



VCASE Newsletter
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Spring 2004

President's Pen

GOING TO THE BALCONY

For this edition of the President's Corner, I want to share a bit of advice that I hope will help you to "keep going", not only for the rest of this school year, but for the balance of your time in the very challenging job of a special education administrator. It's a reminder that I found in the book, *Leadership on the Line*. Authors Ronald Heifetz and Marty Linsky stress the importance of maintaining the capacity for reflection in the midst of action. They call this skill "getting off the dance floor and going to the balcony." It's stepping back in the midst of action and asking, "What's really going on here?"

Think for a moment about the balcony metaphor. Think about a huge ballroom with a balcony up above. If the band is playing and we are on the dance floor, most of our attention focuses on our dance partner and the rest of our attention is on making sure we don't collide with other nearby dancers. If later we are asked about the dance, we are likely to comment on the great band and the enjoyable dancing. But, had we gone up to the balcony and looked down on the dance floor we might have seen a very different picture. We would have noticed all kinds of patterns. For example, maybe the dancers were all clustered at one end of the floor as far away from the band as possible. Maybe many people never danced at all. Our comments about the dance may have been very different had we looked from the balcony.

It is easy for us to get swept up in the action, particularly when issues become intense or personal. Self-reflection does not come naturally. Yet, in order to see the whole picture and take the "balcony perspective", we must stand back and watch even as we take part in

the action being observed and are pushed and pulled by the flow of events. Achieving a balcony perspective means taking ourselves out of the dance, in our minds, even if only for a moment. It's distancing ourselves from the fray in order to gain a clearer view of reality and some perspective on the bigger picture so that we can make decisions and determine how best to intervene. Staying too long on the balcony and just observing can lead to as much ineffectiveness as never achieving perspective in the first place. The process is supposed to be iterative rather than static and the goal is to move back and forth between the dance floor and the balcony, making interventions, observing their impact in real time, and then returning to the action. The goal is that we come as close as possible to being in both places simultaneously. The most critical point in observing from the balcony is we must see ourselves as well as the other participants. This is probably the hardest task: seeing ourselves objectively. We have to set aside our special knowledge of our intentions and inner feelings and notice that part of ourselves that others would see if they were looking down from the balcony.

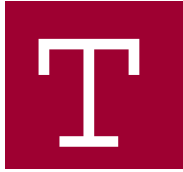
What are the techniques that can help us to learn this skill of "getting on the balcony." One simple strategy is pushing our chairs just a few inches away from the meeting table after we speak. This action provides both literal and metaphorical distance to help us detach just enough to become an observer. We can watch the relationships and see how people's attention to one another varies: supporting, thwarting, or listening. Listen to the songs beneath the words. Once we find out where people are coming from, we can better connect with them and engage them in change.

Heifetz and Linsky describe leadership as an improvisational art; they state that "observing from the balcony is the critical first step in exercising and safeguarding leadership." As leaders, we may each have a vision, clear values, and even a strategic plan but we must respond to what is happening from moment to moment. We will have to move back and forth from the balcony to the dance floor, over and over again through the day, week, month, and year. We will need to take actions, then step back and assess the results, reassess the plan, then go back to the dance floor and make the next move. This all takes discipline and flexibility, but we are special education administrators so I know we can do it!!

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**Arthur K. Stewart, Coordinator of Mediation
Virginia Department of Education**



The purpose of the Virginia State Special Education Mediation Services (SSEMS) program is to provide parents and school administrators assistance in negotiating any issue around the identification, provision of services or placement of a child thought to need special education services, specialized instruction, or reasonable accommodations to benefit from education. The program is designed to quickly respond to joint requests made by parents and school administrators for assistance.

In 1998 eight Virginia mediators were selected by the Virginia Department of Education and trained to work with parents and schools on issues concerning special educational services provided by public schools to students. The first year, there were 59 cases. In 2002 there were 104. In the current year to date, the caseload is 38% larger than last year. The mediators work in a framework defined by federal and state laws and regulations, case law, and effective educational methodology. They are convened twice a year for training in these areas along with discussion on considerations in mediating special education disputes. Karen Donegan Salter provides consultation for the program along with guests who address specific issues. The mediators are evaluated annually. Parties to a mediation are given consumer evaluations to complete and return to the coordinator, who reviews them for training and supervisory information.

