Pursuing the Common Core: The Participation of Students with Disabilities in the Next Generation of Education Reform

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All considerations of the next generation of education reform must address the dual goals of insuring public accountability for all schools to educate all students, as well as insuring every child’s individual opportunity to learn meaningful content. The impending reauthorizations of the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA) present the opportunity to reassess the role of these laws in the improvement of meaningful opportunity to learn for all students. The current version of the ESEA, as revised by the No Child Left Behind Act (NCLB), has had considerable impact in improving the education of many students with disabilities. A major benefit of NCLB has been the attention focused on improving the performance of at-risk subgroups of students. On the other hand, the education and assessment of students with disabilities (SWD) and other special subgroups of students also present the greatest challenge to future educational improvement. The disaggregated test scores now being reported for SWD provide glaring evidence that there is still far to go in educating these students effectively to high standards to prepare them for higher education and the workplace.

Common core standards can be a desirable development in the evolution of standards-based education reform. The willingness of 48 states to be involved in the initiative heralds a potential opportunity to promote a high quality education for all children, everywhere in the nation. Yet the common core standards present their own potential challenges. The impact of content standards cannot be assessed without consideration of the assessment systems and performance expectations that each state would use to influence educational practice and to determine proficiency.

For SWD, the common core standards afford an illustration of the difficulties associated with fair inclusion. For example, the September, 2009, draft of the common core standards includes some examples of writing proficiency. Included in the description of college and career readiness are “controlling errors in spelling” and “avoiding wordiness”. At first glance, both seem desirable and essential. Yet, an otherwise successful student with a compulsive disorder could be utterly incapable of “avoiding wordiness”. A student with dyslexia, a language-based reading disorder, in which a student has trouble understanding written words or decoding, might have adequate comprehension of written materials but great difficulty spelling. A student with
a physical or developmental disability that affects the physical ability to write or use a keyboard, might be unable to perform successfully on a written or computer-administered mathematics or a language arts exam.

Consideration of the impact of the ESEA assessment and accountability system should not occur without consideration of the state and local practices associated with NCLB. For example, while NCLB does not require it, NCLB-mandated tests are often used also as exit exams for high school graduation in many states and affect over 70% of all high school students. For most students, exit tests tend to encourage more content coverage, but may dilute the quality of content covered; exit tests also tend to correlate with higher dropout rates and clearly have an increasing impact for students with disabilities. As of 2004, fourteen states required special education students to pass high-stakes tests in order to earn regular high school diplomas, while 24 states allowed students with disabilities to earn diplomas even if they didn’t pass the tests. Many states or local districts award certificates or other types of differential documents to students who participate in alternate tests.

Any legally-mandated education reform will have both intended and unanticipated consequences. Considering both types of effects is useful for conceptualizing appropriate theories of action for formulating new legislation. Only recently has evidence begun to emerge on the impact on educational opportunities for students with disabilities as a result of participating in contemporary forms of large-scale assessments. Assessment requirements have expanded teachers’ perceptions of what students with disabilities can and should learn, increased expectations for SWD, and exposed some special education teachers for students with significant disabilities to academic curriculum standards for the first time. At the same time, there are now increasing reports of some of the unintended negative consequences associated with disaggregated data on students with disabilities in high-stakes testing. Some otherwise high-performing schools are now identified as low-performing solely on the basis of the scores from students with disabilities. The pressure to move students to a status where their performance won’t pull down the whole school on AYP indicators is increasing. More pressure can be expected as a result of implementation of the Race to the Top Initiatives promoted by the USDOE, particularly the use of student data to make judgments about educators.

Federal laws governing students with disabilities. Any consideration of the revision of ESEA must take into account the inextricable interrelationship between ESEA and the other relevant federal laws concerning the education of students with disabilities, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. All SWD who need special education are protected by the IDEA as well as by Section 504 and the ADA. There are a small number of SWD who do not need special education who are not covered by IDEA, but are protected by Section 504 and ADA.

IDEA requires appropriate education for SWD in need of special education programs and services. Section 504 of the Rehabilitation Act (1973) and the Americans with Disabilities Act (ADA) (1990) and their implementing regulations bar
discrimination on the basis of disability and require the provision of appropriate education and reasonable accommodations for SWD participating in testing programs. ADA and its regulations include requirements that credentialing tests in secondary education be accessible for SWD. The IDEA requires the participation of students with disabilities in state and district-wide assessments, with appropriate accommodations where necessary. Similarly, Title II of the ADA and Section 504 require states and school districts to insure that discrimination on the basis of actual or perceived disability status does not occur. In addition, these two statues require that schools provide SWD with reasonable accommodations.

