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IEP Team Decision Making Process for Accommodations in Bergen County, New Jersey

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IEP Team Decision Making Process for Accommodations in Bergen County, New Jersey

by

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APPROVAL FOR SUCCESSFUL DEFENSE

Steven Pasternak, has successfully defended and made the required modifications to the text of the doctoral dissertation for the Ed.D. during this Fall Semester 2017.

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Abstract

The purpose of this study was to explore the decision-making processes of Individual Education Program team members, who are responsible for making accommodation decisions for students with disabilities in the classroom and for state standardized tests. Students with disabilities consistently underperform in achievement compared to their peers throughout Bergen County and nationally. High-stakes testing, accountability incentives, and access to higher education have all led to pressures on administrators, students, and parents, calling into question how accommodations are determined for students with disabilities. School administrators are being held accountable for all their students meeting state standards; therefore, students with disabilities’ underperformance has become a particular concern. National research indicates that accommodation decision-makers are inconsistent in their processes and do not always follow the procedures established by their school districts or training. This study examined the decision-making processes of Individual Education Program team members by using a semi-structured interview approach to explore how eighteen team members made decisions about accommodations. Fifteen school district personnel and three parents volunteered through a recruitment letter/email distributed throughout the seventy-nine schools in Bergen County, New Jersey. The findings of this study align with national research in that the Individualized Education Program team members would benefit from additional education on accommodation decision-making and recognize this need themselves.

Keywords: Learning Disability, Accommodations, Modifications, Individualized Education Program team Members, IDEA, § 504, Americans with Disabilities Act.
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Similarly, I would like to acknowledge my colleagues in Bergen County, especially the special educators who encouraged and supported me throughout this process. This work would not have been possible without the eighteen who volunteered to serve as subjects for this study. Little do they know of the contributions to my life and the effects they have had on my accomplishments and the accomplishments of individuals like myself. It is educators like these in Bergen County, who endeavor to ask themselves, “What do I need to do to make my students more successful?,” who support us to have these opportunities.

Finally, this dissertation and, in fact, all my successes would not be possible without the strong support I have from my family. Notably, I acknowledge my mother, Helen Pasternak, who taught me to always fall forward and to get back up when I did, and my sisters, Robyn, Donna, and Kallen, and my brothers, Scott, Russ and Stan, who always have my back, no matter what.
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CHAPTER I

INTRODUCTION

The Disabled and Special Education

In 1911, New Jersey became the first state in the United States to require special education for deaf, blind, and cognitively impaired students in public schools. This requirement was later modified to include other disabilities. In 1954, the Beadleston Act and, later, the Grossi Act extended special education services to students with physical disabilities and those who were emotionally and socially maladjusted, and they provided state aid for those services. These acts first required districts to employ child study teams (school psychologists, social workers, learning disability teacher consultants) and to provide appropriate special education in public or private schools (Association, 2007).

In 1966, the Beadleston Act was amended to shift the focus of special education services being delivered in separate segregated special education classes to include a full continuum of services, from regular classes to residential placements (Association, 2007). This inclusive pedagogical approach was championed nationally when Dr. Dan Ringelheim moved from the Directorship of the New Jersey Department of Education Office of Special Education to chair the National Advisory Committee on the Handicapped. Dr. Ringelheim provided much of the professional input for the national legislation known as PL 94-142, which was signed by President Ford in 1975 (Children, 2014) and named the Education for All Handicapped Children Act (Association, 2007). In 1990, this law was amended, and its name was changed to the Individuals with Disabilities Education Act (IDEA) (USDOE, 2014). In 1997, the Americans with Disabilities Act was reauthorized, requiring schools to use the same curriculum for their special education students as for their general education students. The reauthorization also required that students with disabilities be included in No Child Left Behind (NCLB) and Americans with Disabilities Act federally mandated assessments. This federal special education law was reauthorized in 2004 as the Individuals with Disabilities Education Improvement Act
Changes included procedural safeguard modifications that require a settlement conference, and discipline requirements were re-defined, adding a two-year statute of limitation on disputes and lessening documentation requirements to lessen paperwork (Association, 2007).

Thomas Hehir, former director of the U.S. Department of Education’s Office of Special Education Programs, contended that one of the key issues interfering with the educational success of students with disabilities is the concept of ableism (Hehir, 2002). According to Dr. Hehir, ableism is the devaluation of individuals with disabilities by the general public uncritically assuming that it is better for a person to walk then roll, to access information through printed reading than electronic text to speech, to spell independently than to use spell checking, or to socialize with nondisabled peers as opposed to disabled peers (Hehir, 2002). This is all in contrast with the 108th Congress’s finding in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 (2004), that disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Dr. Hehir further asserted that the pervasiveness of ableist assumptions in the education of children with disabilities not only reinforces prevailing prejudices against individuals with disabilities but also may very well contribute to low levels of educational attainment and employment (Hehir, 2002).

This observation can be illustrated by the educational pedagogical battles that took place for the deaf in the late 1800s, which still influence the education of the hearing impaired today and, in turn, their social status in modern society (Hehir, 2002). In early 1817, Thomas Gallaudet and Laurent Clerc started the American Asylum for the Deaf and Dumb in Hartford, Connecticut (Hartford School) (Baynton, 1996). In the 1800s, a high percentage of graduates of the Hartford School lived in Martha’s Vineyard. A 1985 study showed that these graduates of the Hartford School had higher levels of literacy than many of their hearing peers. It is believed that unlike their hearing neighbors, who often left school early for fishing jobs, the deaf stayed in school longer. Since individuals with hearing impairments obtained higher levels of education and literacy, they soon became leaders in the Martha’s Vineyard community. Deafness was so prevalent in the community that most hearing residents of Martha’s Vineyard learned the
American Sign Language (ASL) form of communication championed by the Hartford School (Groce, 1985).

Despite this early success of the Hartford School, graduates using American Sign Language to integrate into society, becoming self-sufficient and literate individuals at a higher rate than the general population, a rift in pedagogy occurred (Hehir, 2002). In the late 1800s, a dispute between the oralism method championed by the Clarke School for the Deaf and the Perkins Institute for the Blind and Deaf, of Helen Keller fame (Institute, 2014), and Horace Mann occurred. The oralist method frowned on communication using manual movements such as those used in the American Sign Language system. Advocates of the oralism method believed that signing decreased the motivation to learn to speak and read lips (Hehir, 2002). Compounding this rift in the late 1800s was the Victorian cultural belief that “not to speak” was not to have language. Not having language was being silent and, therefore, considered evil. All of this led the Victorians to believe that deafness was a sickness that needed to be cured. The oralism approach held out the hope of a cure for the deaf in the eyes of the nondisabled population (Shapiro, 1994). Noted inventor, educator of the deaf, and eugenicist, Alexander Graham Bell, was also an ardent advocate of oralism. Despite the fact that Alexander Graham Bell dedicated his early life to the education of the deaf and married a deaf person, in 1883, he proposed adopting new eugenics laws to outlaw “intermarriage of deaf mutes” (Baynton, 1996). These battles still influence and affect the educational system in the United States today because they not only affect the deaf community but also affect the learning disabilities community as well, causing well-intentioned educators to strive to cure the disabled verses educating them (Hehir, 2002).

The Problem

Under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind (NCLB) Act, school districts are required to show that subgroups of their population
are making adequate yearly progress (AYP) or its equivalent. New Jersey fulfills its AYP obligations using a model that includes subgroups based on Annual Measurable Objectives (AMOs) (NJDOE, 2013). One of those subgroups is students with disabilities, who are also covered under other laws, such as Section 504 of the Rehabilitation Act of 1973 (§ 504) and the Americans with Disabilities Act (ADA), and who are entitled to accommodations or modifications so that their academic assessments accurately measure children’s academic progress and not their disabilities. Appropriate accommodations are provided to ameliorate or eliminate the uneven playing field that the individual’s disability causes. Inappropriate accommodations taint testing results and give false measures of students’ progress. Research shows that current procedures are providing inconsistent testing outcomes (Brinckerhoff & Banerjee, 2007; Fuchs, Fuchs, & Capizzi, 2005; Salend, 2008). Additionally, variations in the different laws, regulations, and jurisdictional court’s rulings further complicate the decision-making task of Individualized Educational Program (IEP) teams (K.M. v. Tustin Unified District, 2013).

According to the United States Department of Education, when an educational agency tests a student with a disability, the test results must accurately reflect the student’s aptitude or achievement level, rather than reflecting the student’s disability, except where those skills are the factors that the test purports to measure (U.S. DOE Reg. 104.359(3)). In essence, when students with reading disabilities are assessed to measure their growth or progress in the language arts curriculum, the assessment should measure their growth or progress in the language arts curriculum and not their disability (reading). This is accomplished through accommodators and/or auxiliary aids (USDOE, Dear Colleague Letter, 2008). Not providing appropriate accommodators and/or auxiliary aids to a student with a disability is an Americans with Disabilities Act violation and a disability-based discriminatory act resulting in a civil rights violation under § 504, the Americans with Disabilities Act (34 C.F.R. parts 100, 104, and 106), and New Jersey’s own Law Against Discrimination (LAD) (L.W. v TOMS RIVER, 2014).

A key element in this issue is that individual laws often appear to be in conflict due to
specialized jargon used in the development of case law, driving legislation. This is compounded by a medley of “terms of art” for a specific term often used by the general public that may have a very different meaning for an educator, a reading specialist, a test designer, a psychologist, or a lawyer (Caudle, 2013). Bureaucratic stove piping, driven by legislators’ need to have an identifiable line of accountability (Behn, 2006), further drives a lack of understanding among educators about their legal obligations to students with disabilities (Hodgson, 2011).

An example of stove piping can be seen in one of ESEA’s main purposes, which is to require states to show independent insight into each child’s progress, as well as each school’s. ESEA and NCLB use the term “reading” and Reading/Language Arts interchangeably (USDOE, 2013). The terms “reading” and “language arts” have different meanings for early childhood educators, who often use the term “reading” to mean the act of learning to read as well as the act of learning by reading (AECF, 2013). The National Institute of Health (NIH) and the International Dyslexia Society use the term “reading” and “language arts” differently than other groups, who often use the term “reading” to mean the skill of phonemically decoding the symbols that graphically represents words (Lyon, Shaywitz, & Shaywitz, 2003). Furthermore, ESEA states that the essential components of reading instruction are explicit and systematic instruction in (a) phonemic awareness, (b) phonics, (c) vocabulary development, (d) reading fluency, including oral reading skills, and (e) reading comprehension strategies (Section 1208(3)).

In a United States Supreme Court ruling, Justice Stevens, writing for the court, stated that the purpose of an accommodation under the Americans with Disabilities Act is to even the playing field that an individual’s disability causes in an activity without altering or changing the activity itself (PGA Tour, Inc. v. Martin, 2001). The United States Department of Justice and several Federal District Courts of Appeal have explained that the Americans with Disabilities Act, § 504, and the Americans with Disabilities Act, which are independent of each other, often create different effectiveness requirements of an accommodation (K.M. v. Tustin Unified District, 2013). A prime example of this is that a school district’s obligation, under the
Americans with Disabilities Act, is to provide accommodations that are reasonably calculated to enable the child to receive educational benefits or for mainstreamed students to provide a minimal floor of services that is reasonably calculated to enable the child to achieve passing marks and advance from grade to grade (Hendrick V. Rowley, 1982). Meanwhile, under the § 504 and the Americans with Disabilities Act, a school district’s obligation is to furnish appropriate auxiliary aids and services where necessary in order to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service or program conducted by a public entity (K.M. v. Tustin Unified District, 2013).

This equal opportunity element requires an individual assessment of the person’s disabling condition, the nature of the accommodation, and the purpose of the activity or exam being accommodated, measured against the opportunities offered to nondisabled individuals (Enyart v. NCBE, 2011). Another factor of §504 and Americans with Disabilities Act accommodations case law that Individualized Educational Program teams may not be aware of is their “Primary Consideration obligation. Primary Consideration requires a public entity to provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and that public entities give primary consideration to the choice expressed by the individual when communication is the issue (Justice, 2013). On one level, “reading” can be the skill being assessed while, on another level, “reading” can be the form of communication used in the assessment, creating a minefield for educators (Koretz, 2008).

Additionally, New Jersey is shifting to a new computer-based assessment to fulfill its ESEA obligations. The Partnership for Assessment of Readiness for College and Careers (PARCC) assessment is a consortium of seventeen states, including New Jersey, as well as the District of Columbia and the U.S. Virgin Islands. One of the main purposes of the PARCC consortium is to create a full range assessment tools to evaluate student progress along the Common Core State Standards (Careers, 2014). The Common Core State Standards (CCSS) are academic standards in mathematics and English language arts/literacy (ELA) established by the Council of Chief State School Officers (CCSSO) and the National Governors Association.
PARCC is a diagnostic assessment of reading, writing, and mathematics delivered through a computer-based program designed to be interactive and engaging. To address accessibility for students with disabilities, the PARCC test was constructed using Universal Design principles to make the assessment as accessible as possible to all students (PARCC, 2013). The Assistive Technology Act of 1998 defines the term “universal design” and mandates that states follow a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without assistive technology) and products interoperable with assistive technology (§ 3(19)). In other words, states that develop products like PARCC are required to use a design approach that allows individuals with disabilities access to their products with or without assistive technology.

To facilitate access, and for use in the professional development of PARCC assessment stakeholders, the consortium developed an Accommodation Manual designed to be used in the selection, evaluation, and effectiveness of the assessment of accommodations for students with disabilities. This manual tries to address the complex issues created by different educational and civil rights laws, which may have different public policy objectives, against the competing interests of test administrators, advocates of accessibility, the needs of individuals with disabilities, and the integrity of the PARCC assessment to measure students’ progress with fidelity (PARCC, 2013). Both critics and proponents of universal designed assessments caution that while universal designed assessments strive to improve accessibility for individuals with disabilities without accommodations, individual accommodations may still be necessary to minimize the effect that a student’s disability is having on the assessment itself (Ketterlin-Geller, 2006).

How these issues impact Individualized Educational Program teams and Schools in general is illustrated by the 2010 NCLB’s test results for Bergen County, New Jersey. Of the seventy-four high performing school districts, 42% had at least one school that would have been
considered not making AYP based solely on the test results of their special education students (State of New Jersey, 2011) had the State of New Jersey not been granted a waiver by the United States Department of Education. This situation can cause many students in special education to be clumped together into a single category of learner called “low performing,” which can interfere with the educational experiences of students with disabilities. Students with disabilities and low performing students are often confused by educators. Additionally, inconsistent or ineffective accommodations for students with disabilities can result in students with disabilities being remediated at higher rates than are necessary (Fuchs, Fuchs, & Capizzi, 2005; Hodgson, 2011). This can prevent students with disabilities from participating in elective course work that would broaden their educational experiences, and it can deny them the same opportunities to participate and/or benefit from a public education as their non-disabled peers (Fuchs, Fuchs, & Capizzi, 2005; Hehir, 2002).

The Problem Statement

Appropriate testing accommodations remain a problem for educators, test designers, Individualized Educational Program teams members, and students with disabilities. Research shows that current procedures are providing inconsistent testing outcomes (Brinckerhoff & Banerjee, 2007; Fuchs, Fuchs, & Capizzi, 2005; Fuchs L. S., 2000; Thomas, 2014). Inappropriate accommodations taint testing results and give false measures of students with disabilities’ progress, which can often prevent them from participating in elective course work that would broaden their educational experiences and can deny them the same opportunities to participate in or benefit from a public education as their non-disabled peers (Brinckerhoff & Banerjee, 2007; Fuchs, Fuchs, & Capizzi, 2005; Hehir, 2002).

Purpose of Study

The purpose of this study is to identify the criteria used by Individualized Education Program (IEP) team members in the selection of the specific accommodations used on New Jersey State standardized tests and for classroom instruction.
Research Questions

The design of this study used qualitative research methods to explore the following questions among Individualized Educational Program team members in Bergen County, New Jersey:

1. How do Individualized Educational Program team members consider how the students’ disability affects the validity and reliability of the assessment being used, in determining mastery of the concepts, when approving or disapproving accommodations on state standardized tests? (Interview Questions A-1i-vii.)

2. How do Individualized Educational Program team members consider the form of communication (auditory, print, sensory, or visual) in providing access to the curriculum when approving or disapproving accommodations for students with disabilities in the classrooms? (Interview Questions A-1, A-3, & A-5.)

3. How do Individualized Educational Program team members measure the effectiveness of the accommodations chosen? (Interview Questions A-2i & ii.)

4. How do the educational backgrounds of the multidisciplinary Individualized Educational Program team members have any impact on the criteria used by the individual members? (Interview Questions D-1 & D-2.)

5. How do the Individualized Educational Program team members address unique or unusual accommodations requests? (Interview Question A-4.)

Significance of the Study

This study identified areas of need for professional development, for members of Individualized Educational Program teams in New Jersey, in identifying appropriate accommodations.

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1 New Jersey uses a combination of the Common Core State Standards initiative (CCSS) and the New Jersey Core Curriculum Content Standards (NJ CCCS) in fulfilling its federal obligation for assessing student achievement.  
2 "In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities." 28 C.F.R. § 35.160(b)(2) (2010).
accommodations for specific disabilities based on the needs of individual learners as aligned by Federal and State laws and judicial decisions. The results of this study can aid Individualized Educational Program teams in identifying criteria for making accommodations that are aligned with the student’s specific disabilities, the uneven playing field their disabilities create, and the purpose of the assessment. It will significantly add to the literature in the field and affect the practices of pre- and in-service educators, leading to more rigorous educational experiences for learners with disabilities.

Limitations of the Study

1) This study only examines Individualized Educational Program team members in Bergen County, NJ. Bergen County has the largest number of school districts (eighty) in the state, which is made up of mostly middle and upper middle class communities, although the county is a diverse community that includes Abbott and Rim districts (Jersey, Abbott District Web Sites, 2014). While disproportionality in special education is a concern in New Jersey, research shows that disproportionality is not linked to test bias, Individualized Educational Program decision making, or identification (Sullivan & Bal, 2013). Research does show that gender, race, socioeconomic status, and number of suspensions are correlated with identification (Sullivan & Bal, 2013), but other research attributes most of these factors to the causes of disability rather than to a disproportionality issue (Heward, 2003). In essence, Individualized Educational Program decision-making processes are not a significant contributor to the disproportionality in special education.

2) The definition of terms is based on multiple regulatory legislations. While there are three major laws that cover accommodations for the disabled and are intended to reduce discrimination and to provide educational rights to individuals, they often have different
criteria for eligibility and, yet, educators, the courts, and professionals use these terms and the rights of individuals with disabilities interchangeably, as a collective group, while the original laws and intent were focused on the individual (PGA Tour, Inc. v. Martin, 2001), making comparisons of subgroups almost useless.

3) Inconsistency created by jargon: the same terms are often used by different professional fields such as law, education, and the social sciences, yet each profession has deeply differing meanings for the terms. A large variation in “terms of art” is used by the different professions. A prime example of this can be seen in Appendix B, where a list of approximately sixty medical terms are displayed that educators would consider specific learning disabilities under the Americans with Disabilities Act.

4) Bias of the Author/Researcher

[In dealing with bias, the researcher as an investigative instrument has shortcomings and biases that might have an impact on the study. Rather than trying to eliminate these biases or “subjectivities,” it is important to identify them and monitor them as to how they may be shaping the collection and interpretation of data. Peshkin (1988, p. 18) goes so far as to make the case that one’s subjectivities “can be seen as virtuous, for it is the basis of researchers making a distinctive contribution, one that results from the unique configuration of their personal qualities joined to the data they have collected. (Merriam, 2009, p. 26)

As a person with a hidden disability that affects my access to print and digital materials (text, reading, and writing), I have identified my biases regarding how students with disabilities are accommodated in schools by emotionally and metacognitively monitoring
them and gauging their impact on the findings (Bracey, 2006; Merriam, 2009). Rubrics were closely followed when coding all responses to adhere to the best standard and problematic practices descriptors. The researcher’s biases may have provided knowledge about unconscious bias from the respondents in their replies (Merriam, 2009).

**Delimitations of the Study**

1. This study focused on accommodations and not modifications, although these terms are often used interchangeably. They are considered terms of art in the disability accommodation field. An accommodation is a change in the rules or procedures used for assessing content, while a modification is a change in the content or expectations that a student needs to obtain in order to receive credit. Modifications are rarely seen outside of the K through 12 learning environments and are more rarely seen under section 504 or the Americans with Disabilities Act (Ofiesh, Hughes, & Scott, 2004).

2. While special education teachers often suggest accommodations in Individualized Educational Program meetings and, in fact, may have useful hands-on observational information about what accommodations may be best for an individual student, it is the Individualized Educational Program team’s permanent members, a School Social Worker, a School Psychologist and a Learning Disabilities Teacher Consultant (an LDTC in New Jersey), who lead the accommodation discussion. These members are also most likely to have received training in the decision-making process for accommodations (Outcomes N. C., 2010).

3. By focusing on the School Social Worker, School Psychologist, Learning Disabilities Teacher Consultant, general and special education teachers, and parents, it was hoped that this study would identify differences between these professions that may be related
to their background training or professional expertise (Merriam, 2009). Additionally, since parents are full members of Individualized Education Program teams, it was enlightening to identify differences in their training as members of the Individualized Educational Program team.

