

# Perspectives of Participants in Special Education Mediation: A Qualitative Inquiry

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## Introduction

A recent review of articles related to special education mediation concluded that this is “a discipline whose research base is in its infancy,” characterized by “a paucity of research confirming evidence-based practice” (Reiman, Beck, Peter, Zeller, Moses and Engles, April 2007, p. 9). At the same time, practitioners in the field of special education mediation have issued calls for the very kinds of research that are lacking, in order to assess effectiveness of mediation programs and approaches (Scharf, 2000), improve quality in mediation (Hedeen, 2002; Honeyman, McAdoo, & Welsh, 2001), and assure that special education mediation practices are grounded on validated rather than unproven or “downright dubious modes of practice” (Honeyman et al. 2001, p. 77).

Among the articles on special education mediation that could be described as “research” are some that analyze data from extant data bases to report on quantitative factors such as percentage of cases settled and costs (Kosier, 1997; Schrag & Schrag, 2004; Talley, 2001). Others generate new quantitative data through surveys and questionnaires (Falsetto, 2002; Forbis, 1994; Kurlioff & Goldberg, 1997). Another category of articles employs qualitative research methods to examine the experiences of participants in the special education mediation process (Lake & Billingsley, 2000; D’Alo, 2003a, b; Shaw, 2001; Nowell & Salem, 2003; Welsh, 2004). Research methodologists defend the use of qualitative methods in areas in which the research base is not yet well established (Patton, 2002, Stainback & Stainback, 1984) and in which the perspectives of “insiders” or participants in the activity being studied are of interest (Denzin & Lincoln, 1994; Edgerton, 1984). Several writers in the area of special education mediation point out the value of including the views of stakeholders—those who have used or may potentially use the special education mediation process—in establishing the definition of “quality” in special education mediation (D’Alo 2003 a, b; Welsh, 2004) as well as in special education research in general (Keogh & Weisner, 1993; Todis, 1991; Todis & Walker, 1993; Woodill & Willi, 1992).

To date, the qualitative articles in special education mediation have primarily employed semi-structured interviews to access experiences and perspectives of parent participants (Lake & Billingsley, 2000; Shaw, 2001; Nowell & Salem, 2007). Taking another approach, D’Alo (2003) analyzed the written comments of responders to a quantitative questionnaire to clarify the ratings assigned to various aspects of the process. In each of these studies, data were collected after the mediation was completed and no school personnel, only parents, were interviewed or surveyed.

Expanding on this approach, in a study published in 2004, Welsh not only included both school personnel and parents as interviewees, but also interviewed each participant on three occasions—immediately before the mediation, immediately after, and about 18 months later. The study identified a number of themes across the 70 interviews (from 14 special education mediation cases) and drew from the themes implications for both special education mediation and the field of mediation in general.

**Case study research.** Another qualitative research approach that is useful in identifying areas for future research and for both accessing and comparing perspectives on a given topic is case study research. Typically, in case study research, the researcher uses a combination of open-ended or semi-structured interviews plus participant observation to both document an event—such as a special education mediation—and obtain and contrast the perspectives of participants in that event. In case study research each case is examined in its entirety, in contrast to other types of qualitative studies that may analyze only survey or interview data. Examining participant responses in the context of the specific factors that brought the case to mediation offers researchers and practitioners an opportunity to formulate theories about how specific features of the mediation process interface with specific aspects of special education cases, or with participants in specific settings or demographic groups.

Case study research in special education mediation can also raise awareness of practitioners to how specific aspects of the mediation process are experienced by different participants, factors that create turning points in the process, expectations contrasted with outcomes, and a number of other complex factors that are not usually accessible to quantitative researchers, let alone practitioners. Because case study research provides detailed, in depth information about the views of participants as well as a holistic perspective on the situation, process, and outcomes, case study research is recommended for complex fields of inquiry in which clear hypotheses have not yet been developed (Yin, 1989). This methodology has the potential, therefore, to shape the research agenda in the field of special education mediation.

The current CADRE literature data base contains one article based on a single case study (Hansen, 2003) of Iowa's early intervention mediation program that was established to settle disputes prior to requests for a due process hearing. The study incorporated the perspectives of parents, school administrators, educational agency administrators, and mediators and identified several themes related to factors that either increase or decrease parent satisfaction with the mediation process. Case study research can also be used in a multi-case format. In this design, several cases are developed, and the analysis identifies patterns and themes both within each case and across cases (Stake, 2006; Yin, 1989).

To investigate the potential utility of multiple case study methodology in the area of special education mediation, CADRE in 2003 undertook a qualitative inquiry of special education mediations in two states. In this exploratory research, our goal was to gain access to, examine, and compare the perspectives of parents, school personnel and mediators on several dimensions of the mediation experience—expectations, the process itself, outcomes, satisfaction with the process and outcomes, and long term outcomes. By identifying themes and patterns within and across cases, we hoped to identify promising areas for future qualitative and quantitative research.

## **Methodology**

***Setting and participant recruitment.*** The qualitative inquiry is based on five special education mediations conducted in two states. CADRE contacted the entity responsible for conducting special education mediation in each state to work out a process for recruiting participants. In State One, this entity has a contract with the State Education Agency to conduct all special education mediations in the state. In State Two, the State Education Agency provides special education mediation services directly. During intake interviews, State One obtained written informed consent from all participants and the mediator for the first author to observe the mediation. At the beginning of the mediation, the researcher explained the study and asked participants whether they would also consent to be interviewed, immediately after the mediation and again six or more weeks after the mediation. In State Two, mediators obtained consent from the participants for the observer to attend the mediation. The observer then followed the same process to obtain consent to interview the participants.

