup>2</sup>

framework, and identified as somewhat unique from other states' RTI models. In TDOE presentations about RTI<sup>2</sup>, there were slides dedicated to this distinction, and in interviews the difference between standards and skills was described this way:

A standard is, in the old model was called an SPI, a student performance indicator, and it said at this grade level in English the child should be able to do X. They should be able to graph X and Y on a chart, for example of a math standard. That's not a skill deficit. A child should be able to find Tennessee on a map. That's not a skill deficit. A child should be able to read the words on a map. That could be a skill. That's a fluency skill. So a skill is more based around how you would identify a student with disabilities, with learning disabilities in particular...it's five areas of reading and two areas of math. Whereas with a standard there's hundreds of standards in the state that are not necessarily associated with a skill, if a student doesn't have the skills in math and reading, they are not going to be able to access the standards.

Students have always been identified under specific learning disabilities in the areas of basic reading, reading fluency, reading comprehension, math calculation, and math reasoning or written expression. So basically those are the skill areas that should be screened in the beginning. So if you're universally screening all students for these skill areas, you're able to find the students that fall below the 25<sup>th</sup> percentile in those areas. Those are the students that you should be intervening with in those specific skill areas. So, for example, if a student falls low on basic reading because they're decoding – they have decoding deficits – then you're intervening in the area of decoding, right? – versus I have these students who aren't accessing core instruction. They're low on my standards; I need to pull them inside and reteach the standard again. Well, that works for the kids who just need re-teaching, but for the kids who have basic reading deficits or math deficits, you can re-teach them until you're blue in the face, but all you're going to do is re-teach them that one standard. They have basic deficit needs that have to be addressed, and those are the skill areas that you must intervene in so that students can access that core instruction. And so the way that we always focus on that, if the student's above the 25<sup>th</sup> percentile and they're still struggling, that student is likely your student that needs re-teaching...So we're working very hard on understanding the difference. If it has to do with standards, it's re-teaching or remediation and it has to do with Tier I. If it has to do with skill deficits, it's Tier II or Tier II intervention or Special Education Intervention.

In addition to the three tiers of instruction and intervention, as well as the distinctions made between standards and skills, the TDOE articulated a range of both desired and required practices and procedures for their RTI model. In the RTI<sup>2</sup> Manual (2013) and in many

presentations, the TDOE shared the following infographic that they described as “a picture of a well-run RTI<sup>2</sup> system. It represents the goal of what a RTI model will look like” (p. 13).

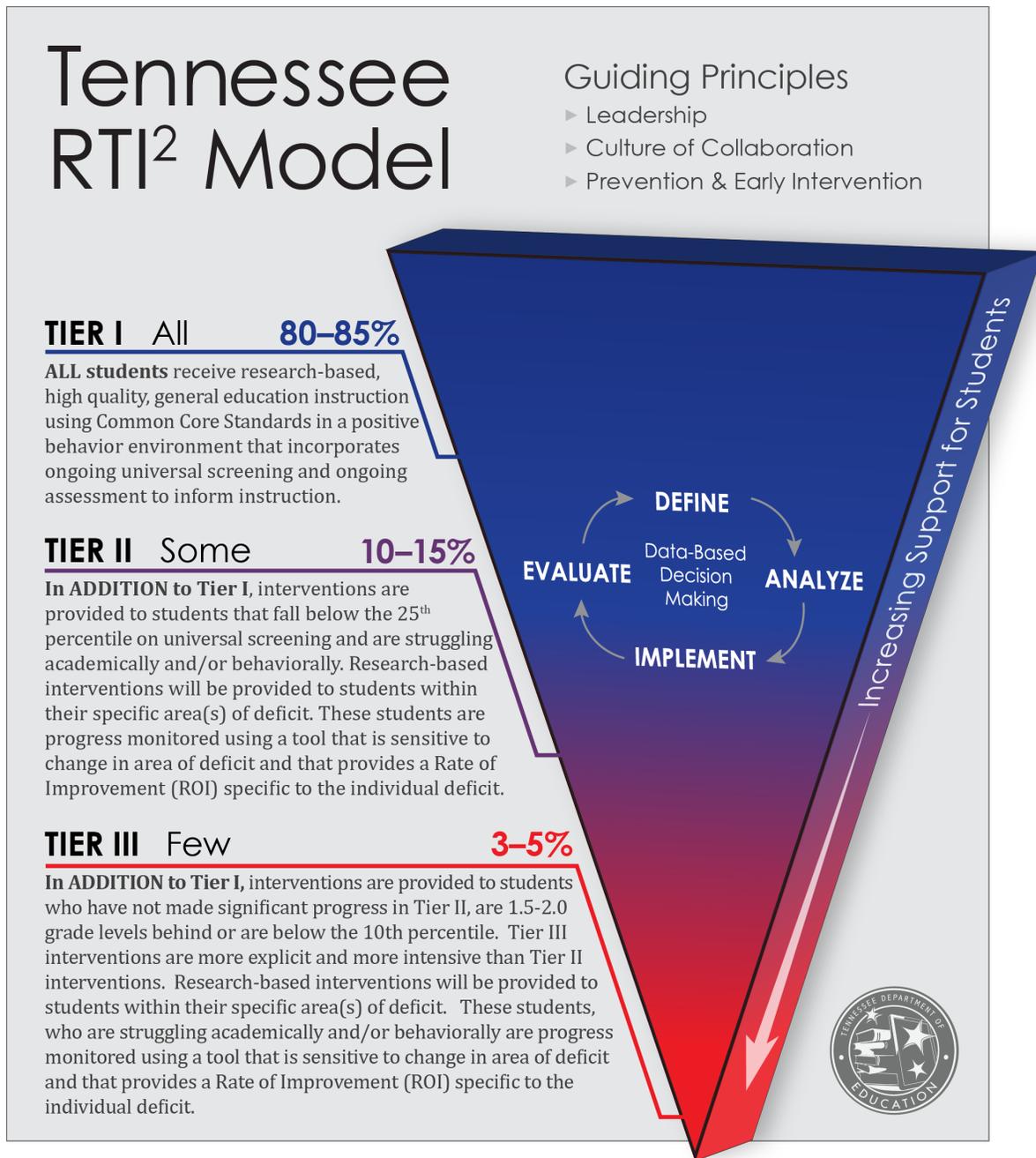


Figure 3.1: Tennessee's RTI<sup>2</sup> Model

As explained in this infographic, all students in Tennessee’s RTI<sup>2</sup> model were expected to be a part of Tier I, which included “research-based, high quality, general education instruction using Common Core State Standards that incorporates ongoing universal screening” (p. 14).<sup>26</sup> When the RTI<sup>2</sup> model was functioning well, the TDOE said that Tier I should meet the needs of 80-85% of the student population. The TDOE recommended the amount of instructional time that should be spent on English Language Arts (ELA) and mathematics at each grade level. For example, in kindergarten and first grade, the TDOE recommended 150 minutes of ELA (90 minutes of which they suggested should be uninterrupted) and 60 minutes of mathematics daily. In addition, the manual suggested a variety of instructional formats (including whole and small group) and instructional practices (including flexible grouping, differentiation, systematic direct instruction, and formative assessment). In the manual, appropriate Tier I instruction was described with terms like multi-sensory, hands-on, and student focused, with an emphasis on grade-level standards as well as ongoing assessments and data-based decision-making. LEAs were expected to develop a process of fidelity monitoring to ensure Tier I instruction was being provided as intended; and the manual suggested that this monitoring occur at least once per marking period, be carried out by an administrator, instructional coach or fidelity team, and include classroom observations and reviews of lesson plans and student data.

TDOE staff believed that strong Tier I instruction, also referred to as core instruction, was critical to the success of their model. One person said, “We were very clear that when you look at the framework, that Tier I instruction, core instruction, is the driver.” Another TDOE employee also pointed to the primacy of Tier I, noting that without an emphasis on quality Tier I instruction the model would not function properly.

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<sup>26</sup> References to the Common Core Standards would be removed in a later version of the manual as Tennessee moved away from that name.

The most important part of RTI<sup>2</sup> is the core instruction, and that's the part that we keep driving home to our districts – that if the core instruction is not solid in every classroom in every program in every grade level in the state of Tennessee, there's going to be too many students identified for Tier II and Tier III needing intervention. And it has nothing to do with a deficit of the child's; it has to do with not good core instruction from the teacher. So the core instruction is the leading message.

Although core instruction was considered to be critical to the success of Tennessee's RTI<sup>2</sup> model, the TDOE also seemed to be sensitive to how that message was received by schools and teachers and concerned about how much RTI<sup>2</sup> could do to improve core instruction directly. A one-page summary document describing RTI<sup>2</sup> stated directly that RTI was not “a way to fix schools with weak core instruction.”

Within Tier I, RTI<sup>2</sup> called for universal skill-based screeners. The manual stipulated that LEAs must select and administer a “nationally normed, skill-based universal screener,” meant to provide “a brief screening assessment of academic skills...to determine whether students demonstrate the skills necessary to achieve grade-level standards” (p. 16).<sup>27</sup> In August of 2014 the TDOE conducted a statewide RFP process to “identify universal screening and progress monitoring tools that met all the criteria outlined in the RTI<sup>2</sup> Framework” (RTI Manual, 2015, p. 17). LEAs were not obligated to use vendors or products that were identified as meeting the state's criteria, but in some cases the state had negotiated lower prices for particular screeners. The screeners were to be administered to all students. In grades K-8, the TDOE recommended administering a universal screener three times a year. In grades 9-12 the TDOE identified multiple sources of data that might be considered in addition to a universal screener<sup>28</sup> and

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<sup>27</sup> The manual acknowledges that additional and more precise assessment tools may be required in order to “determine a student's specific area(s) of deficit before beginning an intervention” (p. 16).

<sup>28</sup> These sources of data include “EXPLORE, PLAN, ACT; Tennessee Comprehensive Assessment Program (TCAP), which includes Writing (TCAP-WA), End of Course (EOC), 3-8

suggested that “a record review may also provide important information such as grades, attendance, and behavioral concerns that may provide early warning signs for intervention” (p. 16).<sup>29</sup> LEAs were tasked with establishing criteria for the use of such data as it related to identifying “at-risk” students.

Those students who fell below the 25<sup>th</sup> percentile on a universal screener would receive Tier II interventions in addition to their Tier I instruction. Tier II was meant to meet the needs of 10-15% of the student population and included research-based interventions within students’ “specific area(s) of deficit” as well as progress monitoring “that is sensitive to change in area of deficit and that provides a Rate of Improvement (ROI) specific to the individual deficit” (p. 14). According to the manual, Tier II interventions were meant to “address the needs of struggling and advanced students” (2013, p. 35).<sup>30</sup> These interventions were supposed to take place in small groups (with a student-teacher ratio of 1:5 or 1:6 depending on the grade of the students) for 20 to 30 minutes (depending on the grade) each day. The manual stated that the interventions should be “matched to the students’ needs and provided by highly-trained personnel” (2013, p. 35).

Three approaches to intervention were described in the manual: 1) a problem-solving approach “used to tailor an intervention to an individual student,” 2) a standard protocol approach which “relies on the same empirically validated intervention for all students with

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Achievement, and, in 2014-2015, Partnership for Assessment of Readiness for College and Careers (PARCC); [and] TVAAS” (p. 16).

<sup>29</sup> In revisions to the original framework, the TDOE clarified that high schools would use an Early Warning System to identify students for interventions. They wrote: “9<sup>th</sup> grade uses a data decision making system, called an Early Warning System. The Early Warning System includes additional data points (academic, behavior and course data) in the screening of students. Multiple data points help better identify students whose risk status suggests they need further intervention to be successful in high school and to be college and career ready. High School data teams will need to develop protocols and language for EWS determinations. High schools can choose to use a traditional universal screening system in lieu of an early warning system model.”

<sup>30</sup> Students who exceed the grade-level standard are characterized as “advanced” in the manual.

similar academic needs,” and 3) a hybrid approach which combines aspects of the two other approaches (2013, p. 37). The manual emphasized that these interventions must be scientifically research-based and “produce reliable and valid results” with “a clear record of success” (2013, p. 37). To “assess students’ academic performance, to quantify a student rate of improvement or responsiveness to instruction, and to evaluate the effectiveness of instruction” (2013, p. 39), Tier II also needed to include progress monitoring at least every other week for grades K-8, and the manual provided guidelines about the number of data points that needed to be collected before making changes to a student’s placement in Tier II interventions. Like Tier I, Tier II also required fidelity monitoring. This monitoring was described as “the systematic monitoring by a responsible instructional leader (e.g. principal, instructional coach) to determine the extent to which delivery of an intervention adheres to the protocols or program models as originally developed” (2013, p. 43). Fidelity monitoring was required at least three times in a marking period, and at least two of the three checks needed to include direct observation of the intervention.

For an even smaller percentage of students (3-5%)—those who were either not making progress in Tier II, were 1.5 - 2 grade levels behind their peers, or were below the 10<sup>th</sup> percentile on a universal screener—the school was required to provide Tier III interventions. Tier III interventions were intended to be “more explicit and more intense than Tier II interventions” (2013, p. 14), and were still expected to be systematic and research-based. For grades K-8, students would receive Tier III interventions daily for a minimum of 40-60 minutes depending on the students’ grades. In high school, the manual also provided weekly minimum times for Tier III interventions due to scheduling constraints, but advised that 45-60 minutes daily was still

recommended where possible.<sup>31</sup> Student-teacher ratios for these intervention groups ranged from 1:3 in grades K-5 to 1:12 in high school. The manual specified that these interventions should be delivered by “highly-trained personnel...adequately trained to deliver the selected intervention as intended with fidelity to design” (2013, p. 50). Like Tier II, Tier III included progress monitoring, data-based decision-making, and fidelity monitoring. Fidelity monitoring in Tier III required five checks, three of which needed to be direct observations and two of which needed to include a review of “implementation data (i.e., student attendance, lesson plans, progress monitoring results)” (2013, p. 54). A final component of Tier III was consideration of special education when data indicated that Tier III had not been effective.

Determining that a student had a specific learning disability and was eligible for special education services was an important component of Tennessee’s RTI model. The TDOE outlined referral procedures for students suspected of having a specific learning disability in the RTI<sup>2</sup> Manual. The manual stated:

The team may initiate the referral process using the following criteria:

- A student does not appear to making sufficient progress after tiered interventions have been implemented with fidelity and data based decisions have been made using 8-10 data points (every other week) or 10-15 data points (weekly) at each tier.
- ROI [Rate of Improvement] and a gap analysis must be completed for students being referred for special education to determine if needs are beyond general education Tier III interventions (2013, p. 67).<sup>32</sup>

Once a student was referred for evaluation, an evaluation team, including a parent or guardian, the general education teacher, a special education teacher, and a person qualified to carry out the diagnostic evaluation (a school psychologist, for example), would need to make a determination

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<sup>31</sup> Weekly minimums range from 225-300 minutes.

<sup>32</sup> The manual described criteria for determining if a student’s rate of progress was insufficient during intervention and stipulated that there needed to be empirical evidence that the interventions the student received would support remediation in the area of suspected disability.

based on what the TDOE described as the three conditions of specific learning disabilities: “Underachievement (Level of Learning), Response to Intervention (Rate of Learning), and Exclusionary Factors,” which they illustrated as follows (Revised Implementation Guide, 2014, p. 223):

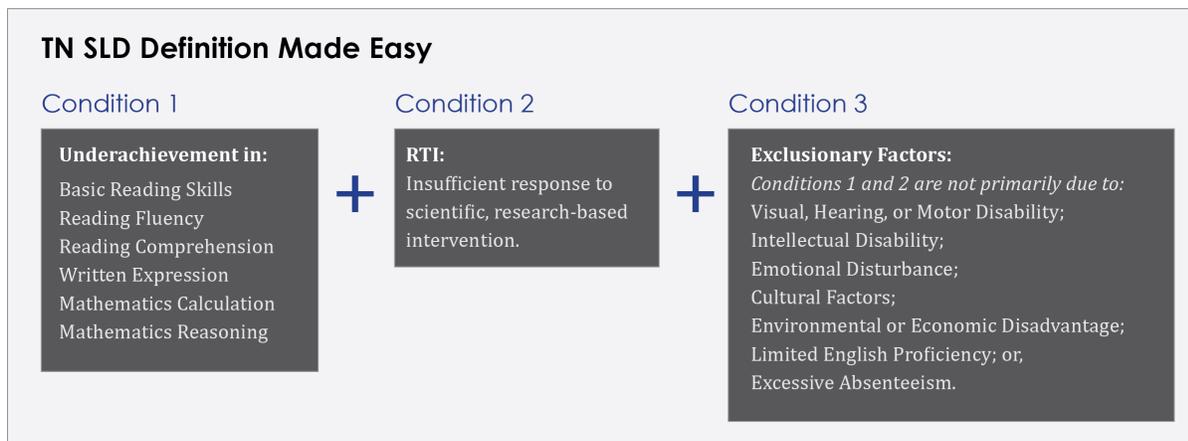


Figure 3.2: Tennessee's Specific Learning Disability Definition Made Easy

Additional screenings and diagnostic evaluations were expected in this part of the evaluation process, particularly as they related to Conditions 1 and 3, and data from RTI<sup>2</sup> was necessary to support Condition 2. If a child was placed in special education with a specific learning disability, the child would “remain in the core instruction (Tier I) and...have access to tiered intervention within the general education curriculum to the greatest extent possible.” In addition, it was expected that a similar model for providing interventions and monitoring the child’s progress would be provided as part of the special education services.

Other critical components of Tennessee’s RTI<sup>2</sup> included district and school-level RTI<sup>2</sup> teams. The manual suggested that the district’s RTI<sup>2</sup> Leadership Team should be “comprised of a diverse and representative group of people” (2013, p. 15) with a designated chair, and that the group should meet regularly (at a frequency determined by individual districts). The RTI<sup>2</sup> Leadership Team was charged with ensuring “the fidelity of the RTI<sup>2</sup> process” (2013, p. 15),

including looking at district data to determine whether “Tier I instruction is meeting the needs of 80-85% of students and that Tier II and Tier III interventions are meeting the needs of 15-20% of students” (2013, p. 15). The RTI<sup>2</sup> Leadership Team also worked “to organize professional development, set and monitor timelines for implementation, and guide the implementation of RTI<sup>2</sup>” (2013, p. 15). The school-level RTI<sup>2</sup> support team was also intended to include a diverse group of people – in this case “the principal or his/her designee, classroom teachers, literacy/numeracy coaches, school psychologists, guidance counselors, ESL teachers, special education teachers, and other staff as necessary” (2013, p. 15), and they were charged with meeting at least every 4.5-5 weeks. They were also responsible for ensuring the “fidelity of the instruction and interventions, as well as mak[ing] data-based decisions regarding appropriate student placement in interventions” (2013, p. 15).