The IDEA requires that every student with a disability who needs special education must receive an appropriate education, set forth in a written individualized education program (IEP) formulated for in consultation between educators and parents. The IEP sets out diagnostic and performance information on the student and then describes the program, services, settings, goals, and regular review plans for the education of the student, including descriptions of how the student will participate in state or local assessment programs. For students who have disabilities that require supportive services or accommodations rather than special education services, the provisions of the implementing regulations under Section 504 and ADA require that they receive an appropriate education. As a result, many school districts write “504 plans” for these students, which can be somewhat analogous to the IEP.

Who are SWD? There has been almost a doubling of the proportion of U.S. schoolchildren served under IDEA since data collection began in 1976. The number and percentage of children served increased every year up to 2004-5. In 2005-6, 57% of these students graduated from high school with a regular diploma (62% of students with disabilities did so, as did 72% of students with a visual impairment). We don’t yet have conclusion data on changes in SWD classifications as a result of full implementation of NCLB.

A student labeled as SWD could be any student with problems at school. (In fact, SWD are twice as likely to drop out of school as their age peers, particularly in urban settings.) Disability classification is still largely a social and cultural phenomenon more than a matter of science. Some social scientists have long argued schools in this country rely on disability classifications to identify children who don’t perform well in school, particularly on tests or in comportment. There is much variability in classification, and its consequences, and often a fine line separates those classified with a disability from other students, particularly when the classification is one as subjective as specific learning disability. Referral for evaluation for SLD can occur because of such factors as teacher incapacity, the pressures imposed by external accountability testing, or manipulation by either parents or educators. Over- or under-representation of cultural minority and English language learner (ELL) students often results.

The consequences of the classification practices for SWD are particularly striking given that the overwhelming majority of students served under IDEA (close to 50%) are those labeled with the most subjective of classifications: specific learning disabilities
(SLD). And, as testimony to either the wide range of capabilities covered by federal laws impacting SWD or the effectiveness of the systems for educating these students (or both), the NCES reported in 2003-4 that 11.3% of the students in higher education reported they had some type of disability.

There are no clear data on how many SWD are in private schools and, in particular, how many students “escaped” public school systems in response to NCLB implementation. There are a considerable number students with disabilities placed in private schools in some states either under the IDEA mandates for public schools to provide a free and appropriate education to SWD or based upon parental choice to pay for services on their own or explicitly to opt out of public school high school graduation requirements. Other students with disabilities are in juvenile justice facilities. In total, about four percent of IDEA students nationwide are not educated in public school settings and most states don’t have accountability data for these students.

An unanticipated consequence of the AYP rules of NCLB and the more recent revisions of the USDOE regulations in 2008 may be that schools, to show AYP, may inappropriately classify students into special education to ease school or educator accountability pressures. This problem relates also to the so-called “the N size” issue, in which states have been allowed to exclude many SWD from portions of the accountability system because there are too few of them in any building to be taken into account. There are certainly privacy and statistical challenges associated with such reporting, but the variability in allowed N size across states and the large N size in some states undercuts the credibility of AYP in some settings and lessen the incentives to hold these students to higher standards.

Relevant technical and professional standards. Any revision of ESEA should continue and increase compliance with the current statutory requirement for adherence to professional and technical standards. There are several sets of professional standards that are applicable concerning testing, program evaluation, evaluation of personnel, and evaluation of students. The most immediately relevant are the Standards on Educational and Psychological Testing (1999). There are several core issues reflected in all of the professional/technical standards: (1) the need to develop multiple measures of key outcomes, ideally using multiple assessment formats (not multiple administrations of the same test); (2) the need to validate these assessments for specific uses; and (3) the need to consider the populations being tested and any associated validity and fairness issues. Current statutory language incorporates many of these principles, but more detailed consideration of these technical issues is warranted.

Validity is the most critical technical factor in assessment programs. The validation of test use for high-stakes decisions must, according to the Test Standards, include analysis of empirical evidence of the intended and unintended consequences of test use. The validity of inferences from test scores on all versions of tests, accommodated tests, and alternate assessments needs more attention as an issue of research and public reporting for policymakers and families. Part of the difficulty in the testing of SWD has been the challenge of understanding the underlying constructs of
content and performance standards. This is a particular issue in reading and language arts, where there is often a failure to define with clarity the language arts constructs being utilized in, for example, reading comprehension.