4. Due to confidentiality or inconsistent self-advocacy, many students, even at the high school level, are not aware that they are disabled (Waisman Center, 2014). These students were not included in this study.

**Definition of Terms**

“Child Study Teams,” specialists in the area of disabilities, school personnel, and parents, have the responsibility for the identification, evaluation, determination of eligibility, development, and review of the individualized education program, and the placement of the student (N.J.A.C. 6A:14-3.1(a)).

“Individualized Educational Program Team” means the group of individuals who are responsible for the development, review, and revision of the student’s individualized education program (IEP). The members of the Individualized Educational Program team are listed at N.J.A.C. 6A:14-2.3(k)2.

“Free Appropriate Public Education (FAPE)” is a term used in elementary and secondary education to mean minimal compliance with the educational rights of students with disabilities, and it is used under section 504 and Americans with Disabilities Act, but it may have slightly different obligations under each law (OCR1, 2012).

“Accommodation” is an employment term used to describe adjustments in policies, procedures, and job functions. This term is often incorrectly used in elementary and secondary
settings or in post-secondary settings when referring to modifications or auxiliary aids (USDOE, 1998).

“Modifications” is an Americans with Disabilities Act (ADA) term requiring public entities to make modifications (adjustments or changes) to policies, practices, or procedures when these modifications are necessary to avoid discrimination, unless making the modifications would fundamentally alter the nature of the service, program, or activity (USDOE, 2008).

“Accommodations” and “Modifications” are terms of art referring to adaptations in the educational environment, the presentation of educational material, the method of response, or the educational content (34 CFR Parts 300 & 301).

“Student with a disability” means a student who has been determined to be eligible for special education and related services per New Jersey Administrative Code 6A:14-3.5 or 3.6.

Organization of the Study

Chapter 1 discusses the problem to be studied: What criteria do Individualized Education Program (IEP) team members use in the selection of the specific accommodations used on New Jersey State standardized tests and for classroom instruction?

Chapter 2 focuses on a review of literature and case law addressing the issues of testing accommodations, a school district’s multilayered obligations, and the rights of students with disabilities.

Chapter 3 describes the methodology used in the study to evaluate the Individualized Educational Program team members’ responses.

Chapter 4 includes an analysis of the data collected.

Chapter 5 summarizes the study and offers conclusions and recommendations for policy, practice, and further research.
CHAPTER II

LITERATURE REVIEW

This chapter summarizes the findings of research, legal case law, and professional organizations’ policies relating to the criteria used when selecting reasonable accommodations in general and discusses the specific accommodations on State standardized tests by Individualized Education Program (IEP) teams.

Relevant Studies

A mixed-methods format study on testing accommodations, the implementation of the IDEA into the general education curriculum, and teacher attitudes was conducted in a mid-sized high school in Lockport, Illinois of 145 teachers and 3000 students (Jessee, 2004). The results showed that while collaborative in-service training continued, concerns lingered over some potential consequences of the No Child Left Behind Act. Additionally, teachers were concerned about using college aptitude tests measurements for all students including students with disabilities or unjustly challenged. The most revealing findings of the dissertation and the conclusions were (a) it was high negativity to having students with disabilities in the general education population and (b) still widespread disagreement over the efficacy of educating the disabled in the mainstream some impact has been noted (Jessee, 2004).

In a large-scale study across eight states, Helwig and Tindel (2003) examined the accuracy of the ability of special-education teachers to determine which students required read aloud accommodations for reading and math tests. Approximately 1,218 fourth to eighth grade students were tested with the read aloud accommodation in reading and math state standardized-like testing. Of the 1,218 students, 245, or approximately 20%, received special education services, with 70% described as learning disabled, 5% as having a severe emotional disturbance, and another 5% considered mentally retarded (cognitively impaired). Each student’s teacher was given a survey to measure the students’ reading and mathematics abilities measured on a five-point Likert scale. The students were also tested on individualized standardized reading and mathematics tests. According to the authors, the study’s results showed that the individual
teachers were not effective at determining which students would benefit from the read aloud accommodation, with the teachers only being accurate about half the time (Helwig & Tindel, 2003). Unfortunately, this large-scale investigation of testing accommodations was tainted by the authors’ use of a large heterogeneous population group called “special education students” as their subject group. Of the 13 subgroups of special education students, the largest subgroup was the learning disabled, which makes up approximately 50% of the special education population, who have average to above-average intelligence; yet, the authors included cognitively impaired and emotionally disturbed students, who may or may not have average to above-average intelligence (Heward, 2003) and who, therefore, would benefit differently from the same accommodations, thus tainting the study’s results and reinforcing how accommodation decision makers often see individuals as collective groups, such as “special education,” instead of looking at how individuals’ disabilities affect the testing process.

In a doctoral dissertation for the University of Iowa, Rickey (2005) examined the decision-making process used when choosing accommodations for students with disabilities. The study focused on the backgrounds of the decision-makers, their training, and their attitudes. This researcher used a multiple-case-studies design with Individualized Educational Program teams from three different schools. Data were collected from multiple sources, including observations, case files, interviews, and document analysis. The results showed that little decision-making took place, in that individuals simply chose from a list of accommodations provided by the State. Although the special-education teacher was deferred to by an Individualized Educational Program team, there was little correlation between the accommodations used in the classroom and those chosen for State standardized tests. The factors most used in choosing the accommodations were a past history of those accommodations and the desire to reduce stress and anxiety for the student during testing. The study revealed that District and State guidelines were not adhered to and that decision-makers were unable to cite State or Local procedures for choosing the accommodations that they did.

In another doctoral dissertation, Bublitz (2009) surveyed thirty-eight pre-professional
graduate students who were working as special educators in the State of Virginia as to their attitudes, knowledge, and decision-making processes when choosing accommodations for students with disabilities for the Virginia high stakes State assessment. The participants were given three different Likert scale surveys to assess their attitudes, decision-making accuracy, and general knowledge of accommodations. The accuracy of their decision-making was assessed through their responses to a series of scenarios that were pre-determined and aligned with specific outcomes specified in the Virginia regulations for choosing accommodations. The findings indicated that teachers with more knowledge about accommodations made more effective decisions than teachers with less knowledge. This was in contrast to the findings that attitude and training had little influence on the accuracy of the decision-making process behind choosing appropriate accommodations for students with disabilities.

Since the reauthorization of Americans with Disabilities Act in 1997, which mandated that all students with disabilities be included in state standardized testing, the U.S. Department of Education investigated this process through the Special Education Elementary Longitudinal Study (SEELS) and released a Synthesis Report 63 in 2006. This is a large national study that looked at 11,512 students with disabilities and the accommodations that they received. The study focused on all special education students and students receiving accommodations through 504 plans (Outcomes N. C., 2006). This includes students across the 13 eligibility categories and students with disabilities but whose disabilities do not have a negative impact on learning and who are covered by section 504 (Heward, 2003). This commingling of disabilities was emphasized in the executive summary, where it states that not all students benefit from accommodations on standardized testing, which is further emphasized in the results, suggesting a lack of alignment in the accommodations between classroom conditions, the students’ Individualized Educational Program’s or 504 plans, and state standardized testing. Synthesis Report 63’s preliminary recommendations are, again, the additional training in the appropriate decision-making process for the decision-makers that is required (Outcomes N. C., 2006).

In a later Synthesis Report 81, the U.S. Department of Special Education surveyed 2,336
special education teachers working in Alabama. Their findings indicated that only 51% of the teachers surveyed thought that the accommodation decisions should include how the students’ disabilities manifest themselves in education as an important factor, and only 12% of the teachers thought that the students’ performance with the accommodations in the classroom should be related to those given on the state standardized test. Only one third of the teachers considered state policies and guidelines to be an important factor in making accommodation determinations. The most frequently used accommodations were small group testing environments, extra time, and administration of the test by a special education teacher. Student input was rarely considered an important factor in the accommodating process. On a positive note, the report emphasizes that two thirds of the respondents thought that the assessment on state standardized testing should be aligned to those given in instructional settings. The report emphasizes that all the decision-makers need more professional development in making accommodation decisions and implementing accommodations for both instructional and assessment purposes (Outcomes N. C., 2010).

In another study, done in collaboration between the University of Oregon and the Oregon Department of Education, analyses of teacher accommodation recommendations for large-scale tests were compared to decision-making support systems. One was a web-based interactive system called Accommodation Decision-Making Support System (ADSS). The other method was based on the Accommodations Manual of the Council of Chief State School Officers (CCSSO) from the Oregon Department of Education. Thirty-six teachers from three different states—Oregon, West Virginia, and Alaska—were given two prepared requests for modifications of accommodations to use in determining the appropriate accommodations. The teachers were divided into two groups, with twenty-two teachers assigned to the web-based system and sixteen assigned to the manual method used by the Oregon Department of Education. After a standardized training session with both accommodation systems, statistical analysis was applied to analyze whether there were significant differences between the two programs. The results indicated that there was little difference between the manual and the web-based systems, with
both groups choosing approximately the same number of accommodations for each student. Other results indicated that teachers needed further training in making appropriate decisions for accommodations, with both groups consistently varying from the rubrics designed in the systems and often recommending accommodations that were not allowed in the state standardized testing (Mariano, Tindal, Carrizales, & Lenhardt, 2009). Interestingly, what was not pointed out in this study is that since the exemplars or cases used in determining what reasonable accommodations were needed were fictitious, this made determining what appropriate accommodations were chosen difficult. According to the U.S. Supreme Court, accommodations are supposed to be based on individual needs and the impact that that person’s disability has on the activity without making a fundamental change. Therefore, the study never looked at whether the accommodations chosen were effective, ineffective, counterproductive, or helped level the playing field in the assessment process.

In a review of literature on teacher-making decisions for accommodations (NCEO, 2011), the National Council on Educational Outcomes (NCEO) reiterated that teachers play an important role in making accommodation decisions and that additional professional development is required for teachers to make appropriate decisions. The review indicates that there are still major gaps in individual teacher’s knowledge of accommodations, modifications, and the laws and policies that govern accommodations. The focus of the review was on identifying challenges to providing effective professional development programs to address these issues. The NCEO recommends, and is in the process of developing, project-based learning and communities of participation interactive professional development programs for the state of Alabama. It is hoped that these online interactive professional development programs will drive more accurate and effective decision-making processes for identifying accommodations for state standardized tests (NCEO, 2011). What was heartening in this research review was the emphasis that was placed on building knowledge of the laws, policies, and reasons for making accommodations on state standardized testing and not just focusing on the decisions themselves.

In a journal article focusing on post-secondary accommodations for learning disabled
students, the authors (Ofiesh, Hughes, & Scott, 2004) recommended a procedure for making accommodation decisions at the post-secondary level. While the authors seem to misunderstand the differences between Section 504, the Americans with Disabilities Act and special education (IDEA), this procedure for complying with section 504 and the Americans with Disabilities Act may be a useful tool for accommodating individuals with disabilities on state standardized testing since state standardized testing must still comport with section 504 and the Americans with Disabilities Act (THECB v. OCR, 2000). The authors recommend that decision-makers should start with the student’s diagnostic testing or identify where the student’s disability interferes with step two, the nature of the assessment and, of course, the content being studied so that the fundamental change to the assessment or course work does not occur.

Another important aspect of the procedure is that the authors recommend that the decision-makers speak to the individual seeking the accommodation, using their insight into how the disability creates an uneven playing field and how the accommodation can re-level the playing field to more accurately assess the student’s mastery of the concepts the assessment is purporting to make (Ofiesh, Hughes, & Scott, 2004).

In 2007, Dr. Batya Elbaum published a study comparing the read aloud accommodation on the math performance of 625 middle and high school students with and without learning disabilities in metropolitan school districts across the southeastern United States. The students with learning disabilities were all identified under the Americans with Disabilities Act definitions, with specific disorders effecting basic reading skills, reading comprehension, oral expression, listening comprehension, mathematics calculation, mathematics reasoning, or written expression. Students were divided into two groups, with 388 students making up the learning disabilities group. Two equivalent math assessments made up of 30-item multiple-choice questions were administered. Both groups were tested with and without the read aloud accommodation. The results of the study indicated that, at the middle and high school math level, all participants benefited from the read aloud accommodation, with non-disabled students benefiting twice as much as their disabled peers. The author states that this is in direct contrast
to the majority of studies done at the elementary level. That research showed that students with disabilities benefit more from read-aloud accommodations in comparison to their non-disabled peers. Her results also showed that when removing reading as a factor in math assessments, students with higher math skills scored higher on the content area purporting to be assessed. In other words, when reading was eliminated from math assessments, the math assessment became a better measure of the math skills, the purported intent of the assessment.

Other implications in this study (Elbaum, 2007) were that while blanket read-aloud assessments in math benefits the majority of students, about 8% of the learning disabled students performed at lower levels while using the read-aloud accommodation (Elbaum, 2007), which further disadvantages them when using universal design assessments or blanket read-aloud accommodations with all learning disabled students. Elbaum (2007) suggests that the decision to assign students to an accommodated testing condition should only be made on an individual case-by-case basis supported by prior empirical evidence of the accommodation’s effectiveness.

In an article, Drs. Brinckerhoff and Banerjee (2007) described misperceptions in the accommodation process on high stakes testing. Dr. Brinckerhoff is the Director of the Office of Disability Policy Educational Testing Service (ETS) and past president of The Association on Higher Education and Disability (AHEAD). Dr. Banerjee is Vice President and Director of Landmark College Institute for Research and Training (LCIRT) and Associate Professor at Landmark College and a consultant to the Educational Testing Service (College, 2014). The article addresses four key misperceptions that Dr. Brinckerhoff and Dr. Banerjee saw during their work with the Educational Testing Service (ETS) testing agency for Graduate Record Examinations (GRE), High School Equivalency Test(s) (HiSET), the Praxis Series, and others (ETS, 2014). The four key misperceptions, according to the authors, are that psychometric evidence is all that matters, that testing agencies are often skeptical of subjective judgments by the evaluator, that the disability documentation guidelines of the testing agencies are inflexible, and that gifted test takers with LD are less likely to receive accommodations on high-stakes tests (Brinckerhoff & Banerjee, 2007). Interestingly, while the authors explain their misperceptions
of others, they reveal their own misperceptions and obligations as gatekeepers of accommodations for the Educational Testing Service. A prime example of this is their statement that “[i]n making decisions about high-stakes test accommodations, the mandate for testing agencies is to establish ‘beyond a reasonable doubt’ that particular accommodation(s) are indeed warranted” (Brinckerhoff & Banerjee, 2007, p. 253). This is the same legal standard used in criminal prosecutions (Black's Law Dictionary, 1990), and, in fact, is not their mandated requirement according to the United States Justice Department. According to the United States Justice Department, a private entity offering an examination covered by Section III of the Americans with Disabilities Act, and Section 504, must assure that the examination is selected and administered so as to “best ensure” that it accurately reflects an individual’s aptitude or achievement level or other factors the examination purports to measure, rather than reflecting their disability (34 CFR 104.42(b)(3)).

Brinckerhoff and Banerjee (2007) also contended that testing agencies have a responsibility to scrutinize disability documentation in order to ensure fair testing practices for all test takers, again in contrast to the “best ensure” standard stated above. The authors further contend that more than half of the individuals identified as learning disabled individuals do not meet the criteria as described by federal regulations, but they do not give a citation to what they base this conclusion on. This statement is in direct conflict of the United States Department of Education Office for Civil Rights, which states that students who meet the eligibility criteria under the Individuals with Disabilities Education Act are also covered by Section 504 and Americans with Disabilities Act (Education U. D., 2014). Additionally, this source indicates that in 2008 Congress specifically passed the Americans with Disabilities Act Amendments Act in part to supersede Supreme Court decisions that had too narrowly interpreted the Americans with Disabilities Act’s definition of a disability. The Amendments Act not only amends the Americans with Disabilities Act but also includes a conforming amendment to the Rehabilitation Act of 1973 (Section 504). Students who, in the past, may not have been determined to have a disability under Section 504 and the Americans with Disabilities Act may now, in fact, be found
to have a disability under those laws (Education U. D., 2014). Specifically, Congress (42 U.S.C. § 12102) directed that the definition of disability shall be construed broadly and that the determination of whether an individual has a disability should not demand extensive analysis (Education U. D., 2014). The Office of Civil Rights goes on to say that even when a student does not meet the higher standard of eligibility under the Individuals with Disabilities Education Act, that the school still needs to assess eligibility under the lower criteria of the Americans with Disabilities Act, Section 504 to determine whether the student is entitled to a reasonable modification of policies, practices, or procedures (Education U. D., 2014). In essence, the U.S. Department of Education’s Office of Civil Rights considers Section 504 and the Americans with Disabilities Act to be more inclusive than the Individuals with Disabilities Education Act, not less inclusive, as described by Drs. Brinckerhoff and Banerjee (2007).

In an article addressing the identification of appropriate test accommodations for students with learning disabilities, Fuchs, Fuchs, and Capizzi (2005) reiterated that research shows that although teachers hold a primary role in formulating testing accommodations for students with learning disabilities, their decisions are often subjective and ineffective. The authors (Fuchs, Fuchs, & Capizzi, 2005) recommend a data-driven approach in which teachers use curriculum-based assessment tools to help identify specific accommodations that are valid for each student. For example, students are given an assessment in the standard format, with extended time and with an adult reading relevant text aloud. The students’ scores during the standard administration are compared with each accommodation to determine whether the accommodation was effective in eliminating the effect of the student’s disability on the assessment (Fuchs, Fuchs, & Capizzi, 2005). This approach has been well received at the International Dyslexia Association (IDA) national convention in Atlanta, Georgia in a seminar on Writing Effective Accommodations Requests (Pasternak, 2002).

Relevant Legal Cases

In 2001, the United States Supreme Court examined whether a professional golfer with a disability was covered under Section III of the Americans with Disabilities Act of 1990 (ADA).
and, if so, whether the PGA TOUR, Inc., was required to make reasonable accommodations under the Act (*PGA Tour, Inc. v. Martin*, 2001). In this case, Casey Martin was a professional golfer who had a heart condition that often prevented him from walking the entire 18-hole golf course. Due to a rule change in 1997, golf carts were no longer permitted in the third and final rounds of PGA competitions. The PGA claimed that the rule change was intended to introduce fatigue into the last two rounds of PGA competitions and that granting an exception for Martin would fundamentally change or alter the competition. In their analysis of the case, in a 7 to 2 decision, the justices determined that, due to Martin’s disability, simply playing the game or walking from the golf cart to the ball was as fatiguing, if not more, for Martin than for his non-disabled competitors. In the *Martin* case, the Justices reiterated the rule that accommodations must be made on a case-by-case basis so that decisions are made in a nondiscriminatory manner. They asserted that individualized inquiry must be made to determine whether a specific modification for a particular individual’s disability is appropriate based on their specific circumstances and, yet, at the same time, not make a fundamental alteration in the activity.

In an earlier case in 1997, Justice Sotomayor, while serving on the U.S. District Court for the Southern District of New York, similarly held that accommodations require an individual analysis with a focus on the totality of all the factors, as stated above. On remand for further analysis by the Second Circuit Court of Appeals, Judge Sotomayor wrote, “Plaintiff’s experts have convinced me that the extra time provided to [a] learning disabled applicant merely levels the playing field and allows these individuals to be tested on their knowledge; it does not provide them with an unfair advantage” (*New York State Board of Law Examiners v. Marilyn Bartlett*, 2001).

In 2013, the United States District Court for the Central District of California rejected the reasoning of a lower court that a valid Individuals with Disabilities Education Act individualized education program, or Individualized Educational Program, satisfies section 504 of the Rehabilitation Act, requiring schools to make available to children with disabilities a free and appropriate public education. They further rejected the notion that section 504 and Title II of
the Americans with Disabilities Act are substantially similar statutes. They rejected the reasoning that a valid Individuals with Disabilities Education Act Individualized Educational Program also satisfies Title II of the Americans with Disabilities Act. The panel held that compliance with the Individuals with Disabilities Education Act does not necessarily limit 504 claims. The Court stated that there are material differences between Section 504 and Title II of the Americans with Disabilities Act. Granting deference to the Department of Justice’s interpretation of the Americans with Disabilities Act’s effective communication regulation, as expressed in their amicus brief, the Court ruled that the Americans with Disabilities Act requirements regarding students with communication disabilities are different from those imposed by the Individuals with Disabilities Education Act (K.M. v. Tustin Unified District, 2013). In essence, the Court ruled that, depending on the circumstance of an accommodation request, Section 504 of the Americans with Disabilities Act and the Individuals with Disabilities Education Act may have different effectiveness requirements imposed on the granter, as in this case, where section 504 and the Americans with Disabilities Act had higher effectiveness obligations than the Individuals with Disabilities Education Act.

Relevant Organizational Policies

PARCC and CCSS. The Partnership for Assessment of Readiness for College and Careers (PARCC) assessment is a consortium of seventeen states, including New Jersey as well as the District of Columbia and the U.S. Virgin Islands. One of the main purposes of the PARCC consortium is to create full range assessment tools to evaluate student progress along the Common Core State Standards (Careers, 2014). The Common Core State Standards (CCSS) are academic standards in mathematics and English language arts/literacy (ELA) established by the Council of Chief State School Officers (CCSSO) and the National Governors Association Center for Best Practices (NGA Center) (Initiative, 2014).

