



# Communiqué

Council for Educational Diagnostic Services

A Division of the Council for Exceptional Children

Volume 37, Issue 1, Fall 2009

## President's Message:

David W. Walker

I want to welcome everyone back for another school year. Even though it has been more than 25 years since I worked in K–12 schools, I still remember how exhausted I felt when I came home after school those first 2 weeks until I managed to get back into “school shape.” By now I am sure that you are well into the routine of your daily schedule of activities involved in serving children with exceptionalities and are back into school shape.

Recently I’ve been doing some reading in the area of Early Intervention Services (EIS)—the three-tiered intervention system—and response to intervention (RtI), particularly as it relates to the eligibility process for students suspected of having a specific learning disability. Some of those readings have taken me back to re-reading the U.S. Department of Education’s proposed regulations that were released in 2006. The following comments were raised by individuals who responded to the proposed regulations:

1. May a local education agency require that all children suspected of having a specific learning disability first be assessed using an RtI process before an eligibility determination may be made?
2. What are the criteria for “scientific research-based intervention” mandated in IDEA 2004 (20 U.S.C. §1414(b)(6))?
3. Given that RtI is part of the evaluation process for determining whether a child has a specific learning disability and that assessments must be conducted by individuals qualified to administer the assessment procedures, who is qualified to implement tiered interventions that will be used as part of the eligibility evaluation?
4. The regulations require that a “public agency must promptly request parental consent to evaluate a child (34 C.F.R. §300.309(c))” if the “child has not made adequate progress after an appropriate period of time (34 C.F.R. §300.309(c)(1)).” Therefore, how should the terms *promptly* and *adequate* be defined in this context?

A rationale offered for moving to making the RtI process part of the eligibility process was that there were major problems with using *severe discrepancy* as a criterion for eligibility. Specifically, there were, at a minimum, four methods for determining if a student had a severe discrepancy between ability and achievement. Whether a student met the eligibility standard for being a student with a specific learning disability often times

varied, depending upon how a severe discrepancy was determined. It seems that given Questions 2 and 3 above, the RtI process may be just as variable, if not more so. For this reason and others, the CEDS leadership has supported a proposal presented to CEC’s Project on Evidence-Based Practices. We hope that the project being proposed by CEDS will begin to answer many of the above questions and concerns.



While I know that many of you are experiencing reductions in your budgets that have a negative impact on your ability to travel, I hope that I will see most, if not all, of you at the **CEDS Annual Conference**, October 29–31, 2009, at the Crowne Plaza Hotel in Philadelphia, Pennsylvania. The keynote address will be given by Jack Jorgensen, Ph.D., assistant dean of the School of Education at the University of Wisconsin–Madison. The topic of his address will be “Unlocking Answers to a National Crisis: Overrepresentation of Minority Students in Special Education.” As you know, the over-, as well as the under-, identification of some segments of our population as students with particular exceptionalities has been a problem since we as a profession began to conduct evaluations to determine if a particular child was eligible for a particular educational program. I am sure that Dr. Jorgensen will provide some valuable ideas that you will be able to take back to your daily jobs to increase your ability to correctly identify and provide services to students who actually need those services.

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*Communiqué* is the official quarterly newsletter of the Council for Educational Diagnostic Services (CEDS), a division of the Council for Exceptional Children. Subscriptions are by membership to CEDS. Web postings are made thirty days after the newsletter is sent to members. The editor encourages responses, ideas, and inquiries. Submissions of previously unpublished material are welcome for consideration.