Several elements make this form of mediation unique. It is carried out within a complex regulatory framework. Since 1975 federal law has required that the planning for individual students who need support to benefit from their education be developed through consensus among a team composed of parents and educators. These parties have access to mediation or a due process hearing to resolve issues that might arise in the consensual planning process. Students currently identified as needing specialized instruction or other modifications are eligible for services until graduation from high school or their twenty-second birthday. This creates a *history of negotiations* between parties, which influence subsequent expectations, negotiations and events.

The mediators who work in other venues report that differences between people in special education contexts are more likely to be strongly emotional than in many other assisted negotiations. The issues involve high stakes because a student's growth and development is in question. People's belief systems are engaged in a

Sidebar

Considerations for administrators in approaching negotiations and mediations with parents

- Regardless of the negotiations history or the stakes in the contested issues, this is a process where the people and the issues can be separated. If you approach the parents with an open and unguarded stance, you may elicit the same. You can then each put the energy which otherwise might be assigned to "defense" into identifying and resolving the issues.
- Don't forget to ask people what they need and what they think their child needs. I can't tell you how many people have told me that they were first asked that question in a mediation.
- Some advocates and attorneys have been trained to approach people and issues from an adversarial stance. Negotiations are not combat. Don't be drawn into an adversarial stance. Furthermore, keep in mind that the parents regard their advocate as a surrogate for themselves. Treat the advocate with the same care, respect and affection as you would your favorite colleague.
- Don't rush to the bottom line. Any negotiation requires attention to new information and attention to basic human needs. The basic human needs include relationship maintenance and building and being closely listened to by an active listener. The negotiation also requires attention to establishing the interpretation of observations and evaluations, defining the issues carefully, outlining the available resources, seeking agreement on the student's needs, considering the available and potential programs which might be successful. The more this process is jointly defined, the more likely the outcome will be agreement.
- Help parents to understand your own thinking about a student's needs. Presenting a single option as a *fait accompli* is less revelatory than letting people know why you are favoring certain courses of action over others. If you engage parents in reviewing what has informed them or led them to certain conclusions, you will open up possibilities which would be unreachable if you were only trading conclusions.
- Try to avoid becoming committed to a single option as if there is just **one best way** to proceed. This stance is a prelude to conflict. If you view the best outcome as the one supported by the consensus of the people involved in the planning process, in part because it will receive the broadest support and commitment from them, you'll provide a flexibility in the negotiation which may uncover an unforeseen, but fully supportable outcome.
- Your natural approach toward problem solving may be a *collaborative* mode. People in high stakes negotiations may adopt a *competitive*, "my way or the highway" mode. Some of the discomfort you may feel in approaching difficult negotiations may be from the energy this shift in modes draws. In a successful negotiation, many things shift and change. One of the things which may change is the mode in which people approach problem solving, back to a joint collaborative stance.

larger way than they are in contests where identity does not figure so strongly. Consequent to belief and identity figuring into the process, the temptation to see only one acceptable outcome, one right way of doing things, often visits the parties. For the same reasons, the issues become personalized fairly early.

The influences on individual decision makers are complex. An administrator may have to resolve conflicts between his or her own values and professional opinion; what staff members feel is the right decision; conflicting views of what a student needs; competing expert opinions; the view of what the law requires; preferences presented by parents; the history of the negotiations; resources available to support changed circumstances; and the individual's instinct and judgement about a practical and supportable outcome.

A parent may have to sort through different ideas offered by people who work with the child; the proper and productive stance as his or her child's advocate; the attainability of her wishes and preferences regarding the student's programming; credible sources of information about the child's progress in a given program; competing professional opinions; what the student prefers; the merit of the offer the school is making; advice given by family, friends, neighbors and advocates; and the negotiating history.