PARCC is a diagnostic assessment in reading, writing, and mathematics delivered through a computer-based assessment designed to be interactive and engaging. To address the access of students with disabilities, the PARCC test was constructed using Universal Design
principles to make the assessment as accessible as possible to all students (PARCC Q & A, 2013). The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without special accommodations to access needed assistive technologies) and products and services that are interoperable with assistive technologies (Assistive Technology Act of 2004, 2004).

The PARCC manual states that 504 and Individualized Educational Program team members are responsible for selecting accommodations for students with disabilities and should attempt, where possible, to parallel the accommodations used for classroom instruction, classroom assessments, and PARCC assessments (PARCC, 2013a, p. 44). The manual further explains that educators need to familiarize themselves with the approved accommodations that are allowed on PARCC assessments for students with disabilities. The manual warns that there “may be consequences (e.g., lowering or not counting a student’s test score) for the use of non-allowed accommodations during PARCC assessments” (PARCC, 2013a, p. 44).

The manual lists four types of approvable accommodations in its attempt to reconcile the different federal laws, such as the Elementary and Secondary Education Act (ESEA [a.k.a. NCLB]) and Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and Americans with Disabilities Act Amendments Act of 2008. The four types of approvable accommodations focus on (a) Presentation Accommodations, which allow changes in the method or format in which the test or test questions are provided to the student, such as in Braille or sign interpretation; (b) Response Accommodations, which are in the method used by the student to provide responses to test questions such as scribes or using a Braille note-taker; (c) Timing And Scheduling Accommodations, which include extended time allowed for testing or time shifting; and (d) Setting Accommodations, which include separate locations or small group sizes.

Section 3 of the manual lists accommodations that are allowed on PARCC assessments for students with disabilities; however, the manual states that some students may require
additional accommodations that are not found in this section. Each PARCC state is required to review unique accommodations on an individualized basis and provide approval after determining whether the accommodation would result in a valid score for the student. When the manual was distributed, its Appendix F, Unique Accommodations Request Form, was listed in the Table of Contents but not included in the manual; it is available now on the website.

**The Association on Higher Education and Disability (AHEAD).**

While Individuals with Disabilities Education Act mandates are not addressed in the AHEAD frameworks, which are intended for use in a post-secondary educational setting, the Americans with Disabilities Act, 504 and other disabilities-based antidiscrimination laws do apply and can be illustrative of the accommodations process. The AHEAD frameworks are intended to be a comprehensive, professional approach to using disability documentation to make informed decisions regarding accommodations in a college environment that ensures that “accommodations” provide effective access. The framework states that this requires a deliberative and collaborative process that is responsive to the unique experience of each individual, as advised by the Americans with Disabilities Act (AHEAD, 2012).

A key difference between accommodations under the Individuals with Disabilities Education Act and other disabilities based antidiscrimination laws is that a shift in responsibility moves from the school system to the individual with the disability to self-disclose and self-advocate for their accommodations. This would include an individual with a disability to seek out the services they require, provide adequate documentation of their disability, and self-identify their need for accommodations (Vincennes University, 2014). AHEAD recommends a best practices approach that uses seven essential elements of quality disability documentation that individuals and institutions use to facilitate the accommodations requests. They are (a) the credentials of the evaluator(s), which can show that the professional has appropriate and comprehensive training and relevant experience; (b) a diagnostic statement identifying the disability and how it was diagnosed, providing information on the functional impact and detailing the typical progression or prognosis of the condition; (c) a description of the diagnostic
methodology, including a description of the diagnostic criteria, evaluation methods, procedures, tests and dates of administration, as well as a clinical narrative, observation, and specific results; (d) a description of the current functional limitations explaining how the individual’s disabling condition(s) currently impacts the individual and provides insight into identifying possible accommodations; (e) a description of the expected progression or stability of the disability; (f) a description of current and past accommodations or services; and (g) recommendations for accommodations, adaptive devices, assistive services, compensatory strategies, and/or collateral support services (AHEAD, 2014).
CHAPTER III
Methodology

Introduction

The purpose of the study was to identify the criteria used in the selection of specific accommodations on state standardized tests by Individualized Education Program (IEP) teams in Bergen County, New Jersey. This study endeavored to identify areas of concern of Individualized Educational Program team members that they identify as driving factors in their selection of the specific accommodations on state standardized tests. This chapter includes information on population, research procedures, guided interview questions, data analysis and summary.

Population

The population of this study is drawn from the Individualized Educational Program teams servicing Bergen County, New Jersey, comprised of 80 school districts. There are 256 schools servicing approximately 140,000 students of which 21,430 students are eligible for special education or services through an Individualized Educational Program (Education N. J., 2014). Bergen County school districts are a diversified collection of small townships made up of mostly middle to upper middle class communities located in the northeastern part of the state just outside New York City. Some schools are located in economically stressed communities (Rutgers-Newark, 2007).

Research Procedures

Through semi-structured interviews, the decision-making processes of Individualized Educational Program teams were examined. This qualitative research method was chosen because of the unstable and individualized nature of accommodating individuals with disabilities (Merriam, 2009). According to the Supreme Court rulings in 

PGA Tour, Inc. v. Martin, 532 U.S. 661 (2001), accommodations must be made on a case-by-case basis so that decisions are made in a nondiscriminatory manner. Individualized inquiry must be made to determine whether a specific modification for a particular individual’s disability is appropriate based on
their specific circumstances and, yet, at the same time not make a fundamental alteration in the activity. Since the decision-making process needs to be flexible to adjust to the needs of the testing environment and the impact of the individual’s disability on that specific testing, it is believed that a semi-structured interview method would give the necessary flexibility to the interviewer to adjust to the circumstances with which the decision-makers are dealing (Gay, Mills, & Airasian, 2009).

**Interview Description**

Interviews took place one-on-one in a private location with two audio recordings. During a brief introduction, the interviewee will be informed that the interviewer is investigating how Individualized Educational Program teams identify and choose appropriate accommodations or modifications to be included in students’ Individualized Educational Program’s. Below is a sample of possible structured interview questions that changed after pre-interview testing or the interviewing process begins (Merriam, 2009). These initial questions were derived from the Casey-Martin case due to the tendency of courts to use similarly situated disability-based court cases to analyze new first impression legal cases (Bartlett v. New York State Bd. of Law Examiners, 1997). Individualized Educational Program team members, as defined above, received an invitation to participate in this study (see Appendix A) through email or through a local school administrator.

**Sample Questions**

**Demographic Questions**

D-1. What is your role on the Individualized Educational Program team? (Teacher, LDT-C, Psychologist, Parent etc.)

D-2. What type of educational or accommodation background do you have?

D-3. Please tell me about any training you may have had in selecting testing accommodations?

D-4. How long have you been participating on an Individualized Educational Program team?
Accommodation Questions

A-1. Please tell me how the Individualized Educational Program team chooses testing accommodations for students with disabilities?
   a. Areas to probe:
      i. Please define an accommodation for me?
      ii. Please define a modification for me?
      iii. Please tell me what the purpose of an accommodation is?
      iv. Please tell me what the purpose of a modification is?
      v. When is the subject of accommodations or modifications first talked about in the Individualized Educational Program process?
      vi. What are the factors you consider in picking or choosing the appropriate accommodation or modification for a student’s Individualized Educational Program?
      vii. Should an accommodation or modification for a person with the disability improve their results on the examinations or assignments?

A-2. How are accommodations or modifications assessed as to their effectiveness?
   a. Areas to probe:
      i. Are standardized assessments used in measuring an accommodation’s effectiveness?
      ii. If so, what assessments?

A-3. Where does the Individualized Educational Program team find the accommodations or modifications they wish to use?

A-4. If an individual or a parent requests an accommodation or modification that the team has never heard of before, what do you do?

A-5. Do accommodations differ between state standardized testing and the classroom.
   a. If so, Why?
A-6. Are the preferences of the parent or student a factor?
A-7. At what point in the accommodation decision-making process does logistics or undue hardship (personnel, proctors, room availability, time constraints, or cost) enter into your selection process?
A-8. Are there areas of the accommodation selection process that you find difficult or that concern you?
A-9. Please tell me about your last Individualized Educational Program team meeting in which testing accommodations were addressed?
A-10. Was the process you have previously described followed?
A-11. If not, why do you think the process was changed?
A-12. Is there any aspect of Individualized Educational Program accommodations or process that you think I as a researcher should be aware of or that you would like to see addressed?

Participants

Participants in the accommodation decision-making process of an Individualized Educational Program team in New Jersey are made up of an ad hoc committee that usually includes at least the student’s parent, the student (if deemed appropriate depending on their age), the student’s case manager, at least one of the Child Study team members (e.g., a School Social Worker, a school psychologist, an LDTC, a Master’s degree teacher with additional training in psychometrics and learning disabilities), a general education teacher and a special education teacher (if the student receives special education), a representative of the school district, and, at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate (N.J.A.C. 6A:14-2.3(k)2).

The interviewer focused on permanent members of the Individualized Educational Program team, who most often in New Jersey led the Individualized Educational Program meetings, as well as the ad hoc members (parents, general education teachers, and
IEP TEAM DECISION MAKING PROCESS FOR ACCOMMODATIONS

administrators). By focusing on both groups, it is hoped that insight may be gleaned as to differences in their decision-making processes due to their multidisciplinary training. The sample size consisted of three each of the Individualized Educational Program team’s permanent members (School Social Worker School Psychologist and LDT-C) and three individuals each of the ad hoc members (parents, general education teachers or administrators, except students), for a total of 18 interviews. Due to confidentiality and inconsistent disability self-advocacy or awareness (many students even at the high school are not aware that they are disabled) (Waisman Center, 2014), students will not be included at this time.

Participants self-selected for the study after the researcher contacted each of the Bergen County Directors of Special Education and Parent Association groups with the recruitment letter, which was approved by the Institutional Review Board. The eighteen participants were selected on a first come, first served basis based on scheduling and availability of each participant category.

Data Analysis

Analysis will follow a coding method outlined by Sharon B. Merriam in her text *Qualitative Research* (Merriam, 2009). Coding is a process of labeling, organizing, and sorting information or data (U.C. Davis, 2014) gleaned in this case by the interviewer. Coding, in its simplest terms, means assigning a designation to various attributes of data so that the data can be easily organized. The designations can be single words, letters, numbers, phrases, colors, or combinations of these. Coding permits the researcher to summarize and link data for analysis (Merriam, 2009). An essential component of coding is constructing a story line or a cohesive thread or focus that drives the interviews, synthesis, and analysis (Merriam, 2009; U.C. Davis, 2014). In this study, the construct or theme driving the research was synthesized from a combination of the legal rules established in the *Martin v. PGA Tour* case, the *K.M. v. Tustin Unified District* case, and the AHEAD standards discussed previously.

Therefore, the rubric that the researcher designed for this study used a three-pronged approach, taking into consideration the legal standards established in *Martin v. PGA Tour* and
Bartlett v. New York State Bd. of Law Examiners, civil rights laws from § 504 of the Rehabilitation Act of 1973 and Americans with Disabilities Act, the educational entitlement law of the Individuals with Disabilities Education Act, and the NJ State Special Education regulations, to form a description of standard practice. The description of best practice in the rubric used a synthesis of policy recommendations from AHEAD as well as recommendations from special education professional associations and peer-reviewed articles. The problematic practices category was derived when the practice fell short of the practices described in the other two standards. In coding, each individual response was compared against the three standards (best, standard, or problematic) in alignment with the regulations that underpin the rubric to see if the respondents met their obligations as Individual Education Program team members.

In essence, the driving theme was that accommodations need to be individually crafted to address the uneven playing field created by how an individual’s disability affects the activity being assessed.
Chapter IV

Presentation of Findings

The discussion in this chapter entails the theoretical, practical, and research implications of this study’s findings. This chapter will then provide a general summary of the previous chapters to contrast the study’s findings with relevant research, literature, and policy implications and then it discusses possible future research.

Summary of the Problem and Methods

This study examined and identified the criteria used by Individualized Education Program team members in Bergen County, New Jersey and the selection of the specific accommodations used on New Jersey State standardized tests and for classroom instruction. The goal of the study was to gain insight into the factors that may be contributing to the 7 to 1 discrepancy between gifted students and gifted students with disabilities in advanced placement or gifted programs (Rights U. D., 2014). Additionally, current research suggests that current procedures in testing accommodations used by Individualized Education Program teams are providing inconsistent testing outcomes (Capizzi, 2005; Fuchs, Fuchs, Brinckerhoff, & Banerjee, 2007; Fuchs L. S., 2000; Thomas, 2014). Per the research, these inconsistent testing accommodations are associated with painting a false-low picture of students with disabilities’ true skill levels or abilities, further hindering individuals with disabilities from the full benefits of public education (Brinckerhoff & Banerjee, 2007; Fuchs, Fuchs, & Capizzi, 2005; Hehir, 2002).

In 2006, the United States Department of Education conducted a large survey of testing accommodations of 11,500 students with disabilities on state standardized tests and determined that the testing accommodations for state standardized testing do not align with the
accommodations that the students with disabilities received in their classrooms (Outcomes, 2006). In a later survey of 2,336 special education teachers working in Alabama, findings indicated that only 51% of the teachers surveyed thought that the accommodation decisions should include how the students’ disabilities manifest themselves in education as an important factor. Only 12% of the teachers in this study thought that the students’ performance with the accommodations in the classroom should be related to those given on the state standardized test, an indication that as many as 50% of professionals in the field needed additional training (Outcomes N. C., 2010). Other research (Elbaum, 2007) concluded that while blanket “read-aloud” accommodations benefitted most students with learning disabilities in math assessments, about 8% performed at lower levels while using the read-aloud accommodation (Elbaum, 2007), which further disadvantages them when using universal design assessment approaches or blanket read-aloud accommodations with all learning-disabled students. Elbaum (2007) suggested that the decision to assign specific students to an individual accommodation test condition should only be made on an individual case-by-case basis supported by prior empirical evidence-based accommodations shown to have been effective.

Many Individualized Education Program team members are not trained in accommodation or access law specifically. In fact, the word “accommodation” only appears five (four, really, as it is repeated once) times in the New Jersey State Special Education Code, which simply states that students are to have testing accommodations or modifications that are New Jersey Department of Education approved, which was recently added (6A:14-4.10(a)1). The other citations deal with the need to inform staff members of their duties and responsibilities for implementing any accommodations or modifications listed in a student’s Individualized Education Program (6A:14-3.7(a)3). This situation is now becoming more complicated, as
across the United States new court rulings are starting to apply equal access obligations to
schools under antidiscrimination laws in addition to special education entitlements, such as
Section 504 of the Rehabilitation Act of 1973 (§ 504), the Americans with Disabilities Act
(ADA), and the Individuals with Disabilities Education Act (IDEA). These antidiscrimination
laws have different accommodation obligations for Individualized Education Program team
members and focus around the “best ensure” obligation standard versus a “reasonably
calculated” standard, which obligates the school district to ensure that the student must receive
“some” educational benefits (Rowley, 458 U.S. 206) and is traditionally used by school districts
(K.M. v. Tustin Unified District, 2013). This higher accommodation obligation standard adds a
level of complexity that many Individualized Education Program team members may not be
aware of.

Despite the large studies completed by the United States Department of Education on
testing accommodations (Outcomes N. C., 2006; Outcomes N. C., 2010) and the emphasis on
individualization decision-making in accommodation and Individualized Education Program
team determination, many of the research studies (Helwig & Tindel, 2003; Jessee, 2004;
Mariano, Tindal, Carrizales, & Lenhardt, 2009; NCEO, 2011; Outcomes N. C., 2006; Outcomes
N. C., 2010) point out that students with disabilities are treated as one monolithic group. These
results are problematic because eligibility under IDEA is based on thirteen different categories of
eligibility, and students with disabilities fall across the full bell curve of intellect, including
gifted and talented, in the same proportions as the general population (Monroe, 2007). This
represents an issue largely ignored by the research that this study seeks to fill by identifying the
specific criteria used by Individualized Education Program team members in the selection of the
specific accommodations used in Bergen County, New Jersey on state standardized tests and for
classroom instruction.

In light of the relevant research, and to identify the specific criteria used by Individualized Education Program team members in the selection of the specific accommodations used in Bergen County, New Jersey, the following questions further guided this research:

1. How do Individualized Educational Program team members consider how the student’s disability affects the validity and reliability of the assessment being used in determining mastery of the concepts when approving or disapproving accommodations on state standardized tests?

2. How do Individualized Educational Program team members consider the form of communication (auditory, print, sensory, or visual) in providing access to the curriculum in approving or disapproving accommodations for students with disabilities in the classrooms?

3. How do Individualized Educational Program team members measure the effectiveness of the accommodations chosen?

4. How do the educational backgrounds of the multidisciplinary Individualized Educational Program team members have any impact on the criteria used by the individual members?

5. How do the Individualized Educational Program team members address unique or

3 New Jersey uses a combination of the Common Core State Standards initiative (CCSS) and the New Jersey Core Curriculum Content Standards (NJ CCCS) in fulfilling its federal obligation for assessing student achievement.

4 "In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities." 28 C.F.R. § 35.160(b)(2) (2010).
unusual accommodations requests?

To answer these questions, a qualitative study was constructed and conducted utilizing semi-structured one-to-one interviews of eighteen Individualized Education Program team members. These interviews focused on constructs derived from the ruling from United States Supreme Court in *PGA Tour, Inc. v. Martin*, 532 U.S. 661 (2001) and its later accommodations progenies (*Bartlett v. New York State Bd. of Law Examiners*, 1997; *K.M. v. Tustin Unified District*, 2013), which emphasized that accommodations must be made on a case-by-case basis so that decisions are made in a nondiscriminatory manner. Individualized inquiry must be made to determine whether a specific testing accommodation for a particular individual’s disability is appropriate based on their specific circumstances and, yet, at the same time not make a fundamental alteration in the activity or invalidation the assessment (PARCC, 2015). This semi-structured one-to-one interviews approach was chosen to provide the needed flexibility to adjust for the open-ended questioning needed to adapt to the individualized nature of the subject matter while providing a guided and restrained framework for both the subject and the interviewer yet facilitating the opportunity to follow the narratives and descriptions of the decision-makers process (Gay, Mills, & Airasian, 2009).

Approximately twelve hours of interviews of eighteen Individualized Education Program team members were analyzed following the grounded theory of coding method outlined by Sharon B. Merriam in her text *Qualitative Research* (Merriam, 2009). Information was then organized, categorized, and sorted (UCDavis, 2014) to glean trends in the responses and form links among the data for analysis (Merriam, 2009). An essential component of coding is constructing a storyline, or a cohesive thread or focus that drives the interviews, synthesis, and analysis (Merriam, 2009; UCDavis, 2014). The three constructs or themes driving this research
(Best Practices, Standard Practices, and Problematic Practices) was synthesized from a combination of the legal rules established in *Martin v. PGA Tour* and *K.M. v. Tustin Unified District* cases and the AHEAD standards discussed previously. In essence, the driving theme was that accommodations need to be individually crafted to address the uneven playing field created by how an individual’s disability affects the activity being assessed. The three categories also aid in differentiating between the qualities of the subject’s responses but, more importantly, since these categories are aligned with federal and state case law, regulations, policies, and procedures on how Individualized Education Program team members are supposed to be making accommodations decision in the classroom and on state standardized testing, the findings have implications for future research, public policy makers’ decisions, and staff and parent training.

**Key Findings**

The eighteen Individualized Education Program team members of Bergen County, New Jersey described the criteria that they used in the selection of the specific accommodations in the classroom and on state standardized tests by their teams and themselves, confirming what other research has shown: that Individualized Education Program team decision makers are in need of additional training (Helwig & Tindel, 2003; Jessee, 2004; NCEO, 2011). These finding further showed that the subjects are aware of this need for training and desire it (seventeen of the eighteen subjects recommended additional training) and that they realize that this lack of training is affecting their decision making of appropriate accommodations on the Individualized Education Program teams’ selections (Bublitz, 2009; Helwig & Tindel, 2003; Mariano, Tindal, Carrizales, & Lenhardt, 2009; NCEO, 2011). The study showed the Individualized Education Program teams decision makers based their accommodation determinations on a list of
accommodations that were based on the student’s disability and not on how the disabling condition was manifesting (NCEO, 2011; NCEO, 2015) or according to the process prescribed in the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment manual (PARCC, 2015) used by the State of New Jersey for its State Assessments. In fact, only two of the eighteen subjects interviewed for this study described a process that was outlined in the PARCC manual.

Other findings of scholarly research were also confirmed by the study, particularly the need for mastery of technical terms to bolster comfort levels with the subject matter and the need for more training of the professionals and lay members of the Individualized Education Program teams in general.

**Findings**

**Background**

There were eighteen participants interviewed for the study (See Table 1, Appendix E), fifteen of whom were employed by school districts. The other three participants were parents of children with disabilities. All of them were members of Individualized Education Program teams. Of the fifteen school district employees, all but one had a Master’s degree. Three were general education teachers, three were special education teachers, three were school social workers, three were school psychologists, and three were learning disabilities teacher-consultants. Of the three parents, subject 15 did not disclose her educational background. Subject 16, a practicing attorney, had a Bachelor’s degree and a juris doctorate. Subject 17 had an Associate’s degree.