Obtaining consent from all parties, in addition to limited observer availability and the usual complexity of arranging a mediation that is convenient for all parties, made scheduling of observations difficult. Three case studies were conducted in State One between March, 2003 and March, 2004. Two cases were conducted in State Two in 2006.

***Data collection.*** In Cases 2-5, the “standard” procedure was followed, i.e., the observer attended all caucuses and

interviews with the mediator and each of the participants were conducted within a few days following the mediation. All parties in these cases agreed to be interviewed.

In Case 1, the mediator and all but one district representative, a teacher, agreed to be interviewed. At the suggestion of the mediator, most of the other initial interviews in Case 1 were conducted during caucus or breaks.

*Observations.* At the beginning of each mediation, the mediator introduced the observer and asked her to explain the inquiry. After the parties agreed to let the observer stay, she had no further interaction with the mediator or the parties unless it was initiated by one of the participants. Except in Case 1, the mediator attended all caucuses. She made no comments and tried to show no reaction to anything that occurred in either the mediation or the caucus sessions. Following the mediation, the observer prepared detailed field notes describing the process and participant interactions. The field notes also included observer comments and specific interview questions for participants and the mediator.

*Interviews.* Within a week after the mediation, the field researcher interviewed, by telephone, all of the participants who had consented to be interviewed. Mediators in Cases 1, 2, and 4 were interviewed in person immediately following the mediation. In Cases 3 and 5 the mediator was interviewed by telephone. Telephone and in-person interviews were audio taped and transcribed verbatim. Interview protocols are included in Appendix A. The protocols served as general guidelines only. Interviewees were not constrained to the topics in the protocol but could raise other issues of interest to them. In addition, because the interviewer had observed the mediation, the post mediation interviews provided an opportunity to ask about interactions that had occurred during the mediation and to compare the perspectives of participants on those issues.

*Data analysis.* The researcher coded all field notes and transcripts by topic. Topics included those outlined in the interview protocols: expectations, mediation process, mediated issues, immediate and long-term outcomes, and participant perspectives on process and outcomes. Each of these broad topics was further coded by participant—mediator, district personnel, or parent—if appropriate, and or by subtopics within each category. For example, subtopics under process included opening statement, caucus, facilitation, process management, etc. Other topics that were not directly investigated but emerged from the observational and interview data were also coded. These topics included primarily underlying, unmediated issues such as differing views of the student and parties' views of professional and parental competence. Using the coded data, the researcher wrote brief summaries of the cases and constructed matrices to facilitate comparison of topic across cases and participant groups (parents or school personnel). This approach is recommended by Yin (1989) when the purpose of the study is a descriptive one—in the case of the qualitative inquiry, to describe and compare the perceptions of participants in special education mediation. Patterns that emerged across cases were summarized, and the case studies, matrices, and summary were sent to staff at the State One mediation provider and CADRE, who were encouraged to generate alternative interpretations. When conflicting views arose, the authors discussed their differing views, using data from the interviews and observations as supporting evidence. They then either agreed on an interpretation of the data or presented and defended their differing interpretations in the analysis that follows.

## **Results**

Results are reported in two sections. The first section contains a comparison of participant demographic variables,

mediated issues, and mediation outcomes—in other words, objective, readily verifiable features of the cases. The second section reports on subjective views of the participants, collected through interviews, on topics such as expectations, satisfaction with process and outcome, and perception of the long term implementation of the mediation agreements.

**Summary of case variables.** Table 1 provides a summary of the participants in each case, the issues they agreed to focus on in mediation, and the mediated agreements. All of the cases reached settlement. Discussion of these variables follows.

**Participants and mediators.** In most of the cases, district personnel notably out-numbered parents and their supporters. However, in none of the cases was this seen by parents as threatening or problematic. In fact, in all five cases, parents met the special education director for the first time at the mediation and said in later interviews that the presence of the director was an indication that they had the district's attention. All of the parents were Caucasian, except the mother in Case 3, who was African-American. All of the district representatives were Caucasian, and all of the mediators were white males. Advocates were present in half the cases, with the same advocate, an African-American woman, attending both Cases 1 and 3. The advocate in Case 4 was a Hispanic female.

The mediator in Case 2 said in his interview that he spent extra time in caucus reviewing special education law with the parent to compensate for the absence of an advocate. The mediator in Cases 4 and 5 said that it was somewhat unusual in his recent experience not to have a lawyer present at a special education mediation, and he spent additional time in preparation for the case when he learned that lawyers would not be present.

Both State Two mediations were conducted by the same mediator, while all of the State One mediations were conducted by different mediators. All of the mediators conduct different types of mediations, in addition to special education mediations, and had varying degrees of familiarity with special education law.

**Process.** In State Two, mediators typically interview both parties prior to the mediation and also schedule the time and place of the mediation, while in State One intake is conducted by the contracted provider, which sets up the time and venue and assigns the mediator. Thus, mediators in State One have little information about the facts of the case prior to the mediation, while mediators in State Two have the option of conducting case development before bringing the parties together.

Each of the mediations followed essentially the same process:

- introduction, overview, establishment of ground rules by the mediator,
- uninterrupted presentation by each of the parties of their perspectives in the case,
- responses to and clarification of these presentations,
- identifying key issues and setting an agenda or goals for the mediation,
- working through the agenda to agreement, and
- finalizing the agreement.