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#### *Assessment for Effective Intervention*:

The official quarterly research journal of CEDS is *Assessment for Effective Intervention*, provided through CEDS membership. The primary purpose of the journal is to publish empirically sound manuscripts that have implications for practitioners. Submissions are encouraged; guidelines are available at <http://aei.sagepub.com>

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### Reminder . . . NCED EXAM

October 28, 2009

Crowne Plaza Hotel, Philadelphia, PA  
For more information: <http://ncedb.org>

## Update on Issues Before the Courts and U.S. Congress

**Stephen Walker**, *CEDS Governmental Relations Committee Chair & Children's Action Network (CAN) Coordinator*

**Expansion of Reimbursement for Private Tuition:** Recently, the Supreme Court ruled 6–3 in favor of allowing parents to seek reimbursement even when their child has never received special education services from their local public schools (*Forest Grove School District v. T.A.*). The issue before the court was whether parents could seek and receive reimbursement for costs associated with unilaterally placing their child in a private school, even if their child never received special education services from the public school district. In this case, the Forest Grove schools had previously tested the student (referred to as “T.A.” in this case), and determined that he was not eligible for special education services under the Individuals with Disabilities Education Act (IDEA). Later, Forest Grove evaluated the student again after his parents had unilaterally placed him in a private school. Although the second evaluation indicated that he exhibited ADHD, the school district determined that the ADHD did not affect his educational progress.

Forest Grove contends that the language added in the 1997 amendments to IDEA states that tuition reimbursements are only available to students “who previously received special education and related services” and precludes a student who has never received special education services from receiving reimbursement for private schooling. This ruling exposes an apparent gap in IDEA’s reimbursement rules. School districts are now increasingly at risk for unilateral placement lawsuits from parents who are either unhappy with the available services or simply wish private placement options. This is a concern for everyone because lawsuits based on unilateral placements are expensive and divert scarce resources from special education classrooms in the public schools to private schools and facilities. In addition, this ruling may be seen by some parents as a way to circumvent the IEP process and gain immediate access to services at public expense. While the IEP process is sometimes cumbersome, when done correctly, it is designed to be collaborative and in the child’s long-term best interests. This issue will most likely be one to watch in the next reauthorization of IDEA.

**Use of Restraints and Seclusion:** The U.S. House of Representatives’ Committee on Education and Labor recently held a hearing about the use of restraints and seclusion in public schools. Several rather high profile and disturbing cases of children who were harmed by improper use of restraints have recently come to light. In fact, the hearings produced evidence on 13 incidents in which students were harmed or killed by the improper use of restraints and seclusion in public schools. The

Council for Children with Behavior Disorders (CCBD) has been out front on this issue and has produced a position statement on the use of restraints and seclusion. In its statement, CCBD notes that restraints should be used “rarely in school settings . . . [only] when there is immediate danger of physical injury to someone.” This sister organization of CEDS has also gone on record as endorsing the use of school-wide positive behavior supports and other evidence-based practices. For more information on the CCBD statement, go to its website (<http://www.ccbd.net>).

CEDS and CEC members have also been represented on this issue by CEC’s associate executive director, Deborah Ziegler, who during the hearings and public discussions was interviewed by NPR, CBS News, and *The Washington Post* about the appropriate use of restraints and seclusion in schools and ways to properly manage and prevent challenging behaviors. As the result of these hearings and the information uncovered, Congressman Phil Hare from Illinois has introduced the Positive Behavior for Safe and Effective Schools Act (H.R. 2597). This bill, if passed, would amend NCLB/ESEA to encourage and support positive behavior support programs in the schools and work to reduce reactive approaches to school discipline.

**Jacob Javits Act:** Please support funding for the Jacob Javits Act. A House committee recently zeroed out the funding for the only federal program specifically dedicated to meeting the unique learning needs of students with gifts and talents. In 2007, less than 3 cents out of every \$100 of the federal K–12 education budget was devoted to the educational needs of gifted and talented students in the United States. To remain globally competitive, our nation must increase its investment in gifted education. If you are interested in signaling your support for increased federal funding for gifted programs, CEC has letter templates on the Policy and Advocacy page of its website (<http://www.cec.sped.org>)

**Reauthorization of the Elementary and Secondary Education Act/NCLB:** This law will be before the Congress some time this year, and all of us will need to communicate with our Congressional Representatives as the legislation begins to move forward. As the CEDS CAN Coordinator, I will monitor this legislation as it moves through Congress and communicate with you through this newsletter on important changes that will be made to this law, but it will be up to each of you to become personally involved and to contact your Congressional Representatives regarding your views and preferences on the reauthorization. For up-to-date information on legislation that affects special education, go to the CEC Policy and Advocacy page of the website (<http://www.cec.sped.org>).