**Best, Standard, and Problematic Practice in Making Accommodations and Modifications**
Of the eighteen subjects, only Subjects 10, 12, and 13 reported that they had any training in selecting accommodations in their professional training for their educational or college degrees. Subjects 1, 2, 4, 5, 13, and 14 reported that they received professional development in accommodations training over the year. Subjects 6 and 7 reported that they received professional training—making accommodations, but not “in testing” or on state standardized tests.

All responses were classified as best, standard, or problematic practices to gauge the extent to which the IEP team members were prepared to provide appropriate accommodations to the disabled student. Responses were classified as best practices if the responses met the criteria set out in Appendix C, addressing in particular if the IEP team member provide equal access, use the best ensure standard, choose accommodations based on how the student’s disability manifests itself and impacts the skill being tested, includes the student, and ensures the integrity of the test. Responses were classified as standard practice if they met the criteria set out Appendix D, in particular meeting minimum standards set out in the state regulations or test protocols. Finally, responses were classified as problematic practices if they did not meet the criteria set out in either Appendix C or D or violated any state or federal regulation for accommodations or a special education.

Assessing and Determining Accommodations and Modifications

To clarify responses to Research Question 1, “Do Individualized Educational Program team members consider how the student’s disability affects the validity and reliability of the assessment being used, in determining mastery of the concepts when approving or disapproving

\[ \text{equation} \]

\[ ^5 \text{New Jersey uses a combination of the Common Core State Standards initiative (CCSS) and the New Jersey Core Curriculum Content Standards (NJ CCCS) in fulfilling its federal obligation for assessing student achievement.} \]
accommodations on state standardized tests,” respondents were asked a series of probing questions to tease out if their knowledge about assessing and determining accommodations for students with disabilities could be categorized as best, standard, or problematic practices. This included asking them how they would define an accommodation (see Table 3, Appendix E) or a modification (see Table 4, Appendix E) as well as explain the purpose of an accommodation (see Table 5, Appendix E) and a modification (see Table 6, Appendix E). The subjects were also asked about when in the IEP process their team first talked about providing accommodations or modifications for the child (see Table 7, Appendix E) in addition to delineating the factors considered when picking or choosing the appropriate accommodation or modification for a student’s IEP (see Table 8, Appendix E). Lastly, the participants were asked their thoughts about whether an accommodation or modification for a person with a disability should improve their results on an examination or assignment (see Table 9, Appendix E).

When it came to knowledge about how accommodations were chosen for a student with an IEP, Subjects 3, 4, and 18’s responses were all characterized as Standard Practice (see Table 2, Appendix E). Subject 3, a school social worker, stated how accommodations were chosen:

    We look at the individual and we see if accommodations or modifications would be helpful for them. Based on our testing—a lot of times it’s like the psychological evaluation—we look at if they need—visual spatial is an issue for them.

    We can cut down how many—this would be like a modification. You can cut down how many things are on a page, as opposed to giving a full page of twenty, when the child can’t focus on those particular areas. Changing the environment to help them be successful and actually focus more on 3 or 4 things
Some of the accommodations that we do is like, if, again, attention is an issue, you can break tasks into smaller pieces. You can go and make sure there is like breaks in between activities.

What else? We can also do, again, it depends on the child, you can break things into—if they need socialization skills, we can work on that. If they need—making sure that if they need preferred seating, we can do something like that.

Similarly, Subject 4, also a School Social Worker, stated how accommodations were chosen:

Actually, it’s a very interdisciplinary function. We start out by having teachers fill out an accommodation form. It’s like a checklist. Also, based on testing—like if we’re talking about an initial—based on testing we collaborate on what we think the child would benefit for in combinations. Teacher’s input is very much valued. They see that child on a daily basis. They see the nuances that we may not see.

Subjects 3, 4, and 18’s responses were categorized as Standard Practice and not Best Practice because, although their responses included some of the attributes of best practices, they did not include key elements, such as interviewing the student or parent for their participation or finding out how the disability affected the specific skill being assessed. For these reasons, Subjects 3, 4, and 18’s responses were grouped as a Standard Practice.

**Defining accommodation.** Nine of the eighteen subjects could define an accommodation well enough for it to be categorized as being Best Practice (see Table 3, Appendix E). Subject 2’s
response to this question was typical of the other responses: “Something that allows the student to work to the best of their ability on a standardized test or on a test in the classroom, based on what their special educational needs are.” Since Subject 2’s response focused on “something” and “allows the student to work” to the testing, the response was deemed appropriate.

Similarly, Subject 12’s response—“An accommodation is something that we put into place for a student to level the playing field so that he’s not unfairly penalized not being able to do something as well because of his disability”—focuses on the uneven playing field caused by the disability and the acknowledgement that an adjustment to “level” its discriminatory impact was appropriate to providing accommodations; therefore, this response was deemed to be using a Best Practice, along with similar responses from Subjects 6, 7, 8, 9, 10, 14, and 15.

To a lesser extent, Subjects 16, 17, and 18 could define an accommodation, but their responses (or knowledge) was characterized as using Standard Practice due to the broader nature of their responses, which were more aligned to a minimum process described in the New Jersey State code. For example, Subject 18, stated, in response to being asked to define an accommodation: “The modifications that you need to make both in the classroom in terms of everyday lessons and those modifications that you need to make on any assignment that you might have in the classroom on those days and any assessments. Whether they are projects or more formal tests or quizzes.” In this response, Subject 18’s use of the term “modification” when defining an accommodation is especially problematic when discussing testing accommodations since modifications invalidate the validity of the assessment, but the term “modification” is used in the New Jersey State code and often used interchangeably by teachers, but it is not considered a best or, even, a good practice.
In defining the term "accommodation," Subjects 1, 3, 4, 5, 11, and 13’s responses were all characterized as Problematic Practice (see Table 3, Appendix E). Subject 1, a school psychologist, defined accommodation as “being able to provide a child with something that would make the test equivalent to someone who didn’t have a disability.” This response is problematic because it is outcomes-based. Here, Subject 1’s decision-making process was focused on choosing an accommodation that would allow the student to perform on the assessment to the same level as someone who does not have a disability, instead of making the testing more accurate in reflecting the student’s mastery of the skills being tested (PARCC, 2015).

Subject 1’s response was similar to Subject 3’s, who defined accommodation by stating, “I would say that’s basically making sure that the child’s able to successfully keep up with the rest of the peers; making sure that everyone’s on the same page.” While this statement is factually true (we want students with disabilities to be able to keep up with their peers), testing accommodations and assessments have a specific function to fulfill, one of which is ensuring that students have access to the curricula (USDOE, 2013). Subjects 1, 3, 4, 5, 11, and 13’s responses were all similar and appeared to be outcome focused instead of accurately reflecting the student’s mastery of the content, therefore making their decision-making processes problematic.

**Defining Modification.** When asked to define a modification (see Table 4, Appendix E) after defining an accommodation, almost all the subjects took extended time to collect and organize their thoughts before responding. This particular question, along with the one asking them to define “accommodation,” seemed to cause an enormous amount of nonverbal and verbal discomfort. Subjects often leaned back, looked down, chuckled, crossed their arms, and
responded with a raised vocal inflection, which the interviewer interpreted as discomfort or uncertainty in their responses. In coding or categorizing the responses for the defining modification question, the key difference in differentiating between a “Best Practice” and a “Standard Practice” was one of pedagogy vocabulary that is rarely seen outside of special education. While focused on standards-based instruction, special educators need to drive their instruction toward, or align their IEP goals and objectives towards, the same general education instruction received by students without disabilities—i.e., in the general education curriculum, a modification is a change in that expectation or alignment (USOSEP, 2015).

Subject 12, a school psychologist, was unsure of how to answer this question about defining modification in light of having just defined accommodation. She stated, “That’s—I don’t know. I’m not sure what—because it’s always modifications and accommodations. I guess an accommodation would be—we would provide maybe an aide or a copy of notes. An accommodation. A modification could be a different kind of a test is prepared for the student. A change in the curriculum; to modify the curriculum.”

While Subjects 8, 9, 10, 15, and 16 were able to describe a modification, they did not articulate the additional element of change in the curriculum or assessment standard they would need to describe to classify their responses as “Best Practice.” Therefore, their knowledge would be classified as standard practice. In a similar fashion, Subject 8 stated, “Sometimes it might be that they can only test a smaller amount of information at a time, so that would be modifying.” This is contrasted with the majority of the subjects whose coding fell into the problematic practice grouping, mostly due to a tendency to focus on the assessment outcome over assessment accuracy, confusion over legal terminology, and professional technical terms (jargon). For example, Subject 2 stated, “Modification would be a change in the actual test, as
opposed to giving the student a change in what they're doing. Perhaps the lighting, if it were a child who was visually impaired. An FM system if they were hearing impaired, depending on the child.” The phrase “Modification would be a change in the actual test” is correct; testing modifications change the concepts or skills being assessed, but then Subject 2 goes on to give examples of environmental (lighting) or assistive technology, both “testing accommodations” that generally have little if any impact on the validly or reliability of the assessment itself.

While Subject 3, a School Social Worker, appeared to have a good grasp of the concepts of accommodations and modifications, she struggled to articulate them. For example,

I look at it as you’re changing the environment. Again, you’re giving that child either—I go back to my original kind of thing. As opposed to twenty things, it’s now three. You’re changing that environment, as opposed to just making sure that they’re able to have a certain seat, or a certain . . . So that makes sense. [Laughter]. I’m sorry. I’m probably not explaining it well.

Subject 3’s response indicated that she has a good understanding of the difference between an accommodation and modification, but not of the vocabulary or training to articulate that difference in a coherent manner. This was further illustrated by her self-questioning, laughter, apology, and more self-questioning, which was emblematic of many of the subjects but not in character of most educators whom the interviewer often interviews. Later in her response Subject 3, stated how accommodations were chosen:

We look at the individual and we see if accommodations or modifications would be helpful for them. Based on our testing—a lot of times it’s like the psychological evaluation—we look at if they need—visual spatial is an issue for them.
We can cut down how many—this would be like a modification. You can cut down how many things are on a page, as opposed to giving a full page of twenty, when the child can’t focus on those particular areas. Changing the environment to help them be successful and actually focus more on three or four things on a page as opposed to twenty.

Some of the accommodations that we do is like, if, again, attention is an issue, you can break tasks into smaller pieces. You can go and make sure there is like breaks in between activities.

What else? We can also do, again, it depends on the child, you can break things into—if they need socialization skills, we can work on that. If they need—making sure that if they need preferred seating, we can do something like that.

Similarly, Subject 4, also a school social worker, stated how accommodations were chosen:

Oh, yeah. Actually, it’s a very interdisciplinary function. We start out by having teachers fill out an accommodation form. It’s like a checklist. Also, based on testing—like if we’re talking about an initial—based on testing we collaborate on what we think the child would benefit for in combinations. Teacher’s input is very much valued. They see that child on a daily basis. They see the nuances that we may not see.

To further explore the subjects’ understandings of how the students’ disability may impact the reliability and validity of the assessment, the next phase of the research examined the purpose of accommodations and modifications. The first question
(regarding accommodations) elicited responses that could be classified as Best (3), Standard (6), and Problematic (9) practices (see Table 5, Appendix E). Subject 4’s response was indicative of the Best Practices group. She stated,

> The purpose of accommodation is to—we want to see what the child can do. If we could make the environment for learning—help the child access learning because we’ve now made the environment doable for the child. That’s what the purpose is. It’s almost like uneven playing field with the other students in there. The other students aren’t distracted so they don’t need that accommodation. The student that is distracted—we can see what the child can really do if he didn’t have those issues.

Using the same concept of the uneven playing field, Subject 4 describes how the student’s disability (distraction) creates the unevenness and how the accommodation levels the unevenness. Subject 4 further emphasizes the accuracy of the assessment and provides access to learning (access to the curriculum). While Subject 4’s response may not use technique, educational, or legal terminology, to the interviewer it clearly showed a deeper understanding of the accommodation concepts that many of the other subjects in the Standard Practice grouping did not possess.

In contrast, Subject 6’s response was exemplary of the Standard Practice group:

> The purpose, I believe, is to level the playing field for a student with a disability so that they don't have an edge in the testing, but so that they could do the best on the test given their disability or so that we can try to accommodate or so we can try to factor out the disability. Maybe that's not the best way to say it, or to take into account that the student has a disability and so that they can maximize their potential.
This response was deemed a Standard Practice due to the uneven playing field observation being connected to the student’s disability and the accommodation leveling the playing field without giving the student with a disability “an edge” in the testing. There was a discernable pejorative tone with an emphasis on outcome and not on the accuracy of the activity or assessment. For these reasons, this response was grouped as a Standard Practice.

Asking about the purpose of an accommodation elicited nine Problematic responses, from half of the people interviewed (see Table 5, Appendix E). The difficulty in this question was apparent in that several of the people who seemed to understand the concept and classified it as Best Practice knowledge struggled to articulate the purpose or the concept of accommodations.

**The purpose of a modification.** The struggle to explain the purpose of an accommodation was amplified when the subjects were asked to explain the purpose of a modification (see Table 6, Appendix E) in that fifteen of the eighteen responses were Problematic knowledge. Only one response from a Learning Disabilities Teacher-Consultant, Subject 7, could be classified as a Best Practice: “I think that a modification is something that can change the curriculum or the material so that students are able to perform at their level.” Here, Subject 7 concisely honed in on the idea that an accommodation “can change the curriculum or the material” and focused on how the “students are able to perform at their level.” The struggle to identify the purpose of a modification was also apparent in the two responses that were classified as Standard Practices. Subject 9, a General Education Teacher, stated, “It’s similar in nature. It’s to support them and be able to identify what level of success they should be able to achieve.” Here, Subject 9 focused on the individual academic level or capability that the student is “able to achieve” and the student’s need for the modification. The only missing element was a connection to the general education curriculum or state standards (USOSEP, 2015). Subject 16, a parent, stated,
“I think the purpose of a modification is to enable a child to stay in a mainstream classroom that may or may not belong there,” a response that articulates that the modification is enabling the student to stay in the mainstream classroom even though they may not belong there [based on academic skills alone] by meeting their needs. Showing understanding that a modification was a change in what was being taught to the student based on the student’s capability, Subject 9’s and 16’s responses were classified as Standard Practice.

In contrast to the few Best and Standard Practice responses, the Problematic responses were considerable (see Table 6, Appendix E).

Subject 1, a School Psychologist, stated,

I guess I kind of feel like they’re—go hand in hand. Again, to me, I feel like a modification or an accommodation is to try to make the child have the most amount of success with the test. Making it so when they walk up to participate in the test, that it’s—they have the same chance of being successful as the child who didn’t have a disability.

Here, Subject 1 focused on success on the test: “try to make the child have the most amount of success with the test” conflates a “testing accommodation” with a “testing modification.” Educators cannot modify or make testing modification on state standardized assessments in New Jersey, because this would invalidate the assessment, making the test inaccurate and providing false information (PARCC, 2013a). Instead, when students with disabilities require a modified curriculum (modification), they take a different assessment aligned to their individualized curriculum so as not to violate the assessment’s reliability and validity. In New Jersey, these alternative assessments are called Alternate Proficiency Assessment (APA) (APA, 2015) and Dynamic Learning Maps (DLM) (NJDOE, 2015). It
should not be overlooked that Subject 1 did identify one of the key elements in both accommodations and modifications as being “equity” (Enyart v. NCBE, 2011), where she states, “they have the same chance of being successful as the child who didn’t have a disability.”

Similarly, Subject 6, also a School Psychologist, conflated both accommodations and modifications in stating that one was a more specific type of accommodation:

I guess a very similar answer, I would say, only this time it's a little bit more specific to the actual test, as opposed to the environment or the time. This is something that, again, it's something that we're trying to do to accommodate for a specific student's disability.

Subject 10’s response while similar to subject 6’s response, was interesting due to her word choice and assumptions. She stated,

Well, again, the perception is without the modification, the student would not be able to demonstrate the learning. Show a certain level of mastery. If those multiple choice tests were not modified, if whatever it is, the desk or I’m thinking of certain students that I’ve had, was not modified, the student might not be able to participate in the class to the extent that we would hope would be meaningful for him or her.

The phase “the perception is” seems to imply that she does not agree with her following statement that changes to multiple-choice tests were sometimes a needed modification. Several issues appear in this response. A “modification” is a change in the student’s learning, so a modification could not aid a student in demonstrating his learning; it would change what the student is expected to learn. Additionally, the type of assessment, multiple choice, essay, or fill-in-the-blank, is not usually the skill being assessed but simply the format of the assessment tool. Depending on the nature of the test, the changes that Subject 10 described may have been, in fact, accommodations in a classroom setting or on a criterion reference assessment; but is not
allowed in most state standardized assessments, because those tests are based on normalized data collection (NCEO, 2015).

The research then examined timing, or when the accommodation or modification discussion was made by the team. The question concerning when an accommodation or modification is first addressed in an Individualized Educational Program elicited a variety of responses (see Table 7, Appendix E) that revealed, even more so than the others, some unanticipated responses. The original intent of this probing question was to elicit insight into when the Individual Education team Member timed their decisions for making testing accommodations to contrast it (the timing of the decisions making) with case law, state regulations, and best accommodation practices. Subject 6’s response was illustrative of the Best Practice responses:

When we get to that section, if the parent is completely unfamiliar with what this is, I'll explain the whole thing. If it's a parent that's familiar with the process, then we'll just review the accommodations and modifications that the student has had in the past and whether or not we're going to modify them, add things, take things away.

In this response, Subject 6 described how she leads the team and the parent(s) through the Individual Education Program meeting to help the parent(s) (the team) make a collaborative decision based on information presented earlier. Subjects 8, 9, and 10, similarly, could articulate properly timed and sequentially ordered decision-making process with a collaborative decision making process playing a key element. This key element (a collaborative decision-making process) was a significant component in separating the Best Practice responses from the Standard Practice responses.
Although still considered a Best Practice response, Subject 9, because she could properly describe an appropriate timing for testing accommodation decision-making process, gave an example that revealed other problematic issues unrelated to timing. She stated,

Because I’m normally part of the initial Individualized Education Program meetings, normally they first describe the testing process to the parents, so normally the parents and the students are there. Then, after the testing process is explained, either someone from the child study team, and sometimes I’m able to, answer questions about what it would look like in the classroom, explain what types of accommodations there are and that exist within the district, so that the parents have an understanding of what types of supports are in place should their student be eligible.

The phase “explain what types of accommodations there are and that exist within the district” conveys the impression that Subject 9 may be under the assumption that accommodations are preset or different by school district instead of being based on individual needs and the impact that that student’s disability has on the assessment without making a fundamental change (Bartlett v. New York State Bd. of Law Examiners, 1997). Nevertheless, Subjects 6, 8, 9, and 10 were all placed in the Best Practices grouping based on the timing of their decision-making process connecting to the collaboration of the group/parents.

The responses in the Standard Practice groupings (see Table 7, Appendix E) from Subjects 12, 15, and 17 were placed there because they left out the parent from the collaborative decision making process. Subjects 12’s response is illustrative of this omission:

Once a student is eligible, then we sit to prepare the Individualized Education Program.

We talk about what classes the student is going to be in. Based on the classes, what
modifications and accommodations are needed so that he can maintain himself in that particular class.

While the sequencing is similar to the responses from the Best Practice grouping, there was not a tie to collaboration or ensuring that the parents were participating in the process. Like Subject 9, above, some unanticipated information reveals that Subject 12 may have been focusing on aligning the accommodations or modifications to facilitate inclusion and not necessarily to ensure the accuracy of the assessment or to ensure a nondiscriminatory educational environment (OCR, 2010). Subjects 15 and 17’s responses about sequencing were similar to Subject 12’s and were the reason that these Subjects (15, 16, and 17) were placed in the Standard Practices grouping (see Table 7, Appendix E).

The responses classified as Best and Standard practices stand in contrast to the responses from Subjects 1, 2, 3, 4, 5, 7, 11, 13, 14, 16, and 18, whose responses were classified as Problematic Practices. Subject 1’s response typifies this grouping:

Usually with the teachers when we’re developing the Individualized Education Program.

Right before like an annual review, or if it’s a child’s initial Individualized Education Program, that conversation would be had with the current classroom teacher and the child study team itself—the psychologist, the social worker and the learning consultant.

In this response, the testing accommodations are selected “usually with the teachers when we’re developing the Individualized Education Program. Right before like an annual review.” In other words, the case manager and one of the student’s teachers are selecting the testing accommodations outside the Individual Education team meeting and without the input of some of the other Individual Education team’s experts, circumventing the multidisciplinary team process mandated by N.J.A.C. 6A:14-2.5(b)6. Similarly, Subjects 1, 2, 3, 4, 14, and 18 made
their accommodation decisions before the Individual Education Program team meeting and outside of the process, excluding not just other members of the Individual Education Program team (such as the General Education Teachers and School Representatives) but the parents of the student or the student, who are full members of the Individual Education team with full independent, enforceable legal rights to participate in the Individual Education team meetings (Winkelman v. Parma City Sch. District, 2007). Subject 5’s decision-making process, similarly, not only starts before the Individual Education team meeting, but also starts before the student has been diagnosed as a person with a disability. She stated,

Well, I mean this is a conversation that should start way before the Individualized Education Program process. Usually, that’s what we like to see; that’s what we recommend. If there’s a student that’s having any issues in the classroom or a teacher who’s having any concerns, it could be either an informal conversation that they would have with someone from the child study team, it could be a referral to the [Intervention and Referral Services] committee, or it could be a discussion about whether or not a 504 plan would be indicated, if there’s some sort of a diagnosis. Usually, once a person gets to us, there’s already been a discussion about different types of accommodations or modifications.

