

The New Three R's: Rules Regulations And More Rules

**Teachers' and Administrators'
Perspectives On How Laws,
Regulations, and Legal Fear
Impact Teaching and Learning
In Colorado's Public Schools**

A Focus Group Research Study

August 2007

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Executive Summary

Colorado educators are drowning in law, regulation, and bureaucracy. According to the educators who participated in this study, the time and energy they used to spend teaching is increasingly diverted to filling out paperwork, conducting assessments, documenting disciplinary problems, and complying with special education mandates. It makes no sense to them to spend so much effort complying with multiple laws that, paradoxically, reduce the amount and quality of student engagement and jeopardize meaningful teaching and learning.

Teachers and principals in Colorado believe that good intentions inspired the design and passage of most educational laws. They believe they and their students should be held accountable for what they do. But they also genuinely want to do the work they love. Most think they can do both—just not under the unreasonable expectations of some current laws and regulations. And not under the legal repercussions they fear daily in the increasingly litigious and compliance-driven environment in which they teach.

To better understand the legal and regulatory climate in schools, Common Good Colorado (CGC) felt that a crucial first step toward building long-term solutions for Colorado's schools involved the engagement of front-line educators in an in-depth discussion of how policies, bureaucracy, and legal fear shape their everyday experiences in the classroom. Through a series of twelve focus groups with teachers and administrators from rural, urban, and suburban districts, the impacts that compliance with legal mandates has on the behaviors and practices of Colorado educators and their students were explored. Following are the study's key findings.

Extent of Educator Burden

Educators who participated in the focus groups, spend an average of 20 to 30 percent of their time dedicated to activities mandated by some rule or law that doesn't make sense to them (documentation, repetitive assessment, disciplinary action, duplicative data entry, etc.); some administrators dedicate over 50 percent of their time.

When asked about the extent to which they feel burdened by these activities, **77 percent rated their burden as “5” or higher on a scale of “1” to “10”** and 50 percent rated their burden as a “7” or higher.

Legal Fear and Lawsuits

Increased legislation creates more laws; more laws create more policies; more policies create more opportunities for educators to violate the law. The end result is more legal fear. Over 60 percent of teachers and principals who participated in the focus

groups said they experience a high to moderate degree of legal fear, almost daily. The fear of litigation can be induced by the parents of a special education child demanding services, an accusation of assault for breaking up a fight, the teaching of evolution in a science class, or hugging a child for job well done.

Teachers can feel considerable fear due to the many entitlement programs for special education students with which they must comply: **“I worked my tail off on documentation for a parent to prove all was in order for her special ed child; it was stressful; I kept asking myself ‘Is this going to be good enough?’”** Another teacher said, “If the parents of special ed students say their children are not totally integrated or exceptions are not made, you hear from the parent liaison; the next step is the lawyers.”

Hugging a student is one of the most innocuous but dangerous things a teacher can do, legally. Most educators in the groups could relate at least one story of a teacher or principal being reprimanded or losing their job over touching a student. Most take extensive preventive measures to avoid a lawsuit. A male teacher said: **“I never touch a student; I never give a hug or get a hug if I see it coming; I’m never alone with a student.”** Another claimed, “I keep the door open, the lights on, and we sit at opposite ends of the room.”

Meting out punishment can also be tricky business: “I’ve had kids do things like wash desks for punishment and I’ve been told that that is using labor as punishment and that I should watch it; if the parent is a squeaky wheel, I’ll give the kid no recess because I know I won’t get in trouble for that.” One teacher said she had to give a student a pizza party to avoid a lawsuit because the student (and her parent) balked at a district sanctioned disciplinary measure the student received. Teachers who survive false accusations and stay in the system can grapple with the emotional trauma for years to come: “It devastated me; although I’m past that year, I still think about it at times.”

Accountability Related Burdens

According to focus group participants, a regulatory domain that most severely burdens Colorado educators is accountability (Colorado Student Assessment Program and School Accountability Report, CSAP/SAR). Many resent the time mandated testing robs from traditional instruction. **“We are forced to drop content that is broad, engaging, and thought provoking in order to teach stuff that is on the test.”** Several begrudge the time it takes to administer the test: **“The amount of time that it takes me to coordinate scheduling for testing, control the test booklets, and train people to give the tests is overwhelming.”** One principal said, “All I have done lately has been to manage CSAP; it takes away from instructional leadership time that I really value.”