## Calls for Nominations

### Call for Vice-President Nominations

**Carol A. Layton**

*Past President*

Nominations are open for the position of vice president on the CEDS Board for a term beginning July 1, 2010. The vice president is elected for a 2-year term, succeeds to the presidency for 2 years, and continues as immediate past president for an additional 2 years, resulting in a total 6-year commitment. A complete listing of duties and responsibilities is available in the CEDS Constitution on the CEDS website (<http://www.unr.edu/educ/ceds>).

In accordance with the CEDS Constitution, any group of 10 active CEDS members may submit a nomination petition for this position. Nomination petitions must include the name, signature, and address of the member who is submitting the nomination petition. Accompanying the petition should be a letter from the nominee accepting the nomination and the nominee's complete vita; home, work, and e-mail addresses; and telephone number. All candidates must be members in good standing of CEDS and CEC.

**Nominations are due by October 1, 2009.** Send nomination petitions to Dr. Carol Layton, CEDS Past President, 3026 Founders Place, Abilene, TX 79601.

### Member of the Year Nominations

**Patricia Frawley**

*Professional Standards Chair*

Nominations are being accepted for the CEDS 2009 Member of the Year Award, which is presented annually at the CEDS conference during the social hour. This award is intended to recognize and honor individuals within the CEDS membership who have enhanced the profession of educational diagnostician through their service to the division, efforts on a state or national level, and contributions to the field in the form of research, publication, or innovation. Letters of nomination, including rationale, may be sent electronically to Patricia Frawley ([pfrawley@sdu.edu](mailto:pfrawley@sdu.edu)). **Nominations are due by September 30, 2009.**

## Professional Standards

**Pat Frawley**

*Chair*

In keeping with the need to align practice with evidence-based research, the National Council for Accreditation of Teacher Education (NCATE) has issued a statement indicating that more rigorous requirements for teacher education will emphasize clinical training. Excellent performance levels will be encour-

aged through programs designed to prepare those individuals who will enter the field of teaching by increasing knowledge of "what works" combined with using a research-based approach to improve student learning. Rather than continue the current approach, which focuses on coursework followed by clinical experience, colleges will be encouraged to increase the length and dimension of training programs in addition to attending to coursework designed to emphasize clinical practice. This increased focus on clinical work is aligned with efforts of the current administration, which is seeking to improve teaching at all academic levels. NCATE currently accredits nearly 700 teacher education programs using as the basis of monitoring the CEC division standards that have recently been revised. In addition to revised requirements for teacher education and a focus on the needs of preschool through 12th-grade schools, the revised program is designed to streamline monitoring and reduce paperwork.

## Faculty Position Announcement

*Assistant Professor in Special Education for the  
Educational Diagnostician Professional  
Certification Graduate Program  
Texas Tech University*

**Qualifications:** Earned doctorate in special education. Minimum of 3 years of classroom teaching (K–12) and Texas certification as a diagnostician are required. Professional experience in a variety of university student services areas, experience teaching college-level courses, activity in professional organizations pertaining to assessment of populations with various disabilities, a research agenda or focus related to persons with disabilities, effective communication and collaboration skills, and experience with a variety of distance education delivery models desirable.

**Responsibilities:** Teaching undergraduate and graduate courses; advising graduate students; establishing a line of scholarly inquiry; serving on masters/doctoral advisory committees; and providing services to the special education program, College of Education, Texas Tech University, as well as the profession.

Interested candidates should submit application materials online at the TTU Personnel Employment website (<http://jobs.texastech.edu>). Requisition #78581. Please include a letter of application, your curriculum vitae, copies of graduate transcripts, and a list of three references with complete addresses, phone numbers, and email address. Review of applications will begin immediately and will continue until the position is filled. For more information, contact Dr. Roseanna Davidson ([roseanna.davidson@ttu.edu](mailto:roseanna.davidson@ttu.edu)). For more details about TTU or the College of Education, visit the following websites (<http://www.ttu.edu> and <http://www.educ.ttu.edu>).