We typically see kids after they’ve already been though the [Intervention and Referral Services] process. Sometimes, we have kids referred to us who have 504 plans. They already have some modifications in place.

It seems that Subject 5 may have conflated the differentiated instructions (DI) or Response To Intervention (RTI) approaches that teachers engage in as part of the district’s Child Find Obligations N.J.A.C. 6A:14-3.3(b) with testing accommodations. It was for these reasons
that the responses from this group were classified in a Problematic Practice Grouping (see Table 7, Appendix E).

**How team members choose an appropriate accommodation or modification.** The question concerning how an appropriate accommodation or modification was selected elicited no responses that could be classified as following Best Practices, with 5 responses classified as Standard Practice and 13 responses classified Problematic Practices (see Table 8, Appendix E).

In coding these responses, the criteria (Merriam, 2009; UCDavis, 2014) aligned with the legal ruling in the Casey *Martin* case stating that (a) accommodations must be made on a case-by-case basis; (b) whether a specific modification for a particular individual’s disability is appropriate, based on their specific circumstances; and yet, at the same time, (c) not make a fundamental alteration in the activity (*PGA Tour, Inc. v. Martin*, 2001). Additionally, the table for decision-making in the process manual from the Partnership for Assessment of Readiness for College and Careers (PARCC) was also followed to classify these responses per New Jersey assessment practices (PARCC, 2013a, p. 46). These are the factors that this question was intended to examine.

As noted above, there were no responses that could be classified as Best Practices, which would have had to adhere to all three factors common to testing accommodations derived from the Casey Martin case and the Partnership for Assessment of Readiness for College and Careers (PARCC) manual.

Of the responses that could be classified as Standard Practice from Subjects 6, 8, 10, 11, and 17 some, if not most, are described in the Casey Martin case and the Partnership for Assessment of Readiness for College and Careers (PARCC) manual. Subject 6’s response was characteristic of this group:
Well, I think you maybe probably start with what the disability is, what category the student is at. For kids with specific learning disabilities, then we're gonna maybe tease out specifically what the disability is in. If it's a reading disability, we're gonna look for accommodations that address reading. Math disability, we'll talk about things like use of a calculator or manipulatives. If the student is maybe emotionally disturbed, then we'll talk about mostly setting accommodations. Are we gonna do it one to one with an instructor that they know? If the student has ADHD, we'll talk about doing it in an environment that is conducive for a student who gets distracted easily. We start with the disability and then we try to get more specific as we go. Then when we're consulting the teachers and the student and the parent and we're taking the functional approach, we'll try to get their input and say, “Well, what have you done in the past that has helped?” or “What have you done in the past that was hindering your performance?” Let's see if we can make an accommodation or a modification that will help with that.

Subject 6’s response was multi-layered. She focused on the students’ category of disability, how the student’s disabilities manifest in them, and how the disability affects the students in different activities, when she described obtaining information from others using multiple resources about the students by taking a “functional approach.” Similarly, Subject 8’s response focuses on how the student’s disability affects activity, but her example does not appear to be either disability- or assessment-based:

What the student needs for their disability, what I see their disability causing issues with or struggles with. It could be that something is going on in their home life that they might need an accommodation to maybe get work done at school, as opposed to bringing stuff home. That's basically how I kinda look at it from there.
In contrast to the responses classified as Standard Practice, the ones classified as Problematic Practices are exemplified by Subject 1, a School Psychologist, who stated that the factor she uses is, “What the child’s disability is. What their areas of struggle are.” Similarly, Subject 2, stated,

Any physical impairments, including visual and hearing, as well as how the child learns best. Do they need a scribe because they have some kind of a fine motor issue? Again, the visual impairment, the hearing impairment, the physical impairments. Then getting down to nitty gritty, if they have a learning disability, something that might affect their ability to come across with some of their ideas, they might need extended time or some breaks.

Again, while this subject’s response focused on students’ disabilities or their “labels,” a diagnostician using a particular disorder or label is problematic in that these terms commonly used by educators and the public are, in fact, large categories of similar disorders grouped together by some similar trait (see Appendix B), but they may affect testing in different ways. Additionally, this type of approach is in direct conflict with special education best practices, disability accommodation/modification philosophy, civil rights case law, and state and federal laws that require the purpose of special education regulations, as exemplified in the New Jersey’s Administrative Code, to ensure that the services and placement needed by each student with a disability required to receive a free, appropriate public education are based on the student's unique needs and not on the student's disability (6A:14-1.1(b)4).

In a similar vein, Subject 13 stated,

Hmm. Well, we have to go according to what the testing shows, first of all. What is their level, their reading or their mathematical skill, even their mobility, too? Then we
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go on from there. There are suggestions placed around the table from other teachers.

“What have you used that was successful with this particular student?” and we work on
that. I work very closely with the speech therapist, the OT. I get feedback from them.

One of my students, just for an example, he has to move constantly. I used a therapy
ball to keep him—when he gets a little antsy, we put him on this therapy ball to have him
stabilize himself and to focus. It helps him focus. Some is hit and miss. Some of it, it
works.

In this response, Subject 13 focused on an outcome-driven or results-driven approach to
“testing,” which seems to work in her example if focusing and attention was the issue.

Unfortunately, standardized testing accommodations are measuring a student’s attention or
focus. While attention and focus may be the very issue the team needs to accommodate, Subject
13’s response reinforced that this was a “hit and miss” approach and more experimental models
similar to accommodations tried out in a classroom are required, not the more structured state
testing environment (PARCC, 2013a).

This outcome factor as part of their decision-making process was also a part of the
responses from Subjects 3, 4, 7, 8, 12, 13, 14, and 18. While outcome factors must be part of
any accommodation process, they also need to be tempered against test validity and effectiveness
of the accommodation so as to not fundamentally alter the assessment and to ensure fundamental
fairness and equity (Bartlett v. New York State Bd. of Law Examiners, 1997; PARCC, 2013a;

Will an accommodation or modification improve student achievement on tests or
assignments? According to the United States Department of Education, when an educational
agency tests a student with a disability, the test results must accurately reflect the student’s
aptitude or achievement level rather than reflecting the student’s disability, except where those skills are the factors that the test purports to measure (US DOE Reg. 104.359(3)). If the purpose of an accommodation is to even the playing field that an individual’s disability causes to an activity without altering or changing the activity itself (PGA Tour, Inc. v. Martin, 2001), then accommodations that do not have a positive impact on an assessment result are either ineffective or unnecessary. Additionally, some research points out that ineffective accommodations unintentionally lower assessment results, further disadvantaging students with disabilities (Elbaum, 2007).

The question about whether an accommodation or modification for a person with a disability improves their results on the examinations or assignments was constructed to explore the subjects’ understandings of this concept elicited 4 Best Practice, 8 Standard Practices, and 6 Problematic Practice responses from the 18 subjects (see Table 9, Appendix E). The majority of the subjects, for the most part, were able to articulate that an accommodation should improve a person with a disability’s test results (see Table 9, Appendix E) by removing the discriminatory impact that their disabilities are having on the assessments, but only the 4 Best Practices subjects were consistently able to articulate that the accommodations were tied to making the assessment more accurate versus in an outcome-driven way.

For example, Subject 1 stated,

I think in general, maybe, because if you gave the child the test without the modification or the accommodation, would they be able to even complete it in the first place? . . . I think when we do the modifications and the accommodations, it’s trying to ensure that the test is actually gonna evaluate what it was supposed to, whether a child is able to read
or the reading level of a child—not can they follow these particular directions or can they take a test. It’s, are they learning the information that they’re supposed to be learning?

In this response, Subject 1’s point is that if the assessment is accessible, then the accommodation is effective and the assessment should measure what the student learned, “improving the results through a more accurate assessment.” It was this emphasis on accuracy and detail that separated the other Best Practices responses (Subjects 8, 11 and 12) from the Standard Practices responses (Subjects 3, 5, 6, 10, 13, 15, 16, and 17).

For example, Subject 3, stated, “Should improve? If it makes them successful, it should help them, yeah. I mean, obviously you can’t give an A if they don’t actually deserve it.” Subject 3’s understanding of success was rooted in the student’s grade point average, test outcome, or what may be of importance parents or the students and some teachers, in contrast to the responses classified as Best Practice, which had much more useful diagnostic and assessment purposes (PARCC, 2015).

The 6 responses classified as Problematic Practices are typified by Subject 2’s response: “I don't know that they should improve the results so much as become more accurate a gauge of their abilities. It's not a cheat, it's a support.” Although the last statement was clearly intended as a positive statement, it seemed defensive in tone, with nonverbal cues indicating that it was pejorative in its literal meaning. In comparison, according to Subject 4,

It should. It can, is my answer to that. It’s not necessarily that that’s the reason why we do it. No, really. Okay . . . Oh, yeah. No, no. It’s bigger than that. A child feeling successful at the end of assignment is bigger than any necessarily, “Now I got an A,” as opposed to, “I was able to do this because I had enough time.”

We didn’t even talk about extended time but, yeah, that’s another accommodation.
Yeah, just having enough time to show what I can do because, “Oh, my goodness. Oh! I have 10 more minutes. I have 15 more minutes. Because I have 15 more minutes I was able to do it,” as opposed to, “Oh, I got an A on it.” It should improve, but that’s not the ultimate goal.

Subject 4 understood that accommodations should result in higher assessment scores but not due to a more accurate assessment. She improperly attributed this to an intent to improve or facilitate self-esteem, which could be a legitimate goal or objective of an Individualized Educational Program, but this would invalidate the assessment and not be permitted for state and federal assessments.  

Subject 4’s response can be contrasted with Subject 7’S, who stated, No. I don’t think that it should improve the results. I think that the purpose of it is so that . . . If a student who has trouble—who may have a lot of great ideas, but they have a lot of difficulty getting those ideas out from their head onto paper—if they have to write an essay or write a response to a question, that’s part of their disability. They may be able to speak a fantastic answer. I think if say the student would to be able to give answers orally, to me, I wanna know that the kid understands what’s being taught and they understand the concept and they can analyze and they can think about it and they can spit back out the information that they’ve been hearing in class.

If they’re able to better express that verbally than writing that down, then I think that that’s a true picture of their ability. I wanna be able to see a true picture of their

6 The only exception would be the 1% alternative assessment weave used for students with significant cognitive disabilities who are assessed using the Dynamic Learning Maps (DLM) (NJOSEP, 2015)
ability, not part of the picture because the whole writing process got in the way of them being able to share what they know.

Subject 7’s response is focused on the mechanical production of writing or the skill of producing written responses instead of removing the uneven playing field created by the student’s disability (Bartlett v. New York State Bd. of Law Examiners, 1997; PARCC, 2015; PGA Tour, Inc. v. Martin, 2001). It appeared that Subject 7 did not accurately identify that the production of the assessment’s responses in a particular format (print versus oral) may have been an accommodation and greatly impacted the student’s assessment as to accuracy of the assessment and the assessment’s validity which, if not properly accommodated, leads to a false low score (Hehir, 2002). This response is somewhat similar to Subject 9’s, who stated,

Ideally. It doesn’t always happen that way, but ideally I believe if the student’s putting forth their best effort and they’re in need of those accommodations then they should help them to find success. That doesn’t mean success with every topic. They still might struggle with a concept here, a concept there because we all do. Overall they should find more success than they were originally. [Laughter]

Again, this response focuses on success or outcomes and not the accuracy of the assessment, even mirroring or conflating extraneous criteria into the decision-making process, like Subject 7 had. Subjects 7’s and 9’s responses were very reminiscent of the findings of a Harvard researcher’s examination of the experiences of disabled students at Harvard University. It was their conclusion that there were systemic inadequate responses of institutional ableism that forced students with disabilities to shoulder the burden of navigating around or tolerating disability-based discrimination (ableism) (Schifter, 2015).
These last two responses contrasted that of with Subject 14, a general education teacher, who stated,

Yes, yes. Definitely. That's the whole purpose, kind of level the playing field, if you would. We have the state tests, for instance, and some students need the extra time to make sure we test 'em and get the results that they're capable of. You may not see that with limiting their time. Some kids need unlimited time. Those are all the different things you have to think about.

This response was a much more accurate depiction of the criteria used in assessing accommodations and why a test score would increase with an accommodation. The inaccuracy in it is the “unlimited time” statement: unlimited time is an inaccurate and almost never used accommodation, as most common accommodations are 1.5 to 2 times extended time (PARCC, 2013a). While this may seem like a minor inaccuracy, this type of mistake in understanding of testing accommodations can lead to a tremendous amount of acrimony and misunderstanding, leading to mediation or due process hearings to enforce student’s educational rights (N.J.A.C. 6A:14-2.6 & 7) unnecessarily when someone simply misspok. It was for this reason that Subject 14’s response classified as a Problematic Practice.

**Forms of Communication in Providing Access to the Curriculum**

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Extended time accommodations are most often granted due to a slow processing speed or a disability interfering with the individual’s ability to think quickly. Another reason for an accommodation of extended time is to deal with the fact that some accommodations take longer to provide access to the same test question; for example, a verbal exam takes longer than one in which the individual reads to test questions themselves necessitating a longer examination. Additionally, according to EST’s own research publication extended time accommodations has little impact on test results, in fact limiting time can dramatically threaten test validity and have a negative impact on the instruments ability to accurately measure the concepts the test was designed to assess. This publication points out that while time limits would be essential in assessing certain skills such as typing it is not an essential component of tests such as SATs, GREs and other global assessments. Their publication points out that the real driving force here is to contain excess test administrative costs, reducing test “seat” time and to reduce the hourly fees paid to proctors needed for paper-based exams (Bridgeman, 2004).
To clarify the responses to Research Question Number 2—“Do Individualized Educational Program team members consider the form of communication (auditory, print, sensory or visual) in providing access to the curriculum in approving or disapproving accommodations for students with disabilities in the classrooms?”—respondents were asked a series of probing questions to learn about their process for approving or denying accommodations to students with disabilities. These responses were categorized as Best, Standard, or Problematic practices. To uncover the team members’ understanding, they were also asked where they found or learned about the accommodation or modification (including auxiliary aides) that they planned to implement (see Table 10, Appendix E) and if accommodations differ between state standardized testing and the classroom (see Table 11, Appendix E).

As stated above, there is no non-exhaustive list of auxiliary aids, accommodations, or reasonable modifications depending on the law or the terminology used for leveling the uneven playing field caused by the individual’s disability (AHEAD, 2014; Pasternak, 2002), and each state tries to anticipate the most commonly-used accommodations, which are often listed as suggestions or as a pre-approved list of testing accommodations. As explained in New Jersey’s PARCC training materials, there are often unique situations or unusual circumstances in which local school district personnel should contact the State Assessment Office or the Office of Special Education for guidance when needed accommodations are not on the New Jersey Assessments pre-approved list (PARCC, 2015).

When it came to learning about the accommodation or modification the Individual Education Program team members offered the students with disabilities, there were five responses that could be classified as Best practices with 5 more classified as Standard
practice. The majority of the responses were classified as Problematic practices (see Table 10, Appendix E).

**Determining accommodations, modifications, and auxiliary aids.** When a response was classified as a Best Practice, the respondent indicated that their team started exploring the accommodation recommendations from the PARCC pre-approved list (see Appendix D) and then supplemented this list with other resources, including other staff, parents, and the student. This can be seen in Subject 6’s, a school psychologist’s, statement: “We have an Individualized Education Program Planner, so on our Individualized Education Program program, there's a list of them. Of course, we can add or subtract things that aren't on that list, but that's what we use as a general guideline.” Subject 12, a school psychologist, supplemented her decision-making and choice of accommodations by seeking evidence from standardized testing or team members and focusing on the evidence: “If their fluency scores are low and it takes them more time, then we would wanna give extended time for testing … sometimes, there’s somebody you have to think about more, and develop something that’s unique for that one that person.”

The responses that were classified as Standard practices started with lists of accommodations through their computer software or departmental materials. For example, Subject 1, a school psychologist, stated,

> In our Individualized Education Program program, there are examples or there’s a dropdown menu that you can select accommodations from. Oftentimes, we’ll check in with ourselves, so like our team, for what accommodations might be appropriate.

Similarly, Subject 10, a learning disabilities teacher-consultant, stated,
Well, I think we have a standard laundry list, and we use the TIENET program, so we enter into the TIENET program, and it would be whatever program we use, the things that we find in the past, but if we have to be creative, we certainly can be.

This is in contrast to the responses classified as Problematic Practice. These respondents were not sure where the accommodations came from, but their responses reveal information that question the practices being used. For example, Subject 4, a school social worker, stated, “To be honest [laughter], they’re from the code. They’re in the code and over a period of time we have great secretaries that make a nice checklist for—but that’s where they come from.” This checklist misunderstanding may be from the New Jersey Department of Education’s own error in that in several documents they use the term “code” about the list of pre-approved testing accommodations (see Appendix D). This response is in contrast to Subjects 14 and 15, who thought that the list of appropriate accommodations is from the Individualized Education team members themselves. Subject 13, a general education teacher, stated,

They use their experience, or they have a list to work from. I mean, they really look at the individual as far as I can tell. I've only been in a few in this school, but they look at the individual. People on the team seem to have a lot of experience of what works, what doesn't work. . . . Some of them may have siblings that have already worked with the parent. Or, like I said, in the file there might be information.

This response shows how extraneous information can influence the decision-making process about the accommodations. For Subject 13, that the relationship the team might have had with a parent in the past might have some influence on individualized new analysis is revealing.
In contrast to Subject 13’s response, Subject 8, a Special Education Teacher, stated, As far as for me in the high school, students come to us with their Individualized Education Program written, from the middle school. We get that, and it's got a list. They have a whole list of things they check off or don't check off, as far as modifications, what they felt the child needed. We have a similar list that, as we get to know them, and see where they are as they mature, and then we decide whether they still need those accommodations, or if there's something different. If we move them from one level, say from a resource room to the CP level, we would say maybe an accommodation of an in-class support person, so that they're there. Do they need notes, if we move them here? We look at it that way. We have the lists that we've seen, but we pretty much have an idea. I just know what the choices of accommodations are at this point [laughter], and pick from them.

Subject 8’s response appears to be problematic on several levels. The response reveals, perhaps, a routine within the district of limiting accommodations to a specific checklist and not making an individual determination of how the individual’s disability is manifesting itself on a case-by-case basis, as described in several of the above-mentioned policy manuals and in several court cases (AHEAD, 2014; PARCC, 2013a; K.M. v. Tustin Unified District, 2013; Bartlett v. New York State Bd. of Law Examiners, 1997).

Subject 9’s response is even more problematic, although it could simply be a clash of unfortunate word choices:

Is there a list that someone here has that every now and then I see pop up in one of the meetings; that’s what the district tends to provide. We have some very general ones like copies of class notes, reviews two days in advance, and very standard
Individualized Education Programs. I don’t know where that list originated from, but I do know that there is a list [laughter].

Subject 9’s response reveals issues already covered, such as general lists and not knowing the origins of the approved accommodations, which are all Problematic Practices; but the phrase “very standard Individualized Education Programs” seems to exemplify the responses classified as Problematic Practice in that it raises the question of how an Individualized Educational Program team provides “very standard” anything. While one may smile, the irony of this statement appears to be ubiquitous.

**Differing State standardized testing and the classroom.** In New Jersey, accommodations used during statewide testing “must be consistent” with instructional and assessment procedures used in the classroom (Jersey, Assessments - PARCC, 2015). With this explicit guidance in mind, responses were grouped accordingly. Those classified as Best Practices because they characterized an in-depth analysis of how the student’s disability effected the skills being assessed while attempting to maintain access and an even playing field for the disabled student and equity in general. Responses grouped as Standard Practice aligned according to compliance with the rudimentary/testing materials distributed throughout the school during Individualized Educational Program reviews and state standardized testing. Responses that were Problematic Practices revealed any aspect that presented an issue affecting the integrity of the accommodation process, such as validity, reliability, ableism, discrimination, or marginalization. There were 4 Best Practice, 7 Standard Practices, and 7 Problematic Practices responses in answer to this question (see Table 11, Appendix E).

All responses that were classified as Best Practices were aligned and consistent with the accommodations and the instruction that the student received in the classroom. Subject 1
stated why accommodations must be consistent on state testing with the classroom accommodations:

I know some of the testing that’s being done now is done on computers. An accommodation for a child being able to use a computer is gonna be different than an accommodation when you’re doing a whole group lesson in a classroom. They may need, for example, they may need it being able to be presented to them like on a slant board, so it’s not laying flat on a table if they have visual issues. They would differ depending on how the test is being presented versus your everyday occurrences in the classroom.

Subject 4’s response also exemplified the Best Practices grouping and got right to the point, stating, “Like, for instance, if a child—they will always complement each other. It won’t be something totally—it’ll never be something totally different. . . .”