During the discussion that followed the introduction, presentation and clarification of the issues, all of the mediators used caucus to varying degrees to assist the parties in reaching agreement. In interviews, mediators said that they found caucus, which provides time and privacy for each side to think through and discuss proposals, to be useful in situations

**TABLE 1. *Participants, Mediated Issues and Outcomes***

	<b>PARTICIPANTS</b>	<b>MEDIATED ISSUES</b>	<b>MEDIATION OUTCOMES</b>
<b>Case 1</b>	Both parents Family friend Advocate Private Ed Therapist  Special Ed Director Case Manager Classroom Teacher Special Ed Teacher SLP OT	Instructional approach  Provision of services  Transportation  Provision of Assistive Technology	Private therapist to provide instruction to school staff  Additional speech therapy  Transportation to private therapies  Computer use at school
<b>Case 2</b>	Mother  Special Ed Director Principal SpEd Teacher-kindergarten SpEd Teacher-elementary	Placement and schedule	Half-day placement in SpEd kindergarten/half-day in developmental class with some mainstream activities
<b>Case 3</b>	Mother Advocate  Special Ed Director LA/SS Teacher Special Ed Teacher School Psychologist School Psych Intern	Instructional approach  Clerical error on IEP  Communication between parent and school personnel	Accommodations to be implemented in all classes  Clerical error corrected  Parent to provide releases for medical and psych evaluations
<b>Case 4</b>	Father & Stepmother  Special Ed Director Principal Case Manager School Psychologist	Void Manifestation Determination (MD)  Facilitate transition to high school  Develop behavior management program  Change eligibility to Behavior Disordered	MD sealed  Student to attend transition activities  Functional behavior analysis to be conducted upon return to school to determine eligibility, programming
<b>Case 5</b>	Parents Advocate  Special Ed Director SpEd Teacher Principal	Procedures for parent classroom visitation  Compensatory education  Improve parent/school communication	District to adopt visitation policy for all parents  Compensatory ed provided in next school year  Weekly parent/staff meetings

where the “emotional content” of the case is high.

Following each caucus, the mediators presented the other party’s concerns and positions, without revealing details of the caucus discussion. In Case 3, the mediator inadvertently revealed information about the medications the student was taking that the district did not have because the parent had not provided medical releases as agreed. The mediator noted at the time that this breach had occurred, but neither party mentioned the incident in later interviews.

In all five mediations the mediators kept the process moving by reminding participants of the agenda, helping participants explore options, employing paraphrasing and reflecting skills as appropriate, utilizing strategies to break impasses, and redirecting the parties to focus on the agenda. The length of the mediation sessions ranged from six hours (Case 1) to nine hours (Case 4).

***Mediated issues and outcomes.*** As Table 1 indicates, in all of the cases the parties first identified the issues to focus on in the mediation and in all cases the parties reached agreement on these issues. In the cases in which due process complaints had been filed, the complaints were dropped.

### **Participant Perceptions.**

***Expectations.*** Only the special education directors and the advocates had participated in other special education mediations. Several parents and staff had been involved in other types of mediations such as divorce mediations and labor negotiations. When asked about their expectations for the mediation, almost all participants focused on their expectations for the process, rather than the outcome. Most expected the process to be formal and intense, but thought that the mediator would manage the discussion, keep the process on track and help participants interact without hostility. The parents in Case 1 had somewhat lower expectations, saying that they assumed the district personnel would “use the same trick words they always use to get their way.” The parents in Case 4 expected a highly contentious and confrontational session that would end in immediate deadlock. They were also concerned the district suggested the mediation only so they could use it as a means of fact-finding prior to the due process hearing. The father in Case 5 had had extensive experience with mediations as a union representative and made it clear that he had very low regard for the process and equally low expectations for the outcomes of this mediation.

While most participants focused on their expectations for the process and whether the parties would reach agreement, the special education director in Case 1 said that he expected the mediation to result in improved relations between the parents and the school staff and to get at underlying issues of trust and respect.

***Perceptions of process.*** Most participants who had been in other types of mediations reported that they found their special education mediation less contentious, less intense, and less formal than their other experiences. Parents in Cases 2 and 3 expressed appreciation that the length of the mediation process allowed them “to get over our nervousness,” to express themselves without pressure and without being interrupted. However, district staff and several parents expressed surprise and unease at the length of the process. Several teachers expressed concern about leaving their classrooms for a full day, and a few of them took breaks to check in with instructional assistants and substitute teachers. District staff in Case 3 were especially unhappy with the length of the process, citing the expense of hiring substitute teachers for several classrooms for a full day. The special education director in Case 3 echoed staff frustration suggesting

**TABLE 2. Parent and District Perceptions of Outcomes at Follow Up**

<b>CASE NUMBER</b>	<b>IMMEDIATE OUTCOME</b>	<b>FOLLOW UP OUTCOME</b>
<p><b>Case 1</b> <b>Parent</b></p> <p>District admitted not meeting student needs Parents feel empowered</p>	<p>District lost</p>	<p>“District backed out of everything.”</p> <p>Parents still dissatisfied; teachers feel invalidated. District expects to be back in mediation in 1-2 years</p>
<p><b>Case 2</b> <b>Parent</b></p> <p>Agreement not perfect but parent is pleased Parent feels empowered</p>	<p>Met student needs but increased demands on staff new view of parent needs</p>	<p>Parent feels empowered by mediation experience. Still has concerns about future</p> <p>Improved communication between parent and teachers</p>
<p><b>Case 3</b> <b>Parent</b></p> <p>Mediation “sent a message” to the district: “I mean business.”</p>	<p>Accomplished nothing. Teachers less willing to accommodate parent</p>	<p>Parent feels she proved she will “be there” for her child</p> <p>Staff avoid contact with parent—just getting through the year</p>
<p><b>Case 4</b> <b>Parent</b></p> <p>Main issue settled but other concerns not heard</p>	<p>District gave more than parents</p>	<p>Only part of the agreement was carried out. Student is not prepared to start high school</p> <p>District has new appreciation of the student and family.</p>
<p><b>Case 5</b> <b>Parent</b></p> <p>Agreement satisfactory</p>	<p>Agreement satisfactory except weekly meetings are “special treatment”</p>	<p>All agreements are being carried out except weekly meetings. However, communication is adequate. Parent feels lack of respect from administrators.</p> <p>Mediation achieved the goal of reducing parent visits to the classroom. Parents now follow visitation procedures</p>

that the mediation was just a new setting for rehashing discussions that had already occurred throughout the year. On the other hand, the parent in this case cited several positive differences between the mediation and other meetings she had had with district staff: she knew in advance who would be attending, she had time during the day to express all of her concerns and have them addressed, the staff were more positive and respectful with the mediator present, and she felt the process focused on solutions rather than on complaints about her son.