**SAVE THE DATE!**

**CEDS Annual Conference:  
Assessment: A Key to Independence**

**Philadelphia, PA ☆ October 29–31, '09**



*Philadelphia offers attendees the extraordinary: art, restaurants, museums, the Historic District, shopping in Rittenhouse Square, waterfront views, and more. From the Reading Market to the Liberty Bell to the Independence Visitor Center to the Philadelphia Art Museum and Rocky, this walkable city has something for everyone!*

**Keynote:**

*“There is NO Master Key!*

*Unlocking Answers to a National Crisis—*

*The Overrepresentation of Minority Students in Special Education”*

**Jack Jorgensen, PhD**  
Assistant Dean, School of Education  
University of Wisconsin–Madison

**Topical Sessions:**

- ☆ *Attention, Memory, and Retrieval: Assessment and Intervention of Critical Executive Functioning*  
**Heather Stephens, EdD**
- ☆ *An Update on IDEA Court Decisions, OSEP Policy Letters, and Federal Legislation: Impact on Educational Diagnostician Practice*  
**David W. Walker, EdD**
- ☆ *From Prescription Pad to the Classroom: Comparing DSM-IV-TR Diagnoses and IDEA*  
**Norman Geller, PhD, & Ellen M. Frye, EdD**
- ☆ *Creating Graduates Instead of Dropouts!*  
**Nancy Nichols**
- ☆ *Transition Assessment: Planning for Independence*  
**Leann DiAndreth-Elkins, EdD**
- ☆ *Evaluating English Language Learners with Suspected Learning Disabilities: Investigating Cultural and Linguistic Factors*  
**John Doak, PhD**
- ☆ *Keys to Predicting High Stakes Tests Performance*  
**Denise R. Foley, EdD**
- ☆ *Primary Consideration Sheet for School Building–Level Committees*  
**Patricia McElroy, EdS, NCED**
- ☆ *Is it Time to Declassify?*  
**Nora L. Pollard, EdD, & Marie Segal, PhD**
- ☆ *Making a Difference: Political Action and Child Advocacy*  
**Stephen Walker, EdD**
- ☆ *Assessing Theory of Mind Progress for Students with Autism Spectrum Disorder*  
**Carol A. Layton, EdD**
- ☆ *From Tears to Tiers: Building RtI Cultures That Transform Schools*  
**Julie L. Lowery, MS**
- ☆ *Functional Assessment of Critical Academic Skill*  
**Teresa Oettinger Montani, EdD, & Patricia Frawley, EdD**
- ☆ *Does a Classification of Developmental Delay Lead to Special Education in Subsequent Evaluations? Predictors of Special Education Outcomes at Age 9*  
**Tammy Cormier-Lavergne, MEd, NCED**
- ☆ *Utilizing Professional Judgment: The Key to Determining SLD Eligibility*  
**Tammy L. Stephens, PhD, & Edward K. Schultz, PhD**
- ☆ *The Use of the Early Warning System Tool Within a Response to Intervention Framework in High School*  
**Evelyn Johnson, EdD, Carrie Semmelroth, MA, & Rebecca McLenna**
- ☆ *Progress Monitoring Assessment Strategies*  
**Cathleen G. Spinelli, PhD**
- ☆ *Examining the Structure of the Adaptation to Disability Scale: Its Use with Autism Spectrum Disorders*  
**Darlene A. G. Grooms, PhD, LPC, CRC**
- ☆ *Nationally Certified Educational Diagnostician (NCED)—the Professional Credential for Assessment Specialists: Yesterday, Today and Tomorrow*  
**Joseph Sutton, PhD, & Patricia Frawley, EdD**
- ☆ *Classroom Observations: Why, What & How*  
**Connie Nielson, MEd**
- ☆ *Evidence-Based Goals and Objectives: Perceptions of Special Education Teachers*  
**Jessica A. Rueter, PhD**
- ☆ *University, Lab School, Urban District Partnership: An Effective Collaboration Model*  
**Cathleen G. Spinelli, PhD**
- ☆ *Assessment: Keying in on Early Childhood Screening*  
**Gene Schwarting, PhD**
- ☆ *Train the Trainers: Staying Out of Trouble ... It's Confidential!*  
**Dr. Nancy Nichols**
- ☆ *Strategies and Tools to Reduce the Over-Representation of Minority Students Referred for an IEP Evaluation and Initially Placed in Special Education*  
**Sara Halberg, Kathleen Lyngaas, & Jack Jorgensen, PhD**
- ☆ *1+1 Does Not Equal 3: Assessing Math Difficulties*  
**Amy Dilworth Gabel, PhD**
- ☆ *Functional/Authentic Assessment of Disorders of Written Expression*  
**Kathleen Rotter, EdD**
- ☆ *Using Technology to Teach Social Skills to Students Diagnosed with Autism*  
**Shannon Haley-Mize, MS, & David Walker, PhD**
- ☆ *Making Assessment Meaningful for Parents of Students with Disabilities*  
**Rebecca Davis, EdD, & Kathie Good, EdD**
- ☆ *Best Practices in Using the New WIAT-III for SLD Identification*  
**Amy Dilworth Gabel, PhD**
- ☆ *Top Ten Reasons Why I Love the KABC-II*  
**Connie Nielson, MEd**
- ☆ *Educational Diagnosticians as Researchers: Data Analysis and Interpretation Methods*  
**Edward Karl Schultz, PhD, & Tammy Stephens, PhD**