Anecdotal reports indicate that the peer review process for state plans required under NCLB has had a salutary impact on testing practices. However, the “negotiated” understandings between USDOE and individual states represent considerable variation. The results of peer reviews of state programs, as well as the final agreements between the USDOE and each state need to be more transparent and research on the consequences of these actions needs to be ensured.

Testing practices for SWD. There must be better, more valid and reliable evidence that an SWD student is low performing as a result of the disability rather than a failure to provide appropriate instruction (and identification of learning needs).

Over time, the participation of SWD in standards-based assessment programs has evolved to include several forms. Many SWD participate fully in assessments, some receive accommodations in the administration or format of an assessment, and some participate in an alternate assessment. As the National Center on Educational Outcomes notes, “Alternate assessments provide a mechanism for students with the most significant cognitive disabilities, and for other students with disabilities who may need alternate ways to access assessments, to be included in an educational accountability system.” There are three variations here: alternate assessments based on alternate achievement standards (AA-AAS); alternate assessment based on modified academic achievement standards (AA-MAS); and alternate assessments based on grade-level achievement standards (AA-GLAS).

Accommodated administrations give most students, parents, and educators a sense that testing is more fair and a better indicator of the knowledge and skills of SWD, although some SWD find accommodations demeaning and some nonaccommodated students feel accommodations afford an unfair advantage to SWD. Evidence is accumulating that the use of accommodations is increasing the participation of students with disabilities in both testing programs and educational experiences that focus on the content covered on tests. SWD who received accommodations in testing are more likely than they were in the past to receive a regular high school diploma as a result of participation in the tests.

States vary considerably in their determinations of which accommodations are acceptable, with some states allowing considerable local latitude on these decisions. Alternate assessments also vary considerably. The use of test alterations for students with disabilities should, according to the Test Standards, be subject to empirical study to assess the appropriateness of the changes to the test. To the extent there is flexibility to determine which accommodations to use, there is a threat to the validity and reliability of scores, as well as the validity of inferences from the scores. For all accommodations, the Test Standards require that validity considerations must focus clearly on the content, or constructs, a test seeks to measure. There is still limited evidence of the psychometric
quality of these alternate approaches (and 1999 Test Standards have limited discussion specific to these, although all the other provisions of the Standards are certainly applicable).

U.S. Department of Education has taken a series of steps to move back from full inclusion of all students with disabilities in ESEA initiatives, granting states the opportunities to limit the impact of SWD on the calculations of schools’ adequate yearly progress (AYP). The desirable outcome of using alternate assessments for SWD is that they are consistent with the individualization mandated for special education and the alignment of an assessment with the curricular opportunities afforded those students. On the other hand, some advocates for SWD argue that while the NCLB policy goal of educating all students to high standards has not been explicitly renounced, the USDOE 2008 revisions of the rules concerning the role of SWD in calculating AYP should be closely scrutinized for conflicts with the NCLB enabling legislation, as well as the nondiscrimination requirements of Section 504 and ADA.

Modified achievement standards (for the “2% students”) provides a pressure release valve for low performing schools in quest of AYP (and for high-performing schools for whom only a low-performing subgroup stands between the school and AYP). On the other hand, the 2% Rule lowers the bar for the expectations on what these students will be expected to know and be able to do. Advocates for SWD are concerned that the rule can lead to potential 504 and ADA violations when students who might be able to succeed are barred from access to full achievement opportunities. This group is also probably disproportionately composed of racial and ethnic minorities, leading to other potential Title VI, EEOA and 14th Amendment violations.

The importance and meaning of “multiple measures” is a critical issue in the implementation of the current version of NCLB. NCLB requires multiple measures of student achievement. The Test Standards also call for multiple measures to enhance technical quest for validity and reliability and to insure fundamental fairness for all students. In addition to being an issue of technical importance, this is also an issue of fairness for students. It is an issue of particular concern for SWD given the relatively new practices in accommodations and alternate assessment.

State variations in the use of test results. States currently vary in not only the content standards they use, the tests they employ, the scoring criteria and proficiency standards they set, but also in the decision rules they utilize to define participation and to compute the adequate yearly progress (AYP) data and to aggregate and disaggregate data for subgroups like disability required by NCLB. Common core standards won’t necessarily ameliorate these problems unless state’s assessment systems are appropriately reformulated.

States also vary in the use that make of NCLB-required tests for other purposes. Some states use NCLB tests to determine high school exit. Current and proposed uses of student test results for determining educator quality is another variation. The addition of these high stakes consequences to the assessment system create the need for higher levels
of adherence to the Test Standards and more mechanisms for insuring fair treatment for students.