In most of the cases, the participants felt that the mediators set a good tone in their opening statements. However, the advocate in Case 5 said that clearer ground rules for interaction between parties should have been established given the mother's contentious style of interaction. District representatives in Case 1 said that the mediator never set a tone of cooperative problem solving for the process, which, they felt, gave the parents permission to adopt a win/lose approach.

Mediators were credited by most interviewees with keeping the process focused on the key issues, being neutral and positive, and moving the process forward. In Cases 1, 3 and 5, some participants said that the mediator should have intervened to a greater extent. For example, in Case 3, one of the district personnel felt that the advocate was allowed to become aggressive and accusatory in pursuing a particular issue, suggesting that, "If [district staff] had acted that way, the mediator would have intervened." Almost all interviewees praised the skills of the mediators. However, district staff in Case 3 felt that the mediator lacked an adequate understanding of special education law.

***Perceptions of outcomes.*** Table 2 presents a summary of the perceptions of the parties in each case regarding the outcomes of the mediations, immediately after the mediation and 2-4 months later. In no case did one party or the other feel entirely positive about the outcome. In Case 1, the parents were pleased the district agreed to have the education consultant train school staff in specialized instructional techniques, seeing this as an admission by the district that the staff had not been meeting the student's needs. Staff, though, felt that the mediator allowed a win/lose atmosphere to prevail, with several saying that the district clearly was "the loser" in the mediation. Neither side expressed confidence that the long term outcome of the mediation would be positive.

Case 2 was the only case in which both parties expressed satisfaction with the agreement reached in mediation. Both parties also indicated that the mediation improved relationships between parents and school personnel. However, parties also noted features of the agreement that were not entirely positive: The mother did not achieve her primary objective—placement in the neighborhood school for her child—and some district staff complained about certain terms of the agreement. However, the special education director pointed out that the mediation was necessary in that it provided a way for the parent to get the student back in school "gracefully. She had no way to get him back without having that kind of discussion."

One district representative in Case 3 said that because of new information that came out in the course of the mediation, including that the parent and student did not actually live in the school district attendance area, the parent had "burned some bridges" in her relationship with school staff. The parent, on the other hand, felt empowered and optimistic that the school staff would now respect her and respond to her concerns about her son.

In Case 4, district staff indicated that they had gained a new understanding of the student and family, although the special education director expressed disappointment that in the mediation, the parents seemed to take the approach of, 'Let's see how much we can get the district to give before we drop the complaint.' The parents felt the mediation had achieved their main objective—to remove the expulsion from their son's record—but felt their other concerns were

not addressed. The father rated the outcome “a 5 on a scale of 10. It made the problem go away but doesn’t address the underlying issues.”

In Case 5, in which the parties were more openly contentious than in any of the other cases, both parties expressed satisfaction with the outcome. Still, the principal expressed resentment that the mediation included an agreement to meet weekly with the parents to communicate about the student’s progress in school.

***Perceptions at follow up.*** In follow up interviews, parents in Case 1 reported that school personnel “found an excuse” not to continue to observe the mediated agreement. School staff reported that they were unable to work with the consultant as specified in the mediation agreement. The district representative expected to be back in mediation with this family in one to two years.

In Case 2 at follow up, both parties continued to have positive impressions of the outcomes. School staff reported that they were better able to communicate with the parent and she was more accepting of feedback. The parent reported feeling empowered by the mediation experience, “The things I fought for in the mediation are the things that are working”—the kindergarten placement, communication and closer contact with the school. She continued to have concerns about future educational arrangements for her child.

In contrast, six weeks after the agreement in Case 3, the parent had not signed the release of information, and staff were avoiding contact with her. They were focused on just getting through the school year. However, the parent continued to feel that the mediation showed the district that she is “there for her son” and that she will go to great lengths to advocate for him.

In Case 4, the parents reported that the student was doing well. He received tutoring as specified and his reading level improved from 6.8 to 10.1. He also passed all of the state achievement tests. However, the student had not received some of the agreed upon services, and an IEP meeting was not scheduled. The parents also felt that the opportunity to facilitate the transition to high school had been mishandled. In their follow up interviews, school personnel focused on the beneficial aspects of the mediation, particularly noting that it had given them a new appreciation of the student and the family and had improved communication.

Parents in Case 5 reported that the agreements had been carried out except for weekly communication meetings. However, they felt that they were able to meet with staff as often as they needed. The parent continued to feel that they were not respected by school personnel, particularly the administrators. School personnel reported that parents were visiting the classroom less frequently and were following agreed upon procedures for doing so.

***Emergent themes.*** In addition to the topic areas described above that we set out to investigate, other issues emerged both in the observations of mediations and in participant interviews. These issues include:

- Differing views of the student,
- Staff perceptions of under-appreciation or lack of respect from parents,
- Parent perception of lack of respect from school staff, and
- Parents’ desire to improve the special education system for all area students.