In contrast, the Standard Practices responses (see Table 11, Appendix E) may be responded to if accommodations differ or align correctly, but the responses were limited (if not guarded). For example, Subject 10 simply stated “no” to the question, while Subject 16, reported,

I think that they are much more consistently applied on standardized testing, without any doubt, than they are in the individual teacher’s classroom. When it comes to standardized testing, and the school is looking at its numbers, they wanna make sure that their accommodations have all been implemented.

While the broad generalization of the statement above may have placed this response in the Problematic Practice grouping, the fact that the statement was made by a nonprofessional parent and that the Office of Civil Rights of the United Stated Department of Education is
reporting that they are overwhelmed by the rise in complaint investigations, of which approximately 40% are disability based (Washington Post, 2015), it was more accurately classified as a Standard Practice under these circumstances.

On the other hand, the Problematic Practice responses (see Table 11, Appendix E) are exemplified by Subject 3’s response,

I mean, I think that in a standardized test, there’s only so many times that you can repeat a question or something like that. With our modifications and accommodations, the teacher’s able to actually repeat it maybe more times than is necessary, so it gets that differential.

The terms “differential” and “modifications” in this response, as previously stated, are concepts that would invalidate any state standardized testing and would only be permitted on the 1% alternative proficiency exception (Jersey, APA, 2015).

Similarly, Subject 5’s response was problematic in that the terms used are ambiguous and are not the proper accommodation terms used for teaching children with disabilities:

Sometimes. It depends on the student. It depends on the length of the test. It depends on the test administration. A lot of those decisions are subjective, based on the knowledge of the individual. Also, how the student reacts emotionally to the modifications that they’re getting.

At the very least, Subject 5 appeared to be struggling to convey whether accommodations on state standardized testing should be similar to those used in the classroom. In another example, Subject 9 stated,

They often tend to. I know a decent number of our students within the district have use of [a] calculator, for example, as a classroom accommodation, but they don’t go through the process to have those
accommodations or that paperwork for various standardized assessments. Now, in most cases, calculators are allowed, but, for example, a subject test or SAT subject test, think one of ‘em isn’t. The same is with extra time, so extra time is often provided to students who have accommodations, but not all of them pursue the extra time on the SAT or ACTs or various other standardized tests.

When asked to clarify how Subject 9 knew this, the following was stated,

I know it’s additional paperwork. I know that there is in this district at least a stigma about labeling the students, so the parents feel that if they ask for extra time on the SAT then that will be written somewhere, and that information will be sent to schools. Where if it’s just within the classroom, they can choose to kind of hide that information.

While this response and its clarification successfully characterizes the alignment of accommodations between the classroom and state standardized testing, it also appears to perpetuate the stigma, or fears of parents and the students with disabilities, about testing accommodations. What is described above is “Red Flagging,” which has been determined to be illegal and a civil rights violation for over thirteen years (New York Times, 2002) and considered a major contributing factor to the failure of individuals with disabilities through the Anna Karenina King principal (Tindal, 2001). While silence in other circumstances may not create an obligation to inform a parent or a student with disabilities of misinformation regarding their rights, in this case, for a member of an Individualized Education Program team, there is a special fiduciary responsibility relationship (N. J. A. C. 6A:14-1.1 (b) 7). Therefore, this response was characterized as Problematic Practice.

Measuring the Effectiveness of the Chosen Accommodation
To clarify responses to Research Question Number 3—“How do Individualized Educational Program team members measure the effectiveness of the accommodation chosen?”—the respondents were asked to consider how accommodations or modifications were assessed to determine their effectiveness (see Table 12, Appendix E). Responses were categorized as to Best, Standard, and Problematic practices. Best practice responses were those that suggested that the subject was using an experimental process, based on validated standardized diagnostic assessments, to guide or suggest possible effective accommodations, which were then followed by using an experimental approach to confirm the validity of the accommodation (AHEAD, 2014; Pasternak, 2002). Standard Practice responses were those that complied with the rudimentary/testing materials distributed throughout the school during Individualized Educational Program reviews and state standardized testing. Problematic responses were those that raised any aspect or issue that affected the integrity of the accommodation process such as validity, reliability, ableism, discrimination, or marginalization.

There was only one respondent who had a response that could be classified as a Best Practice. Subject 6, a School Psychologist, used several factors to determine the effectiveness of a modification or accommodation. She stated,

We would look to see, okay, take any individual kid. This kid has a learning disability. They have an average IQ. They are getting As and Bs in English and math with accommodations and whatnot, so we look at the past tests. What did they do on the New Jersey ASK8? They were

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8 New Jersey Assessment of Skills and Knowledge (NJ ASK)
always proficient or maybe they were always on the edge between proficient and not. If we give these accommodations and we give those modifications, then we know this student should pass the HSPA with those accommodations and modifications. If they're not passing the HSPA, then we would have to look and say, “Okay, well, why are they not passing?” Are we not giving the right accommodations or do we need to give more? Why is the student earning good grades or, well, I guess maybe the best way to say it is, is the student's score on those tests commensurate with what they're doing in school and their IQ and their educational scores . . . We look at the IQ tests. We look at the educational tests, and that's actually a vital piece of information. For instance, if we know from the IQ test that a student has well below average processing speed, then we're gonna probably really look closely at providing the student with extended time.

Her response shows that she considers several factors in her decision-making process that contribute to identifying the appropriate accommodation based on evidence drawn on past testing, standardized testing, and an experimental approach that involves examining or analyzing poor test results that took place with ineffective accommodations compared to effective exams to identify differences. This response differed from those classified as

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9 High School Proficiency Assessment (HSPA) was previously used to determine student achievement in reading, and mathematics as specified in the New Jersey Core Curriculum Content Standards. The March 2015 HSPA was the last HSPA administration; the HSPA was the graduation test of record for all students that graduated in 2015 (http://www.state.nj.us/education/assessment/hs/hspa/)
standard practice in that the eleven responses looked to the teacher to observe comfort for the student without considering the varied factors that should go into assessing the effectiveness of the modification or accommodation used. Subject 7’s response typified the other responses in that it focused on the comfort or belief of the teacher as to what the student required:

I think they’re assessed through observation and just based on seeing and feeling how comfortable the student is, what the teachers feel works versus what it doesn’t work. We may try a few different things and then kind of determine what the student feels most comfortable with. I haven’t personally used them yet. This is also my first season of writing Individualized Education Programs. We typically do it in the spring, so I’m coming up on to it.

Subject 11 had a similar response based on observing what was successful:

They’re [accommodation or modification] assessed through the student’s ability to be successful on given tasks. If a student is not successful, we could. Sometimes—oh sorry. Sometimes, we look at some different factors for that, but also, if a student is able to succeed and learn the material and perform to mastery level, then we believe that the accommodations have been successful [and] will get feedback from the student. Sometimes, in a next ongoing Individualized Education Program meeting, it’ll come up. “Are we using these, do we still use these, do we still need these?” are the ongoing questions to see what modifications and accommodations will remain with the student.

Subject 17’s response was in alignment with these others when she stated, “I would say they’re assessed based on their success in the classroom and on testing, testing scores.”

These responses differed from those classified as Problematic. These six respondents judged
the effectiveness of the accommodations by the assessment’s outcome; in essence, whether
the accommodation was a success was determined by the student’s success in passing the
examination, conflating the accommodation with mastery of the skill being assessed, instead
of separating the two. Thus, the accommodation was not assessed for its effectiveness
versus whether or not the concepts taught were mastered. To some extent, almost all
subjects (see Table 12, Appendix E) struggled with this key concept. Subject 3’s response is
illustrative of this idea:

That’s done on, basically, a weekly basis, as well as with the teachers making sure
that inside the classroom, if something is not working we can change it. Of course,
through the Individualized Education Program, we do goals and objectives four times
a year. The teachers really look at, “Is he able to reach this goal with this help of the
modification?” You need to kind of modify and change that in the process.

This response conflates testing accommodations with goals and objectives, classroom
expectations, and modifications of the curriculum. Modifications are not permitted on State
standardized testing outside of the 1% exception for students with the most significant
cognitive disabilities (Jersey, 2015a). Similarly, this misunderstanding is evident in Subject
4’s response:

Well, for us it’s not one formula but when we’re able to do in progress reports,
teacher conferences, it’s a verbal feedback. When they’re not, then they can be
tweaked. It is an ongoing evaluation, per se, but I wouldn’t say on a form or—but I
would say during progress report time or during conferences with parents.

Responses to judging the effectiveness of an accommodation or
modification were unbalanced at best. Subject 14’s, a general education teacher’s,
response could have been classified a Best Practice, but it does not memorialize
the procedures chosen in the Individual Education Program:

[I]deally, you would have a situation where you have the exact same instrument
right before any of those accommodations or modifications have been put in place. I
know that's not always possible or feasible.

And of course, there's some bias if the kid is seeing the same thing.
Naturally, the second time he or she may do better with or without the modification or
accommodation. Those are things you have to really think about before you make
the evaluation [of] whether something's successful or not.

But just going forward, let's say a kid can't take a 30-question quiz in fifteen
minutes, let's knock it down to twenty but still test the same skills. Instead of having
so many questions testing the same skill, just space it out a little bit and you can
accomplish the same thing.

In asking for clarification about knowing what was being done, Subject 14 responded, “I do
for my students. I can't say that for everyone.” In follow-up, the subject was asked if she
knows if standardized testing is being used to measure the accommodation's effectiveness.
The response was “No [. . .] It's, like I said, in let's say the PARCC or the NJ ASK
environment, whatever accommodation's in place is supposed to level the playing field so
that those results are reliable.” This response becomes problematic because the students’
Individualized Education Programs were not being followed in his classroom. Another
general education teacher, Subject 9, had a similar response:

Honestly, I don’t believe that they necessarily are as a whole. I know that
when students are up for an annual review, sometimes the teachers are asked whether
or not students are utilizing various accommodations or whether or not the teachers
feel that they’re effective in supporting the student. For example, if you have a
student who has extra time and they never use it, then either that’s something that
they’re not utilizing that might be able to help them or it’s something that they don’t
need. From the general education standpoint, we’re often just asked what we
observe in our classroom.

In the above response, the opening statement is problematic. Accommodations are
necessary to provide a nondiscriminatory educational environment to students who require
them and who have a civil right under several different and independent civil rights laws
(Education U. D., 2014; *K.M. v. Tustin Unified District*, 2013; OCR, 2010). Additionally,
caution needs to be used when making statements about classes of people or groups so that
the emphasis of the statement is not lost to unintended response or some mischaracterization
of a microaggression, but in fact may be an act of a teacher driven by unintended disability-
based harassment or bullying (OCR, 2000). Even taken in the light that I believe the
statement was intended to imply, that “as a whole” students with disabilities’ Individual
Educational Programs include “some” accommodations that are unnecessary, this statement
tends to either reinforce the negative stereotype of the disabled in academic communities as
being a given (Lu, 2014) or there may be problems in the process of how the
accommodations are selected by the Individual Educational Programs team itself.

**Educational Backgrounds and their Effect on the Criteria for Accommodations**

Responses by all eighteen subjects led to no conclusions as to whether an
Individualized Educational Program team member’s educational background affected their
ability to provide, judge, and assign appropriate accommodations or modifications to a
student with disabilities. As observed through the responses, occupation and education
background did not impact whether a response was classified as a Best, Standard, or
Problematic Practice. In analyzing the tables where each response is grouped by its appropriateness, it is clear that responses varied and had no connection to the respondent’s job function or educational background. This question needs further investigation and its findings are outside the purview of this study.

**Addressing Unique or Unusual Accommodation Requests**

Sometimes, parents will request an accommodation or modification that the Individualized Educational Program team has never heard of before. The subjects were asked what they do when a request is made for an unfamiliar accommodation or modification. The responses (see Table 13, Appendix E) were divided into Best, Standard, and Problematic Practices. It is important to note here that stated in several guidance documents throughout the New Jersey Department of Education website on assessments and testing manuals, Individualized Educational Program teams are directed to seek guidance either from the Office of Assessment, their County Supervisor of Child Study, or from the Office of Special Education and Program (OSEP) when a unique accommodation situation arises (PARCC, 2015; PARCC, Manual, 2013). Therefore, when this guideline is not followed by the Individualized Educational Program team members, the practice is problematic. Thus, the responses classified as Best Practices indicated that the respondent sought guidance from regulatory agencies overseeing the assessment being administered—in this case, the State of New Jersey. Standard Practice responses were characterized by Individualized Educational Program team members seeking guidance through their local administrators. When an issue cast doubt on the integrity of the testing accommodation process, the response was categorized as a Problematic Practice.

There was only one response that could be classified as a Best Practice. One of the learning disabilities teacher-consultants, Subject 2, indicated that she thought her director of
Special Education would seek guidance from the state. A number of the responses were classified as Standard Practice because the respondent sought guidance from a school district administrator. For example, Subject 1, a School Psychologist, stated,

"Usually, I would check in with my administrator to see if that is a valid accommodation that can be offered. Cuz, for example, with PARCC some of my colleagues had offered accommodations that we were not able to provide them. It was, I think, being able to read the directions to the child, or read—that they can’t, in the PARCC, what [Director’s Name] was informed was that you weren’t able to read it to them. I would always check with an administrator, as far as if it can be used or not."

Conversely, Subject 7, a Learning Disabilities Teacher-Consultant felt it possible to research a solution:

"I would research\textsuperscript{10} it to get a better understanding of what they were presenting. If I felt that it was appropriate and feasible and would be in a student’s best interest, [this] would be a conversation that we have as a team to kind of discuss how that would play out."

Therefore, all these respondents understood the need to seek guidance from research and/or further investigation from an administrator for an accommodation or modification that they were unfamiliar with, but the guidance they sought did not go beyond the school district level. In contrast, responses that were classified as Problematic Practices included any

\textsuperscript{10}It was imbued in the coding based on follow-up questions that the term “research” includes administration guidance. Without this guidance, any accommodation approved not already on the state or federal assessment preapproved non-exhaustive list of accommodations invalidate the assessment and could result in a test breach or violate the integrity of the assessment (PARCC, 2015; PARCC, Manual, 2013)
elements that called into question the integrity of the accommodation or testing process
(Education U. S., 2012), N.J.A.C. 6A:14-1.2(b)15, and N.J.A.C. 6A:14-1.3 [Definition of an
“Individualized Education Program team”]. For example, Subject 3, a school psychologist,

I would definitely say look into it. I don’t think that a parent should request a
certain thing, but it’s definitely something that we can look into. For instance, it has
to be something that’s gonna be beneficial for the child so if it’s—even if that’s a
little loose cannon [laughter] we might have to.

In this response, Subject 3’s statement that “a parent should request a certain thing” treats
parents differently than other Individual Educational Program team members, when,
according to N.J.A.C. 6A:14-2.3(k)2, the parent is a full and mandatory member of the team.
On the positive side, Subject 3 goes on to say that she would still look into it, but this
nonetheless creates the appearance that the request is not being given the preference to which
it may be entitled (K.M. v. Tustin Unified District, 2013).

A school social worker, Subject 4’s response indicates that there was no follow-up after a
decision was made: “We look at it and we see if it makes sense. Oh, they come up with
some doozies. They do. Some make sense, actually, and some are a little off. Then we
tweak them and see.” In this process, the state or local administration is not consulted for
guidance. As previously stated, that the accommodation or modification was not on a
preapproved list is not an acceptable reason for denying an accommodation since the list is
non-exhaustive.

Summary

All eighteen subjects showed a high level of mastery of the special education process and
a dedication to act in the best interest of their students. At the same time, this study
confirmed that, in Bergen County, the Individualized Educational Program team members struggle with the same issues that are reflected in the national research, in that the members do not always choose the accommodations that are listed in the instructions on the state standardized tests, do not always follow the decision-making procedures in the state standardized testing manuals, and do not consistently seek guidance from controlling state agencies for assistance with atypical accommodation requests.

The research also revealed that few of the subjects considered the reliability or validity of the concepts being tested in choosing their accommodations or the form or modality of the communication itself, such as auditory versus visual, and what impact that may have on the concept being assessed. Only one of the eighteen subjects used an experimental approach to measure the effectiveness of the accommodation to verify that the accommodation chosen was effective in leveling the playing field or eliminating the negative impact the disability was having on the assessment. Gratifyingly, almost to a person, the subjects were accurately uneasy with their mastery of the subject area and had a strong desire for additional training in testing accommodations and disability antidiscrimination law professional development training.

The next chapter concludes the dissertation with a discussion of the theoretical, practical, and research implications of these findings.
Chapter V

Discussion, Conclusion, and Recommendations

This study examined how Individualized Education Program (IEP) team members select the specific accommodations used for New Jersey State standardized tests and for classroom instruction as well as the criteria used in the selection of those accommodations. The study’s goal was to add to the research on why students with disabilities, who receive testing accommodations, have inconsistent testing results (Brinckerhoff & Banerjee, 2007; Fuchs, Fuchs, & Capizzi, 2005; Salend, 2008) and are often classified as some of the lowest-performing students on national and state standardized tests (NJDOE, 2013; Outcomes N. C., 2010). The findings documented in the previous chapters suggest that outside influences, school culture, and a lack of the mastery of technical jargon that affect the Individualized Educational Program team Members contribute to the inconsistent test results, affecting students with disabilities in New Jersey.

This chapter discusses the theoretical, practical, and research implications of these findings. Starting with a summary of the problem, then moving on to a discussion of the findings in contrast to the relevant research, the discussions in this chapter will then explore the potential leadership, management, and policy implications of the findings, concluding with a discussion of potential research based on the study’s findings.

Summary of the Problem

Under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind (NCLB) Act, and reauthorized as the Every Student Succeeds Act (ESSA), school districts and school administrators are being held accountable for the academic progress of all students, including students with disabilities. Unfortunately,
research shows that current testing accommodation procedures for students with disabilities are providing inconsistent testing outcomes (Banerjee, 2007; Capizzi, 2005; Fuchs, Fuchs, & Brinckerhoff; Salend, 2008) and that, in Bergen County, New Jersey, as well as in rest of the state and nationally, students with disabilities are not performing as well as their peers on the same assessments (NJDOE, 2013; Outcomes N. C., 2010). This lack of consistency may be one of the contributing factors to the 7 to 1 discrepancy between gifted and talented students without disabilities and those with disabilities, despite knowing that disabilities occur at the same rate in both populations (Appendix F) (Rights U. D., 2014). Recent Elementary and Secondary Education Act (ESEA) state testing shows that not a single district’s performance report for 2015 showed results indicating that students with disabilities scored on par with their non-disabled peers. It is this discrepancy and unintentional discrimination that accommodations are intended to address. Further analysis shows that of the 247 schools in Bergen County, New Jersey, not a single school was able to report that their students with disabilities met the state performance criteria with the same percentage rates as the non-disabled peers in the same schools (Jersey S. O., 2017). All of these factors contribute to the already demanding role of school administrators and can cause many students in special education to be clumped together into a single category of learners called “low performing,” a situation that can interfere with their educational experiences and opportunities. Students with disabilities and low performing students are often conflated by educators. Additionally, inconsistent or ineffective accommodations for students with disabilities can result in students with disabilities being remediated at higher rates than are necessary (Fuchs, Fuchs, & Capizzi, 2005; Hodgson, 2011). This situation often has the unfortunate result of preventing students with disabilities from participating in elective course work that
would broaden their educational experiences, can often deny them the same opportunities to participate and/or benefit from the same public education as their non-disabled peers (Fuchs, Fuchs, & Capizzi, 2005; Hehir, 2002), and can lead to hostile educational environments, escalating into civil rights violations (DCL, 2016).

The role of school administrators and other school personnel, in general, are further complicated by the recent trend in public education to publicly shame teachers, schools, and administrators by forcing them to publish their school and district-wide test scores. This is further exacerbated by trying to financially entice them with salary increments, bonuses, merit pay, and performance-based incentives (Hursh, 2015; Strike, 2005; Tienken, 2013) to increase test scores while, at the same time, decreasing expenses and staff. This has led some school administrators astray and into substantial criminal behavior (CNN, 2015). Added to the apparent high costs of special education (Greene, 2007), students with disabilities are seen as a weight drawing down test scores, choking school budgets and, often, being blamed for staff reduction or the need to cut other programs in school budgets (Thomas, J. R., 2017). This cacophony of pressures is further complicated by a maze of testing accommodations governed by myriad laws, regulations, terms, and jargon, terminology that may be similar or carry different meanings, definitions, or eligibility criteria when affected by how a student’s disability manifests itself. The manifestation of the disability affects “access” to the assessment: the purpose of the assessment, or even the form of communication used to access the assessment and if the accommodation was given “primary” consideration when communication, are issues (Education U. D., 2014; Justice, 2013; K.M. v. Tustin Unified District, 2013; Koretz, 2008).
The relevant research indicates that educators do not consistently have a good understanding of the efficacy or the purpose of testing accommodations despite nearly forty years of special education and civil rights accommodations of access to testing accommodations (Jessee, 2004). This inconsistent understanding of the efficacy or the purpose of testing accommodations by educators is also affecting accommodation research where data is often being collected on the disabled population as if they were a collective group, even though their disabling conditions span the full continuum of human condition thus tainting any data derived from a non-disaggregated sample. Additionally, other studies have shown that teachers are only effective at choosing accommodations approximately half the time for their students (Helwig & Tindel, 2003). Moreover, other large-scale studies show that teachers and educators do not always follow the state mandatory guidelines for decision-making processes in choosing testing accommodations. What happens instead is that the Individualized Educational Program team members often choose accommodations that will reduce stress for the students over those that maintain accuracy or test integrity of the exam. These same studies show that there is a strong desire by teachers and educators for more in-service training on accommodations, and when this professional development is provided with additional in-service training on accommodations, teachers and Individualized Educational Program team members, as a group, made more appropriate testing accommodation decisions. In other words, the more training the teams received, the more aligned their Individualized Educational Program team members were with the state guidelines (Bublitz, 2009; Outcomes N. C., 2006; Outcomes N. C., 2010; Rickey, 2005).
Summary of the Methods

The goal of the research study in this dissertation was to examine areas of concern of Individualized Educational Program team members that they identified as driving factors in their selection of the specific accommodations on state standardized tests and in their classrooms in Bergen County, New Jersey. The following research questions were explored:

1. How do Individualized Educational Program team members consider how the students’ disability affects the validity and reliability of the assessment being used, in determining mastery of the concepts\textsuperscript{11} when approving or disapproving accommodations on state standardized tests?