Taken together, these five instruments reflected the TDOE’s efforts to help schools and districts achieve the broad and ambitious aims they had set for RTI<sup>2</sup>: 1) a special education mandate, 2) materials intended to provide information and resources for implementation, 3) informational sessions, regional support, and technical assistance, 4) methods of gathering information about the implementation process, and 5) the RTI<sup>2</sup> framework itself. From the state’s perspective, the RTI<sup>2</sup> framework put forth a vision of multi-tiered general education that emphasized quality Tier I instruction and provided instructional interventions to all struggling students without first requiring those students to qualify for special education. Through this model they believed that schools could improve student achievement and change the organizational and institutional practices of both general and special education. To ensure that schools adopted the model, the TDOE used the special education mandate. And to help schools understand the model and put it into practice they created materials and provided informational

sessions and technical support. Finally, to help them track the implementation of RTI<sup>2</sup> in schools and districts and inform their own efforts at the state level, they gathered information from schools and districts as they put RTI<sup>2</sup> into place.

### **Discussion and Conclusion**

The findings above reveal how ambitious the aims for RTI<sup>2</sup> were and detail the ways in which the TDOE specified their RTI<sup>2</sup> framework and created other policy instruments to support the implementation of RTI<sup>2</sup>. In these findings, we see the TDOE's efforts to manage the collision of their ambitious aims with the limited capabilities of their agency, of school systems, and of the environment through the elaboration of their RTI<sup>2</sup> framework and the development of their other policy instruments. In addition, through a comprehensive analysis of RTI<sup>2</sup>'s design, we see ways in which the TDOE used RTI<sup>2</sup> as an opportunity at the state-level to address problems created by previous special education policies and two predicaments faced by both RTI<sup>2</sup> and RTI more generally that will be described later.

As the TDOE attempted to help schools and districts achieve the ambitious aims they set for RTI<sup>2</sup>, they went about elaborating their RTI<sup>2</sup> framework. Because there was not just one accepted RTI model, Tennessee's decision to have a statewide RTI model required the TDOE to translate generic RTI principles into specific tools and processes for practitioners. In their effort to do so, however, the TDOE was constantly navigating the same features of the environment that had shaped the IEP: the American system of government and its decentralized authority, the varied knowledge and practice base supporting this work, and the strength of the ideological and philosophical beliefs of researchers and practitioners. This led to many choices about which aspects of the framework to specify and to what degree.

In particular, when making choices about what to specify in the framework, the TDOE was frequently balancing the various demands and expectations of schools and districts, which were described this way:

Some districts want that autonomy. Some of them want gray. They want to be able to make local decisions and site-based decisions about how it looks. And then, other districts, want it really tight. They want us to tell them exactly what to do minute by minute. And so, you know, it's challenging to make sure you provide enough guidance and enough support that you feel like we can say, as the state, this is where we are. But yet, you want them to have kind of that loose tight. You know, you want them to have enough local decision-making that they feel ownership over it and they can tweak and make changes along the way that meet the needs of their students.

While trying to balance this “loose-tight” tension, the TDOE was constrained by the very real limits placed on their power and authority by the governing system in which they operated and the limited knowledge and practice base that existed for building a statewide RTI model (especially when crafting the model for the upper grades).

As they tried to navigate these features of the environment and produce a single statewide RTI model to support schools and districts, some aspects of the framework became highly specified. For example, there were very specific details in the framework about what percentage of students were to be served by each tier, how much instructional time should be devoted to ELA and mathematics at various grades and tiers, and what teacher-student ratios should exist for interventions. These specifications were easy to provide, helped create a tangible picture of RTI for schools and districts, and may have helped to satisfy the request of those districts that, in the TDOE's estimation, wanted to be told what to do.

Other aspects of the model were more ambiguous. Despite descriptions of high quality instruction, there was significantly more ambiguity about what teachers were doing with students in the various tiers, and terms like multi-sensory and student-centered did not provide much

support in alleviating that ambiguity. This ambiguity likely resulted from a number of contributing factors. It is legitimately hard to describe and support high quality instruction, and descriptions in manuals or short professional development sessions were never going to provide the specification necessary for certain aspects of the framework. At the same time, the importance of high quality instruction to the success of RTI<sup>2</sup> meant that failing to include it in the framework was not an option.

Finally, some aspects of the model were clearly left up to district discretion. Everything from what supporting resources (universal screeners, interventions, etc.) to buy and how to schedule the tiers of instruction and utilize teachers and staff, to who would sit on the RTI<sup>2</sup> Leadership Team and the frequency with which they would meet was passed along to districts and schools. Some of these things seem to have been left up to schools and districts to account for the great variability that existed across and among them. Different schools had different resources (teachers, programs, etc.) to marshal in this effort, and the TDOE was clear that schools and districts needed discretion to make this model work for them. At the same time, the TDOE was also constrained in some of the recommendations they could provide. For example, as a department in the state government, the TDOE could not recommend programs for purchase without going through a lengthy request for proposal process (as they did with the universal screeners). As a result, the TDOE could not help schools and districts navigate critical purchasing decisions that went along with, for example, the selection of intervention programs, even when they were explicitly asked for help or the state had clear opinions.<sup>33</sup>

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<sup>33</sup> By the spring of 2015 the state was considering an RFP process for interventions programs similar to the one they had done for universal screeners, but even when weighing the pros and cons of that decision, they were trying to balance the benefits of providing a list of supported programs to schools looking for support with the political backlash from schools that might find their programs did not make the cut.

As the TDOE navigated their political position and the limited knowledge and practice base of their environment while also trying to support schools in achieving the ambitious aims they had set for RTI<sup>2</sup>, the TDOE was left with a model of RTI that, like the IEP, relied heavily of a set of procedures and guiding principles. Unlike the federal government, however, the TDOE was positioned closer to practice and tried to further manage the collision of ambitious aims and weak capabilities through the creation of materials, supporting sessions, and technical assistance.

As illustrated in the findings, understanding RTI<sup>2</sup> as a policy means understanding not just the RTI<sup>2</sup> framework but also the variety of other aims and instruments (Cohen & Moffitt, 2009) that comprise the TDOE's design for their RTI<sup>2</sup> policy. In light of these ambitious aims and environment in which the TDOE designed their policy, these other instruments can be understood as critical supports for the implementation of the RTI<sup>2</sup> framework. The TDOE could not just create an RTI<sup>2</sup> framework and be done if they truly aimed for RTI<sup>2</sup> to improve the outcomes for all of Tennessee's "struggling students." Instead, they created other instruments to compel schools to implement RTI<sup>2</sup>, to support schools in their understanding and enactment of RTI<sup>2</sup>, and to learn from schools about how the implementation was going so that they could respond and adapt appropriately.

Trying to manage the collision of their ambitious aims with the weak capabilities of their environment, the TDOE created a procedurally detailed framework and a set of other instruments to support its implementation. If Tennessee hopes to achieve more than procedural compliance for RTI<sup>2</sup> and truly improve the quality of instruction, as their aims suggest they do, their success will depend heavily on the ways in which they are able to support and build capability in the environment. It is clear that RTI<sup>2</sup>'s policy instruments, particularly the supporting materials and

trainings, are initial attempts toward that effort, but, as will be discussed later, they still have little leverage on instruction.

With RTI<sup>2</sup>, Tennessee made a concerted effort to change longstanding organizational and institutional practices that divide general and special education. This account of Tennessee's design of RTI<sup>2</sup> highlights the ways in which this state policy goes beyond a simple change in the definition of specific learning disabilities and tries to take on instructional quality and longstanding organizational practices in both general and special education. From RTI<sup>2</sup>'s aims and instruments to those required to mobilize in response to the policy, we see that general and special education are intricately interwoven in the RTI<sup>2</sup> design, reflecting this effort on the part of the TDOE to change both general and special education practices and the relationships between the two. Tennessee's RTI<sup>2</sup> efforts in this regard are consistent with the origins of RTI that go all the way back to the National Research Council's (Heller, Holtzman, & Messick, 1982) call for the improvement of both general and special education. Consequently, the theoretical and historical foundations for RTI and the history of the IEP might shed some light on the challenges ahead for Tennessee's RTI<sup>2</sup>.

As Tennessee made efforts to bridge general and special education and support organizational routines that could leverage the resources of both in the service of struggling students, the TDOE relied upon existing distinctions between general and special education. For example, in their efforts to define the three tiers, they focused closely on the content taught in each tier and on the distinction between Tier I (general instruction) and Tiers II and III (interventions). Standards were intended to be the focus of Tier I, and all students were expected to receive high quality instruction in these standards. Tiers II and III were designed to provide targeted skill-based interventions to smaller groups of students. This distinction provided

designers in the TDOE with clear ways to differentiate between the tiers and to support schools and districts in understanding the model, but it also meant that even within the TDOE, where they were trying to encourage collaboration between Curriculum and Instruction and Special Populations, it was easy for Tier I to become the purview of the former while Tiers II and III became the purview of the latter. In addition, this distinction could effectively mean that Tiers II and III would come to represent the provision of special-education-like services to smaller groups of “struggling students” without or prior to special education evaluation and placement. This could occur without significantly reshaping the relationship between general and special education as the policy intended. This observation regarding Tennessee’s approach also raises interesting questions for future research. How have other states and localities thought about the relationship between general and special education as they have gone about designing and implementing RTI models? Have others attempted to take on these long-standing organizational and intuitional divisions?

Finally, this analysis brings to light two predicaments that challenge both Tennessee’s RTI<sup>2</sup> and RTI reforms more generally. The first predicament is that RTI’s origins are fundamentally tied to addressing issues of disproportionality, and yet the way in which the model has been operationalized may perpetuate these problems - now within RTI’s tiers of support and intervention. This is apparent in the ways in which Tennessee has specified their RTI<sup>2</sup> framework. It seems inevitable that the framework’s reliance on identifying skill deficits in students and grouping these students for interventions will result in many of the same problems it was designed to prevent, although this time issues of disproportionality will arise prior to special education placement.

O'Connor and Fernandez's (2006) point out that schools and special education in the United States rely on White middle-class normative frames that lead to the disproportionate placement of poor and minority children in special education. They write that, "In this context, poor and minority youth are destined to 'demonstrate' more academic and behavioral problems, which increase their likelihood of being referred for special education" (p. 8). There is reason to believe that RTI models, particularly those focused on the identification of skill deficits and scaled up in grades K-12 for a range of academic and behavioral issues, will continue to rely on these same normative frames, once again locating deficits within students and failing to support schools and educators in seeing the assets that all students bring to school. This is ironic given that RTI is historically rooted in efforts to remediate disproportionality, but using O'Connor and Fernandez's (2006) logic, as long as RTI relies on normative frames, they are likely to face the same conundrums. O'Connor and Fernandez's (2006) elaborate on this problem and begin to suggest an alternative approach:

Without examining "what" (poor) minority students "are," we lose sight of how schools systematically marginalize the developmental expressions and competencies of these children. Schools thereby fail in practical and pedagogical terms to build on the capacities with which the children enter school (Ball, 1996; Lee, 1993). Thus the underachievement of minority students is not a function of deficient parenting practices but is rooted in the "arbitrary" standards of schools that are represented as if they were rational and culturally neutral (Bourdieu & Passeron, 1977) (p. 9).

Consideration of what it might look like for instruction to build upon the capacities that students bring to school and to support schools and educators in examining and changing practices that systematic marginalize and oppress students leads us to confront the second predicament of RTI and RTI<sup>2</sup>: RTI and RTI<sup>2</sup> rely on quality instruction for all students, but provide little leverage to affect it. Even instructional improvement efforts far less ambitious than the one that O'Connor and Fernandez (2006) hint at require the coordination and development of

significant knowledge, skills, and resources not touched by RTI generally or RTI<sup>2</sup> specifically. The multiple models and various origins of RTI, as well as the many terms used within the models, help to obscure this fact because they offer multiple variations on a common theory of how instruction will be improved, and they make it easy to confuse instruction with general education.

The most common theory for how instruction will be improved in an RTI model is through the identification of instruction in need of improvement. This occurs when assessments (universal screeners and progress monitors) reveal that a majority of students are not benefiting from the instruction and interventions as intended or when fidelity checks indicate that instruction is not being carried out as it should be. This theory is reminiscent of other accountability reforms that gained national attention in the early 2000s, and its connection to RTI is not surprising given that the reauthorization of IDEA in 2004 that introduced RTI into federal policy was intended to align IDEA with No Child Left Behind and the Elementary and Secondary Education Act (U.S. Department of Education, Office of Special Education and Rehabilitative Services, 2010). As those reforms have demonstrated, however, the challenges of improving instruction were not limited to a lack of will or uncertainty about what instruction needed improvement.<sup>34</sup>

Another narrative regarding RTI's impact on instruction amounts to an argument that it will improve general education through the provision of additional supports to struggling students in tiers of interventions. These interventions, however, do not change what is happening

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<sup>34</sup> The standard-protocol approach (Fuchs, Mock, Morgan, & Young, 2003) to RTI that is more closely aligned to the early reading studies in the 1980s and 1990s is more prescriptive about the instructional tools (curriculum, assessments, etc.) and practices needed to drive the model, but as RTI has expanded beyond the early grades and work in literacy it has replaced these very specific practices and tools with the notion of "research-based" instruction and interventions.

in Tier I instruction significantly. Tennessee's RTI<sup>2</sup> model, for example, provides only a few clear directives when it comes to Tier I, such as the amount of instructional time and use of universal screeners. At the same time the model requires significant reorganization of people, time, and materials, and the provision of more intensive services for some groups of students within general education. Many consider this service delivery within general education to be an improvement to general education and a way to avoid misidentifying the effects of weak general education as disabilities. This "improvement of general education" is often confused with the improvement of instruction or seen as sufficient in achieving the purposes of RTI. The history of RTI presented here, however, suggests that RTI requires real instructional improvement if we are going to stop confusing the effects of poor instruction with learning disabilities.

Tennessee seems at times to be aware of this fact and of the very limited influence they exert on the improvement of instruction, and yet they and supporters of RTI nationally continue to put great faith in the potential effects the other changes RTI requires will create. This leads us to a quote frequently attributed to Paul Batalden at the Institute for Healthcare Improvement, "All improvement requires change, but not all changes will lead to improvement." It is easy to get excited by the advancements that change might bring, but this analysis suggests that RTI may not lead to the improvements we are hoping for.

## References

- Algozzine, B., Christenson, S., & Ysseldyke, J. (1982). Probabilities associated with the referral to placement process. *Teacher Education and Special Education: The Journal of the Teacher Education Division of the Council for Exceptional Children*, 5(3), 19–23.
- Algozzine, B., & Ysseldyke, J. E. (1981). Special education services for normal children: Better safe than sorry? *Exceptional Children*, 48(3), 238–243.
- Andrews, J. E., Carnine, D. W., Coutinho, M. J., Edgar, E. B., Forness, S. R., Fuchs, L. S., ... Wong, J. (2000). Perspective: Bridging the Special Education Divide. *Remedial and Special Education*, 21(5), 258–60,67.
- Artiles, A. J., & Trent, S. C. (1994). Overrepresentation of Minority Students in Special Education A Continuing Debate. *The Journal of Special Education*, 27(4), 410–437.
- Balu, R., Zhu, P., Doolittle, F., Schiller, E., Jenkins, J., & Gersten, R. (2015). *Evaluation of Response to Intervention Practices for Elementary School Reading* (NCEE 2016-4000). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.
- Bateman, B. (1965). An educator's view of a diagnostic approach to learning disorders. In J. Hellmuth (Ed.), *Learning disorders* (Vol. 1). Seattle, WA: Special Child Publications.
- Bateman, B. D. (1994). Who, How, and Where: Special Education's Issues in Perpetuity. *The Journal of Special Education*, 27(4), 509–520.
- Bergan, J. R., Sladeczek, I. E., Schwarz, R. D., & Smith, A. N. (1991). Effects of a Measurement and Planning System on Kindergartners' Cognitive Development and Educational Programming. *American Educational Research Journal*, 28(3), 683–714.
- Berkeley, S., Bender, W. N., Peaster, L. G., & Saunders, L. (2009). Implementation of Response to Intervention A Snapshot of Progress. *Journal of Learning Disabilities*, 42(1), 85–95.
- Bradley, R., Danielson, L., & Doolittle, J. (2005). Response to Intervention. *Journal of Learning Disabilities*, 38(6), 485–486.
- Bradley, R., Danielson, L., & Hallahan, D. P. (Eds.). (2002). *Identification of Learning Disabilities: Research To Practice*. Mahwah, NJ: Lawrence Erlbaum Associates.
- Carrier, J. G. (1986). Sociology and special education: Differentiation and allocation in mass education. *American Journal of Education*, 94(3), 281–312.
- Carter, J., & Sugai, G. (1989). Survey on Prereferral Practices: Responses from State Departments of Education. *Exceptional Children*, 55(4), 298–302.

- Clements, S. D. (1966). *Minimal brain dysfunction in children: Terminology and identification: Phase one of a three phase project*. Washington, DC: U.S. Dept. of Health, Education and Welfare.
- Clements, S. D. (1969). *Minimal brain dysfunction in children: educational, medical, and health related services; phase two of a three-phase project*. Washington DC: U.S. Dept. of Health, Education and Welfare.
- Cobb, P., & Jackson, K. (2012). Analyzing educational policies: A learning design perspective. *Journal of the Learning Sciences, 21*(4), 487–521.
- Cohen, D. K., & Moffitt, S. L. (2009). *The ordeal of equality: Did federal regulation fix the schools?* Cambridge, MA: Harvard University Press.
- Corbin, J., & Strauss, A. (2007). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. SAGE.
- Danforth, S., Slocum, L., & Dunkle, J. (2010). Turning the Educability Narrative: Samuel A. Kirk at the Intersection of Learning Disability and “Mental Retardation.” *Intellectual and Developmental Disabilities, 48*(3), 180–194.
- Deno, S. L. (1985). Curriculum-Based Measurement: The Emerging Alternative. *Exceptional Children, 52*(3), 219–232.
- Dunn, L. M. (1968). Special education for the mildly retarded: Is much of it justifiable? *Exceptional Children, 35*(1), 5–22.
- Fletcher, J. M., Coulter, W. A., Reschly, D. J., & Vaughn, S. (2004). Alternative approaches to the definition and identification of learning disabilities: Some questions and answers. *Annals of Dyslexia, 54*(2), 304–331.
- Fletcher, J. M., & Vaughn, S. (2009). Response to Intervention: Preventing and Remediating Academic Difficulties. *Child Development Perspectives, 3*(1), 30–37.
- Flugum, K. R., & Reschly, D. J. (1994). Prereferral interventions: Quality indices and outcomes. *Journal of School Psychology, 32*(1), 1–14.
- Fuchs, L. S. (1995). *Curriculum-based measurement and eligibility decision-making: An emphasis on treatment validity and growth*. Paper presented at the Workshop on Alternatives to IQ Testing. Washington, DC: National Academy of Sciences
- Fuchs, D., Fuchs, L. S., & Fernstrom, P. (1993). A Conservative Approach to Special Education Reform: Mainstreaming Through Transenvironmental Programming and Curriculum-Based Measurement. *American Educational Research Journal, 30*(1), 149–177.
- Fuchs, D., & Fuchs, L. S. (1994). Inclusive Schools Movement and the Radicalization of Special Education Reform. *Exceptional Children, 60*(4), 294–309.