The kinds of issues that may arise include eligibility for services; the categorical lens through which a student's needs for support are viewed; sufficiency of services; the progress of the student's learning; the order of priority of the student's needs; and the advisability of reducing or completing special education support services.

Searching for common ground and establishing a productive dialogue among experts who have tested the student or provided services may shape part

of the mediator's task. Sometimes people have different perceptions of the student and what he or she needs based on the context in which they have observed or tested the individual and the training and beliefs which inform their practices.

Mediators are working among individual and institutional interests in an assisted negotiation. Multiple parties are present at the mediation conference. This provides opportunities for the mediator to assist the intramural negotiations by focusing attention on the speakers offering the best new thinking.

Mediation is most effective when it is sought and employed as early as possible. Having successive IEP meetings with the same format and the same people attending is not as likely to produce a different outcome as when you create a new opportunity for understanding and fresh thinking by changing the dynamic. Bringing in a mediator to assist with negotiations is a creative administrative act. Parents and school administrators retain all of the responsibilities and prerogatives they have as negotiators. Adding a third party to the negotiations, changes the dynamics, the process, the relationships, and is thus likely to change the outcome. Mediators are trained to elicit fresh thinking, to seek clarity of purpose and to provide hygiene in communications. They are skilled in listening for what is said and unsaid and conduct a process which is structured, although informal. Because people invest trust in the mediator, they disclose things that they would not readily share in an unassisted negotiation in which the sides are defined and polarized and the issues are high stakes: the development of a child.

Consequently, new text is developed in the assisted negotiation. The mediator helps

people to feel at ease and the abandonment of a guarded and defensive stance in the negotiations makes things possible that would otherwise not be.

Here's a recent example of why mediation is more effective if sought early. I got a call from an administrator recently who wanted mediation. The parents of a child with special needs had made a placement three months earlier at their own expense in a private program. The scope of the issues, which now were likely to be discussed, included whether the school division would pay for the program. The mediator could explore how parents would inform themselves of how the child was progressing in the program and could see what their goals and exit criteria from the program might be. However, at this juncture, parents would be unlikely to want to review the best offer which could be constructed by the school division, regardless of its intrinsic merit, because their hopes and faith were now invested in the placement which they had selected and in which the student had begun.

Had the issue been brought earlier to mediation, when the parent was feeling uncomfortable with the then current placement, the parent and school administrator could have explored the sources for dissatisfaction, the elements which were attractive in alternate programs, and done a comparison of programmatic elements and the fit between several possible programs, including one which might be newly offered or amended by the division. The potential scope of the discussion and negotiation would be larger and would get to the utility of several choices, not the supportability of only one. Parents might be more willing to consider and to evaluate alternatives, not yet having vested their faith and sunken costs in a single program. School administrators, not faced with a *fait accompli*, might have broader latitude for creative thinking about what might best work for an individual student.

The chief task at this point for the State Special Education Mediation Service lies in expanding public awareness of the program. It is an effective, low-cost and efficient way of resolving differences among team members who plan services for students. It can directly address relationship issues, a hostage taken by continued conflict.

For more information about the program, you may contact Art Stewart at 804-786-0711 or by e-mail at astewart@mail.vak12ed.edu. The department maintains descriptive information at its website: [http://www.pen.k12.va.us/path:site index>special education and student services>student services>mediation](http://www.pen.k12.va.us/path:site%20index%20special%20education%20and%20student%20services%20student%20services%20mediation).

Please send FAXES to: 804-786-8520. Please call to confirm receipt.

WHEN TO GIVE PRIOR WRITTEN NOTICE

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The topic of giving Prior Written Notice ("PWN") is a confusing one. To clarify what the law says, which is always a good starting point, the State regulations (and federal law) provide that prior written notice is given prior to proposing or initiating (or when refusing to initiate or change) identification, evaluation, free appropriate public education or educational placement and when graduation with a standard or advanced diploma is to occur. 8 VAC 20-80-70C.1.