***Differing views of the student.*** This issue was apparent in all cases but addressed to different degrees in each. In Cases 1, 3, and 5, the issue was generally avoided by the mediator to focus on other concerns, although it was

discussed by participants in caucus and in interviews. In Case 1, both parties stated during the mediation their desire to address the issue, but when they began to discuss it directly the mediator intervened and redirected them to the items on the agenda. He said later that he did so because it was not an issue that could be settled in mediation. In Case 3, each of the parties clearly stated, several times, opposing views of the student and his needs, both in caucus and in full session. However the issue was not included in the agenda and no plans were made to address it. In a follow up interview, the special education teacher stated that the staff recognized the importance of the issue and were hoping to develop an IEP for the following year that would incorporate the views of both the parent and school staff. Different views of the student and her needs were also apparent in Case 5, but were not discussed openly in general sessions and were overshadowed by other issues.

In Cases 2 and 4, the different views of the child and his or her disability were recognized, particularly by staff, and although the issue did not rise to the level of an agenda item, district staff took steps to address the issue in each of these mediations. In both cases, staff interpreted the different views held by the parent as an indication that the parents needed additional support to help with either the acceptance of the child's disability or the impact of the disability on home life, or both. In Case 2, district staff concluded that the parent needed time and support to understand and accept her young child's disability and planned in caucus how to provide that support. For example, the decision by the district to pay mileage so the parent could drive her child to school was proposed not only to address the parent's concern about the student's safety on the bus but also to provide an opportunity for the parent to interact with staff and other parents at school. In Case 4, the district representatives did not modify their views of the student's school behavior, but did gain an understanding of the problems the parents faced at home during the student's expulsion. They expressed their concern and respect for the parents, but the parents appeared to be unimpressed and continued to press for the items on their agenda. Nevertheless, the new knowledge about the family seemed to make a lasting impression on at least one member of the district staff.

*Staff perceptions of under-appreciation or respect.* Staff perceptions that the parents did not have confidence in their ability to teach their child were particularly pronounced in Cases 1, 3 and 4. Though expressed in caucus and in interviews, this issue was not directly discussed in mediation. However, in private, parents said clearly that they did not believe staff had the skills to meet their child's needs. They felt that by agreeing to receive training, staff had admitted this.

In Cases 3 and 4, the parents made no attempt to reassure the staff. In Case 3, the parent made it clear that she did not believe the staff were implementing the IEP as agreed, either because they lacked the skills or because they did not take her child's needs seriously. In Case 4, the parents' view throughout the mediation continued to be that district staff failed to track and deal appropriately with their son's behavioral issues. Case 4 was unusual in that when asked by the mediator in caucus whether the district staff cared about their son, the parents responded, "No." The mediator said later that he had never before encountered this clear negative response to that question, indicating perhaps that the family in Case 4 had a level of distrust for the district that might be resistant to positive overtures by district staff.

In Case 2, lack of confidence in staff was expressed more obliquely but still felt by staff. In this case, however, district staff attributed the parent's concerns about their programs to her lack of awareness related to her son's disability. Rather than attempt to convince her that they were well-qualified, they attempted to reassure her that the program placement they were advocating could meet her child's needs. In Case 5, parents' lack of respect focused not on the teacher, whom they perceived as caring and competent, but on district and school administrators.

*Parent perceptions of lack of respect.* Interestingly, parents in each case seemed to assume that district staff had little respect for their views, and in fact in all five cases, mediation was seen by parents, to varying degrees, as a way to gain the respect of district and school personnel. In their private interviews, school personnel did express negative views of parents' knowledge of what was going on in school (Cases 1 and 3), and about the degree to which the families' parenting practices were appropriate for the child with disabilities (Cases 1, 2, 3, and 5). In Case 2, district personnel agreed in private to make parent support and training one of their goals following the mediation, but this was not revealed to the parent. Only in Case 4 did staff express admiration for the family's parenting practices.

In discussing why staff did not make their concerns about parents' interactions with their children more explicit in the mediation, district staff had varying responses: In Case 1, the special education director attempted to speak parent-to-parent with the family about having a child with a disability, but was redirected by the mediator. In Case 5, the teacher indicated that the concerns about what went on at home were wrapped up in the larger issue of different views of the child and were too big and emotional to tackle in the mediation. In Case 3, when asked why concerns about parenting practices were not raised, one of the teachers responded that the student was leaving the school in a couple of months. Yet, in Case 2, in which staff acknowledged concerns about parents' skills and authority and either addressed them through on-going support or discussed them directly with the parent, relationships between the parties at the end of the mediation were far more positive than in the other cases.

*Improving services for all students and families.* In the two cases that were mediated in rural areas, parents stated that part of their purpose in going to mediation was to force the district to do a better job of providing special education services (Case 4), or to make the district adopt standard policies, such as for classroom visitation, that would apply district-wide (Case 5). The fact that these cases took place in small communities, where parents were in a position to learn details from other families about how district policies were applied, may have encouraged the families to think they had both the evidence and the power to effect district-wide change. In Case 5, the small size of the community may also have heightened the parents' embarrassment about being singled out as a family that needed 'special rules' for managing their classroom visits and strengthened their resolve to push for a district-wide policy.

## **Discussion**

Examination of the themes within and across cases in this admittedly small sample may nonetheless suggest some patterns of potential interest to future researchers in the area of special education mediation. Some of these patterns are similar to those noted by Welsh (2004) and other qualitative researchers in this area.