2. How do Individualized Educational Program team members consider the form of communication\textsuperscript{12} (auditory, print, sensory or visual) in providing access to the curriculum in approving or disapproving accommodations for students with disabilities in the classrooms?

3. How do Individualized Educational Program team members measure the effectiveness of the accommodations chosen?

4. How do the educational backgrounds of the multidisciplinary Individualized Educational Program team members have any impact on the criteria used by the individual members?

\textsuperscript{11} New Jersey uses a combination of the Common Core State Standards initiative (CCSS) and the New Jersey Core Curriculum Content Standards (NJ CCCS) in fulfilling its federal obligation for assessing student achievement.

\textsuperscript{12} "In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities." 28 C.F.R. § 35.160(b)(2) (2010).
How do the Individualized Educational Program team members address unique or unusual accommodations requests?

The study used a semi-structured interview approach to explore the decision-making process of Individualized Educational Program team members in Bergen County, New Jersey. A qualitative research method was chosen due to the unstable and individualized nature of the accommodation decision-making process (Merriam, 2009) given to the Supreme Court (PGA Tour, Inc. v. Martin, 2001) ruling that accommodations must be made on a case-by-case basis so that decisions are made in a nondiscriminatory manner. Individualized inquiries must be made to determine whether a specific modification for a particular individual’s disability is appropriate based on their specific circumstances and, yet, at the same time, not make a fundamental alteration in the activity. Since the decision-making process needs to be flexible to adjust to the needs of the testing environment and the impact of the individual’s disability on that specific testing, it was determined that a semi-structured interview method would best give the necessary flexibility to the interviewer to adjust to the circumstances that the decision-makers were dealing with (Gay, Mills, & Airasian, 2009).

A total of eighteen subjects participated in the study. Fifteen school district subjects volunteered through a recruitment letter/email distributed or posted by their district director or supervisor of special education. Three parents-subjects volunteered through a recruitment letter/email distributed or posted by representatives of a district Parent Special Education Advisory Committee and the Statewide Parent Advocacy Network. When the subject was a professional member of a district’s Individualized Education Program team, the interviews took place one-to-one in professional offices or conference rooms. When the subject was a parent and a member of a district’s
Individualized Education Program team, the interviews took place one-to-one in a public library’s private conference rooms. Each individual was asked four background informational questions and approximately twenty-one questions focusing on identifying the criteria used by each individual in their selection of the specific accommodations used in the accommodation process for New Jersey state standardized tests or for classroom instruction for a particular student with a disability.

The interview responses were analyzed using both grounded and content analysis theory methods. For coding purposes, the subject’s responses were then categorized into three groups: Best Practice, Standard Practice, and Problematic Practice. Due to the hyper-technical nature of the accommodation process, some repetition in citation may appear but was determined necessary to provide clarity.

Key Findings

The subjects of this study—eighteen Individualized Education Program team members of Bergen County, New Jersey—described the criteria they used in the selection of the specific accommodations in the classroom and on state standardized tests by their teams and themselves, confirming what other research has shown (Mariano, Tindal, Carrizales, & Lenhardt, 2009; Outcomes N. C., 2010), which is that Individualized Education Program teams need additional training on accommodation decision makers. Not only were the subjects aware of this need for training, they expressed desire for it (seventeen of the eighteen subjects recommended additional training). Additionally, the subjects realized that this lack of training was affecting their decision-making of appropriate accommodations on the Individualized Education Program teams’ selections.

In this study, eleven of the eighteen subject-decision maker’s procedures that they described were characterized as problematic when contrasted against the required process
prescribed in the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment manual (PARCC, 2015) used by the State of New Jersey for its state assessments. In fact, only two of the eighteen subjects interviewed for this study described a process that was outlined in the PARCC manual.

A specific area of need for additional training is in the area of identifying technical terms was confirmed to bolster understanding, avoid discrimination (between disorders), master the concepts of accommodation, and ease with which to identify these concepts. This confirmation for a need for more training was not only focused toward the lay members of the Individualized Education Program teams but also toward the professionals, especially those who took leading roles at the meetings.

**Implications**

**Theory**

The findings have at least three academic implications for administrators, educators, and policy makers. The first implication focuses on the “Decision-Making Process” for how accommodations are made. Accommodations are constructs based in civil rights law and legal cases, but they are only mentioned in educational statutes and regulations through a legal doctrine called “incorporation by reference.” Incorporation by reference is the act of including an entire concept or requirement by simply citing it; therefore, the civil rights of students with disabilities are based on the district’s obligation to ensure that when they are assessing the student’s mastery of a concept taught to them that the district is assessing the skills taught and not the student’s disability, as well as providing the student access to the curriculum. This situation can be exemplified in the findings from Ofiesh, Hughes, and Scott (2004) in their recommendations that decision-makers need to use the following factors in their determinations: what is being assessed,
the student’s diagnostic testing, how the student’s disability interferes with the testing, and, in consultation with the student, make a determination of the effective accommodations for an accurate and valid assessment. Therefore, in essence, the district is ensured of a valid measurement of the skill that the assessment purported to measure (AHEAD, 2014; PARCC, 2016). This is complicated by other parts of these laws, such as the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, which have different standards for effectiveness when communication is at issue, such as with individuals who have hearing impairments, for whom the district has a higher obligation to ensure that the accommodations provided to the student provide “effective communications.” The district, further, must offer individuals a choice of their preferred accommodations among equal accommodations. This concept is called “primary consideration” (Justice, 2013; K.M. v. Tustin Unified District, 2013).

Unfortunately, the findings in this study reflected the trends in the national studies (Bublitz, 2009; Outcomes N. C., 2006; Outcomes N. C., 2010; Rickey, 2005) that the Individual Education Program team members were not following the decision-making process with fidelity but, instead, some were focused on reducing the “test anxiety”\textsuperscript{13} of students and not the negative impact the student’s disability was having on the accuracy of the assessment item. Additionally, student input was rarely considered an important factor in the accommodating process, nor did the selected accommodation focus on how

\textsuperscript{13} The term “test anxiety” is being used to express anxiety in being forced to show areas that are difficult and after cause physical reaction such as headaches and vomiting. It should also be noted that purpose of the accommodations is to remove or reduce the negative impact the disability is having on the “task (test)” being assessed not the student. In other words, if you provide appropriate accommodation students with disabilities will not have “test anxiety” that is outside the normal expectations nor have physical reactions when forced endure hours of frustration, anxiety and agitation.
the student’s disability interfered with the exam. Team members simply worked off a list of accommodations provided by the state, which are findings similar to those in Ricky (2005).

On the positive side, the majority of subjects in this dissertation’s study stated on their own that they desired more training about how to make appropriate accommodation decisions. This finding is reinforced by national research (Bublitz, 2009; Outcomes N. C., 2006; Outcomes N. C., 2010) that acknowledges that the greater the knowledge base of the decision-maker on accommodations, the more accurate and effective the accommodations for the students is. This increased accuracy can be seen in findings from Bublitz (2009), as teachers with more knowledge about accommodations made more effective decisions than teachers with less knowledge. Unfortunately, the findings also show that the attitudes and training of the decision-makers had little influence on the accuracy of choosing the appropriate accommodations for students with disabilities.

The second finding concerning theory and its academic implications deals with the Individualized Educational Program team members’ non-reliance on the list(s) of pre-approved accommodations found in the Partnership for Assessment of Readiness for College and Careers (PARCC) Manual that were aligned to state non-exhaustive accommodations included in PARCC’s “Unique Accommodations” section. In the PARCC exam, there are lists of preapproved accessibility or accommodation features that are aligned to sections of the assessment that indicate the preapproved accessibility or accommodation features used during instruction and in daily life that the states have determined will not invalidate the assessment (PARCC, 2016). Further, Congress has stated in other laws that these lists of auxiliary aids or accommodations need to be “non-exhaustive” and are intended to be flexible, as technologies change and advancements are
made in assistive technology (AHEAD, 2014). Because of these determinations, PARCC added the “Unique Accommodations\textsuperscript{14}” section stating that state offices will individually review requests for unique accommodations in their respective states on an individual basis and will provide approval after determining whether the accommodation would result in a valid score for the student (PARCC, 2016, p. 21).

As in the national research (Bublitz, 2009; Rickey, 2005), a majority of the subjects in this study chose accessibility and accommodation features not based on the preapproved non-exhaustive state lists of accommodations but based on ones that were rooted in their local past practices, local school culture, or off a list ideas that they received, though there were not sure of its origins. While some subjects could describe an appropriate decision-making practice for unique accommodations by seeking appropriate guidance through local administrators and then state offices, they were in the minority.

The third finding concerning theory and its academic implications, also supported by the national research (Bublitz, 2009; Hehir T. F., 1999; Helwig & Tindel, 2003; Jessee, 2004; Rickey, 2005), focuses on the need for further professional development in accommodations, findings similar to those of both Bublitz (2009) and Rickey (2005) described above. A clear majority of the subjects (seventeen of eighteen) in this study recommended additional training or more professional development in the area of decision-making and accommodations in general. This was further reinforced where

\textsuperscript{14} The etymology of this term should be fascinating since an accommodation needs to be so individualized that that if it was not unique then the grantors were not making an accommodation, making this a tautology. This is most likely the lament of jargon slippage but as in the subject it does have real world consequences.
several of the professional subjects started out extremely self-confident in talking in
general about their subject matter and then became quite anxious in their body language
and general demeanor during the probing questions regarding accommodations, often
going back and self-correcting, showing a lot of self-doubt about their responses. This
was interpreted by the interviewer as a lack of mastery of the technical terms that was
uncovered through the probing questions regarding the accommodation terms, as the
subjects realized that they were often unsure of the correct terminology or usage of the
example that they described when asked to consider another term.

The findings from this study were obtained with the intent of ascertaining the
criteria used in the decision-making processes of Bergen County, New Jersey Individual
Education Program team members. While these findings affirm national research studies
(Bublitz, 2009; Hehir, 1999; Helwig & Tindel, 2003; Jessee, 2004; Outcomes N. C.,
2006; Outcomes N. C., 2010, Rickey, 2005), it is important to note that, whenever
working with individuals with disabilities, the human condition is so complicated that
any number of factors can cause a failure. This condition is noted as discussed
previously in the Anna Karenina principle commentary (Tindal, 2001): individuals with
disabilities tend to wax and wane, which can impact their disability on the assessments
differently at any particular moment in time, causing larger standard deviations in retest
results than in the results of their nondisabled peers. These added issues make
accommodation decision-making a complex process and not an exact or precise process
with guaranteed outcomes (Hehir, 2002; PARCC, 2016; Tindal, 2001).

Practice
The findings from this study have at least six major implications for Individual Educational Program team members or school districts on implementation procedures and practices:

1) Team decisions should be student centered and based on how the student’s disability manifests itself, affecting the assessed skill and not being based on the disability itself (AHEAD, 2014; Jessee, 2004; K.M. v. Tustin Unified District, 2013; PARCC, 2016; PGA Tour, Inc. v. Martin, 2001). This finding most specifically aligns with PGA Tour, Inc. v. Martin in that the Supreme Court determined an individual assessment was necessary on a case-by-case basis based on the totality of many factors of which how the person’s disability affected the competition or, in testing, what is being tested.

2) Teams should focus on the accommodation process instead of a particular format, order, or list of accommodations so that the Individual Education Program teams can adapt to the needs of the individual students on a case-by-case basis, as evidenced in the findings from both Bublitz (2009) and Rickey (2005), explained above.

3) Teams should seek guidance from the appropriate state office of assessment or special education and program for unique accommodations (AHEAD, 2014; PARCC, 2016; Tindal, 2001), as stated in the PARCC Manual guidelines;

4) Team members should retrain themselves with a particular focus on clarifying and consolidating the technical jargon around accommodations across the interdisciplinary domains of terminology for accommodations. Terms have drifted into everyday vernacular and have become confusing to many professionals and lay individuals who are working with the disabled population, leading to
misunderstandings and great confusion regarding appropriate accommodations, if not outright discrimination (Behn, 2006; Caudle, 2013; K.M. v. Tustin Unified District, 2013). Specially, as determined in K.M. v. Tustin Unified District (2013), it is a school district’s obligation to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service or program conducted by a public entity. If a school district’s educational policies fall below its civil rights equity obligations, a conflict is created between equal obligations. In this case, the higher equity standard would prevail. To avoid these kinds of conflicts, many of which could lead to discrimination, focused retraining is appropriate;

5) Teams should engage in interdisciplinary collegial professional development with their public health workers who are also working with public school children in and out of school to assist them in understanding the technical and legal processes for accommodating the disabled in schools and in the assessments to address the misperceptions that lay individuals and the public have regarding accommodations for the disabled;

6) Professional members of the teams should also develop a training program on the decision-making process for accommodations and testing accommodations for the parents and the lay individuals for new members of the Individual Education Program Teams when first entering service as members who may have never been exposed to this type of decision-making process or training before; and

7) In the state of New Jersey, school districts should partner with local universities, County Offices of the State Department of Education, and Learning Resource Centers for specialized training in testing accommodations that could be
specifically designed to meet their needs. County offices may offer these services for no charge, while the Learning Resource Centers may charge minimal fees. Findings from this research suggest that the professional development should focus on vocabulary (jargon), identifying student-centered accommodations, analysis of the appropriateness of the accommodation, consensus decision-making, and compliance with approved decision-making procedures.

Policy

There are at least five policy implications to the findings of the study. The first suggests that the New Jersey Department of Education needs to amend their special education code to incorporate accommodation procedures and practices with a specific focus on testing accommodations. They would then be in alignment with the process found in the PARCC Manual. While the study subject sample size may be small in this study, its findings mirror those from large national studies (Bublitz, 2009; Hehir, 1999; Helwig & Tindel, 2003; Jessee, 2004; Outcomes N. C., 2006; Outcomes N. C., 2010, Rickey, 2005). More importantly, though, the real issue is that New Jersey’s state accommodations are not memorialized in their statutes or regulations. The Individual Education Program Teams must go to testing manuals, outside organizations, or other documents due to the use of the practice of incorporation by reference15 (PARCC, 2016) and civil rights laws (DCL, 2016). Second, these regulations and procedures need to be

15 …a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the IDEA; and if the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child. 34 C.F.R. § 300.320(a); 20 U.S.C. § 1414(d)(1)(A)(i) (DCL, 2016).
flexible enough for the Individual Education Program team members to adjust to the individual needs of the students. When it appears that a required accommodation may violate the validity of the concept being assessed, a mechanism needs to be incorporated in the procedures so that the team members have been trained in and memorized the regulations (Bartlett v. New York State Bd. of Law Examiners, 1997; PARCC, 2016).

The third finding suggests that policies should incorporate an emphasis on accommodations being student focused and requiring input to be drawn specifically from students and not just observers or their teachers, as found in Ofiesh, Hughes, and Scott (2004). Many of the study subjects chose or used accommodations from previous records or based their accommodation decisions on eligibility categories and not on how the student’s disability manifests itself, as required (Bartlett v. New York State Bd. of Law Examiners, 1997; PARCC, 2016) by the regulations incorporated by reference. When communication is an issue, the “Best Ensure Standard” is used and the preference of the individual with the disability is given primary consideration, making it necessary for the Individual Education Program team to interview the student to discern their preferences in the selection of appropriate accommodations (K.M. v. Tustin Unified District, 2013).

Since reading is one of the major forms of communication (Justice, 2013; Koretz, 2008; Russell, 1951), and since, nearly 89% of all disabilities manifest themselves in the interference of the skill of reading (Heward, 2003), or, in other words, disrupt the communication of the curriculum in a school or the communication of the skill being assessed in a testing situation, accommodations should consider the primary preference of the person with a disability to best ensure what is being assessed is the concepts that the assessment is designed to measure and not the student’s disability (Endrew F. V. Douglas County School Dist. Re. (Slipe), 2017; K.M. v. Tustin Unified District, 2013).
The fourth policy implication found through the study is that accommodations should be assessed for their effectiveness, mastered in the classroom, and then only used on assessments when they have been determined to be effective and not counterproductive, so as not to give false impressions of the student’s progress or to act in a discriminatory manner with all its negative consequences (AHEAD, 2014; Elbaum, 2007; Pasternak, 2002). This policy would then align with AHEAD (2014) recommendations rooted in the PGA Tour, Inc. v. Martin (2001) case that specified accommodations should be granted based on a case-by-case basis. The last policy finding implication revealed that educators do not always personally accept accountability for the implementation of the accommodations in the Individual Education Program process and often choose to disregard the accommodations through a collection of apathy, indifference, ignorance, good intentions, misunderstanding and, unfortunately, bad intentions (DCL, 2016).

Since a recent ruling from the Third Circuit Court of Federal Appeals and, therefore, in New Jersey, Individual Education Program teams are no longer being held responsible not making accommodations or failing to accommodate students (A.W. v. The Jersey City Public Schools, 2007). To addresses this situation, the legislature could reverse and hold educators personally responsible for their actions. If educators were personally liable for not implementing the Individual Education Programs and 504 plans, the lack of implementation that exists in Bergen County, as well as nationally, would be ameliorated (DCL, 2016).

**Future Research**

The findings from this study suggest three areas requiring additional research. First, were all the subjects self-reflective in their recollections during their interviews? This could be evidenced by the discomfort demonstrated through the subject’s nonverbal
communication enacted during the interviews, and it communicated the seriousness with which the subjects took this questioning; this may be an area to explore further. Future research should qualitatively observe the Individual Education Program team decision-making process as it occurs. This could then be further supported through post interviews.

A second area for further research would exploring why less than 50% of the subjects kept to the “approved accommodation list,” when the majority of them reported that they received some professional development training through their districts on accommodations or decision-making processes, when other resources were widely available: testing manuals, large-scale state testing manuals, and websites. Since access to the appropriate decision-making processes appears not to be an issue, and the team members often varied from the “approved list,” further research needs to clarify if the decisions are being made based on a higher understanding of the needs of the student with a disability or through a lack of understanding of the team members.

A third area for further research is to explore the accuracy of the accommodations provided. To do this, the researcher would need to gain access to the individual student and to the district’s test scores to compare to the decision-makers’ evaluations for effectiveness of the accommodations in real life cases. As pointed out in several of the research studies conducted on a national scale (Bublitz, 2009; Hehir, 1999; Helwig & Tindel, 2003; Jessee, 2004; Outcomes N. C., 2006; Outcomes N. C., 2010, Rickey, 2005), studies using model individuals with exemplary accommodations are invalid because the situations are not real. Unfortunately, ten students with Individual Education Plans, with the optimum word being “individual,” may all have a reading impairment, but they may manifest differently, and all ten may need different accommodations or different
combinations of accommodations for their assessments to accurately assess a test in history, sociology, algebra or even reading Shakespeare. Therefore, researchers need to have access to actual real students’ files to examine the accommodations to tests and test results in order to compare the effectiveness of team decision-making, the accuracy of the accommodation, and the team’s decision-making processes to measure the effectiveness of the accommodations themselves.

Based on the national research (Bublitz, 2009; Hehir, 1999; Helwig & Tindel, 2003; Jessee, 2004; Outcomes N. C., 2006; Outcomes N. C., 2010, Rickey, 2005) and the implications of this study, the Individual Education Program teams often need to negotiate across multiple disciplines and professions and to implement laws and regulations outside of their field of expertise in order to make appropriate accommodations in the classrooms and on state-administered tests. With these overlapping and nuanced decisions requiring input from multidisciplinary teams, there are no set rules, often requiring collective opinions and professional judgments of the multidisciplinary teams in order to set appropriate expectations in choosing appropriate accommodations (Bartlett v. New York State Bd. of Law Examiners, 1997; Elbaum, 2007; (Endrew F. V. Douglas County School Dist. Re. (Slipe), 2017).
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Winkelman v. Parma City Sch. District, 550 (The Supreme Court May 21, 2007).

Dear IEP Team Member:

My name is Steven Pasternak. I am completing a doctoral dissertation in Educational Leadership at Seton Hall University, College of Education and Human Services, on the subject of identifying the criteria used in the selection of the specific accommodations on State standardized tests and in the classroom by Individualized Education Program (IEP) Teams. The title of the study is “An Investigation of the Decision Making Process for Accommodations by IEP Teams in Bergen County, New Jersey.”