For evaluations, you need to give PWN upon the initiation of an evaluation, upon the refusal of the school division to evaluate and upon proposing an evaluation that the parent refuses. This PWN obligation would attach to child study decisions if the committee determines not to refer a child for a special education evaluation following a parental request.

For eligibility, you need to give PWN when you first identify a student as disabled, when you change the student's label or add labels and when you refuse to change the label at a parent's request. You also would give PWN when the committee determines the child's not eligible any longer under the IDEA.



graphic courtesy of casefile.com

Of course, you cannot implement the decision that the child is no longer eligible unless you have informed written parental consent.

For IEP meetings, the State advises that you should give prior written notice at the end of every IEP meeting. Their draft IEP form contains a PWN section for use each time there is an IEP meeting. If you use that form, be sure to supply the additional information that is referred to in the PWN section. Generally, you must give PWN when there is a disagreement or a significant change in IEP content. Please note, however, that the State has held that the deletion of a single accommodation required notice and consent. Thus, as a practical matter, you may want to give PWN following any change in the IEP. At a minimum, you must give prior written notice regarding IEP requests by the parents that are refused or proposals made by the school division that are refused by the parents. I find that this kind of documentation through PWN helps to preserve for the future the options considered by the IEP team and not implemented because of the parent's refusal.

For placement decisions, you must give PWN whenever you change placement. The State defines change in placement in its regulations to cover six situations: "Change in placement" means: "1.

The child's initial placement from

general education to special education and related services; 2. The expulsion or long-term suspension of a student with a disability; 3. The placement change which results from a change in the identification of a disability; 4. The change from a public school to a private day, residential, or state-operated program; from a private day, residential, or state-operated program to a public school; or to a placement in a separate facility for educational purposes; 5. Termination of all special education and related services; or 6. Graduation with a standard or advanced studies high school diploma."

At this time of year it is especially important to remember the need to give PWN before awarding a diploma that terminates the student's eligibility for special education services. This situation occurs when a standard or advanced studies diploma is awarded. It is necessary to state in the PWN in this circumstance that the student's entitlement to educational services ends at graduation. This notice can avoid controversy and confusion about the effect of a standard or advanced diploma.

It is good to develop a PWN form that contains all the required elements so that the form can be completed simply. In truth, PWN is a weapon for the school division in its efforts to obtain informed consent and to avoid disagreements over whether decisions were made and the basis for the decisions. Use this tool frequently.



The VCASE Executive Committee prepares for 2003-2004 during the summer retreat.



**Dr. Donald Deshler
To Be Keynote
Speaker At VCASE
Spring Conference**

Dr. Donald Deshler is currently director of the Center for Research on Learning at the University of Kansas, where he provides leadership for the research, product development, and staff development activities. At the Center, Deshler and other colleagues have developed and validated the Strategic Instruction Model and the Learning Strategies Curriculum as mechanisms for improving the learning effectiveness of students with learning disabilities and the instructional effectiveness of teachers.

He teaches graduate courses at the University of Kansas on instructional methodologies for teachers of adolescents and young adults with learning disabilities and seminars on current issues in and research procedures for populations with learning disabilities.

He is the author of the textbook Teaching the Learning Disabled Adolescent: Strategies and Methods. He was the original editor of the *Council for Learning Disabilities'* journal, *The Learning Disability Quarterly*, and is currently on the editorial boards of six other journals in learning disabilities and special education.

SAVE THE DATE

**VCASE annual Spring
conference**

May 26-28, 2004

**Ramada Inn,
Virginia Beach, VA**

**You won't want to miss Dr. Donald Deshler,
Keynote Speaker!**

Mark your calendars for May 26-28th and plan to attend the VCASE Annual Spring Conference at the Ramada Inn located in Virginia Beach, VA. You can make your room reservations now by calling 1-800-365-3032.