The 2004 revision of IDEA calls for transition plans for adolescents to facilitate progression from K–12 schooling to higher education or the workplace. Neither the statute nor regulations address one concern of many families: it needs to be made clear when transition planning occurs that the form of assessment a student participates in can, in many states, restrict the nature of the graduation credential the student receives upon exiting high school. Students and their families should know this when they make decisions about the programs and testing in which a SWD will participate.

What the legal protections in the education of SWD might suggest for the rest of the student population. In many respects, many of the issues highlighted above will be the same, whether there are common core standards or not. And, given the very blurry line between classification as a SWD and not, there is much in common here between SWD and more typical students. In some ways, approaches to the education of students with disabilities afford new insights for the education of all children.

Currently being developed in the assessment of SWD are more approaches to universal design and accessible testing. These approaches, called for in the 2004 reauthorization of the Individuals with Disabilities Education Act, might encourage not only such efforts as untimed testing which is used in states such as Massachusetts. Untimed testing eliminates entirely the need for one of the most common types of accommodation. In addition, approaches to more accessible testing would aid all students in representing what they know and are able to do.

While there are many problems with our system of special education, legal mandates for SWD have created a structure for education creates a desirable individualization of educational decision making, structuring of learning opportunities, enhancement of parent participation, and sometimes innovative assessment practices The current special education system has the benefit of attempting to target services and individualized attention to students in need. Under IDEA and Section 504/ADA, there is a structure for individually targeted education and a set of processes to which other students do not generally have access. As well, collaborative approaches to teaching and learning are increasingly seen as fundamental to the delivery of meaningful educational opportunities to SWD. For the student who is not classified into the disability-based system, these approaches are not mandated by federal law.

Like the procedural protections for SWD in IDEA and Section 504, there is a need for more mechanisms to insure fairness in the treatment of individual students. In Massachusetts, for example, where the NCLB test is also a high school graduation test, the state created a mechanism for taking multiple sources of information into account to determine high school graduation in addition to performance on the state test. For the high school graduating classes of 2003 and 2004, about two percent of the students were deemed proficient not on the basis of the general assessment test, but through “performance appeals”. For students who continue to fail the state graduation test, failing
test scores can be offset with other indicia of student success (portfolios, course completions, cohort comparisons) sufficient to justify the award of a high school diploma.

Some states are also taking more individualized approaches to addressing the needs of their students, particularly in the context of high school graduation testing. Massachusetts, for example, has utilized “individual student success plans” (ISSP) and “educational proficiency plans” (EPP) for students (with or without disabilities) who are not performing well enough on the state test to qualify for a high school diploma. These plans call on local educators, in consultation with parents and the student, to set forth approaches to attain competence to meet state curriculum standards and the use of assessment data other than the state NCLB/graduation test.

The Massachusetts examples and the recent implementation of response to intervention (RTI) to try to reduce special education placements, as required in IDEA 2004, suggest that schools can be organized to attend to an individualized, context-driven delivery of education, perhaps including even responses to individual intervention that could keep a child from being labeled with a disability. The disability label has many potential stigmatizing effects associated with it, and many special education programs can be dead ends in which adequate education is far from attainable. Yet the special education system, at its best, is data driven, focuses on the specific learning needs of individuals, provides guidance to educators acting collaboratively in addressing the individualized needs of learners, and considers the contexts of learning. It provides mechanisms to encourage parent involvement, includes a chance for external scrutiny of the decisions made about a child, and encourages the use of assessment to insure not only individual, but institutional accountability. It can also, under appropriate conditions, create the conditions for higher standards of learning and attainment.

Recently, an interdisciplinary group of senior scholars working under the sponsorship of the Spencer Foundation synthesized the literature and derived a set of principles for meaningful opportunity to learn and assessment. They remind us:

“The goal of schools is to enable every student to develop the capabilities to effectively participate as a life-long learner in the practices of modern society. The goal of assessment is to provide useful information to enhance educational opportunity for each and every student, to inform decisions about what will be needed to optimize the learning trajectories for each and every student. The relationship among assessment, learning, and OTL is far more complex than contemporary educational policy, and much of educational practice, currently acknowledge… fundamental principles should drive all considerations of assessment, learning, and the provision of meaningful opportunity to learn for all students.