*Relationship issues were identified as important factors by both parties in each mediation but were not addressed directly in most cases.* In spite of the fact that the on-going relationship between the parties was the "elephant in the room"—an obvious potential barrier to long-term improvement of the situations that brought the parties to mediation—none of the mediations included Parent/School Relationship as one of the agenda items addressed directly with the assistance of the mediator. In Cases 2 and 4, attempts to improve relationships were initiated by school personnel in the form of parent social support and offering respite during a student's expulsion, respectively. Staff in these cases also openly expressed to the parent their understanding of how difficult their role as parents must be. These overtures appeared to be well received by the parent in Case 2 but were rebuffed by the parents in Case 4. It should be noted that the student in Case 2 was very young—starting first grade—and that the parents in Case 4

were new to the community. These cases therefore lacked the long contentious histories of the other cases. Relational issues including differing views of the student, perceived lack of respect from the other party, lack of trust, and breakdown in communication were factors in all five mediations. Still, they generally were not addressed directly by the mediator.

*Mediation produced settlement but not satisfaction.* All five cases settled, but in no case did district personnel express high levels of satisfaction with the outcome, and only in Cases 1, 2, and 3 did parents say they were mostly satisfied with the outcome. Further, follow up interviews revealed that only in Case 2 did the parties agree that the mediation agreement had produced long term improvements in the situation. In most of the cases, either or both of the parties expected to be back in mediation or due process at some point, and in all cases the parties expected to continue to disagree about the appropriate educational programs for the students. It may be that if relationship issues were more explicitly addressed in the mediation, respondents would report higher levels of satisfaction or optimism with long term improvements in the situation.

*Empowerment and respect.* In interviews following the mediations, parents said they felt empowered by having participated in the mediation and felt they were better advocates for their children as a result of the experience. This aligns with findings noted by Welsh (2004) that procedural justice—the opportunity to speak and be heard in a process that is evenhanded, dignified and thorough—is highly valued by parent participants in special education mediations. Welsh further noted that parents viewed the mediator’s role as providing an opportunity for the parent to be heard, rather than providing a problem-solving opportunity, while school personnel focused on using the mediation as an opportunity to agree on solutions to specific issues.

In this inquiry, although parents felt empowered following the mediations, all school personnel, except in Case 4, said they learned information during the mediation that contributed to their forming a lower opinion of the parenting skills of the family participants. This information included parents not understanding the nature of the child’s disability, increasing the student’s anxiety by making unrealistic demands or involving the student in preparation for the mediation, and not enforcing homework completion.

In nearly all of the cases, staff expressed frustration and dismay that parents held negative views of their professional competence and doubted staff commitment to the welfare of their children. In particular, comments of classroom teachers reflected a need to be recognized as highly trained and skilled professionals as well as caring individuals. Again, it may be that if relational issues were addressed more explicitly, family members and school staff would have reported more positive feelings related to professional and parental respect and validation.

*Differing views of student needs.* The issue of whether staff have the desire and ability to meet student needs relates directly to other themes that emerged in this qualitative inquiry: differing views of the student and of the best approaches to meeting the student’s needs and staff views of parenting practices. Parents in this inquiry suggested that staff lacked the skills and knowledge to meet their child’s educational needs. On the other hand, school personnel in several of the cases felt that parents lacked understanding of the student’s disability, resulting in what they considered inappropriate parenting practices. In the educators’ view, their wider experience with students with disabilities made it possible for them to regard the student in question in a broad context and to use this experience to make recommendations about placement and programming. Parents, understandably, were reluctant to have their child’s potential rated on the basis of a diagnostic label and to have treatment options limited to those routinely provided. In some cases, staff perceived that parents were suggesting that staff lacked understanding of the child’s disability and that services were being

withheld because staff lacked the expertise to deliver them; in the educators' view, the parents were naïve and unrealistic about the student's educational potential.

Another contributing factor is the differing views of Individuals with Disabilities Education Act (IDEA) held by parents and school personnel. School personnel understand the law as requiring that students with disabilities be provided access to appropriate school services. For some parents (Cases 1, and 2), "appropriate school services" meant those services that would make it possible for their child to function at grade level. While in all five cases one of the issues was whether the school district would (and could) supply the resources the parent deemed necessary to meet the students' needs, in these two cases an additional issue was: do resources exist that will produce the outcome that parents are seeking, i.e., a child who no longer has a disability? Ironically, in the other three cases, that involved older students, (middle and high school) the differing views of the student were reversed: Staff felt parents viewed the student's disability as more severe than was manifested at school. Parents in these cases perceived the issue less as about staff competency and more in terms of withholding services because of cost considerations. In all cases, school personnel felt that their broader experience with students with disabilities made them more qualified to assess the student's needs and potential, while parents felt that school personnel were pigeonholing their children without considering their unique situations.

## **Conclusion**

***Limitations of the inquiry.*** This exploratory qualitative inquiry is based on only five cases. The cases were all conducted in one region with a convenience sample—that is, cases were not selected to systematically investigate specific issues or to ensure a range of mediation styles, mediated issues, type of disability, or other factors of potential interest. All mediators were white males and in some cases there was no case development conducted by the mediator. Potentially significant variables include which party requested the mediation, whether the mediation was related to a request for a due process hearing or not, and other potential indicators of conflict intensity or intractableness.

The number of cases was constrained both by the first author's schedule and availability and by the need to obtain informed consent from all participants in order to collect observational and interview data. To avoid this constraint, the case study approach, perhaps in modified form, could be implemented by mediation agencies as part of an ongoing program evaluation process, thereby obviating the need to secure "special" permissions from participants.

The design of the inquiry would have been improved if interviews had been conducted both before and following the mediations, in order to more accurately assess participants' expectations of the process. This approach was not feasible due to concerns of mediators and others that pre-mediation interviews might further entrench participants' views, thereby compromising the upcoming mediation. However, Welsh, whose 2004 study featured pre-mediation interviews of participants, makes no mention of adverse affects on the subsequent mediation sessions.