VCASE's President-Elect, Tom Nash and his committee have been working on an impressive conference program and have been able to obtain one of the most nationally well known professionals in the field of special education, **Dr. Donald Deshler**, who will be the keynote speaker on Thursday, May 27th. Many of your favorites like **Kathy Mehfood** (legal issues), **Doug Cox** (state of the state in special education), **Judy Douglas**, and others will be back again this year bringing you the latest in "news" around the state and around the country. Small breakout sessions will provide an opportunity to learn in depth about relevant topics and revitalize your outlook. Plan to renew yourself not only by increasing your knowledge in the field, but also by visiting with friends (old and new), sharing ideas that work, and enjoying that wonderful environment once again!

COST

Non Member Registration Fees

\$155 Pre Registration

\$185 On Site Registration

Members

\$120 Pre Registration

\$150 On Site Registration

A Tale of Two Schools

by Joe Witt

This is a story of two schools. The two schools had the same two problems. The two problems were: (a) lots of low achieving children and (b) lots of referrals to special education. This is the story of how the two schools dealt with these two problems.

It is easy to talk about the first school, the Little Blue School House, because they did nothing, except complain about both problems.

The second school, the Little Red School House (LRS), was under the watchful eye of someone rumored to be a VCASE member, Ima Duer. Ima suspected that the two problems were actually just one problem (i.e., the problem of low achievement) and one bad solution (i.e., using referral to special education as a remedy for low achievement) to the problem. That is, referral to special education was the solution the school was using for the true problem, which was low achieving students. Ima predicted that if the problem of low achievement could be addressed, then there would be less need for referral. She hosted a lunch for the school principal and her friend the Director of Elementary School Programs and laid out her little plan. Her plan was to improve achievement.

At lunch, after an exchange of pleasantries, Ima started on the topic by mentioning one of her favorite quotes from Einstein: stupidity is defined as using a solution that does not work to solve the same problem *repeatedly*. She reviewed how the children coming to the LRS have changed over the years. They begin school less well prepared to do important things like follow directions, turn the pages in a book, etc. She noted that parental support is not as strong as it once was. With many of the children, they start behind, then get further behind and we wait for them to fail for a couple of years and put them in special education. And in special education, we aren't always doing a great job of catching them up so special education is frequently a one-way street.

Ima was ready to try the Three Tier model they were talking about in Washington. She told the lunch group that this simply means that we give children three good strong instructional opportunities, of increasing intensity, before we even think about placement out of general education and into special education. The first tier is the core instruction that all children receive. Most children at the LRS learn just fine and receive nothing but the regular curriculum. However, 20% (and on the increase) do not learn with the core instruction. If they do not learn, then they are moved up to Tier 2, supplemental instruction. This is small group instruction using a method that research has proven to work. It can occur in the

classroom or outside the classroom. If children receive Tier 2 and do not make progress, then they are moved up to Tier 3, intensive individual intervention. Usually the intervention is preceded by some brief assessment to zero in on the child's problem and then instruction is individualized just for that child. Ima told the group that this is similar to what is *supposed* to be happening now with pre-referral intervention.

The lunch group agreed that literacy was their area of greatest need. Ima wanted to make this happen and volunteered to lay some resources on the table and to do a lot of the work with her team. She said some of her student services people, particularly the school psychologists could screen all children in the school a couple of times a year. That would tell them who needs help. For those children who needed Tier 2, supplemental instruction, she wanted help from the other two people at the table. The team agreed to try using the reading specialist at the LRS, in combination with a district level reading person, to train and *support* the teachers in a couple of solid interventions. If supplemental instruction did not work, then Ima would bring her team in to help with intensive individual intervention, Tier 3. They made their plans and they followed through.

The first year was moderately successful and Ima made a brief presentation to the School Board to praise her lunch bunch colleagues. She told the Board about two students, James and Bitsy who typify the two major outcomes