- Fuchs, D., & Fuchs, L. S. (2006). Introduction to response to intervention: What, why, and how valid is it? *Reading Research Quarterly*, *41*(1), 93–99.
- Fuchs, D., Fuchs, L. S., & Compton, D. L. (2004). Identifying Reading Disabilities by Responsiveness-to-Instruction: Specifying Measures and Criteria. *Learning Disability Quarterly*, *27*(4), 216–227.
- Fuchs, D., Mock, D., Morgan, P. L., & Young, C. L. (2003). Responsiveness-to-Intervention: Definitions, Evidence, and Implications for the Learning Disabilities Construct. *Learning Disabilities Research & Practice*, *18*(3), 157–171.
- Fuchs, L. S. (2002). Three conceptualizations of "treatment in a responsiveness-to-treatment framework for LD identification. In R. Bradley, L. Danielson, & D. P. Hallahan (Eds.), *Identification of Learning Disabilities: Research To Practice* (pp. 521–529). Mahwah, NJ: Lawrence Erlbaum Associates.
- Fuchs, L. S., Deno, S. L., & Mirkin, P. K. (1984). The Effects of Frequent Curriculum-Based Measurement and Evaluation on Pedagogy, Student Achievement, and Student Awareness of Learning. *American Educational Research Journal*, *21*(2), 449–460.
- Fuchs, L. S., & Fuchs, D. (1986). Effects of Systematic Formative Evaluation: A Meta-Analysis. *Exceptional Children*, *53*(3), 199–208.
- Fuchs, L. S., & Fuchs, D. (1998). Treatment validity: A unifying concept for reconceptualizing the identification of learning disabilities. *Learning Disabilities Research & Practice*, *13*(4), 204–219.
- Fuchs, L. S., Fuchs, D., & Speece, D. L. (2002). Treatment Validity as a Unifying Construct for Identifying Learning Disabilities. *Learning Disability Quarterly*, *25*(1), 33–45.
- Gelb, S. A., & Mizokawa, D. T. (1986). Special Education and Social Structure: The Commonality of "Exceptionality." *American Educational Research Journal*, *23*(4), 543–557.
- Gerber, M. M., & Semmel, M. I. (1984). Teacher as imperfect test: Reconceptualizing the referral process. *Educational Psychologist*, *19*(3), 137–148.
- Gersten, R., & Dimino, J. A. (2006). RTI (Response to Intervention): Rethinking special education for students with reading difficulties (yet again). *Reading Research Quarterly*, *41*(1), 99–108.
- Graden, J. L., Casey, A., & Bonstrom, O. (1985). Implementing a Prereferral Intervention System: Part II. The Data. *Exceptional Children*, *51*(6), 487–496.
- Graden, J. L., Casey, A., & Christenson, S. L. (1985). Implementing a Prereferral Intervention System: Part I. The Model. *Exceptional Children*, *51*(5), 377–384.

- Gresham, F. M. (1991). Conceptualizing behavior disorders in terms of resistance to intervention. *School Psychology Review*, 20(1), 23–36.
- Gresham, F. M. (2002). Chapter VI: Responsiveness to intervention: an alternative approach to the identification of learning disabilities. In R. Bradley, L. Danielson, & D. P. Hallahan (Eds.), *Identification of Learning Disabilities: Research To Practice* (pp. 476–519). Mahwah, NJ: Lawrence Erlbaum Associates.
- Gresham, F. M., VanDerHeyden, A., & Witt, J. C. (2005). *Response to Intervention in the Identification of Learning Disabilities: Empirical Support and Future Challenges*.
- Hallahan, D. P., & Mercer, C. D. (2002). Chapter I: Learning disabilities: Historical perspectives. In R. Bradley, L. Danielson, & D. P. Hallahan (Eds.), *Identification of learning disabilities: Research to practice*. Mahwah, NJ: Lawrence Erlbaum Associates.
- Hammill, D. D. (1971). Evaluating children for instructional purposes. *Academic Therapy*, 6(4), 341–353.
- Haynes, M. C., & Jenkins, J. R. (1986). Reading Instruction in Special Education Resource Rooms. *American Educational Research Journal*, 23(2), 161–190.
- Heller, K. A., Holtzman, W. H., & Messick, S. (Eds.). (1982). *Placing Children in Special Education : A Strategy for Equity*. Washington, DC: National Academy Press.
- House Report No. 94-332, Prepared by the Committee on Education and Labor, June 26, 1975.
- IDEA - Building The Legacy of IDEA 2004. (2007). Retrieved <http://idea.b.ed.gov/explore/view/p/,root,dynamic,QaCorner,8,.html>
- Jimerson, S. R., Burns, M. K., & VanDerHeyden, A. M. (Eds.). (2007). *Handbook of Response to Intervention The Science and Practice of Assessment and Intervention*. Boston, MA: Springer.
- Jones, R. L., & MacMillan, D. L. (1974). *Special education in transition*. Boston: Allyn and Bacon, Inc.
- Kavale, K. A. (2002). Chapter V: Discrepancy models in the identification of learning disability. In R. Bradley, L. Danielson, & D. P. Hallahan (Eds.), *Identification of Learning Disabilities: Research To Practice* (pp. 369–426). Mahwah, NJ: Lawrence Erlbaum Associates.
- Kirk, S. A. (1962). *Educating exceptional children*. Boston: Houghton Mifflin.
- Kirk, S. A. (1984). Introspection and prophecy. In B. Blatt & R. J. Morris (Eds.), *Perspectives in special education: personal orientations*. Glenview, Ill: Scott, Foresman.
- Lloyd, J., Singh, N. N., & Repp, A. C. (1990). *The Regular education initiative: alternative perspectives on concepts, issues, and models*. Sycamore, IL: Sycamore Pub. Co.

- Lyon, G. R. (1994). Methodological issues and strategies for assessing developmental change and evaluating response to intervention. In D. L. Speece & B. K. Keogh (Eds.), *Research on classroom ecologies: Implications for inclusion of children with learning disabilities* (pp. 213–227). Mahwah, N.J: Routledge.
- Lyon, G. R. (1996). Learning Disabilities. *The Future of Children*, 6(1), 54–76.
- Lyon, G. R., Fletcher, J. M., Shaywitz, S. E., Shaywitz, B. A., Torgesen, J. K., Wood, F. B., ... Olson, R. (2001). Rethinking learning disabilities. *Rethinking Special Education for a New Century*, 259–287.
- Messick, S. (1984). Assessment in context: Appraising student performance in relation to instructional quality. *Educational Researcher*, 13(3), 3–8.
- Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (D.D.C. 1972).
- Miles, M. B., & Huberman, A. M. (1994). *Qualitative Data Analysis: An Expanded Sourcebook*. SAGE.
- National Research Council. (2002). *Minority Students in Special and Gifted Education*. Washington, D.C: National Academies Press.
- O'Connor, C., & Fernandez, S. D. (2006). Race, class, and disproportionality: Reevaluating the relationship between poverty and special education placement. *Educational Researcher*, 35(6), 6–11.
- O'Connor, R. E., & Sanchez, V. (2011). Responsiveness to Intervention Models for Reducing Reading Difficulties and Identifying Learning Disability. In J. M. Kauffman & D. P. Hallahan (Eds.), *Handbook of Special Education* (pp. 123–133). New York, NY: Routledge.
- Office of Special Education Programs. (1981). *Third annual report to Congress on the implementation of Public Law 94-142, the Education for All Handicapped Children Act*. Washington, DC: U.S. Department of Education.
- Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania*, 343 F. Supp. 279 (E.D. Pa. 1972).
- Public Law 94-142, Education for all handicapped children act, Nov 29, 1975.
- Reschly, D. J. (1988a). Minority MMR Overrepresentation and Special Education Reform. *Exceptional Children*, 54(4), 316–323.
- Reschly, D. J. (1988b). Obstacles, starting points, and doldrums notwithstanding: Reform/revolution from outcomes criteria 17(3), 495–501.
- Reynolds, M. C., & Balow, B. (1972). Categories and Variables in Special Education. *Exceptional Children*, 38(5), 357–366.

- Reynolds, M. C., & Birch, J. W. (1977). *Teaching exceptional children in all America's schools: A first course for teachers and principals*. Reston, VA: Council for Exceptional Children.
- Reynolds, M. C., Wang, M. C., & Walberg, H. J. (1987). The Necessary Restructuring of Special and Regular Education. *Exceptional Children*, 53(5), 391–398.
- Schulte, A. C. (2016). Prevention and Response to Intervention: Past, Present, and Future. In S. R. Jimerson, M. K. Burns, & A. M. VanDerHeyden, *Handbook of Response to Intervention The Science and Practice of Multi-Tiered Systems of Support* (pp. 59–72). Boston, MA: Springer US : Imprint: Springer.
- Shepard, L. (1983). The Role of Measurement in Educational Policy: Lessons from the Identification of Learning Disabilities. *Educational Measurement: Issues and Practice*, 2(3), 4–8.
- Singer, J. D., Palfrey, J. S., Butler, J. A., & Walker, D. K. (1989). Variation in Special Education Classification Across School Districts: How Does Where You Live Affect What You Are Labeled? *American Educational Research Journal*, 26(2), 261–281.
- Sleeter, C. (2010). Why Is There Learning Disabilities? A Critical Analysis of the Birth of the Field in Its Social Context. *Disability Studies Quarterly*, 30(2).
- Stainback, W., & Stainback, S. (1984). A rationale for the merger of special and regular education. *Exceptional Children*, 51(2), 102–111.
- State Program Implementation Studies Branch of the Bureau of Education for the Handicapped. (1979). *Progress toward a free appropriate public education: A report to Congress on the implementation of Public Law 94-142: The Education for All Handicapped Children Act*. Washington, DC: U.S. Department of Health, Education, and Welfare.
- State Program Implementation Studies Branch of the Bureau of Education for the Handicapped. (1980). *Second annual report to Congress on the implementation of Public Law 94-142: The Education for All Handicapped Children Act*. Washington, DC: U.S. Department of Health, Education, and Welfare.
- Stuebing, K. K., Fletcher, J. M., LeDoux, J. M., Lyon, G. R., Shaywitz, S. E., & Shaywitz, B. A. (2002). Validity of IQ-Discrepancy Classifications of Reading Disabilities: A Meta-Analysis. *American Educational Research Journal*, 39(2), 469–518.
- Shaywitz, S. E., Shaywitz, B. A., Fletcher, J. M., & Escobar, M. D. (1990). Prevalence of Reading Disability in Boys and Girls: Results of the Connecticut Longitudinal Study. *JAMA*, 264(8), 998–1002.
- Torgesen, J. K. (2000). Individual Differences in Response to Early Interventions in Reading: The Lingering Problem of Treatment Resisters. *Learning Disabilities Research & Practice*, 15(1), 55–64.

- Torgesen, J. K., Wagner, R. K., Rashotte, C. A., Rose, E., Lindamood, P., Conway, T., & Garvan, C. (1999). Preventing reading failure in young children with phonological processing disabilities: Group and individual responses to instruction. *Journal of Educational Psychology, 91*(4), 579.
- Tucker, J. A. (1980). Ethnic Proportions in Classes for the Learning Disabled: Issues in Nonbiased Assessment. *The Journal of Special Education, 14*(1), 93–105.
- U.S. Department of Education Office of Special Education and Rehabilitative Services. (2002). *A new era: Revitalizing special education for children and their families. President's Commission on Excellence in Special Education*. Washington, DC: U.S. Department of Education Office of Special Education and Rehabilitative Services.
- U.S. Department of Education, Office of Special Education and Rehabilitative Services. (2010). *Thirty-five Years of Progress in Educating Children With Disabilities Through IDEA*. Washington, DC
- U.S. Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs. (2000). 22nd Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act.
- VanDerHeyden, A. M., Witt, J. C., & Barnett, D. W. (2005). The Emergence and Possible Futures of Response To Intervention. *Journal of Psychoeducational Assessment, 23*(4), 339–361.
- Vaughn, S., & Fuchs, L. S. (2003). Redefining Learning Disabilities as Inadequate Response to Instruction: The Promise and Potential Problems. *Learning Disabilities Research & Practice, 18*(3), 137–146.
- Vellutino, F. R., Scanlon, D. M., Sipay, E. R., Small, S. G., Pratt, A., Chen, R., & Denckla, M. B. (1996). Cognitive profiles of difficult-to-remediate and readily remediated poor readers: Early intervention as a vehicle for distinguishing between cognitive and experiential deficits as basic causes of specific reading disability. *Journal of Educational Psychology, 88*(4), 601–638.
- Zirkel, P., & Thomas, L. (2010). State Laws for RTI: An Updated Snapshot. *Teaching Exceptional Children, 42*(3), 56–63.

## CHAPTER FOUR

### A PROCESS FOR DESIGNING STATE EDUCATION POLICY

*Policy design is not simply a technocratic task undertaken in a back room that entails the assembly of policy instruments to achieve some end. Nor is implementation simply an administrative task of handing over policy details to an organizational machinery (May, 2003, p. 231).*

What does it mean to design a policy? What does it mean to implement a policy? These questions are too often implicit or go unaddressed in the educational policy literature, yet answers to these questions can have profound implications for whether and how a policy achieves its aims. In posing the question about what it means to design a policy, this article explores when and how the aspirations and resources of policymakers become instantiated in something recognizable as policy and the actual forms that policies take. In posing the question about what it means to implement a policy, this article examines when implementation is thought to happen and the relationship between designing and implementing a policy.

In this article, I describe the history of education policy research, highlighting the key transitions in schools of thought on policy. In so doing, I highlight the ways that tidy distinctions between design and implementation are often arbitrary and artificial, and I argue that policy designs<sup>1</sup> can continually evolve over time and be distributed across a network of resources

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<sup>1</sup> There are different ways to think about the relationship between policy and policy design. Sometimes in the literature these terms are used interchangeably, and at other times policy designs are described as a feature or component part of a policy. In the latter case a policy has a design. One distinction in how these terms are used seems to depend on the way in which policy is defined. When the definition of policy is more constrained and viewed from the perspective of designers, then policies and policy designs are relatively synonymous. Cobb and Jackson's

(people, ideas, materials, and interactions). I use the case of one state's efforts to design a statewide education policy to highlight these distinctions between design and implementation and suggest that the distributed and evolving nature of these designs is one way in which policy designers manage the collision of ambitious policy aims and weak capabilities in the policy environment.

Exploring Tennessee's efforts to create a statewide Response to Intervention (RTI) policy that contains "a set of intentions or goals, a mix of instruments or means for accomplishing the intentions, a designation of governmental or nongovernmental entities charged with carrying out the intentions, and an allocation of resources for the requisite tasks" (May, 2003, p. 223), this article takes seriously the work of *designers designing policy designs*. Designers here are the policymakers who are trying to deliberately change the practices of others. Designing is the process by which the designers craft and re-craft a policy over time. And the policy design is the result of that process of designing.

Looking specifically at the Tennessee Department of Education's (TDOE) efforts to design an RTI policy, which they called Response to Instruction and Intervention (RTI<sup>2</sup>), this article explores the following research question: What is the nature of policy design in the case

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(2012) definition of policy is a good example of such a definition: "Policy is an intentional attempt by members of one group to influence the practice of members of another group" (p. 488). If, on the other hand, policy is defined more broadly to include the interpretations and actions of those implementing the policy, policy design is just one piece of the policy. Lin (2000), for example, points out that "policies pick up new meanings, new concerns, and new purposes that their designers might not have even considered, much less intended. What a policy actually is, therefore, is as much about context as it is about original intent" (p. 39). In this article I will use the term policy as a synonym for policy design. I will do so to help unburden the reader, as this article already has many mentions of designing and designers, and because this particular research study focuses explicitly on the work of policy designers, their designs, and their processes for designing and redesigning. That being said, I believe there is much to be learned about policy beyond policy designs and that studying how people interpret policies and put them into practice supports a greater understanding of what policy means.

of Tennessee's RTI<sup>2</sup>? To answer this question, this article considers how Tennessee's RTI<sup>2</sup> came into being, how it changed since it was first proposed, and what shaped those changes? In particular, it examines what political and organizational circumstances played a key role in the policy's design and redesign.

### **History of Education Policy Research**

This review takes a historical perspective on the policy literature to describe how scholars have attended to design. The education policy literature has, more often than not, attended to policy implementation over policy design; and yet, "Policy design merits attention...because it is ubiquitous, necessary, and difficult" (Bobrow, 2006, p. 75). Although "little studied and understood in the contemporary policy literature" (Howlett & Lejano, 2013), there are calls for more detailed accounts of the designs that shape education reforms (Rowan, Correnti, Miller, & Camburn, 2009), and there are scholars in the field articulating nuanced ways to think about designs and the process of designing that push beyond designs "as a singular, point-in-time solution" (Cohen, Peurach, Glazer, Gates, & Goldin, 2013).

Significant attention to education policy began in the 1960s with Lyndon Johnson's Great Society and passage of the Elementary and Secondary Education Act (ESEA) in 1965. According to Cohen, Moffitt, and Goldin (2007), in 1950, just a decade prior, there was "no federal education policy to puzzle about, and though states made education policy, it seemed not to puzzle anyone, at least not in print" (p. 515). This was due, at least in part, to the enormous faith that people had in the power of policy to achieve its aims and also to the modest nature of these policies and their simple designs—which primarily considered questions of "how much should be spent on what and for whom" (Cohen et al., 2007, p. 516). Yet, with the 1960's surge

of federal policies, the field of policy implementation emerged (Honig, 2006; Odden, 1991; Cohen and Moffitt, 2009).