# **CEDS Annual Conference: Assessment: A Key to Independence**

**Philadelphia, Pennsylvania • October 29–31, 2009**

## **REGISTRATION FORM**

Pre-Registration Postmark Deadline: *October 3, 2009*

Name: \_\_\_\_\_

Name as you wish it to appear on the badge, if different: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (O) \_\_\_\_\_ (H) \_\_\_\_\_ Email: \_\_\_\_\_

Registration fee for full 3-day conference includes ALL workshops. Admittance to workshops is on a first-come, first-served basis.

### **Registration Fees:**

#### **Type**

	<b>Pre-Registration, Rcd. by 10/3/09</b>	<b>On-Site, After 10/3/09</b>
CEDS Regular Member [ID # _____]	\$190 _____	\$205 _____
Non-Members	\$235 _____	\$260 _____
Student Rate*	\$100 _____	\$120 _____
Single-Day Registration [Circle day: Thurs. Fri. Sat.]	\$120 _____	\$135 _____

\*To receive student rate, you must include a photocopy of your CEC student ID card.

### **Group Pre-registration Information:**

- ☆ Groups of 3–4 are eligible to receive a 10% discount (regular member \$171; nonmembers \$234).
- ☆ Groups of 5 or more are eligible to receive a 20% discount (regular member \$152; nonmember \$208).
- ☆ Discount applies **ONLY** when all pre-registration forms arrive together as a packet with full payment or a purchase order.

### **Payment Options:** (Credit cards are **NOT** a payment option)

Enclosed is a check payable to CEDS for \$ \_\_\_\_\_

Enclosed is Purchase Order # \_\_\_\_\_ [Please indicate the name(s) of those registering together on the PO.]

### **Send Registration Forms and Payment to:**

Dr. Brenda Gilliam, Treasurer  
The University of Texas at Tyler  
3900 University Boulevard, Tyler, TX 75799

### **Refunds:**

Refunds may be requested; however a \$20.00 processing fee will be charged.

**Refunds will NOT be honored after September 30, 2009.**

### **Hotel:**

Crowne Plaza Hotel, 1800 Market Street, Philadelphia, PA 19103

Phone: 215-561-7500

Website: <http://www.crowneplaza.com/philadelphia-centercity>

\$169 per night for single, double, triple, or quad

Please use the code **COU** for online registration, or call 866-618-0410 and request the Council for Educational Diagnostic Services conference rate when making the reservation. **Rate available until 9/27/09.**



Conference Updates can be found on the CEDS website (<http://www.unr.edu/educ/ceds>)