of this approach--that is, children either respond to the increasingly intensive instruction or they do not. Both James and Bitsy were falling behind their peers in second grade. For Bitsy, supplemental instruction in the form of the Peer Assisted Literacy Strategies (Ima identified this strategy and supported staff training to get it going) was all that Bitsy needed. She quickly improved. James, however, was a different story and did not improve at all with supplemental instruction. Hence, he was moved up to Tier 3. He was given a reading assessment by the school-based literacy person and the school support team designed an impressive individual intervention just for him. James had some memory problems among other things. The intervention they created for James had no effect when given once a day. However, he improved modestly when the same intervention was done twice per day. The good news was that the team had found something that worked. The bad news was that the support staff and teacher who implemented the intervention said they cannot do that forever. It was too much for them to handle with their other responsibilities. Because James lacked a reasonable response to extraordinary instruction, he was considered for special education. His teacher said she bet he didn't qualify and he would "fall through the cracks". The team responded *very quickly*, and using the existing assessment information but mostly his lack of response to superb instruction, decided that the additional resources needed

to implement his effective intervention warranted placement. They placed him in special education (following some additional assessment) without delay so special education support staff could begin working with him. The School Board had many questions and talked of considering this for other schools.

As time went by, the test scores went up at the LRS and the referral rate (which started at 12%) went down to 3%. At the other school mentioned at the beginning, the referral rate has increased and they are starting to complain about the changes looming in IDEA, saying "just about the time we have one way figured out, they change the system on us."



digital image courtesy of
www.psych.lsu.edu

Joe Witt

Featured Speaker at the VCASE Spring '04 Conference

For 20 years Joe Witt has been actively pursuing answers to questions about how professionals in schools can work together to prevent and remediate problems. This pursuit has led him to publish approximately 100 papers and 20 books. The source of his writing for the last 12 years has been his work with the STEEP process (Screening to Enhance Equitable Placement in Special Education) which provides direct services to schools to enhance achievement for all children, reduce the need for special education, and improve disproportionality and other associated issues. Through the collaboration with teachers and other professionals around the country, he has worked to develop strategies which are evidenced-based, have face validity and are practical for use in classrooms yet maintain their connection to the effective schools literature. In turn, this work has been acknowledged externally and Dr. Witt has received recognition in the form of Editor of *School Psychology Quarterly*, Editor of *Guilford School Practitioner Book Series*, Associate Editor of the *Buros Mental Measurements Yearbook* and *School Psychology Review*, and the recipient of over 50 externally funded grants and research contracts. He received an Alumni Distinguished Professor Award and is in the Department of Psychology at LSU.

Joe Witt is a Professor of Psychology at LSU. The events he describes here are fictional but mirror the outcomes experienced by districts that begin to use universal screening in conjunction with a three tiered intervention system to identify at risk children early and provide the help they need. Elements of this case study may not be consistent with current regulations but reflect modified current practice or practice following reauthorization of IDEA. Contact information for Joe can be found on the web at www.joewitt.org.

Nominations Needed for the James T. Micklem Award of Merit

According to the Bylaws, VCASE has an opportunity to honor a member of VCASE who has had **an impact on the education of children with disabilities** on the local, regional, and/or state levels. Traditionally, this award has gone to individuals who were often close to retirement (although that is not a requirement) and who were recognized by many of the VCASE members as having made significant contributions to some aspect of the field of special education. For example, the most recent recipient of the Micklem Award of Merit was **Linda Bradford** who, close to retirement from VDOE, was recognized for her long-standing assistance to special education administrators throughout the state. **Tom Smith**, a past president of VCASE (in the early 90's) and director of special education received the Micklem Award for his many years of active service not only to VCASE, but also for his advocacy at the state level (Chair of the State Special Education Advisory Committee) and numerous other contributions to special education students, parents, and administrators.

Our outgoing presidents always receive an award for making it through the six-year commitment of that office, so the executive board "traditionally" looks for someone who is not currently serving as an officer. Therefore, we are actively seeking nominations for the Micklem Award and encourage you to take a moment to consider who should receive recognition at our Spring 2004 conference this year. Please, email anyone on the executive committee with the name and the reasons why you are nominating that person. Requirements for nomination include the following:

- a. Hold a current membership in VCASE.
- b. Have a special education/supervisory or administrative position in a public school division or a position which meets the **current** requirements of active membership.
- c. Have made an impact on the education of children with disabilities on the local, regional, and /or state levels.

Have a minimum three (3) years active membership in VCASE.

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