These federal policies had ambitious social aims, but their designs employed relatively simple instruments – including distributive grants, categorical aid, and weak regulation (Honig, 2006) – to achieve those lofty aims. Moreover, programs like Title I of the Elementary and Secondary Education Act initially left a great deal up to states and localities beyond the unprecedented federal priorities that it set (Cohen and Moffitt, 2009). The earliest studies of such policies assumed that “well-designed policies would contain the resources that were needed to shape practice” (Cohen & Moffitt, 2009, p. 18), worrying little about the designs themselves and focusing primarily on issues of compliance. These studies “were almost unanimous in their findings of implementation failure” (Honig, 2006, p. 5) and recommended improvement to policy design to combat future failure.

These calls for better policy design, arguably redesign, in the face of implementation failure reflect some of the earliest attention to design in the policy literature. In Bardach’s (1977) book *The Implementation Game: What Happens After a Bill Becomes a Law*, for example, he concluded that “it is essential to invest a great deal of energy in designing implementable policies and programs” (p. 283) that can withstand the challenges of implementation – implementation games – that his book detailed. To do so, Bardach suggested that policy designers “design simple, straightforward programs that require as little management as possible” (p. 253) and engage in “scenario-writing” in an effort to anticipate “the stresses and strains to which the policy will be subjected during the implementation process” (p. 262). Like Bardach, Sabatier and Mazmanian (1979) were also concerned with helping policymakers “maximize the probability that statutory objectives will be attained” (p. 483), and suggested that

successful policies would, among other things, be “based on a sound theory” and “contain unambiguous policy directives” (p. 484). Both Bardach’s and Sabatier and Mazmanian’s analyses of implementation and their recommendations for subsequent policy design reflect a “top-down” approach to policy, viewing both from “the vantage point of government” (Cohen & Moffitt, 2009, p. 18), and striving to achieve greater compliance from those with local discretion.

At the same time, others studying policy implementation understood local discretion and adaptation differently and argued for a different approach to policy design. While Berman and McLaughlin (1977) wrote that, “Our research adds to the growing body of literature that casts doubt on the effectiveness of federal educational policy” (p. 35), they argued that hope existed in the successful local projects and programs that they found in their study and suggested that the federal government could pay more attention to “all stages of the local change process” (p. 40), provide “adaptive implementation assistance” (p. 41), and improve “the local capacity of school districts to manage change” (p. 41). Elmore (1979) also stressed the importance of capitalizing on local discretion and expertise when designing effective policy. In fact, he argued that, “The notion that policymakers exercise – or ought to exercise – some kind of direct and determinant control over policy implementation might be called the ‘noble lie’ of conventional public administration and policy analysis” (p. 603). Instead, Elmore advocated for a process of “backward mapping,” which he described as follows:

It begins not at the top of the implementation process but at the last possible stage, the point at which administrative actions intersect private choices. It begins not with a statement of intent, but with a statement of the specific behavior at the lowest level of the implementation process that generates the need for a policy. Only after that behavior is described does the analysis presume to state an objective; the objective is first stated as a set of organizational operations and then as a set of effects, or outcomes, that will result from these operations. Having established a relatively precise target at the lowest level of the system, the analysis backs up through the structure of implementing agencies, asking at each level two questions: What is the ability of this unit to affect the behavior that is the target of the policy? And what resources does this unit require in order to have that

effect? In the final stage of analysis the analyst or policymaker describes a policy that directs resources at the organizational units likely to have the greatest effect (p. 604).

This approach to policy design was contrasted with the “forward-mapping” or top-down approach that Elmore (1979) argued relied “primarily on formal devices of command and control that centralize authority” (p. 605).<sup>2</sup> Yet, both top-down and bottom-up approaches to policy design and implementation draw attention to the positional role of various actors and encourages policy designers to consider a set of directional arrows between the aims of policy and the eventual results. Of course, within our federal system, these positional roles and the direction of policy are more ambiguous and complex than the designation of “top” or “bottom” suggests.<sup>3</sup>

Starting in the late 1980s and early 1990s there was a change in the policy literature, as both policies and the analysis of those policies expanded. State and federal reforms of this time were significantly more ambitious than the generation of policies they succeeded (Cohen & Moffitt, 2009), and this new generation of policies aimed to define and shape practice in much more significant ways, including improving student performance through attention to curriculum and instruction (Honig, 2006). These new policies placed significant demands on teachers and their practice, and scholars started to ask what more could be done to support teachers in their pursuit of these policy aims (Cohen, 1990).

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<sup>2</sup> It is worth noting that despite this theoretical notion of centralized command and control, federal education policy actually delegated most authority to states and localities because of the very decentralized system of US government in which these policies operated.

<sup>3</sup> As Cohen and Moffitt (2009) point out, these positional roles are far more ambiguous for most people involved in policy: “These public managers are both central controllers and street-level bureaucrats, trying to influence those for whom they make policy while also trying to cope with those who make policy for them. In such cases, policymakers and practitioners converge in the same person and office, and individuals and agencies experienced the dilemma from both sides. A focus on political position obscures that, while the dilemma of policy and practice illuminates it” (p. 20).

Acknowledging that “Most policies and programs at least tacitly recognize an educational need, as they offer regulations, guidelines, and the like” (p. 208), Cohen and Barnes (1993a) posed the following questions: “what kind of education has educational policy offered to enactors? What has been the pedagogy of policy?” (p. 209).<sup>4</sup> As scholars took up these questions and studied these new policies and their implementation, they also tried to articulate what aspects of policy design would make these ambitious policies more effective and offered advice to those writing policy. Honig (2006) argued that policy analysis in this period was particularly concerned with “what works,” highlighting “that variations in policies, people, and places matter to how implementation unfolds” (p. 9). And, in writing about this period, Cohen and Moffitt (2009) pointed out, “The primacy of thought replaces that of political position in studies, which seems fitting in a time when education policy placed unprecedented demands on practitioners’ knowledge and skill” (p. 22).

Taking up the idea of policy as a form of instruction, and trying to answer the questions posed by Cohen and Barnes (1993), some scholars detailed the sense that teachers and others were able to make of these new policies, both individually and collectively, and described how that sense translated into changes in teaching practice (Cohen, 1990; Jennings, 1996; Spillane & Jennings, 1997; Spillane & Thompson, 1997; Spillane, 2000; Coburn, 2001; Cohen & Hill, 2001). Jennings (1996) argued that “we must think of policy implementation as an exercise in teaching in the best sense” (p. 108) and detailed the ways in which teachers created their own learning from what these policies had to teach. Similarly, Spillane and Thompson (1997) suggested that the learning of policy entailed a process of changing one’s mind and wrote that,

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<sup>4</sup> Cohen and Barnes (1993a) also found that “educational policies and programs have not been richly educative for enactors. The pedagogy of educational policy generally has been didactic” (p. 210).

“such reconstructive learning requires sustained, honest, substantive interaction about the new ideas with other people who understand these new ideas at least a little better than they do” (p. 186). Spillane and Thompson (1997) went on to acknowledge that these polices seemed “to be doing little to build the kinds of human and social capital – the knowledge, skills, dispositions, connections, and norms – that constitute capacity to support ambitious reform” (p. 200).

To ameliorate this problem, these scholars called upon policy designers to take teacher learning into account and create conditions that would support and enable individual and collective opportunities to learn. These suggestions, however, were not simple, and they required a pretty radical new way of thinking about policy itself. For if reformers were going to take the idea of policy as pedagogy seriously, “the processes in which policy is made and enacted would have to be opened up so that they created many more opportunities to learn. And those opportunities would have to be designed so that they embodied the sorts of teaching and learning that reformers wish to promote for classrooms” (Cohen & Barnes, 1993b, p. 251).

In opening up policy design and making recommendations to policy designers, there was a call for new knowledge and expertise “associated with the management of organizational change and improved content” (McLaughlin, 1990, p. 15). There was attention to theories of individual and organizational learning (Elmore, 1996). And there was growing interest to define a set of policy instruments and consider how those instruments might “translate substantive policy goals into concrete actions” (McDonnell & Elmore, 1987, p. 133). McDonnell and Elmore (1987) suggested that the next generation of policy research should build on past lessons by “focusing on the instruments common to different polices and on the conditions under which these instruments are most likely to produce their intended effects” (p. 133). They defined four generic kinds of instruments: mandates, inducements, capacity-building, and system-changing

(p. 134), and argued that “Each of these options is expected to carry a particular effect – compliance, production, capacity, or authority” (p. 140). Weiss (1990) also wrote about a growing “interest in generic instruments (or tools, or social technologies) for accomplishing governmental purposes” and argued that knowledge (Weiss & Gruber, 1984), ideas (Weiss, 1990), and public information campaigns (Weiss & Tschirhart, 1994) could all serve as policy instruments.

Cohen and Hill (2011) in their study of “how state policies that support better teaching and learning can succeed” (p. 2), took an “‘instructional view’ of the relations between policy and practice” (p. 8) and detailed instruments that “build a basis for implementers’ learning” (p. 6). In particular, they explored how instruments like “curricular materials for teachers and students to use in class; assessments that enabled students to demonstrate their mathematical performance – and teachers to consider it – and instruction for teachers that was grounded in these curriculum materials and assessments” (p. 6) could be used to elaborate a policy and change instruction. The articulation of these instruments provided some clear ways that policy designs might provide a more educative experience for teachers and others as they sought to learn policy.

The twenty-first century has seen a continuation of these lines of policy analysis and a much richer conception of what there might be to say about policy design specifically. Writing about design in connection to their study of school improvement, Rowan, Correnti, Miller, and Camburn (2009), argued that design “include core instructional or curricular components, such as new curricular materials and/or sets of teaching routines,” as well as “blueprints for organizational practices that allow the core instructional parts of the design to be implemented faithfully and used effectively in schools” (p. 638). This idea is similar to the points made by

McLaughlin (1990) about the need for policies to attend to both content and processes, and by Rowan et al. (2009) that having an effective design requires both an effective instructional plan and an effective implementation strategy. Having an ineffective design for either or both, they pointed out, will not lead to improved instruction. Consequently, they argued that designers and researchers must attend to both aspects of design and suggested that researchers provide more nuanced descriptions of the designs that they study, attending to both dimensions of design – “the way designs organize schools to produce instructional change, and the kinds of instructional changes the design envisions” (p. 650). These works represent a significant expansion of the scope and instruments of policy, signaling a move away from the relatively narrow realm of fiscal and administrative instruments to a much broader realm of instruments for instructional guidance and instruction itself.

Cobb and Jackson (2012) elaborated some design features that help organize schools to produce instructional change. Building on and extending the scholarship of those who first looked at policy as pedagogy (see examples above) as well as more contemporary research exploring the role of cognition, sense-making, and communities of practice (see Spillane, Reiser, & Gomez, 2006; Coburn & Stein, 2006; Penuel, Frank, & Krause, 2006), Cobb and Jackson (2012) described a “learning design perspective” that they argued “enables us to identify potential limitations of educational policies before they are implemented, understand why specific policies were implemented in certain ways in particular schools and districts, and inform the formulation of empirically testable recommendations about how policies might be adjusted to make them more effective” (p. 3). From their perspective, a policy consists of three components that they term, “the what, how, and why of policy: the goals for the learning of members of the group targeted by the policy, the supports for their learning, and an often implicit rationale for

why these supports might be effective” (p. 2). And they anticipated, based on the literature, that “policies that are effective in supporting consequential professional learning will involve some combination of new positions that provide expert guidance, ongoing intentional learning events in which tools are used to bridge to practice, carefully designed organizational routines carried out with a more knowledgeable other, and the use of new tools whose incorporation into practice is supported” (p. 17).

Rethinking and redefining ideas about design and implementation, scholars also pushed at the tidy and seeming distinct categories that these two terms had come to embody. Cohen and Moffitt (2009) conceived of the relationship between policy and practice as a dilemma: “Those who set direction for action identify problems and propose solutions, but these can help only if used well by those who are given direction and who often are said to be the problem” (p. 22). They argued that a gap exists between policy and practice, and wrote that four types of actions and resources can be used to manage this gap: aims, instruments, capability, and the environment.

The aims – which determine the size of the gap – and the instruments – which consist of the capability policy brings to relations with practice (e.g., money, mandates, incentives to comply, flexibility to adapt) – can be collectively understood as components of policy design. Articulated in this way, they are part of a larger and more dynamic system in which policy and practice influence and depend on each other. Writing about design specifically, Cohen et al. (2013) framed design “not as a singular, point-in-time solution but, instead, as ongoing activity that attends the schools, designs, intervening organization, environments, and the relationships among them” (p. 29). Moving away from the common usage of design as solution, they wrote that “For the interveners, design connoted a complex puzzle: specifically, in the relationships

among the schools to be improved, the designs intended to improve them, their own organizations, and broader environments" (p. 58).

Of course, these scholars were not the first to point out that the distinction between policy design and policy implementation was not clear or straightforward. Early scholars of implementation, Pressman and Wildavsky (1984), pondered the distinction between policy and implementation in the introduction of their seminal book, *Implementation: How Great Expectations in Washington Are Dashed in Oakland*. Trying to distinguish the two, they wrote, "We can work neither with a definition of policy that excludes any implementation nor one that includes all implementation" (p. xxii) and suggested that policy be defined as "a hypothesis containing initial conditions and predicted consequences" (p. xxii) while implementation is "the ability to forge subsequent links in the causal chain so as to obtain the desired results" (p. xxiii). And yet, after they created these distinctions, they astutely pointed out that, "the passage of time wreaks havoc with efforts to maintain tidy distinctions. As circumstances change, goals alter and initial conditions are subject to slippage. In the midst of action the distinction between the initial conditions and the subsequent chain of causality begins to erode" (p. xxiii).

Weatherley and Lipsky (1977) offer what might be understood as a solution to Pressman and Wildavsky's (1984) point. They argued that the "accommodations and coping mechanisms" of street-level bureaucrats "become the government program that is 'delivered' to the public. In a significant sense, then, street-level bureaucrats *are the policymakers* in their respective work arenas" (p. 172). As such, they wrote, "The relationship between the development and implementation of policy is of necessity problematic since, in a sense, the meaning of policy cannot be known until it is worked out in practice at the street level" (p. 173). Weatherley and Lipsky's (1977) phrasing was cautious here. They did not claim that a policy was only what

street-level bureaucrats made it, but they muddled the relationship between a policy's development and implementation, arguing that the meaning of policy did not exist only in the forms in which policymakers instantiated it (e.g., written policy documents containing aims and instruments) but also in resulting actions of street-level bureaucrats as they made sense of the policy and put it into practice.

Despite these earlier insights, tidy distinctions between design and implementation have largely been maintained in the literature. In addition, as the analysis of policy and implementation were developing, ideas about the scope of policy, the entailed instruments, and the tasks of designing for implementation were also growing. Scholars have provided many ways to analyze and parse policies, and using these frameworks can provide valuable accounts of policy design (see Chapter Three). Cohen et al. (2013), however, remind us to attend to the ongoing rather than the point-in-time nature of design.<sup>5</sup> This article attempts to do just that, helping to attend to this issue in the existing literature and shifting the focus from design, the noun, to designing, the verb.<sup>6</sup> Although the period of time under study is not long, even this short timeframe helps to illuminate the ways in which policy design is not static. In addition, drawing on the work of McDonnell (2013), who uses a policy feedback framework to explore “how policy design shapes political responses and, in turn, influences subsequent policies” (p. 171), this work takes into account the ways in which policy feedback loops inform the design and redesign process.

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<sup>5</sup> See Peurach (2011) and Cohen et al. (2013) for such accounts.

<sup>6</sup> This shift to the gerund is consistent with Weick's (1979) call for their increased use in organization theory. In addition, it draws attention to Czarniawska's (2008) idea of an “action net” that would let us study both designing and the products of those designing processes: namely designs (p. 16).

## Data and Methods

This article draws on the same study described in the second article (Chapter Three), which used a qualitative case study design to examine Tennessee's early design and implementation efforts of Response to Instruction and Intervention (RTI<sup>2</sup>). Unlike other studies of state-level RTI policies that have provided single snapshots of existing policy designs distilled largely from State Department of Education websites and legal databases of state regulations across all 50 states (Berkeley, Bender, Peaster, & Saunders, 2009; Zirkel & Thomas, 2010), this study looks closely at the RTI policy of one state over time and analyzes data from a large range of sources including:

- Individual and small group, semi-structured interviews with TDOE staff and leadership who played a direct role in designing and/or implementing the policy;
- Field notes, presentation materials, and conference agendas from the TDOE's two statewide, multi-day conferences;
- All publicly available documentary sources—video recordings, agendas, minutes, and proposals—for the State Board of Education's meetings and workshops pertaining to special education and RTI<sup>2</sup> between 2013 and 2015;
- All RTI<sup>2</sup> resources posted on the TDOE website, including the *RTI<sup>2</sup> Manual and Implementation Guides*, downloadable files for schools and districts, and informational videos (these resources changed over time and were collected regularly);
- Two studies conducted by the TDOE's Division of Data and Research (previously the Office of Research and Policy) into RTI<sup>2</sup>;

- Internal documents, meeting agendas, PowerPoint presentations, and other materials made available to me by the TDOE over the course of interviews and meeting observations;
- Organizational statements, newsletters, annual reports by the TDOE, and
- News articles about the policy generated by a Lexis-Nexis search

Tennessee State Department of Education's willingness to participate in this study, the fortuitous timing of their adoption of a statewide RTI model, and many of the publically available records, including video recordings of State Board of Education Meetings and related documents, made this close analysis of their early design and implementation efforts possible. The period under study focuses primarily on a three-year period starting in 2013, with the bulk of data collected in the 2014-2015 school year. The data collection coincided with the first year of RTI<sup>2</sup> implementation in grades K-5 and the lead-up to the implementation of RTI<sup>2</sup> in middle and high school.

Having the opportunity to interview key designers and staff at the TDOE as they engaged directly in this work was critical to the success of this study, as were the opportunities to attend the TDOE's two major educational conferences that year and participate in professional development sessions related to RTI<sup>2</sup>. In this study I utilized a significant range of data sources collected in multiple phases in order to build as complete a picture as possible of the nature of policy design in the case of Tennessee's RTI<sup>2</sup>.