• Every student has the right to a meaningful opportunity to learn and to be assessed fairly and in a way that supports his/her further accomplishments and development.
• Students must have effective access to appropriate resources such as well-prepared teachers, well-designed curricula, appropriate class size, sufficient and current lab equipment, books, technology, as well as comfortable and safe facilities.

• Students should be offered education in schools adhering to high standards and academic rigor with sufficient depth and breadth of coverage of the concepts, content, skills, and understandings in the intended curriculum.

• Classrooms must offer learners not just the same “content”, but must strive to equalize affordances for action, participation, and learning through adaptive approaches to instruction for each learner.

• Since comprehension requires the ability to simulate relevant experiences in the mind, in order to receive an adequate education, all learners must be offered the range of necessary experiences with which they can build good and useful simulations to tap what is really necessary for deep understanding in the content areas (e.g., science, math, social studies, history).

• Learning for humans is mediated by “smart tools”, that is representations, technologies, and other people networked into knowledge systems. Thus, learners must be offered equal access to such smart tools.

• Learning takes place within activity systems, systems that, in school, should be a form of a community of practice. Thus, we must consider more than the information to which the learner has been exposed. All the other elements in the system need to count, as well, including access to the forms of participations and social interaction that make one an agent and knower in the system.

• Content learning in school requires learning new forms of language and the identities, values, content, and characteristic activities connected to these forms of language (e.g., the language of literary criticism or of experimental biology). Every learner has the right for these “new cultures” to be introduced in ways that respect and build on the learner’s other cultures and indigenous knowledge, including his or her home-based vernacular culture and peer-based and “popular culture” cultures (“Discourses”).

• Students should receive academic and social supports differentiated to address their individual strengths and needs as learners.
• Students should participate in instruction organized in ways that build upon the cultural capital and forms of prior knowledge they construct from their experiences outside of school and across their years of schooling.

• Students should routinely experience instruction that provides them with opportunities to participate in meaningful activities based upon models of expertise, expert problem solving, and in-time feedback on the progress of their learning in ways that are usable and motivating and empower them to construct identities and skills that allow them to participate effectively in school and across a variety of out-of-school settings.

• Students should have experience, within disciplines and across their years of schooling, with rigorous instruction that focuses on powerful and generative topics, concepts and problem-solving strategies in ways that help them make sense of how their learning is useful in the world.

• Parents should have access to timely, useful, and credible information about their children’s education, what is required for their children to successfully participate in school, and what parental supports and forms of participation are required for educational success.

• Schools should act in a deliberate, intensive, and explicit fashion to generate and socialization process and access to resources, such as digital technology, for students whose parents are unable to provide these supports.

• Educators and policy-makers at all levels of the educational system should have access to timely, useful and credible information about learners’ and organizations’ trajectories of progress. They should use this evidence to guide effective practice and to facilitate learning for their students, for other actors in the educational system, and for themselves.

• Educators should themselves have meaningful opportunities to learn, to create learning communities and principles of practice to create knowledge for teaching and to facilitate opportunities to learn for all students.

• Schools, other social organizations, and communities should cultivate relationships to enhance the variety and quality of opportunities for learning outside school and to support the transitions between in-school and less formal learning opportunities.

• Because assessment practices shape people’s understanding about what is important to learn, what learning is and how it occurs, and who
learners are, educators, policy-makers, parents, and the public must more explicitly consider the relationships among assessment, learning, and opportunity to learn in making individual and public policy choices about schools and schooling.

- Assessment practices must be fully and purposefully integrated as formative activities within well-designed learning activity systems to both test conceptual understanding, to inform which steps to take next to enhance the progression of learning, and to allow students to apply their knowledge in meaningful ways.

- Assessments should provide information to understand the relationship among resources and learning and the interactive processes (among learners, tools, curricula, and other people) through which learning evolved, or failed to evolve, over time.

- Assessments should illuminate both the depth of a learner’s conceptual understanding and the individual’s progress in a meaningful trajectory of learning.

- All assessment practices, including large-scale documentary assessments, need to be interpreted in light of other relevant evidence about a student or group of students.

- The field of education has far to go to truly provide meaningful opportunity to learn to all students. Education professionals, particularly members of the research community, must play a more successful role in studying these issues and in informing the profession, the policy community and the public about the appropriate relationships between assessment, learning, and opportunity to learn.

- Education policy-makers should themselves have opportunities to learn about more meaningful and appropriate uses of assessments, how students learn, and the limitations and misuses of current approaches to assessment. These new forms of assessment should be the policy tools of the future to create the educational structures required to facilitate system-wide change. . .” (Moss, et al., 2008, pp.345-8).