Finally, the inquiry may be limited by the fact that the primary researcher began the inquiry with limited knowledge of the field of dispute resolution or of special education mediation. As a result, the controversies in the field of mediation and assumptions about the mediation process were not part of the frame of reference as data were collected and analyzed. It is possible that a researcher well grounded in the practice issues and tensions surrounding the field would have framed the themes and conclusions differently. While this approach might have produced an article that fits more easily into readers' constructs related to special education mediation, the observations of a relatively

mediation-naïve observer can be useful, especially in an emerging field where the questions are still being defined. An outsider can in some cases serve the function of holding up a mirror, providing an opportunity to see what typical practices look like when assumptions are stripped away and observations are conducted with a different set of lenses.

***Contributions of the inquiry.*** In spite of these limitations, the qualitative inquiry makes several contributions to the field of special education mediation research, a new field in which researchers and practitioners are defining the research agenda and seeking to perfect their research tools. First, the inquiry lends support to the findings of other researchers. Lake and Billingsley (2000) noted that discrepant views of a child or child's needs was a factor in escalating parent-school conflict in special education. Similar to findings in this qualitative inquiry, Nowell and Salem (2003) found in interviews with parents following mediation that their perceptions of the impact of mediation fell into two categories (1) impact of the mediation on interpersonal relationships with school personnel and (2) impact on the parents' sense of efficacy.

The inquiry also demonstrated the potential utility of multiple case study methodology to identify and explore complex issues and to improve practice in order to produce higher satisfaction and more durable positive outcomes. The perceptions of participants regarding the long term outcomes of special education mediation are not currently accessible to practitioners, at least not on a case by case basis. It is even rarer to be able to consider differential outcomes of mediation in light of specific factors surrounding the case. This lack of knowledge forces practitioners to rely on their assumptions about how the mediation process affects participants and what a settlement means in terms of long term student outcomes and parent/school relations. Because cases are not routinely studied in their entirety, as in a case study approach, the field also lacks information about how specific factors such as age and disability of student, demographic factors of parents and schools, the presence of advocates and numerous other variables affect the mediation process and its outcomes.

As Welsh noted (2004, p. 11), "ultimately the disputants' perceptions... are particularly significant to the extent that they mirror (or contradict) the assumptions held by mediators, academics, attorneys, courts, and agency officials regarding what disputants want from mediation and what interventions they view as serving them best." Assuming that the perspectives of the participants are of interest to practitioners, funders, researchers and others, case study methodology provides some useful features. The use of both observational and interview data in this inquiry made it possible to compare the events that occurred in mediation with the perspectives of each of the participants and with those of the mediator. For example, in some cases participants noted that the mediator stated ground rules and intentions in the opening statement that were not enforced or carried out in the mediation. Field notes by an impartial observer of the mediation can provide a record that the mediator can use to review the process and to compare his or her own perceptions with the perceptions of school personnel and parents on all aspects of the mediations. Such a holistic view of the mediation process is typically unavailable to mediators and the agencies that assign them to cases, making it difficult for practitioners to reflect upon and improve specific aspects of their practice.

The methodology used in this inquiry is time consuming and expensive and probably exceeds the resources of agencies and individual mediators. However, more extensive studies of this type may also be useful in designing better evaluation tools that are easier to use, such as surveys, which currently, according to D'Alo (2003) do not always ask the right questions. Improved tools may shed light on questions arising in the evaluation literature on special education mediation, such as, what accounts for ratings of partial satisfaction by parents. (D'Alo, 2003).

This qualitative inquiry may also encourage researchers to consider using measures of school personnel satisfaction as well as of parent satisfaction. Although some may view parents as the primary “customers” for special education mediation, the qualitative inquiry points out the importance of school personnel buying in to the process and subsequent agreements in order to produce long term positive outcomes.

Finally, research studies such as this can provide pragmatic benefits to practice activities such as mediator training. Knowing that relational issues are almost always present in a special education mediation, and that mediators ignore them at the peril of long-term satisfaction with outcomes, trainers can include modules on this and other topics that arise from this type of methodology.

***Future directions.*** As noted in the introduction, special education mediation research is in its infancy, affording both an opportunity to set a research agenda that moves the field forward and a challenge to keep the field of inquiry broad enough to explore important but difficult issues. The findings of the qualitative inquiry suggest several areas of new research.

Similar qualitative studies could be conducted, on a larger scale to see if the same themes emerge. Including more cases in each study would provide an opportunity to explore whether certain factors (mediation techniques, agenda setting, size of school district, etc.) have an impact on the themes identified in this inquiry. For example, is the desire to use mediation to improve services for all students in fact more likely to be a goal of parents in rural as opposed to urban school districts? Does facilitating discussion of relationship issues lead to higher levels of satisfaction and better long term outcomes?

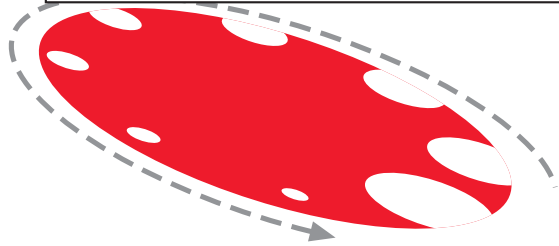
This type of exploratory approach can identify topics worthy of investigation that had not been considered. For example, observation data in this inquiry identified issues that were not addressed directly but had a bearing on why the parties came to mediation and on how the agreement was carried out. Another example of questions that might warrant further investigation is this inquiry’s finding that school personnel may regard the mediation as an indication that their professional expertise is being called into question. If this perception is widespread, it could have broad implications for special education mediation: If school personnel agree to implement practices proposed by the parent, are they admitting that what they were doing before was wrong or inadequate? To what extent can and should changes in educational programming be framed to help school personnel avoid this Catch 22?