Data collection and analysis occurred simultaneously and were integrated in such a way that I could develop and test ideas throughout (Miles & Huberman, 1994). In addition, as I collected and analyzed the data, I wrote descriptive memos that were attentive to my research questions and offered me opportunities to synthesize and explore data from the various sources.

All interviews were transcribed, and all interviews and a set of key policy documents were coded. Initial descriptive codes were informed by the policy design and implementation literature (e.g., policy instruments; feedback). Refinement of these codes and the addition of categories grounded in the data (e.g., framework; materials; elaborations and elucidations) emerged throughout the process of analysis (Corbin & Strauss, 2008). In addition, a detailed timeline was assembled of events meaningful to the course of the policy. For example, this timeline contained when important meetings or decisions occurred and when documents were developed and released. As this timeline was assembled, changes were tracked in the various iterations of materials.

### **Findings**

To answer the question – what is the nature of policy design in the case of Tennessee’s RTI<sup>2</sup>? – this section is organized chronologically, starting with how Tennessee’s RTI<sup>2</sup> came into being, detailing a number of changes to RTI<sup>2</sup> since it was first proposed, and exploring some of the circumstances that led to those changes. In studying the nature of policy design in the case of Tennessee’s RTI<sup>2</sup>, there are two major findings. The first finding is that there was not a single, complete, and unchanging RTI<sup>2</sup> policy, but rather a process of designing and continual redesigning that included multiple, incomplete, and evolving ideas about RTI<sup>2</sup> that were negotiated and renegotiated over time. This process of designing applied both to the RTI<sup>2</sup> framework and to the instruments supporting its implementation. Throughout this process, certain aspects of the RTI<sup>2</sup> framework persisted – particularly guiding principles and processes for identifying struggling students early and supporting them in small group instruction prior to special education referral, while other aspects of the framework were more likely to change – particularly procedural specifications and ways to identify weak instruction. In addition, the

number and types of supporting instruments grew and evolved, from an initial special education mandate and the presentations and draft documents that supported the State Board of Education's adoption of RTI<sup>2</sup> to a multitude of supporting materials, professional development sessions, and even tools to learn about the implementation process (see Chapter Three). Reasons for these revisions included a desire to appease constituents and lessen political strain as well as solve the very real problems that became clear when practitioners tried to make sense of the policy and put it into practice.

The second finding is that the entirety of the RTI<sup>2</sup> framework at any given time was not contained in a single written document to be handed off to implementers. Rather, the RTI<sup>2</sup> framework existed across a distributed network of people, ideas, materials, and interactions. It was the product of many people, particularly people in the TDOE's divisions of Curriculum and Instruction and Special Population, coming together to work on various aspects of RTI<sup>2</sup> at different points of time with different sets of purposes and constraints. In addition, as TDOE employees interacted with localities as well as governmental and non-governmental organizations using the materials they developed for RTI<sup>2</sup>, these interactions informed the design work of both the framework and the other supporting instruments. As time passed, there was a proliferation of supporting materials generated in relation to RTI<sup>2</sup>, as well as revisions and updates to earlier versions of documents.

These findings about the distributed and evolving nature of RTI<sup>2</sup>'s design reflects one way in which policymakers managed the collision of their ambitious aims and the weak capabilities in their environment. This section will illustrate these two findings, providing a chronological account of how RTI<sup>2</sup> came into being, how it has changed since it was proposed, and what political and organizational circumstances have played a key role in the policy's design

and redesign. In doing so, I chronicle the policy's development through 1) RTI<sup>2</sup>'s early origins in Tennessee, calls for a statewide RTI model, and the proposed mandate to the State Board of Education, 2) the development of an RTI<sup>2</sup> Manual and accompanying instruments to support the implementation of the RTI<sup>2</sup> framework, and 3) revisions to the framework and accompanying instruments that the TDOE made in response to "responses to policy" during the study. I also describe outstanding issues regarding RTI<sup>2</sup> and how the policy continues to evolve.

*1) RTI<sup>2</sup>'s early origins in Tennessee, calls for a statewide RTI model, and the proposed mandate to the State Board of Education*

There is not a single point in time in which to locate the origins of RTI<sup>2</sup>. Following the 2004 reauthorization of IDEA, Tennessee changed their laws, allowing LEAs to use an RTI model to identify students with specific learning disabilities. A study of early RTI implementation in all 50 states found that in the 2007-2008 school year, Tennessee's State Department of Education provided guidance to LEAs about RTI, but the eligibility criteria for specific learning disabilities continued to rely entirely on an IQ-discrepancy model (Berkeley et al., 2009). By the following academic year, Tennessee permitted both IQ-discrepancy and RTI as methods for identifying students with specific learning disabilities and left the decision largely up to LEAs (Bradley, 2011).

In the years that followed, some LEAs were compelled by the state to adopt an RTI model because they were facing issues of disproportionality in their special education population,<sup>7</sup> while other LEAs chose to adopt an RTI model on their own (although not all of

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<sup>7</sup> "While generally optional for districts, the provision of CEIS [Coordinated Early Intervening Services] is required if an LEA is identified by the state as having a disproportionate representation of racial and ethnic groups in: the identification of children with disabilities; the

these districts did so for the purpose of changing eligibility criteria for specific learning disabilities). Still other LEAs continued to use a discrepancy model to identify students with specific learning disabilities.<sup>8</sup> And, across all the schools and districts in the state there was not a single, agreed-upon model of RTI being used. According to the State Department of Education's RTI<sup>2</sup> Manual (2013), in the spring of 2012, as part of conversations about the best instructional practices in early elementary reading and mathematics, the Common Core Leadership Council became convinced that they needed "a statewide RTI model to promote consistency and improved instruction" (p. 9). In the fall of 2012 the Tennessee Department of Education shared proposed guidelines with districts and presented the guidelines at the annual Tennessee Educational Leadership Conference. By January of 2013, an RTI task force had been convened and voted to proceed with a statewide plan for RTI.

In that same month, the Students with Disabilities Advisory Council passed a proposal presented to them by the State Department of Education to use RTI to identify students with specific learning disabilities,<sup>9</sup> and on January 31 and February 1, 2013 the proposal was

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identification of children with disabilities in a particular impairment category; the placement of children in particular educational settings; and/or the incidence, duration and type of disciplinary actions, including suspensions and expulsions. In the case of a determination of significant disproportionality, these coordinated early intervening services must serve particularly, but not exclusively, students in racial and ethnic groups that are significantly overidentified" (Bradley et al., 2011, p. xxx).

<sup>8</sup> At the February 1, 2013 State Board of Education meeting, Deputy Commissioner of the Tennessee Department of Education, reported that, to date, the state had approved 22 models of RTI for the identification of students with specific learning disabilities but estimated that more than half of the state's districts were using a version of RTI in at least some of their schools in order to provide interventions prior to the referral process. This meant that prior to RTI<sup>2</sup> there were at least 22 separately approved RTI policies in Tennessee.

<sup>9</sup> "The Council was presented with a proposal from DSP [the Department of Education's Division of Special Populations] staff regarding changes in SLD [specific learning disabilities] eligibility guidelines to the RTI<sup>2</sup> model. Council members formally recommended this change as a means to increase opportunities for all students to succeed in general education. Council members noted that, when implemented with fidelity and cohesion across the state, struggling

presented to the State Board of Education for their consideration. In the short few months that followed, there was a flurry of activity related to RTI: a Reading/RTI Leadership Team set about researching and writing the Response to Instruction and Intervention Framework, termed RTI<sup>2</sup>; a task force of psychologists was assembled “to help develop and review content related to interventions and eligibility standards for students suspected of having a Specific Learning Disability” (RTI<sup>2</sup> Manual, 2013, p. 9); and a public hearing was held in March.

The early meetings, documents, and presentations connected to the State Board of Education’s approval of RTI<sup>2</sup> illustrate the evolution and distribution of RTI<sup>2</sup>. For example, the State Board of Education discussed RTI<sup>2</sup> during four meetings and workshops over a five-month period in 2013. Between the first and last of those meetings, the original proposal – which relied heavily on a previous, state-sponsored model for RTI and became substantiated in a single paragraph to the Board – was significantly reshaped, resulting in a final written version of the proposal that bore little resemblance to its antecedent. In addition to these written proposals, the

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students would be provided with research based interventions and instruction in the general education setting, reducing the need to remove them to a more restrictive setting. Council members' motion to approve this change to the RTI<sup>2</sup> model included a statement that there should be a uniform procedure and clear guidelines for all LEAs, as well as method to ensure that RTI<sup>2</sup> methods are implemented with fidelity” (Advisory Council for the Education of Students with Disabilities Annual Report July 2012- June 2013, 2014, p. 5). While the Advisory Council formally recommended the change, they noted that a draft of a future agenda written by the TDOE for the State Board of Education assumed their agreement prior to the meeting. They requested a more active role going forward: “Council request for the division to communicate to the state board how much the council wants to be involved when it comes to students with disabilities. The agenda item to be present to the state board on Feb. 1, 2013 was written on Jan. 10, 2013, that stated ‘on Jan. 14, 2013, the Advisory Council affirmed the actions of the task force and recommended the amendment.’ The council would like to have representation on all Task Force/Council for students with disability. Mr. Wilson stated that the agenda Mr. Fair mentioned was an internal draft and should not have gone out. Mr. Fair stated that it did go out and that’s how he got it” (Advisory Council for the Education of Students with Disabilities Annual Report July 2012- June 2013, 2014, p. 32).

Board heard a series of presentations and received other supporting documents that together helped illuminate the emerging design (re-design) of RTI<sup>2</sup> as imagined by the TDOE.

The initial proposal presented to the State Board of Education in February of 2013 stated:

The guideline and standards for Specific Learning disabilities are amended by deleting the subsection “Evaluation Procedures” in its entirety and substituting instead the following language:

Evaluation Procedures

Evaluation and identification of students with Specific Learning Disabilities must be conducted using a state approved Responsiveness to Intervention (RTI) Method of Identification as described in Procedural Addendum A of the Specific Learning Disabilities Standards (Tennessee State Board of Education Agenda, February 1, 2013 First Reading Item: III. I., p. 3).

This original proposal’s language drew upon an earlier version of RTI that was contained in the state’s Procedural Addendum A of the Specific Learning Disabilities Standards. That version of RTI was introduced in 2008 when LEAs were allowed to choose between RTI and an IQ-discrepancy model for identifying students with specific learning disabilities. Its inclusion suggests that even these earliest efforts to design RTI<sup>2</sup> were, in fact, redesigns of an already existing model of RTI used by some districts in the state. A challenge, however, of simply adopting Addendum A was that it required all districts to create and submit their own RTI plans to the State. As the Deputy Commissioner for the TDOE explained in the February 2013 meeting when this proposal was considered, the 2008 RTI procedure was “somewhat of a cumbersome process of districts creating their own processes around responsiveness to intervention rather than giving very specific guidelines to districts on what the model should look like.” The TDOE was interested in changing that model, and perhaps as a result, the final proposal for RTI<sup>2</sup> did not mention Addendum A.

In the final reading of the proposal at the June 2013 Board meeting, the original proposal’s language had been replaced with a three-page document that defined specific learning

disabilities and provided evaluation procedures for identifying students with specific learning disabilities. In addition, the use of RTI to identify students with specific learning disabilities had been restricted to a sub-set of the categories of specific learning disability, specifically learning disabilities in basic reading skills, reading comprehension, reading fluency, written expression, mathematics calculation, and mathematics problem-solving. Other areas of specific learning disability, including listening comprehension and oral language, were to be evaluated “pursuant to the Speech or Language Impairment eligibility standards” (Tennessee State Board of Education Agenda, June 21, 2013 Final Reading Item: III. D., p. 5).

The definition of specific learning disabilities contained in those three pages was nearly identical to the federal definition<sup>10</sup> and did not mention RTI. The new evaluation procedures included references to components of an RTI model but did not detail what RTI looked like in practice. These evaluation procedures included five standards that needed to be met in the process of determining a student’s eligibility. The first of these standards stated:

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<sup>10</sup> Tennessee’s definition: “The term Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, and that adversely affects a child’s educational performance. Such term includes conditions such as perceptual disabilities (e.g., visual processing), brain injury that is not caused by an external physical force, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include a learning problem that is primarily the result of Visual Impairment; Hearing Impairment; Orthopedic Impairment; Intellectual Disability; Emotional Disturbance; Limited English Proficiency; or, Environmental or Cultural Disadvantage.”

The federal definition: “(A) In general. – The term ‘specific learning disability’ means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

(B) Disorders included. – Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(C) Disorders not included. – Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.”

1. To ensure that underachievement in a student suspected of having a Specific Learning Disability is not due to a lack of appropriate instruction (i.e., empirically research-based instruction that is rigorous, systematic, and peer-reviewed) in the student's State approved grade level standards, the following must be obtained
  - a. Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction (i.e., empirically research-based instruction that is rigorous and systematic throughout all Tiers of instruction/intervention) in regular education settings, delivered by qualified and appropriately trained personnel; and
  - b. Data-based documentation of repeated assessments of achievement, reflecting formative assessment of student progress during intervention, which was provided to the student's parents at a minimum of once every four and one-half (4.5) weeks. (1-31-14, Proposed Guideline Revision, p. 1)

Here the references to an RTI model include high-quality general education instruction, tiers of instruction/intervention, and frequent formative assessments as part of interventions. In addition, the policy's aim to ensure that specific learning disability diagnoses were not the result of a lack of appropriate instruction is stated, but what might be entailed in ensuring that all students receive "empirically research-based instruction that is rigorous, systematic, and peer-reviewed" is not discussed beyond the data schools would use to demonstrate this fact. Within the five standards, the new guidelines also indicated that students who were being evaluated should be observed during both general classroom instruction and "intensive, scientific research-based or evidence-based intervention" (1-31-14, Proposed Guideline Revision, p. 2). Yet it is worth noting that the use of RTI in this document was interwoven with the evaluation procedures and almost none of the guiding principles or the procedural specifications of Tennessee's RTI<sup>2</sup> were contained in this document. Even direct references to RTI by name were limited in the document.

The student does not make sufficient progress to meet age or State-approved grade level standards in one or more areas (i.e., Basic Reading Skills, Reading Fluency, Reading Comprehension, Written Expression, Math Calculation, Mathematics Problem Solving) when using a process based on the student's *responsiveness to scientific, research-based*

*intervention* [emphasis added] in each area of suspected delay (1-31-14, Proposed Guideline Revision, p. 2).

Looking at these multiple versions of the proposal, there is evidence of an early evolution in the policy design with respect to one aspect of RTI<sup>2</sup>, specifically the change in the evaluation procedures for a sub-set of Specific Learning Disabilities that created the statewide mandate for RTI<sup>2</sup>. However, these documents do not provide the full picture of the RTI<sup>2</sup> design as it existed even in its early stages.

Videos of the State Board of Education meetings reveal other presentations and documents that were shared with the Board to support the Board's understanding of RTI and the larger policy implications of the proposal they were adopting. These included presentations made by the TDOE's Deputy Commissioner and Assistant Commissioner for Special Populations, as well as Dr. Robert Pasternack, a former Assistant Secretary for the Office of Special Education and Rehabilitative Services at the U.S. Department of Education, who was brought in to provide a national perspective and an overview of RTI. Along with these presentations, the Board was given a draft of the TDOE's RTI<sup>2</sup> Manual as well as a parent contact information document, sample schedules, and an implementation readiness checklist (all tools that the TDOE created to share with school districts). These documents and presentations, when taken together, provide a much more detailed view of the RTI<sup>2</sup> framework and its supporting instruments, lending evidence to the distributed nature of the RTI<sup>2</sup> policy.

While the Board was voting on the three-page proposal, the minutes from their June 21, 2013 meeting describe the vote as replacing a discrepancy model with RTI: "LEAs no longer have to use a discrepancy model. RTI program will now be used moving forward. It is a Tier model serving different student populations at different levels. Beginning July 1, 2014, it will

essentially be prevention and intervention instead of ‘wait to fail.’” These minutes were likely based on the remarks of the Assistant Commissioner for Special Populations at the TDOE. Here is what he said just prior to the vote:

This is the final reading regarding evaluation for specific learning disabilities. IDEA 2004 with reauthorization outlined that an LEA no longer has to use a discrepancy model in order to identify a student with specific learning disability. Our proposed change in Tennessee will eliminate the discrepancy model beginning July 1, 2014, and we will then use a Response to Intervention program for basic reading, reading fluency, reading comprehension, mathematical calculations, problem-solving, and written expression. It is a tiered model. Tier I: 80 to 85% of your students on the research model perform well in that Tier I, which is your Common Core State Standards or your Tennessee State Standards. All students are universally screened. Those students that fall below the 25th percentile would then be served in a Tier II intervention. You would continue to screen and progress monitor. Those students that continue not to make progress would then receive a Tier III intervention. And, if the student does not make progress under the Tier III intervention, after being progress monitored, then, you know, they’ve had underachievement in either reading or math or written expression. They’ve not responded to the intervention, and you take out the federal exclusionary factors, then that student can be identified as having a specific learning disability. Essentially, response to intervention will be prevention and intervention instead of wait to fail. And it really focuses on special education becoming a continuum of services and not a place. And, that sums it up.

This statement contains a much more specific vision for RTI<sup>2</sup> than the proposal passed by the State Board of Education and one that more closely matches the description of RTI<sup>2</sup> found in the TDOE’s RTI<sup>2</sup> Manual. Following this statement, a Board member asked a clarifying question about whether the Board was voting on the guideline changes (contained in the three-page proposal) or the much larger packet of documents including the draft of the RTI<sup>2</sup> Manual. She was told that they were voting on the three-page document, and the Board proceeded to approve the proposal unanimously.

This Board member’s question, however, helps to illustrate the very real ways in which RTI<sup>2</sup> existed across these multiple documents and took on different forms in different places for different purposes over time. At the time of the Board’s vote, the RTI<sup>2</sup> policy existed across a

few draft documents, a handful of presentations and meetings, and the three-page mandate. As such, the policy, which was already the product of continuous redesign, was only a skeleton of its future self, with some of the initial guiding principles and procedures for the state's RTI framework.

*2) The development of an RTI<sup>2</sup> Manual and accompanying instruments to support the implementation of the RTI<sup>2</sup> framework*

Following the Board of Education's vote in June of 2013, the TDOE worked hard to provide information and resources to districts about RTI<sup>2</sup>. This additional information and the resources and interactions in which this information was substantiated reflected early efforts on the part of the TDOE to articulate and elucidate RTI<sup>2</sup> and support others in their implementation of the framework. In these early efforts, much about the RTI<sup>2</sup> framework became formalized in the articulation of a set of clear guiding principles (e.g. leadership and prevention and early intervention) and procedural details (e.g. student-teacher ratios and minimum time requirements for the various tiers).