I would like to interview you in person, asking three background questions and approximately twelve open-ended questions, so that we may discuss this important topic so that I may gain your perceptions about it. The open-ended questions explore the decision making process in choosing test accommodations you may have experienced while serving on an IEP team. The interview should take approximately forty-five minutes.

The interview would be held at your office or at a mutually convenient place and mutually convenient time. I will make notes of your responses and would like your permission to video and audio record our conversation. The confidentiality and anonymity of all interviews and of all schools and districts will be preserved. This information will be used solely for the purpose of analysis and all notes and tape recordings will be destroyed at the conclusion of the study. Prior to that, all notes and recordings will be kept under lock and key in my home. Your participation would be voluntary and could be withdrawn at any time. All participants in this study will receive a copy of the abstract upon request.

This project has been reviewed and approved by the Seton Hall University Institutional Review Board (IRB) for Human Subjects Research. The IRB indicates that the research procedures adequately safeguard the subject’s privacy, welfare, civil liberties and rights. The Chairperson of the IRB may be reached through the Office of Grants and Research Services. The telephone number of the office is (973)275-2974.

It is my hope that this study will enhance our understanding of how IEP teams choose accommodations on State standardized tests in Bergen County, New Jersey. Whether or not you decide to participate in this study, I would appreciate it if you would complete and return the enclosed reply form so that I will know whom to content for interview purposes. If you indicate you are willing to participate in this study, I will content you to arrange a time and place for our discussion.

Thank you for taking time to help with this project.

Sincerely,

Steven Pasternak
Appendix B (Book-Lab, Inc., 1976)

Below is a list of disorders often used interchangeably to describe learning disabilities:

- Acalculia
- Agencies Child
- Aphasia
- Attention Deficit Disorder (ADD)
- Attention Deficit with Hyperactive Disorder (ADHD)
- Birth Damaged Child
- Brain Damaged Child
- Brain Injured Child
- Central Nervous System Dysfunction
- Cerebral-synchronization Syndrome
- Cerebral Dysfunction
- Child with Cognitive Defects
- Chronic Brain Syndrome
- Clumsy Child
- Developmental Imbalance
- Developmental Lag
- Diffuse Brain Damage
- Dyscalculia
- Dysfunctioning Child
- Dyslexia
- Exogenous Child
- Hyperactive Child
- Hyperexcitable Syndrome
- Hyperkinetic Impulse Disorder
- Hypokinetic Syndrome
- Imperceptive Child
- Interjacent Child
- Learning Disability
- Learning Disabled Child
- Major Learning Disordered Child
- Maturation Lag
- Minimal Brain Damage
- Minimal Neurological Impairment
- Minimal Brain Dysfunction
- Minimal Cerebral Injured Child
- Minimal Cerebral Dysfunction
- Minimal Neurological Dysfunction
- Minimal Chronic Brain Syndrome
- Minimal Brain Injury
- Neuropsychologically Impaired Child
- Neurological Impairment
- Neurological Dysfunction
- Neurologically Handicapped Child
- Neurophrenia
- Organic Behavior Disorder
- Organic Drivenness
- Organically Impaired Child
- Perceptually Impaired Child
- Psychomotor Disordered Child
- Psychoneurological Disordered Child
- Psychoneurological Learning Disorder
- Specific Learning Disability
- Specific Learning Disturbance
- Strauss Syndrome
- Mental Retardation
- Oppositional Defiant Disorder
- Oppositional Behavior Disorder
- Phobias
- Severely Emotionally Disturbed
- Schizophrenia
- Tourette’s Disorder

Disorders or Mental Illnesses often confused with Learning Disabilities, which may have a detrimental effect if misdiagnosed.

- Asperger’s Disorder
- Autism
- Bipolar Mood Disorders
- Conduct Disorder
- Depression
- Emotional Disturbance
- Mental Retardation
- Oppositional Defiant Disorder
- Oppositional Behavior Disorder
- Phobias
- Severely Emotionally Disturbed
- Schizophrenia
- Tourette’s Disorder
Appendix C

Best Practices Accommodations Rubric

1. The overall goal and mind set of the Individualized Educational Program Team is to provide equal access to the same curriculum, academic learning standards, grade-level or course content material for students with disabilities as those without disabilities.

2. To best ensure that when a student with a disability is being assessed that what is being assessed accurately reflects the aptitude or achievement level of the student and not their disability.

3. The Individualized Educational Program Team needs to assess the manner in which the student’s disability manifests itself and creates an uneven playing field in a testing environment (characteristics). Recent diagnostic testing and teacher observations can be useful tools in assessing how the disability manifests itself or interferes with the communication process necessary in assessing.

4. The Individualized Educational Program Team assesses areas where the student’s disability has created accessibility issues in the past and where new access to the curriculum may occur. Once the student’s learning needs are determined the team can identify auxiliary aide(s) or adjustments in the assessment that can even the uneven playing field caused by the student’s disability without invalidating the skill being assessed. For Example: a student with slow processing speed scores on the WISC-V may benefit from an extended (1.5x to 2x) time accommodation. A reading impaired (dyslexic) student might benefit from a read-aloud exam while he follows along.

5. Once an auxiliary aide(s) or adjustments (accommodation) has been identified and memorialized in the Individualized Educational Program the student should be assessing curricula through the use of the accommodation through its use in their instruction time. New accommodations can be introduced in informal testing environments for the first time to facilitate mastery before used for assessment purposes.

6. Members of the Individualized Educational Program Team (especially the student) need to continually monitor and assess effectiveness of the accommodations (Best Practice). Use “Multiple Version Standardized Exams” can be used to assess efficacy and Effectiveness of a particular accommodation in addition to functions assessments by members

---

16 Course should be used in assessing accommodation effectiveness best on the assessments outcome only. This approach tends to cloud the decision-making process by conflating student aptitude with assess accurately. Properly accommodated assessments are more accurate assessment of the student’s aptitudes or skills (PARCC, p. 6)
Appendix D

Accommodations and Modifications of Test Administration Procedures for Statewide Assessments

“Standard Practice - Accommodations Rubric”

Special Education > Special Education Home

Accommodations and Modifications of Test Administration Procedures for Statewide Assessments

In accordance with the Individuals with Disabilities Act (IDEA), students who are receiving special education services must participate in the statewide assessment system. Students must participate in the New Jersey Assessment of Skills and Knowledge in grades three through eight (NJ ASK 3-8), the High School Proficiency Assessment (HSPA), New Jersey Biology Competency Test (NJBCT), and the Alternative High School Assessment (AHSA) in each subject area of the age-appropriate assessment with the following exception:

Students with disabilities shall participate in the Alternate Proficiency Assessment in each content area where the nature of the student’s disability is so severe that the student is not receiving instruction in any of the knowledge and skills measured by the general statewide assessment and the student cannot complete any of the types of questions on the assessment in the content area(s) even with accommodations and modifications. (New Jersey Administrative Code Chapter 6A:14-4.11[a][2]). This citation and code was estimated in 2015.

Students with disabilities eligible for special education and related services and those students eligible under Section 504 of the Rehabilitation Act may have accommodations and/or modifications during the administration of the statewide assessments. The Individualized Education Program (IEP) or 504 team makes decisions about accommodations/modifications. Information about test content and item types from the directories of test specifications can be used to make these decisions.

The following list addresses the accommodations/modifications that may be used during the administration of the NJ ASK 3-8, HSPA, NJBTC, and the AHSA.

Accommodations that will be utilized during statewide assessments for a student must be listed in the IEP or 504 plans. Accommodations used during statewide testing should be consistent with instructional and assessment procedures used in the classroom.

These accommodations also appear in the test coordinator and/or examiner manuals distributed to districts prior to each test cycle using terminology that applies to the specific test.
Appendix D

Accommodations and Modifications of Test Administration Procedures for Statewide Ass...  Page 2 of 5

Please refer to the specific test manual for additional instructions regarding the use of accommodations and for logistical considerations. The use of accommodations must be recorded on the student's test booklet* or answer folder** according to the instructions in the test coordinator's manuals.

Advanced planning is integral to implementing accommodations/modifications effectively and ensuring that the security of test materials is maintained. If a student requires an accommodation or modification that is not listed below, contact the Office of Student Learning Assessments.

Please refer to the Test Examiner Manual and the Test Coordinator Manual of each specific test administration for further guidance.

---

* A scannable test booklet is used with the NJ ASK 3-4 only.
** An answer folder is used with the NJ ASK 5-8, HSPA, NJBCT, and the AHSA.

ACCEPTABLE ACCOMMODATIONS AND MODIFICATIONS

Code  There is no State Statute or Regulation backing up the use of this term which may be causing some Individualized Educational Program Team members to believe that they are limited to this list of accommodations.

A. Setting Accommodations

1. Administering the assessment:
   a. individually in a separate room
   b. in a small group in a separate room
   c. in the resource room
   d. in a special education classroom
   e. at home or in a hospital (this will depend on the nature of the assessment task)

2. Seating the student in the front of the room near the examiner or proctor

3. Seating the student facing the examiner or proctor

4. Providing special lighting

5. Providing special furniture e.g., desks, trays, carrels

B. Scheduling Accommodations

1. Adding time as needed

2. Providing frequent breaks

3. Terminating a section of the test when a student has indicated that he/she has completed all the items he/she can. The examiner must ensure that the student has attempted all items in a section since items are not ordered by difficulty. When this accommodation is used, the test must be administered in a small group or individually to avoid distraction.
Appendix D

C. Test Materials Modifications

1. Administering the large-print version of the test
2. Administering the Braille version of the test

D. Test Procedure Modifications

1. Administration modifications
   a. reading directions aloud
   b. reading test items aloud (do not read aloud or sign the reading passages in Language Arts Literacy – the reading items may be read or signed); ONLY the teacher who must read the test items aloud or sign is permitted to have a test booklet assigned to him/her for this task
   c. providing and ensuring that amplification (hearing aid and/or FM system) is in working order
   d. using a sign language or cued speech interpreter to sign or cue the directions or test items but NOT the reading passages
   e. masking a portion of the test booklet and/or answer folder to eliminate visual distractors or providing reading windows
   f. repeating, clarifying, or rewording directions ONLY
   g. providing written directions on a separate sheet or transparency
   h. using an examiner who is familiar with the student
   i. using an examiner who can communicate fluently in sign language (American Sign Language or a form of Manually Coded English)
   j. providing manipulatives for math items e.g., number line, counting chips, abacus (for NJ ASK 3-8 ONLY)
   k. using graph paper for HSPA Mathematics (all students are permitted graph paper for NJ ASK 3-8)
   l. using a Braille ruler and talking calculator or large-face calculator
   m. using tactile or visual cues for deaf or hard of hearing students to indicate time to begin, time remaining, and time to end a particular part of the test
   n. using calculators for NJ ASK 3-8 Mathematics (all students are permitted calculators for HSPA)

2. Response modifications
Appendix D

Accommodations and Modifications of Test Administration Procedures for Statewide Ass...

Page 4 of 5

a. having an examiner record the student's identification information on the test booklet and/or answer folder

b. dictating oral responses to a scribe (examiner or proctor who writes from dictation)

c. using a Braille writer to record responses

d. signing responses to a sign language interpreter (student must indicate all punctuation and must spell all key words)

e. recording responses on a word processor (all editorial functions MUST be disabled)

f. providing an augmentative communication device

g. using a larger diameter or modified special grip #2 pencil

h. circling answers in the test booklet (the examiner subsequently transfer the answers to the answer folder); for the NJ ASK 3-4, the examiner bubbles the student's answer choice in the scannable test booklet

i. allowing separate additional continuation pages for writing tasks

OTHER CONSIDERATIONS

Ensure that:

a. any medication has been appropriately adjusted so it will not interfere with the student’s functioning.

b. eyeglasses are used, if needed.

c. hearing aids, FM systems, augmentative communication devices, word processors, or other types of equipment are functioning properly.

d. source and strength of light are appropriate.

e. all students can clearly see and hear the examiner.

f. all deaf or hard of hearing students who communicate aurally/orally are watching the examiner when instructions are given.
# Table 1: Participant Demographics

<table>
<thead>
<tr>
<th>Subject</th>
<th>Role on Team</th>
<th>Degree(s)</th>
<th>Training</th>
<th>Years on Team</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Psychologist</td>
<td>BA/MA</td>
<td>No/PD</td>
<td>11</td>
</tr>
<tr>
<td>2</td>
<td>LDT-C</td>
<td>BA/MA</td>
<td>No/PD</td>
<td>15</td>
</tr>
<tr>
<td>3</td>
<td>Social Worker</td>
<td>BA/MA</td>
<td>No/No</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>Social Worker</td>
<td>BA/MA</td>
<td>No/PD</td>
<td>9</td>
</tr>
<tr>
<td>5</td>
<td>Social Worker</td>
<td>BA/MA</td>
<td>No/PD</td>
<td>10</td>
</tr>
<tr>
<td>6</td>
<td>Psychologist</td>
<td>BA/MA</td>
<td>No/PD Not in testing</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>LDT-C</td>
<td>BA/MA</td>
<td>No/PD Not in testing</td>
<td>&lt; 1</td>
</tr>
<tr>
<td>8</td>
<td>Sp Ed Teacher</td>
<td>BA+</td>
<td>No/Maybe</td>
<td>16</td>
</tr>
<tr>
<td>9</td>
<td>Gen Ed Teacher</td>
<td>BA/MA+</td>
<td>No/Own research</td>
<td>8</td>
</tr>
<tr>
<td>10</td>
<td>LDT-C</td>
<td>BA/MA</td>
<td>Yes/No</td>
<td>29</td>
</tr>
<tr>
<td>11</td>
<td>Sp Ed Teacher</td>
<td>BA/MA</td>
<td>No/No</td>
<td>3</td>
</tr>
<tr>
<td>12</td>
<td>Psychologist</td>
<td>BA/MA</td>
<td>Yes/No</td>
<td>25</td>
</tr>
<tr>
<td>13</td>
<td>Sp Ed Teacher</td>
<td>BA/MA</td>
<td>Yes/Yes</td>
<td>12</td>
</tr>
<tr>
<td>14</td>
<td>Gen Ed Teacher</td>
<td>BA/MA</td>
<td>No/PD</td>
<td>13</td>
</tr>
<tr>
<td>15</td>
<td>Parent.</td>
<td>Did not respond</td>
<td>?/ Seminars</td>
<td>10</td>
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<tr>
<td>16</td>
<td>Parent.</td>
<td>BA/JD</td>
<td>No/Yes by CST</td>
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<tr>
<td>17</td>
<td>Parent.</td>
<td>AAS</td>
<td>No/No</td>
<td>13</td>
</tr>
<tr>
<td>18</td>
<td>Gen Ed Teacher</td>
<td>BA/MA</td>
<td>No/No</td>
<td>8</td>
</tr>
</tbody>
</table>

*Note:* Degrees are BA, Bachelor’s; MA, Master’s; JD, Juris Doctorate; AAS, Associate of Applied Science; + means credits beyond the level indicated.

*Note:* PD under Training means professional development; CST means Child Study Team
### Table 2: Responses to Research Question: Please tell me how the Individualized Educational Program Team chooses testing accommodations for students with disabilities?

<table>
<thead>
<tr>
<th>Subject</th>
<th>Role on IEP Team</th>
<th>Degree(s)</th>
<th>Interview Question A-1</th>
<th>Years on Team</th>
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</thead>
<tbody>
<tr>
<td><strong>Best Practice Response Grouping</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Social Worker</td>
<td>BA/MA</td>
<td>Based on a number of different factors.</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>6 Psychologist</td>
<td>BA/MA</td>
<td>We try to take a multifaceted approach</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>7 LDT-C</td>
<td>BA/MA</td>
<td>Based on a number of different factors.</td>
<td>&lt; 1</td>
<td></td>
</tr>
<tr>
<td>12 Psychologist</td>
<td>BA/MA</td>
<td>Based on a number of different factors.</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td><strong>Standard Practice Response Grouping</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Social Worker</td>
<td>BA/MA</td>
<td>Based on our testing</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4 Social Worker</td>
<td>BA/MA</td>
<td>Interdisciplinary functional with on teacher survey</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>18 Gen Ed Teacher</td>
<td>BA/MA</td>
<td>Teachers, test score, past testing</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td><strong>Problematic Practice Response Grouping</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Psychologist</td>
<td>BA/MA</td>
<td>With CST may consult with other</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>2 LDT-C</td>
<td>BA/MA</td>
<td>Prior to completing the IEP</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>8 Sp Ed Teacher</td>
<td>BA +</td>
<td>I picking what they might need</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>9 Gen Ed Teacher</td>
<td>BA/MA+</td>
<td>I don’t partake in the final decisions</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>10 LDT-C</td>
<td>BA/MA</td>
<td>Link accommodation to disability</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>11 Sp Ed Teacher</td>
<td>BA/MA</td>
<td>That’s myself, my co-workers</td>
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<td>13 Sp Ed Teacher</td>
<td>BA/MA</td>
<td>According to their classifications</td>
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<tr>
<td>14 Gen Ed Teacher</td>
<td>BA/MA</td>
<td>Most of them have a folder</td>
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</tr>
<tr>
<td>15 Parent</td>
<td>Did not respond</td>
<td>They pick as they feel is appropriate</td>
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</tr>
<tr>
<td>16 Parent</td>
<td>BA/JD</td>
<td>Basically, the IEP team tells you</td>
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<tr>
<td>17 Parent</td>
<td>AAS</td>
<td>I don’t know how they choose them</td>
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</table>

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Table 3:  Response Groupings to Research Question: Please define an accommodation for me?

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### Table 4: Response Groupings to Research Questions: Please define a modification for me?

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<td>13</td>
</tr>
</tbody>
</table>

**Best Practice Grouping**

| 8       | Sp Ed Teacher   | BA +    | 16            |
| 9       | Gen Ed Teacher  | BA/MA+  | 8             |
| 10      | LDT-C           | BA/MA   | 29            |
| 15      | Parent          | Did not respond | 10 |
| 16      | Parent          | BA/JD   | 13            |

**Standard Practice Grouping**

| 1       | Psychologist    | BA/MA   | 11            |
| 2       | LDT-C           | BA/MA   | 15            |
| 3       | Social Worker   | BA/MA   | 2             |
| 4       | Social Worker   | BA/MA   | 9             |
| 5       | Social Worker   | BA/MA   | 10            |
| 6       | Psychologist    | BA/MA   | 6             |
| 11      | Sp Ed Teacher   | BA/MA   | 3             |
| 13      | Sp Ed Teacher   | BA/MA   | 12            |
| 14      | Gen Ed Teacher  | BA/MA   | 13            |
| 18      | Gen Ed Teacher  | BA/MA   | 8             |

**Problematic Practice Grouping**

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Table 5: Response Groupings to Research Question: Please tell me what the purpose of an accommodation is?

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Table 6: Response Groupings to Research Question: Please tell me what the purpose of a modification is?

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<tr>
<td>15</td>
<td>Parent</td>
<td>Did not respond</td>
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Table 7: Response Groupings to Research Question: When is the subject of accommodations or modifications first talked about in the Individualized Educational Program process?

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Table 8:  Response Groupings to Research Question: What are the factors you consider in picking or choosing the appropriate accommodation or modification for student’s Individualized Educational Program?

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Table 9: Response Groupings to Research Question: Should an accommodation or modification for a person with the disability improve their results on the examinations or assignments?

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<tr>
<td>18</td>
<td>Gen Ed Teacher</td>
<td>BA/MA</td>
<td>8</td>
</tr>
</tbody>
</table>

*Note:* Degrees are BA, Bachelor’s; MA, Master’s; JD, Juris Doctorate; AAS, Associate of Applied Science; + means credits beyond the level indicated.  
*Note:* LDT-C means Learning Disabilities Teacher-Consultant, a certification in the state of New Jersey.
Table 10: Response Groupings to Research Question: Where does the IEP team find the accommodations or modifications they wish to use?

<table>
<thead>
<tr>
<th>Subject</th>
<th>Role on IEP Team</th>
<th>Degree(s)</th>
<th>Years on Team</th>
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<tbody>
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<td>Parent</td>
<td>BA/JD</td>
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**Best Practice Grouping**

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<th>Degree(s)</th>
<th>Years on Team</th>
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<tr>
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<td>BA/MA</td>
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<td>BA/MA</td>
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**Standard Practice Grouping**

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<td>Gen Ed Teacher</td>
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<td>15</td>
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<td>8</td>
</tr>
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</table>

**Problematic Practice Grouping**

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Table 11:  Response Groupings to Research Question: Do accommodations differ between State standardized testing and the classroom?

<table>
<thead>
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**Best Practice Grouping**

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<th>Years on Team</th>
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<td>Parent</td>
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<th>Years on Team</th>
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<td>BA +</td>
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<tr>
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<td>BA/MA</td>
<td>13</td>
</tr>
</tbody>
</table>

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Table 12: Response Groupings to Research Question: How are accommodations or modifications assessed as to their effectiveness?

<table>
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Table 13:  Response Groupings to Research Question: If an individual or a parent requests an accommodation or modification that the team has never heard of before, what do you do?”

<table>
<thead>
<tr>
<th>Subject</th>
<th>Role on IEP Team</th>
<th>Degree(s)</th>
<th>Years on Team</th>
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Appendix F

*While 12.7% of Students with Disabilities have intellectual disorders this does not account for the 7 times disparity. Source: 2014 College and Career Readiness Highlight, OCR*