Finally, the field of special education mediation appears to be at a point where on- going evaluation could be integrated into the process itself. Given the current emphasis on accountability in public education, it would seem natural to document the outcomes of a publicly funded service beyond simply noting whether cases settle or not. At a minimum, assessment factors such as durability of agreements and satisfaction of both school and parent participants with process and outcomes would be helpful in determining whether special education mediation fulfilling its purpose and its promise.

## REFERENCES

- D'Alo, G. E. (2003). Accountability in special education mediation: Many a slip 'twixt vision and practice? *Harvard Negotiation Law Review*, 8, 201–269.
- D'Alo, G. E. (2003) Measuring quality in special education mediation services: What's for dinner? *Harvard Negotiation Law Review*, Spring, 2003.
- Denzin, N. K. & Lincoln, Y. S. (eds) (1994) *Handbook of Qualitative Research*, Sage Publications: Newbury Park, CA.
- Edgerton, R. B. (1984). The participant observer approach to research in mental retardation. *American Journal of Mental Deficiency*, 88, 5, 498-505.
- Falsetto, N. A. (2002). *Alternative dispute resolution: An effective strategy for reducing special education due process hearings in California*. Doctoral dissertation, University of Southern California, Los Angeles.
- Forbis, J.W., Jr., (1994). *The perceptions of Illinois school administrators and parents regarding mediated special education disputes*. Doctoral Dissertation, Saint Louis University.
- Hansen, L. L. (2003). *Alternative dispute resolution under the Individuals with Disability Education Act: A case study of early intervention mediation*. Doctoral dissertation, University of Iowa, Iowa City.
- Hedeem, T. (2002) Using participant feedback to evaluate and improve quality in mediation. Briefing paper. Consortium for Appropriate Dispute Resolution in Special Education (CADRE), Eugene, OR
- Honeyman, C., McAdoo, B. & Welsh, N. (2001). Not quite protocols: Toward collaborative research in dispute resolution. *Conflict Resolution Quarterly*, (19) (1) pp. 75-88.
- Keogh, B., & Weisner, T. (1993). An ecocultural perspective on risk and protective factors in children's development: Implications for learning disabilities. *Learning Disabilities Research and Practice*, 8, 3-10.
- Kosier, E. R. (1997). Mediation in Nebraska: An innovative past, a spirited present, and a provocative future. *Creighton Law Review*, 31, 183–205.
- Kurlioff, P. J. & Goldberg, S. S. (1997). Is mediation a fair way to resolve special education disputes? First empirical findings. *Harvard Negotiation Law Review*, 2, 35–67.
- Lake, J. F., & Billingsley, B. S. (2000). An analysis of factors that contribute to parent-school conflict in special education. *Remedial & Special Education*, 21(4), 240-251.

- Nowell, B. & Salem, D. (2003). The Impact of Special Education Mediation on Parent-School Relationships. Poster presented at the 9<sup>th</sup> Biennial Conference on Community Research and Action, Las Vegas, NM.
- Patton. (1990). *Qualitative evaluation and research methods*. Newbury Park, CA: Sage.
- Reiman, J., Beck, L. & and Peter, M. (draft) An initial review of research literature on appropriate dispute resolution (ADR) in special education. Consortium on Appropriate Dispute Resolution in Special Education, (CADRE), Eugene, OR.
- Scharf, L. (2000), Evaluating ADR Programs. 65 Federal Register 59200, 59208-14 October 4, 2000).
- Schrag, H., & Schrag, J. (2004). *National dispute resolution use and effectiveness study*. Eugene, OR: Consortium for Appropriate Dispute Resolution in Special Education (CADRE). Available from, <http://www.directionservice.org/cadre/effectiveness.cfm>
- Shaw, V. (2001). *Local alternative dispute resolution: Best practices in four California special education local plan areas*. San Francisco: California Institute of Integral Studies.
- Stainback, S., & Stainback, W. (1984). Broadening the research perspective in special education. *Exceptional Children*, 50(5), 400-408.
- Stake, R.E. (2006); *Multiple Case Study Analysis*. The Guilford Press: New York.
- Talley, E. (2001). Mediation in special education disputes. *University of California Davis Journal of Juvenile Law and Policy*, (5), 239-244.
- Todis, B., & Walker, H. (1993). User perspectives on assistive technology in educational settings. *Focus on Exceptional Children*, November.
- Welsh, N. A. (2004). Stepping back through the looking glass: Real conversations with real disputants about institutionalized mediation and its value. *Ohio State Journal on Dispute Resolution*, 19(2), 574-678.
- Woodill, G. & Willi, V. (1992). Independent living and participation in research: A critical analysis (A Consumer Controlled Publication No. ISBN 1-895676-04-5). Toronto: Centre for Independent Living in Toronto (CILT).
- Yin, R. K. (1989). *Case Study Research: Design and Methods*. Sage Publications: Newbury Park.



*The Consortium for Appropriate Dispute Resolution in Special Education (CADRE) works to increase the nation's capacity to effectively resolve special education disputes, reducing the use of expensive adversarial processes.*

*CADRE works with state and local education and early intervention systems, parent centers, families and educators to improve programs and results for children with disabilities.*

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### **CADRE's Priorities**

- *Identify effective, cost-beneficial dispute resolution practices and support their implementation*
- *Enhance collaboration between education/early intervention agencies and parent organizations*
- *Promote improved problem-solving skills across stakeholder groups*
- *Assist states to implement the dispute resolution provisions of IDEA '04*
- *Support integration of dispute resolution management and improved state system performance*
- *Compile State Performance Plan data and information on the characteristics of state systems*