In August of 2013, the state released an *RTI<sup>2</sup> Manual and an Implementation Guide* to support schools and districts in the implementation process. Reflecting on these documents, the TDOE wrote, "The *Response to Instruction and Intervention Manual* marks a significant point in our state's development, reflecting our state-level, collective intent to engage large-scale systems change. The purpose of the RTI<sup>2</sup> Implementation Guide is to assist LEAs with school wide problem solving and to equip them with the practical decision-making tools that maintain the integrity of the RTI<sup>2</sup> framework" (Manual, 2013, p. 10). These documents, which were 88 pages and 278 pages respectively, contained detailed descriptions of district and school procedures

related to RTI<sup>2</sup> and represented a considerable effort on the part of the TDOE to explain RTI<sup>2</sup> and support its implementation by schools and districts. In addition, these documents acknowledged that the transition to RTI<sup>2</sup> would require a clear plan from the state as well as professional development and support, although they did not elaborate much on these additional forms of support. These two documents provide a much more detailed picture of the state's design for RTI<sup>2</sup> than the document approved by the State Board of Education, and yet, once again, the entirety of RTI<sup>2</sup>'s design was not contained in any one of these documents alone.

In addition to the RTI<sup>2</sup> Manual and the Implementation Guide, the TDOE also produced other materials and presentations to support schools and districts in their understanding and implementation of the policy design. When asked about their efforts to prepare for RTI<sup>2</sup>'s implementation in the fall of 2014, a leader with the TDOE said:

The state did a lot of work with providing guidance documents, online resources, printable resources. I know [the Special Populations'] team was going across the state, having regional meetings with school principals and district leaders on the implementation process. So tons of work on the front-end. We would hit it at every conference.

It was across all of these interactions and materials that the design for RTI<sup>2</sup> existed and was communicated to interested stakeholders.<sup>11</sup>

*3) Revisions to the framework and accompanying instruments that the TDOE made in response to "responses to policy"*

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<sup>11</sup> For more details about these supporting materials and interactions see article two (Chapter Three). Also, the RTI<sup>2</sup> Manual and the Implementation Guide provide useful examples of the fuzziness of implementation. The release of the manual in August 2013 was an opportunity for K-5 schools to prepare for implementation in the fall of 2014. Reactions to these preparatory documents would engender yet more revisions on the part of the TDOE.

It was through interactions and efforts to implement that the RTI<sup>2</sup> framework and its supporting instruments continued to evolve and change. In the time after the State Board's vote, the TDOE would find itself back in front of the State Board to amend its original proposal and timeline for implementation and would issue clarification documents and revisions to both the Manual and Implementation Guide. On January 31, 2014, seven months after the State Board of Education's vote, the TDOE returned to the State Board to amend the initial implementation timeline and make some small revisions to the guidelines and standards to more closely align them with the state's RTI<sup>2</sup> Manual, which had been released in the interim. Therefore, the manual affected the special education mandate.

Before voting on these changes, the Assistant Commissioner for Special Populations informed the Board that these changes to the timeline were based on feedback from schools and districts about their readiness. The Assistant Commissioner estimated that, if given the choice, the majority of districts would apply for the proposed phase-in model, which gave middle schools an additional year and high schools an additional two years to implement RTI<sup>2</sup>. Here, early RTI<sup>2</sup> implementation efforts had important implications for the redesign of the mandate. Reflecting back on the decision to amend the timeline for implementation, a TDOE employee said in an interview that the department would have to continue to be responsive to the experiences of districts and open to changes in the design going forward:

We gave that [phase-in] option to districts, and it was well received, because we were hearing their concerns. I feel like when we do more trainings this year, we will still gather information. While I think the course we are on is probably the course we will be [on], I do think we will have to come back together and say, "Where are we on K-5 implementation with district resources? Do we need to really give folks time to implement?"... We know this is the right work for kids but I think we do have to be responsive to our LEAs at a time where there is no more money and there are a lot of requirements.

This idea that the state would need to be responsive and attentive to schools and districts throughout the implementation process had important implications for the state's process of continual redesign, and went beyond issues related to the timeline and resources. In this way, the design process was an interactive one that caused the RTI<sup>2</sup> framework and supporting instruments to change over time.

As 2014 and the implementation of RTI<sup>2</sup> unfolded, the state continued to create, refine, and revise RTI<sup>2</sup> materials. July 1<sup>st</sup> of that year marked the start of the special education mandate for grades K-5, which were now responsible for having the RTI<sup>2</sup> framework in place. In August of 2014 the state released a revised Implementation Guide that was now 342 pages long and contained many new and revised sub-sections. These new and revised sections were efforts to clarify and correct the earlier model, appease schools and districts, support them in their work, show a level of responsiveness on the part of the TDOE, and deal with the very real consequences of putting the framework into practice in real schools.

New sub-sections added to the Implementation Guide included one, two, and four page summaries of the RTI<sup>2</sup> framework, a response to parents requesting to opt out of RTI<sup>2</sup>, guidance for students needing interventions in more than one academic area, tables detailing associated areas of deficit in reading and mathematics, and an appendix of frequently asked questions. The addition of the appendix of frequently asked questions is a useful illustration of some of the TDOE's efforts to be responsive to schools and districts and to further elucidate and elaborate aspects of the RTI<sup>2</sup> framework. In crafting this appendix the TDOE used questions that they had received directly from educators and administrators who had reached out to them for support. They included these questions and their responses in the revised Implementation Guide. For example:

**Q:** I was looking over fidelity checks with one of my principals today and we have a question. In the manual it talks about tier 1 and 2 fidelity checks needing to be completed during each 9 week period. But when it talks about tier 3 fidelity checks it just gives a total number (5) that must be completed at that tier, and it doesn't say per each 9 week period. All it says is that we have to have a minimum total of 8 combined checks at tier 2 and 3. How exactly does that work? So once the child is in tier 3, it looks like there are less fidelity checks that have to be completed than at tier 2 because it doesn't say per 9 weeks. Is that right or am I interpreting that incorrectly? I hope my question makes sense, if not please let me know and I will try to explain it differently.

**A:** There is some confusion over the way fidelity checks are referenced in the manual. Essentially, it was worded to reference marking periods because students may remain in intervention for varying periods of time. It wouldn't make sense for a student who receives tier 3 intervention for 6 months to receive the same number of fidelity checks as a student who receives tier 3 for 10 weeks. Really, we need to focus on the purpose of fidelity checks. Yes, the number is important- but for the purpose of determining whether the intervention was implemented as it was intended. We must use the data from fidelity checks to improve the interventions. Ultimately, we should be looking at the data over time to see if programs are working or not.

A minimum of 8 checks should be conducted prior to making a data based decision to refer for an evaluation; however this is because this would be the minimum number of checks needed to establish that the intervention was implemented with fidelity. When you are making these decisions, think about the purpose of the checks- not just that they were done, but what did they tell you? If you have 8 checks but they were all done within a week, does this tell you about the intervention period as a whole? What if you have 8 checks and they indicate that the intervention was only implemented with 50% fidelity? Focus on the information these checks provide (pp. 335-336)

As this example illustrates, schools and districts in Tennessee wrestled with real questions and confusion as they went about making sense of the RTI<sup>2</sup> framework using the instruments that the TDOE supplied. The TDOE tried to be responsive to those questions and support more wide-spread understanding of the framework by providing more elaborate explanations and clarifications and making actual changes to the procedural specifications of the framework. In addition, they did so in a way that tried to make visible to their constituents their responsiveness.

Along with the new sections added to the revised Implementation Guide, revisions were made to existing materials. Some of the revisions were highlighted, like those made to the subsections for English Language Learners and “High Achieving Students,” while others

revisions, including those made to the pyramid diagram, were not called out by the authors. In the case of the revised diagram, all mentions of the Common Core and Rates of Improvement had been removed and the percentage of students served by each of the tiers had been moved from a highly visible place in the diagram to the blocks of text describing each of the tiers. These revisions likely reflected Tennessee's move away from the Common Core (at least by name) and the TDOE's efforts to minimize the importance of specific numbers in their specification of RTI<sup>2</sup>. Another area of significant revision was Appendix A: Schedules. Scheduling RTI<sup>2</sup> was considered by the TDOE to be a particular pain point for schools and districts and an area in which they provided a lot of guidance and support. The original Implementation Guide included sample schedules, but these schedules did not always comply with the procedural specifications described in the manual. These original schedules were described as follows:

Most of these schedules are actual schedules from LEAs that are currently providing interventions. Many of these schedules do not reflect the time suggestions put forth in the Guidelines or the RTI<sup>2</sup> Manual, but they do reflect times for intervention and/or enrichment. Most of the LEAs that submitted schedules are in the process of adapting their current schedules to meet the times put forth in the Guidelines and RTI<sup>2</sup> Manual (Implementation Guide, 2013, p. 201).

A year later, the revised Implementation Guide could share schedules that then complied with the recommendations for instructional time outlined in the Manual. The revised Implementation Guide included schedules that “reflect the work that LEAs have done to implement the times set forth in the RTI<sup>2</sup> Manual (2013) for Tier I instruction and Tier II and III intervention” (Implementation Guide, 2014, p. 248). These new and revised sections to the Implementation Guide represented efforts by the TDOE to demonstrate a level of responsiveness to the concerns of schools and districts, to provide clarifications and corrections about the framework, and to support the overall success of the policy.

Revisions continued in 2015. At the TDOE's annual Partners in Education (PIE) Conference in January, two clarification documents, one for grades K-5 and one for grades 6-12 were released along with a revised RTI<sup>2</sup> Manual. The TDOE presented these revisions as a response to school and district requests for clarifications regarding the implementation of RTI<sup>2</sup>. These procedural "clarification on implementation" included efforts to simplify Tier I fidelity monitoring and clarify fidelity monitoring in the other tiers, to modify previous statements about students who were struggling in both English Language Arts (ELA) and mathematics, to introduce relative versus national norms for schools that were identifying too many students for Tier II and Tier III interventions, and to replace the description of universal screeners in high schools with an early warning system.

The modification to the statement about students struggling in both ELA and mathematics, for example, was based on what the TDOE said they learned from ongoing implementation efforts. For this change, the original manual stated:

If students need interventions in more than one area (ELA and Mathematics), then the five days of interventions a week can be split in a two-day/three-day manner based on the area of greater need. For example, if a student needs intervention in ELA and Mathematics but is weaker in math, he/she should receive three days of Mathematics interventions and two days of ELA interventions each week (2013, p. 38).

When this was put into practice, however, the TDOE received lots of phone calls from school psychologists saying that students receiving interventions using this two-day/three-day split were being inappropriately referred for special education. Reflecting on this original design in their framework, one TDOE employee said:

For some reason, we said a three-day/two-day split is okay if you need intervention in both. Oh my gosh, it's not okay. That is not working in any way, shape, or form... We're not giving them consistent daily support to help build that foundation; instead we're

giving them a little here, a little there, and so we've really been talking around service and the greatest area of need. Provide intervention in the greatest area of need.

The revised manual sought to address this problem, but rather than removing the option for the split entirely, the TDOE proceeded more cautiously:

The decision to provide a two-day/three-day split is an RTI<sup>2</sup> team decision and may be appropriate for some students who need reading and math intervention. If a team chooses to do a split intervention, the team must watch the student's progress closely and make intervention adjustments if the student is not progressing in this model. The team may also choose to provide intervention five days/week in the area of greatest need or provide intervention five days/week in both areas of deficit. Student data should guide this decision (2015, p. 39).

Here the TDOE recognized a flaw in their original design based largely on anecdotal evidence and tried to find a middle ground in correcting it that emphasized local control and decision-making while emphasizing guiding principles related to how the teams should make instructional decisions based on the continuous monitoring of student progress.

Another clarification to the model, however, seemed to be a much more significant revision to the RTI<sup>2</sup> framework that could undercut the TDOE's original design but also seemed inevitable given the realities of the environment and the limited capabilities of schools to improve their own instruction. This clarification was the introduction of relative versus national norms in determining what students needed to receive interventions. The original language related to data-based decision making stated:

Data-based decision making is the process of using appropriate data to inform and drive each instructional decision. Cut scores must be established for the universal screening. These cut scores should be based on national norms at a minimum, and identify students who are at risk (2013, p. 17)

As is detailed in Chapter Three, the TDOE went to long lengths specifying percentages of students that should be served in each tier of instruction using these national norms. When these national norms were applied in many of Tennessee's schools, however, large percentages of students were identified for Tiers II and III. This result was predictable. Many of the problems the TDOE was trying to solve with RTI<sup>2</sup> related to poor student achievement, so it should have come as no surprise that for many schools these national norms would identify more than 15 – 20% of the student body for interventions. While the TDOE viewed improving Tier I instruction to be critical in resolving this problem, RTI<sup>2</sup> did not give them much leverage on the problem, and they simultaneously believed that much of the power of RTI<sup>2</sup> resulted from the provision of additional supports and services to those students who were struggling the most.

Faced with the realities of their original framework in practice, the TDOE recognized that to ensure that RTI<sup>2</sup> could function as a pyramid model they needed to allow more flexibility in how schools identified those students requiring interventions. This realization resulted in the following decision regarding national versus relative norms:

If a school has a large number of students falling below national norms, a school team may use relative norms instead of national norms. Relative norms compare a student's performance to other students in his/her school. If a school has a high population of struggling students, relative norms allow a school staff to determine which students have the greatest need for intervention (2015, p. 18).

The TDOE stated in interviews that schools welcomed this revision enthusiastically, and they believed this revision would allow schools to better use their existing resources to support the students who were struggling the most.

At the same time, some TDOE staff acknowledged that they found this revision to the RTI<sup>2</sup> framework difficult to accept.

I mean the problem with relative norms is you're really watering it down... The goal is to get back to the triangle of national norms... But in order to make it practical for implementation, you have to start somewhere, and so that was a huge difference for us. It was really hard for some of us to swallow, me being one of them, because now, as I've just said, in our entire state, you can water down all the way down to just your school building who you're going to provide intervention to, but how would those kids compete nationally later on?

It was difficult for some TDOE staff to let schools shift their attention away from so many students whose performance was low in comparison to their peers nationwide, and yet they saw no alternative. Shifting from national to local norms relieved some of the tension the RTI<sup>2</sup> model was intended to place on the existing system, allowing poor Tier I instruction to go unaddressed. At the same time, the revision helped to ensure that other aspects of the framework (like the focus on the students' who were struggling the most) and the political success of RTI<sup>2</sup> were maintained by reducing evidence of "failure." This was a predictable revision to RTI<sup>2</sup> given what was known about state and local system capabilities, but it also calls into relief the multiple and weak theories on how RTI<sup>2</sup> would actually achieve the ambitious aims they set for it. The TDOE's adoption of this change, like much of the ongoing process of redesign was driven by their efforts to manage the collision of their ambitious aims and the weak capabilities of their environment.

In the case of these clarifications and revisions to the original framework, the TDOE was trying to be responsive to implementation efforts and ensure the long-term viability of the policy.

The 6-12 Clarification Document started with this statement:

The implementation of Response to Instruction and Intervention (RTI<sup>2</sup>) has been a place of significant focus for districts and schools this year. Doing this work well holds the promise of changing the trajectory for students and closing gaps early and effectively. As we have engaged with many districts, we have heard encouraging stories of this work focusing energy in new ways that serve students well; however, we have also heard examples of confusion about the requirements and the best practices. These conversations have shown a need for clarification in the K-5 and 6-12 implementation. In response to

several districts' requests for clarification in secondary RTI<sup>2</sup> implementation, the Curriculum and Instruction and Special Populations divisions have collaboratively provided clarifications to facilitate your ongoing implementation of RTI<sup>2</sup> Framework at the middle and high school level (2015, p. 1).

Those at the TDOE who participated in the revision process reiterated in interviews that the revisions and clarifications that they made to the RTI<sup>2</sup> framework were based on feedback from and interactions with schools and districts as they implemented RTI<sup>2</sup>. One employee described the process as follows:

We had a lot of general educators who hadn't been part of the work with the school psychologist, were really unclear with a lot of pieces of the implementation and then giving us feedback. So we hashed out and came to consensus on the K-5 clarifications document. That was a large task in January and we updated the RTI<sup>2</sup> Manual based on those clarifications in a couple of different spots. Then we also were feeling a lot of pain points with people trying to say: okay this is what it looks like for elementary, that doesn't work in middle and high school. So we also developed the 6-12 clarifications... We loosened up a little bit on universal screening and how interventions might be thought about, how you train your teachers, some of those things and gave some guidance around that.

Another employee reflected that the process involved adjusting and restructuring based on feedback: "so we had to restructure, we had to give some clarification because we truly do take their feedback and change what we're doing and refine our practices – adjust (which is one of my favorite words), adjust to go back out." These interviews and the resulting changes made to the RTI<sup>2</sup> framework support the finding that the design itself evolved and changed over time and in response to implementation efforts. In addition, as we see from the examples, the TDOE took up these revisions in response to implementation while balancing a set of issues including the political success of the policy, their relationships with schools and districts, their collective ideas about what was essential to the framework, and their aims for the policy.

Along with the changes that the TDOE made to the RTI<sup>2</sup> framework and the materials that they created to educate schools and districts about these changes (e.g. the revised manual and the K-5 and 6-12 clarification documents), the TDOE also made deliberate changes to the other supporting instruments as they developed and refined their approach to supporting the implementation of RTI<sup>2</sup>. Early efforts to support RTI<sup>2</sup>'s implementation were described by people within the TDOE as focused on the special education mandate and the creation of the Manual and Implementation Guide. In addition, these early efforts were led primarily (but not exclusively)<sup>12</sup> by the division of Special Populations, and the most focused of the professional development efforts were directed toward school psychologists. The TDOE believed that orchestrating the work in this way had led some schools and districts to the wrong interpretation of RTI<sup>2</sup>. In particular, they were concerned by the ways in which some schools and districts viewed the framework as a procedural mandate focused on particular screeners and interventions and requiring changes in purchasing, staffing, and school schedules.

Trying to adjust course, the TDOE formed an RTI<sup>2</sup> task force between Curriculum and Instruction and Special Populations, “to make sure that that message is better aligned and better co-delivered moving forward.” As a part of these efforts, the TDOE became much more deliberate about how they coordinated their support and tried to emphasize the importance of local discretion, the problem-solving nature of the framework itself, and their supporting role in the process. For example, they introduced case studies into a number of their sessions and were more attentive to who was delivering these public messages to schools about RTI<sup>2</sup>. The TDOE felt good about the changes they had made to their instruments, but they also felt they still had

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<sup>12</sup> The Manual, for example, was written by people in both divisions.

room to grow and had ideas about how they might continue to improve and refine these instruments going forward.

*RTI<sup>2</sup>: A work in progress*

Two years after the TDOE's first presentation to the State Board of Education and with RTI<sup>2</sup> implementation well underway, the TDOE had engaged in significant design and redesign efforts, and yet they were still grappling with central and unanswered design questions. When asked how they would know if RTI<sup>2</sup> had been successful, a leader in the TDOE said,

We ask ourselves that. I don't know that we have the right answer to that question yet, but we are having conversations about what that right answer might be. I think part of it is going to be that we know that students are served well and appropriately on IEP's, we know that less students are identified, we know that students are getting services earlier. But we haven't figured out how to measure that yet. We think...I think it will start playing out in some of our summative tests at an earlier grade level. That would be my hope, but I think we are a few years from that now.

Another leader at the TDOE had a similar response to a question about the state's long-term vision for the policy:

Well, I would say that's truthfully evolving. I think the long-term vision is that RTI<sup>2</sup> is the approach that allows schools and districts to meet the needs of more students, so our long-term vision is that more kids are well-served and supported. I think our long-term goals are that we'll see a drop in below basic for MEAP for Tennessee; we'll see increasingly more students exiting, avoiding or exiting special education because their needs are met. So the sort of spiritual goals are pretty clear. I think the question of at what grade levels it's implemented and when and what that looks like are evolving. The other thing I would say is, I think the success of RTI will come down to continuous improvement, how effectively schools and districts learn lessons from what works and improve. And that makes the first year very hard, right?, because there's a lot of lessons to be learned. But I do think we have found over and over again that the learning is in the doing, that even the best laid plans need to have sort of a strong sense of commitment behind them. And my hope is that the work of RTI changes perceptions about what students are able to do.

In these responses is an idea that the learning is in the doing, and that the TDOE would continue to design and redesign RTI<sup>2</sup> going forward, learning from their experiences and the experiences of schools and districts, and building a more complex policy that was not more singular and complete but rather continued to evolve and adapt through a process of designing.

More evidence of the evolution of the policy has come since this study drew to a close. In November of 2015, the TDOE created a task force to consider an RTI<sup>2</sup>-Behavior (RTI<sup>2</sup>-B) framework that “aligns with the RTI<sup>2</sup> framework for academics and includes climate, culture, social emotional learning, behavior expectations, aligned interventions to areas of need, data based decision making, and addresses problem solving for chronic absenteeism and discipline” (RTI<sup>2</sup> Manual, 2017, Introduction). In addition, in 2016 the TDOE created an internal working group to “refine guidance in the Tier I section of the manual” (RTI<sup>2</sup> Manual, 2017, Introduction), and released yet another revised RTI<sup>2</sup> Manual in the spring of 2017. Reflecting on their choice to revise the manual once again, the TDOE wrote that the revised manual “acknowledges that we learn best from the educators responsible for implementing an initiative. Feedback from teachers, principals, and district leaders has shaped the revisions and updates encompassed in this manual, and we are grateful for your tireless work and problem-solving on behalf of all students, particularly students who require additional supports” (RTI<sup>2</sup> Manual, 2017, Forward). There is no evidence that the TDOE is done designing.

### **Discussion and Conclusion**

In this Tennessee case study, we see a breakdown in the tidy distinctions between design and implementation that dominate the education policy literature. Focusing on a process of designing, I describe the ways in which Tennessee’s RTI<sup>2</sup> came into being, changed over time, and responded to political and organizational circumstances. In doing so, I attend to changes in

both the RTI<sup>2</sup> framework and the other supporting instruments described in Chapter Three, and I argue that the story of Tennessee's design for RTI<sup>2</sup> is one of both distribution and evolution: the distribution of policy design over a network of resources (people, ideas, materials, and interactions), and the evolution of the policy design over time.

RTI<sup>2</sup> came into being not all at once and not in a single document. As the findings make clear, there was not a discrete moment in which RTI<sup>2</sup> became a policy. Rather, there was a call for a statewide RTI model that emerged from a constellation of events and issues. Early efforts to design this policy and gather the necessary political support to create one of its essential instruments – the special education mandate – included multiple meetings with various interest groups and more than one version of the proposal for the State Board of Education. This early designing relied upon existing RTI models that were already in place in many Tennessee schools as well as research, the opinions of experts, and other RTI models used across the country.

When the State Board of Education approved the mandate requiring districts to use an RTI model to identify students with specific learning disabilities, the RTI<sup>2</sup> policy existed across a few draft documents, a handful of presentations and meetings, and the three-page mandate. As such, the policy, which was already the product of continuous redesign, comprised little more than some initial guiding principles and procedures for identifying struggling students early and supporting them in small group instruction prior to special education referral. In the months following the Board's vote, the TDOE proceeded to elaborate and specify procedures within the framework, finalize the RTI<sup>2</sup> Manual and Implementation Guide, and develop presentations to share the emerging framework with others.

The TDOE's release of these materials and their interactions with schools and districts in relation to RTI<sup>2</sup> led to further redesign efforts. Schools' and districts' early interpretations of and

reactions to the emerging RTI<sup>2</sup> design prompted the TDOE to make a set of changes and elaborations to the policy. The TDOE revised both the framework itself and the instruments supporting its implementation in order to clarify their message, appease their constituents, and address problems that the RTI<sup>2</sup> framework encountered in practice. These revisions to the policy also had the effect of increasing RTI<sup>2</sup>'s existing network of resources. As my study drew to a close, Tennessee was still wrestling with unanswered questions about the RTI<sup>2</sup> policy and still engaged in a process of designing.

The evolution of RTI<sup>2</sup>'s design can be understood as one way that Tennessee tried to manage the collision of their ambitious policy aims and the weak capabilities of their environment. This evolution of design helps to illustrate one feature of the TDOE's design process, which included efforts to respond to the "responses to policy." One might expect that policymakers need to be responsive to the ways in which implementers react to policy, especially in a political system with weak centralization and lots of local influence. Accounts of policy feedback illustrate nicely the ways in which responses to policy shape future policies over longer periods of times (see McDonnell, 2013). This account, however, shows how a policy feedback framework can operate on a much shorter timescale and also suggests that the nature of that responsiveness to feedback depends on the ability and willingness of designers at the state level to position themselves to hear and understand those responses, not to mention their willingness to respond and the availability of tools with which to do so. In this case, Tennessee was actively engaged (at least at the district level) with people trying to implement and make sense of RTI<sup>2</sup>, and this made them more sensitive to the problems and more accountable for finding solutions.

In addition, while some of the revisions based on feedback might be seen as concessions to appease school leaders and lessen political strain, other revisions to the policy occurred because interaction with practice had real implications that the designers acknowledged and with which they needed to wrestle. I would also argue that because they worked so hard to articulate a detailed vision of the policy up front, schools and school leaders had a clearer vision of what was expected but they also confronted more areas of tension and poor fit with how to put such a specified vision into practice with the resources on hand.

Over the course of RTI<sup>2</sup>'s evolution, the TDOE's efforts at design and redesign have played out within a set of circumstances that constrained design and redesign, with the ambition-capability problem being a leading circumstance. In this environment elements of RTI<sup>2</sup> have persisted while other aspects of the policy have changed. Since the *RTI<sup>2</sup> Manual and Implementation Guide* were released, the bulk of the RTI<sup>2</sup> framework has remained intact, particularly the guiding principles and ideas about identifying student deficits early and remediating those deficits in smaller group instruction. The majority of changes to the RTI<sup>2</sup> framework have come in the loosening or refining of previously specified procedures as well as a shift away from the identification of weak Tier I instruction through the shift from national to more local norms. Various designers at the TDOE have felt more strongly about certain procedures than others, and what procedures are core to the framework is still an interesting question, but, generally speaking, as time has passed the TDOE has tried to emphasize principles that should guide local decision-making over procedures that must be met. In addition, changes have been made to expand and develop instruments to support RTI<sup>2</sup>'s implementation, and the TDOE staff has made a concerted effort to better coordinate their work and position themselves alongside practitioners as learners as they put RTI<sup>2</sup> into practice around the state.

Finally, it is worth noting that while “learning in the doing” is an appealing and important idea, the predictability of some of the early problems RTI<sup>2</sup> faced in Tennessee points, once again, to the collision of ambitious aims and weak capabilities. The TDOE acknowledged early on that improving Tier I instruction was the “million dollar question,” and yet they remained optimistic about their ability to support improvement, schools’ ability to improve, and the power of the RTI<sup>2</sup> framework to support these efforts absent much leverage on instruction directly. This was due, at least in part, to some of the immediate benefits RTI<sup>2</sup> provided. Putting aside Tier I instruction temporarily, RTI<sup>2</sup> still allowed the TDOE to support schools in directing additional resources to “struggling students.” For many in the TDOE, the improvement of instruction in this model was a longer-term goal that would be figured out over time.

This account has important implications for those studying policy designs and those endeavoring to design policy. In the case of the former, this study suggests that to make sense of a policy design requires more than individual policy documents collected at a single point in time. In the case of the latter, conceiving of the design process in this way may allow designers to be more strategic about their opportunities to learn and to improve upon their designs, and perhaps encourage them to consider different approaches to the initial stages of policy design.

## References

- Bardach, E. (1977). *The Implementation Game: What Happens After a Bill Becomes a Law*. Cambridge, MA: MIT Press.
- Berkeley, S., Bender, W. N., Peaster, L. G., & Saunders, L. (2009). Implementation of Response to Intervention A Snapshot of Progress. *Journal of Learning Disabilities*, 42(1), 85–95.
- Berman, P., & McLaughlin, M. W. (1977). *Federal Programs Supporting Educational Change*. Santa Monica, CA: RAND.
- Bobrow, D. B. (2006). Policy design: Ubiquitous, necessary and difficult. In B Guy Peters & Jon Pierre (Eds.), *Handbook of public policy* (pp. 75–96). Thousand Oaks, CA: SAGE.
- Cobb, P., & Jackson, K. (2012). Analyzing educational policies: A learning design perspective. *Journal of the Learning Sciences*, 21(4), 487–521.
- Coburn, C. E. (2001). Collective Sensemaking about Reading: How Teachers Mediate Reading Policy in Their Professional Communities. *Educational Evaluation and Policy Analysis*, 23(2), 145–170.
- Coburn, C., & Stein, M. K. (2006). Communities of practice theory and the role of teacher professional community in policy implementation. In M. I. Honig (Ed.), *New directions in education policy implementation: Confronting complexity* (pp. 25–46). Albany: State University of New York Press.
- Cohen, D. K. (1990). A Revolution in One Classroom: The Case of Mrs. Oublier. *Educational Evaluation and Policy Analysis*, 12(3), 311–329.
- Cohen, D. K., & Barnes, C. A. (1993a). Conclusion: A New Pedagogy for Policy? In D. K. Cohen, M. W. McLaughlin, & J. E. Talbert (Eds.), *Teaching for Understanding: Challenges for Policy and Practice* (pp. 240–275). San Fransisco, CA: Jossey-Bass.
- Cohen, D. K., & Barnes, C. A. (1993b). Pedagogy and Policy. In D. K. Cohen, M. W. McLaughlin, & J. E. Talbert (Eds.), *Teaching for Understanding: Challenges for Policy and Practice* (pp. 207–239). San Fransisco, CA: Jossey-Bass.
- Cohen, David K., & Hill, Heather C. (2001). *Learning Policy: When State Education Reform Works*. New Haven, CT: Yale University Press.
- Cohen, D. K., & Moffitt, S. L. (2009). *The ordeal of equality: Did federal regulation fix the schools?* Cambridge, MA: Harvard University Press.
- Cohen, D. K., Moffitt, S. L., & Goldin, S. (2007). Policy and practice: The dilemma. *American Journal of Education*, 113(4), 515–548.
- Cohen, D. K., Peurach, D. J., Glazer, J. L., Gates, K. E., & Goldin, S. (2013). *Improvement by Design: The Promise of Better Schools*. Chicago: University of Chicago Press.

- Corbin, J., & Strauss, A. (2007). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. SAGE.
- Czarniawska, B. (2008). *A Theory of Organizing*. Northampton, MA: Edward Elgar Pub.
- Elmore, R. F. (1979). Backward mapping: Implementation research and policy decisions. *Political Science Quarterly*, 94(4), 601–616.
- Elmore, R. (1996). Getting to Scale with Good Educational Practice. *Harvard Educational Review*, 66(1), 1–27.
- Honig, M. I. (2006). Complexity and policy implementation: Challenges and opportunities for the field. In M. I. Honig (Ed.), *New directions in education policy implementation: Confronting complexity* (pp. 1–24). Albany: State University of New York Press.
- Howlett, M., & Lejano, R. P. (2013). Tales From the Crypt: The Rise and Fall (and Rebirth?) of Policy Design. *Administration & Society*, 45(3), 357–381.
- Jennings, N. E. (1996). *Interpreting Policy in Real Classrooms: Case Studies of State Reform and Teacher Practice*. Columbia University: Teachers College Press.
- Lin, A. C. (2002). *Reform in the Making: The Implementation of Social Policy in Prison*. Princeton, N.J.: Princeton University Press.
- May, P. J. (2003). Policy design and implementation. In B. G. Peters & J. Pierre (Eds.), *Handbook of public administration* (pp. 223–233). Beverly Hills: SAGE.
- McDonnell, L. M. (2013). Educational Accountability and Policy Feedback. *Educational Policy*, 27(2), 170–189.
- McDonnell, L. M., & Elmore, R. F. (1987). Getting the Job Done: Alternative Policy Instruments. *Educational Evaluation and Policy Analysis*, 9(2), 133–152.
- McLaughlin, M. W. (1990). The Rand Change Agent Study Revisited: Macro Perspectives and Micro Realities. *Educational Researcher*, 19(9), 11–16.
- Miles, M. B., & Huberman, A. M. (1994). *Qualitative Data Analysis: An Expanded Sourcebook*. SAGE.
- Odden, A. (1991). *Education Policy Implementation*. SUNY Press.
- Penuel, W. R., Frank, K. A., & Krause, A. (2006). The Distribution of Resources and Expertise and the Implementation of Schoolwide Reform Initiatives. In *Proceedings of the 7th International Conference on Learning Sciences* (pp. 522–528). Bloomington, Indiana: International Society of the Learning Sciences.
- Peurach, D. (2011). *Seeing Complexity in Public Education: Problems, Possibilities, and Success for All*. Oxford ; New York: Oxford University Press.

- Pressman, J. L., & Wildavsky, A. B. (1984). *Implementation: How Great Expectations in Washington Are Dashed in Oakland* (3rd ed.). Berkeley: University of California Press.
- Rowan, Brian P., Correnti, Richard J., Miller, Robert J., & Camburn, Eric M. (2009). School Improvement by Design: Lessons From a Study of Comprehensive School Reform Programs. In Schnieder, B. & Sykes, G. (Eds.), *Handbook of Education Policy Research*. London: Taylor & Francis.
- Sabatier, P., & Mazmanian, D. (1979). The Conditions of Effective Implementation: A Guide to Accomplishing Policy Objectives. *Policy Analysis*, 5(4), 481–504.
- Spillane, J. P. (2000). Cognition and Policy Implementation: District Policymakers and the Reform of Mathematics Education. *Cognition and Instruction*, 18(2), 141–179.
- Spillane, J. P., & Jennings, N. E. (1997). Aligned Instructional Policy and Ambitious Pedagogy: Exploring Instructional Reform From the Classroom Perspective. *Teachers College Record*, 98(3), 449–81.
- Spillane, J. P., Reiser, B. J., & Gomez, L. M. (2006). Policy implementation and cognition: The role of human, social, and distributed cognition in framing policy implementation. In M. I. Honig (Ed.), *New directions in education policy implementation: Confronting complexity* (pp. 47–64). Albany: State University of New York Press.
- Spillane, J. P., & Thompson, C. L. (1997). Reconstructing Conceptions of Local Capacity: The Local Education Agency's Capacity for Ambitious Instructional Reform. *Educational Evaluation and Policy Analysis*, 19(2), 185–203.
- Weatherley, R., & Lipsky, M. (1977). Street-level bureaucrats and institutional innovation: Implementing special-education reform. *Harvard Educational Review*, 47(2), 171–197.
- Weick, K. E. (1979). *The Social Psychology of Organizing* (2nd edition). New York: McGraw-Hill.
- Weiss, J. A. (1990). Ideas and inducements in mental health policy. *Journal of Policy Analysis and Management*, 9(2), 178–200.
- Weiss, J. A., & Gruber, J. E. (1984). Using knowledge for control in fragmented policy arenas. *Journal of Policy Analysis and Management*, 3(2), 225–247.
- Weiss, J. A., & Tschirhart, M. (1994). Public information campaigns as policy instruments. *Journal of Policy Analysis and Management*, 13(1), 82–119.
- Zirkel, P., & Thomas, L. (2010). State Laws for RTI: An Updated Snapshot. *Teaching Exceptional Children*, 42(3), 5

## **CHAPTER FIVE**

### **CONCLUSION**

In 1975 Congress passed the Education for All Handicapped Children Act (PL 94-142), later renamed the Individuals with Disabilities Education Act (IDEA) in 1990. The Act begins with a statement of findings and purpose. The statement of purpose reads:

It is the purpose of this Act to assure that all handicapped children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children (PL 94-142, 1975, Sec. 601, C).

These were ambitious aims and reflected growing public support for the rights of people with disabilities as well as strong ideological beliefs about the power of schools. These aims were particularly ambitious in light of the significant problems that schools would need to address if they were going live up to these aims. These problems included exclusionary practices related to particular types of disabilities, the misidentification and overidentification of poor and minority students, and the inappropriate and inadequate instruction provided to many special education students, often in separate, self-contained classrooms (Children's Defense Fund, 1974; Dunn, 1968).

Congress called many of these problems out in the Act's statement of findings, which included the following:

- (1) there are more than eight million handicapped children in the United States today;
- (2) the special educational needs of such children are not being fully met;
- (3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;
- (4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;
- (5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;
- (6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense (PL 94-142, 1975, Sec. 601, B)

These stated problems were just the tip of the iceberg when it came to the problems that Congress would contend with while crafting legislation to achieve the ambitious aims they had set for PL 94-142. In addition to and contributing to these stated problems was the limited centralized control and authority of government in the United States and the weak and varied knowledge and practice base for educating all students. These problems manifested themselves in a variety of ways. For example, Congress had limited means by which to influence practice in schools and few tools with which to manage those efforts. Similarly, as they sought to improve the education of students in all disability categories, they faced the great variation in needs across categories as well as the variation in knowledge and skills required to teach and integrate students with various disabilities into schools. I describe these problems as weak capabilities and features of the environment.

As Congress sought to establish basic civil rights for students with disabilities by assuring that all students with disabilities had access to a free appropriate public education, they engaged in a distinctive type of problem solving. On one level, Congress sought ambitious improvements to the education of millions of students with disabilities despite the weak capabilities of governments and the varied knowledge and practice base for educating all

students. On another level, Congress sought to address what had come to be seen as a set of fundamental social problems (regarding the identification and treatment of students with disabilities) while contending with the consequences of past actions and inactions (on the part of the government and school systems). The solution that Congress devised was the Individualized Education Program (IEP), which became the primary instrument of PL 94-142 and defined the free appropriate public education called for in the Act. The IEP reflected the ambitious aims and weak capabilities that it was created to manage, and it drew upon existing state models and judicial rulings while breaking new ground for Federal education policy and trying to address social inequalities. Chapter Two describes significant influences on the IEP's design and the early implementation that followed.

As implementation of the IEP and PL 94-142 unfolded, an institutionally and organizationally distinct system of special education was created. Within this system, many of the problems that the IEP was designed to solve persisted. These problems included the misidentification and inappropriate education of special education students generally and the overidentification and differential treatment of poor and minority students in special education specifically. In addition, PL 94-142 and the IEP created new problems. For example, the method of identifying specific learning disabilities became known as the "wait to fail" model, in which schools would wait for the discrepancy between a student's performance and IQ to be large enough that he or she could receive special education services. Many of these problems were magnified by the growing numbers of students included in special education, particularly in categories like specific learning disabilities. At the same time, the education policy environment shifted, with an increasing focus on standards and student outcomes.

Because the federal government had taken responsibility for special education with PL 94-142, special education had become a federal responsibility. As convincing evidence of problems with PL 94-142 grew, so did pressure for federal action to solve the problems within the special education “system,” of which Washington was now a part. Hence, almost thirty years after the passage of PL 94-142, Congress introduced RTI in the reauthorization of IDEA in 2004. RTI was a new approach to many of the same problems that the IEP had originally tried to address. In particular, RTI was an effort to address issues of disproportionality and to improve instruction. In addition, RTI was a response to new issues created by PL 94-142 and the IEP, providing an alternative to the IQ discrepancy model for identifying students with specific learning disabilities and helping to bridge general and special education.

Unlike the IEP, which focused on individual special education students and their education programs, RTI focused on improving the instruction of all students and providing additional supports and interventions to small groups of “struggling students.” If the IEP was an effort to individualize instruction within our age-grade batch processing system of education, RTI was an effort to create and support smaller batches of “struggling students” within that same system. While there was not a single agreed upon model for RTI, in this approach, the category of specific learning disabilities was defined as a failure to respond to scientifically based interventions, and the use of universal screeners, progress monitors, and fidelity checks were meant to monitor instruction and student outcomes. States and localities were given a choice as to whether to implement this most recent federal special education instrument. If they opted to use RTI, they could choose from among many existing models or design their own model of RTI. Given the flexibility afforded states and localities with respect to RTI, Chapters Three and

Four look at the state of Tennessee's design of an RTI model and their process of designing that model, which they called Response to Instruction and Intervention (RTI<sup>2</sup>).

In the historical and theoretical origins of RTI models and in the story of Tennessee's RTI<sup>2</sup>, we again see the distinctive type of problem solving described above in connection with the IEP. Once more, Congress sought ambitious improvements to the education of millions of students despite the weak capabilities of governments and a varied knowledge and practice base for educating all students. And at the same time, Congress sought to address many of the same fundamental social problems it had tried to address with PL 94-142 while contending with the consequences of past actions and inactions, in this case including PL 94-142 and the myriad of state and local efforts to implement the law and its primary policy instrument, the IEP. As I suggest in the introduction (Chapter One), this type of problem solving is common to major policy reforms in education and is distinct from more limited problem solving efforts that only attempt to improve upon and fix previous policy efforts. Problem solving efforts that attempt to revise existing policies have also been part of the story of special education reform, of course. Changes to the IEP, for example, have been taken up in the revisions and reauthorizations of both PL 94-142 and IDEA. These changes have included significant attention to the creation of transition plans and post-secondary goals, which are now required components of all IEPs for special education students 16 and older. Similarly, in the reauthorization of IDEA, the introduction of RTI was an effort to improve upon the existing system by, among other things, providing an alternative method for identifying students with specific learning disabilities and allowing special education dollars to be spent on early intervening services for students not identified for special education.

While it built out from the then-current situation and tried to remedy the unintended consequences of PL 94-142 and the IEP, however, RTI was also a new approach within special education to think about and try to address many of the same fundamental problems that inspired PL 94-142 and the creation of the IEP. In this way, the development of RTI represented a hybridization of Lindholm's (1959) "rational-comprehensive" and "successive limited comparisons" methods by both starting anew and building out from the current situation. In addition, the type of problem solving that led to RTI has similarities with both Bereiter and Scardamalia's (1993) "progressive problem solving" and Argyris and Schön's (1978) double-loop learning. In both cases, however, these scholars suggested that the problem-solving efforts they described resulted in progress and improvement. It is not clear that such claims are warranted with respect to the problem solving described in this dissertation, and there is certainly more we might need to know in order to make such a claim.

In trying to understand how policymakers generally, and Tennessee's policymakers in particular, managed the collision between ambitious aims and weak capability in the context of the IEP and RTI, this dissertation draws on the work of Cohen and Moffitt (2009), who argue that the gap between policy and practice can be managed with four types of actions and resources: aims, instruments, capability, and the environment. In using this analytic frame, I illustrate the ways in which central features of the environment shaped these special education reform efforts and how policymakers, in turn, endeavored to manage the policy-practice gap that they created. Their efforts came in the form of 1) procedures (found in both the IEP and RTI<sup>2</sup>) and broad guiding principles, 2) a range of other instruments to support implementation, and 3) a process of designing and redesigning as policies are put into practice.

Both the IEP and Tennessee's RTI<sup>2</sup> comprised procedures articulated by policymakers to change the way that educators and schools work with children. These procedures contained details about various peoples' roles and responsibilities, particular actions that must take place, and records that must be created and maintained. Along with these procedures, policymakers articulated important guiding principles that were supposed to inform how these procedures were carried out. For example, the IEP needed to maximize the least restrictive environment for each child in special education, while RTI<sup>2</sup> emphasized prevention and early intervention for all struggling students. The IEP and RTI<sup>2</sup>, however, passed most of the substantive decisions on to those charged with putting these procedures into place because policymakers were not politically positioned to offer more substantive guidance, the environment was loaded with variation that made it hard to provide substantive guidance that would be useful to everyone, and, in light of the weak knowledge base regarding many substantive issues, there was not always clear guidance to be given. This delegation of the substantive decisions was further evidence of the ambition-capability gap and yet another way to manage weak capabilities through procedural recommendations.

My analysis of RTI<sup>2</sup> suggests that, in addition to specifying a framework for RTI<sup>2</sup>, policymakers in Tennessee created a set of other instruments to support its implementation. These instruments included a special education mandate; materials intended to provide information and resources for implementation; informational sessions, regional support, and technical assistance; and methods of gathering information about the implementation process. These instruments were all efforts on the part of the TDOE to manage the ambition-capability gap and marshal as much existing capability as possible in support of the numerous, broad, and ambitious aims they set for RTI<sup>2</sup>.

As they worked with local school systems to devise a viable version of RTI, policymakers and local educators in Tennessee had to cope with the gap between ambitious aims and weak capabilities. In the process they designed and redesigned what came to be RTI<sup>2</sup>. Through my analysis of the nature of policy design in the case of Tennessee's RTI<sup>2</sup>, we see that RTI<sup>2</sup> was not a single, complete, and unchanging policy, but that it evolved over time and was distributed across a network of people, ideas, materials, and interactions. In its evolution, RTI<sup>2</sup> underwent a process of continual design and redesign that included multiple, incomplete, and evolving ideas about RTI<sup>2</sup> that were negotiated and renegotiated over time and in response to practice. Within this continual process of design and redesign, policymakers refined and revised RTI<sup>2</sup> to respond to evidence regarding what local schools had the capabilities to do, as well as to lessen political strain arising from efforts to realize federal and state ambitions for RTI. State officials' interaction with practice had real implications for the original design.

In their process of design and redesign, policymakers at the TDOE revised both the framework for RTI<sup>2</sup> and the other policy instruments. In doing so, they loosened and refined previously specified procedures of the framework, shifted attention away from weak Tier I instruction through the introduction of local norms, and tried to better coordinate their efforts and position themselves alongside practitioners as learners as they put RTI<sup>2</sup> into practice around the state. The TDOE wanted to achieve the ambitious aims that they set for RTI<sup>2</sup> and tried hard to adapt and revise their efforts as they worked with schools and districts to implement RTI<sup>2</sup>. At the same time, the TDOE depended on localities and had to accommodate what local educators could do and their own limitations at the state level.

Looking closely at RTI models generally, and Tennessee's RTI<sup>2</sup> specifically, brings to light two predicaments that continue to plague policymakers' efforts to support schools in

addressing the needs of all students. The first of these predicaments is that RTI may inadvertently perpetuate some of the problems it seeks to address. The historical analysis of RTI's origins reveals that some early models of RTI were developed in an effort to operationalize a set of recommendations geared toward addressing issues of disproportionality. The IEP first tried to address issues of disproportionality by introducing due process procedures, including parents and guardians in the IEP process, and requiring evaluations to use multiple, non-discriminatory assessments to determine a disability diagnosis. Issues of disproportionality, however, continued under the IEP and special education only expanded. In 1982, the National Research Council issued a major report that recast these issues of disproportionality in terms of more general issues of quality and validity (Heller, Holtzman, & Messick, 1982).

In its deliberations the panel came to view the statistics of disproportionality as symptomatic of a deeper educational problem: The key issue is not disproportionality itself, but rather the two issues of the validity of referral and assessment procedures and of the quality of instruction received, whether in the regular classroom or in special education settings" (Messick, 1984, p. 4).

This report, and Lynn S. Fuchs' (1995) (also see Fuchs & Fuchs, 1998 and Vaughn & Fuchs, 2003) efforts to operationalize a model in response (what has largely become credited as an early model for RTI), reflected the ways in which the field was now trying to take on issues of disproportionality without naming those efforts as such.

As part of this effort, RTI introduced a set of assessments and interventions into general education that were intended to reduce the number of students identified for special education due to poor instruction and to redefine these disability categories in terms of a failure to respond to interventions. RTI's and RTI<sup>2</sup>'s approaches, however, run the risk of relying on the same White middle-class normative frames that led to the disproportionate placement of poor and

minority children in special education prior to RTI (O'Connor & Fernandez, 2006).<sup>1</sup> There is reason to be concerned that RTI models, particularly those focused on the identification of skill deficits and scaled up in grades K-12 for a range of academic and behavioral issues, will perpetuate these same normative frames. In doing so, the models can locate these deficits within students and fail to support schools and educators to see the assets that all students bring to school. While RTI and RTI<sup>2</sup> may technically reduce issues of disproportionality in special education, it is worth exploring whether RTI models are simply reproducing these same problems within the tiers of intervention. In recasting issues of disproportionality exclusively in terms of quality and validity, both researchers and practitioners risk losing sight of the ways in which racism and oppression play out in our schools and our general and special education practices. Failing to address these issues head-on will prevent us from meeting the needs of all students.

The second predicament arises from the tension between ambitious aims and weak capabilities. Fundamentally, RTI and RTI<sup>2</sup> rely on the improvement of instruction for all students without having much capacity to improve it. This predicament is, of course, not unique to RTI. The IEP tried to gain leverage on instruction, at least for individual special education students, through personalized learning goals and annual meetings to assess progress toward those goals.

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<sup>1</sup> O'Connor and Fernandez (2006) write about a Theory of Compromised Human Development (TCHD), which they argue “oversimplifies the concept of ‘development’ and consequently under-analyzes how the culture and organization of schools situates minority youths as academically and behaviorally deficient and places them at risk for special education placement” (p. 6). They write “that TCHD conceives of development in universalistic terms. Instead of recognizing expressions of development as culturally specific, it situates middle-class (White) children as the unmarked norm against which the development of “other” children is evaluated. In under-analyzing how this referent is articulated in the culture and organization of schools and how it increases the likelihood that minority children will be evaluated as academically and behaviorally deficient and in need of special services, TCHD fails to recognize the extent to which schools socially construct disabilities” (p. 6).

Trying to prevent the identification of functional learning disabilities that result from poor instruction, RTI was introduced to ensure that students were only identified with specific learning disabilities after they had failed to respond to quality instruction and interventions. There is reason to be concerned, however, that RTI, like the IEP, has limited ability to affect the quality of instruction.

The lack of leverage RTI has on instruction, particularly Tier I instruction, can be hard to spot because there is not just one model for RTI. Most models for RTI occur entirely within general education and provide interventions to a smaller percentage of “struggling students” within tiers of support. The number of tiers vary across models, and in some models the final tier is considered special education; many models, however, including Tennessee’s RTI<sup>2</sup>, only consider special education referral after students “fail to respond” to all of the tiers of intervention. Because the tiers of support occur within general education and require a great deal of reorganization of people and resources, it can appear as if RTI has significant leverage on instruction. In Tennessee, however, the instruction that occurred within each of the tiers of RTI<sup>2</sup> was not specified by the TDOE much beyond the amount of instructional time, student teacher ratios, and more generic terms like “student-centered” or “research-based.” These specifications are unlikely to lead to the kinds of improvements in instruction necessary to ensure that a specific learning disability diagnosis is not merely the product of poor instruction. This example from RTI<sup>2</sup> raises important questions for other RTI models. In particular, further research should explore the extent to which RTI models do or do not support instructional change across all of the tiers.

One way that RTI models are supposed to demonstrate that a specific learning disability diagnosis is not the product of poor instruction is by proving that instruction in the tiers is

meeting the needs of the majority of students. This is accomplished through assessments (universal screeners and progress monitors). When assessments indicate that a majority of students are not benefiting from instruction, or when fidelity checks suggest that instruction is not being carried out in the ways it should be, educators and administrators are supposed to take steps to improve that instruction. Thus identification of instruction in need of improvement is the primary mechanism for improving instruction within RTI. This theory for instructional improvement is reminiscent of other accountability reforms that gained national attention in the early 2000s. Unfortunately, however, this approach has proven to be insufficient when it comes to improving instruction on a large scale. In addition, as my study in Tennessee revealed, this lever on instruction in the RTI<sup>2</sup> framework was quickly minimized as the state revised the framework to allow schools and districts to shift from national to local norms for identifying students for interventions. Studies of other RTI models should attend to the ways in which those models provide or build capability to improve instruction, particularly since the success of these models relies on high quality instruction.

The stories of the IEP and RTI, these two federal special education instruments created almost thirty years apart, and Tennessee's recent efforts to craft a statewide RTI<sup>2</sup> policy illustrate some of the very real challenges policymakers face when trying to set ambitious aims for schools while also contending with the weak capabilities of their environment. There is no doubt that federal and state action on special education has brought progress, some of it in the form of better services and more inclusion for students with disabilities. Other progress has come in the form of more visibility for problems, due to more governmental involvement and responsibility. Still more progress has come through learning about how actions to solve problems can cause

other problems – in this case, how weak instruction in schools can lead to the misdiagnosis of a learning disability when the problem is, in fact, weak instruction.

The increased attention to the misidentification of students with specific learning disabilities was one of the significant consequences of the collision between ambitious policy aims and weak capabilities in schools and governments. RTI was an effort to address the problems arising from that collision. Yet, as is often the case with the type of problem solving that I have been discussing, the resulting solutions can face the same ambition-capabilities gap. This was true in the case of Tennessee’s RTI<sup>2</sup>. It is not difficult to imagine that better instruction in literacy and mathematics, particularly in the early elementary grades, would support all students and could reduce the misdiagnosis of learning disabilities that result from poor instruction both in Tennessee and nationwide. But what would enable this improvement seems to go beyond what RTI models typically offer. In addition, better instruction for all will not occur if attention is not paid to the White middle-class normative frames that lead poor and minority students to be disproportionately identified as “struggling” or having learning disabilities. Moreover, it is useful to consider what other frames shape instruction in schools and how we can recognize and value the individual strengths that all students bring to school and use those strengths to support students’ growth.

## References

- Argyris, C., & Schön, D. A. (1978). *Organizational Learning: A Theory of Action Perspective*. Reading, Mass: Addison-Wesley.
- Bereiter, C., & Scardamalia, M. (1993). *Surpassing Ourselves: An Inquiry Into the Nature and Implications of Expertise*. Chicago: Open Court Publishing Company.
- Children's Defense Fund. (1974). *Children out of school in America: A report*. Cambridge, MA: Children's Defense Fund.
- Cohen, D. K., & Moffitt, S. L. (2009). *The ordeal of equality: Did federal regulation fix the schools?* Cambridge, MA: Harvard University Press
- Dunn, L. M. (1968). Special education for the mildly retarded: Is much of it justifiable? *Exceptional Children*, 35(1), 5–22.
- Fuchs, L. S., & Fuchs, D. (1998). Treatment validity: A unifying concept for reconceptualizing the identification of learning disabilities. *Learning Disabilities Research & Practice*, 13(4), 204–219.
- Heller, K. A., Holtzman, W. H., & Messick, S. (Eds.). (1982). *Placing Children in Special Education : A Strategy for Equity*. Washington, DC: National Academy Press.
- Lindblom, C. E. (1959). The Science of "Muddling Through." *Public Administration Review*, 19(2), 79–88.
- Messick, S. (1984). Assessment in context: Appraising student performance in relation to instructional quality. *Educational Researcher*, 13(3), 3–8.
- O'Connor, C., & Fernandez, S. D. (2006). Race, class, and disproportionality: Reevaluating the relationship between poverty and special education placement. *Educational Researcher*, 35(6), 6–11
- Public Law 94-142, Education for all handicapped children act, Nov 29, 1975.
- Vaughn, S., & Fuchs, L. S. (2003). Redefining Learning Disabilities as Inadequate Response to Instruction: The Promise and Potential Problems. *Learning Disabilities Research & Practice*, 18(3), 137–146.