In addition, educators also feel CSAP is administered too early in the school year to allow for adequate student competency and that it is unacceptable for English language learners and special education students. It can be a nightmare for special

education teachers: **“CSAP for special ed is ridiculous: we had probably 100 special kids who shouldn’t have taken the test; it was an awful, awful week for them and us.”**

Many believe CSAP scores overly impact a school’s SAR rating. A principal explained the implications for poor inner city schools: **“SAR is damaging and difficult for me to administer because it sets up a backward cycle of more requirements and less resources.”** “It’s a good measure; but I don’t like the punishments that are tied to it nor the restrictions,” said another. Some feel that, “SAR creates a competition between schools that can be unhealthy.”

The lack of usable data created by CSAP is another major issue: “A lot of time you don’t know where you went wrong to know where you need to make changes.” **One educator referred to CSAP as a “political answer to an educational problem.”** Some claim the data has tremendous inaccuracies and is difficult to decipher.

Curriculum and Instruction Related Burdens

Nearly as frustrating as accountability mandates for educators, are state and local policies regulating curriculum and instruction. Various forms of these policies—grading policies, graduation requirements, higher education admission requirements, and teacher tenure laws—can upend the educational excellence they are designed to achieve. Some teachers are troubled by district grading policies that force them to assign students minimum grades: **“A student can earn a 5 percent for the entire quarter and the lowest grade I can give them is a D.”** They are also frustrated by the resultant inability to effectively communicate a student’s performance to parents.

The Colorado Commission of Higher Education’s (CCHE) stringent new college entrance requirements (four years of math plus two years of a foreign language) also create havoc for educators and students. Educators fear that CCHE’s shift to a more academic focus is out of proportion with, and at the expense of, the non-college bound student: “We are forcing 100 percent into that mold and valuing only that path.” Some fear it will increase the drop out rate among students who struggle the most, especially if incorporated into high school graduation requirements. Beyond the unreasonableness of the requirement, educators feel it precludes students from taking other important courses: **“It’s frightening for college requirements to become so stringent that kids cannot take art, music, etc. [in high school].”**

Some school administrators believe that the biggest impact on student achievement is the teacher, specifically teacher competency. One law that severely compromises a competent teaching force is Colorado’s teacher tenure law. Administrators say their hands are tied when it comes to eliminating teachers whose performance is less than satisfactory: **“Once they make it through three years, they don’t have to keep doing their jobs well.”** Many would like to see all seniority-driven stipulations removed: “Someone needs to make it easier to get rid of poor teachers.”

Discipline Related Burdens

Though slightly less prominent than other regulatory burdens are those regarding student discipline. According to one teacher, **“One disruptive student can ruin the whole school year if not removed from the classroom.”** Due to the enormous amount of documentation and action plan development required to expel a habitually disruptive student, many just get passed on from year to year. Most disconcerting to educators is the impact a disruptive student has on other students: “Everything revolves around these kids’ needs; other students have to get up and leave while one student rages.”

Several disciplinary policies and laws—the Habitually Disruptive Rule, State Truancy Law, the Schools of Choice Law, Zero Tolerance Policy, and Reasonable Physical Intervention Clause in Colorado’s Anti-Violence Code—raise concerns for educators. The requirements to remove disruptive students from a school seem excessive: “The amount of paperwork our central office requires for a severe disciplinary action has doubled in eight years.”

The Zero Tolerance Policy that aims to curtail student behavior with regard to guns, drugs, and bullying can be too dogmatic in some cases. “We can’t make a judgment call,” said one principal. At the elementary school level the policy frustrates educators who find young children in violation of the law, like the little boy who brought butter knives to school to build a fort. Yet, a high school teacher feels conflicted by two opposing policies: **“I can’t refrain from touching the student and at the same time enforce the anti-bullying regulations.”**

Special Education Related Burdens

Though most special education policies are federally driven, they are included here because of their prominence among educators’ frustrations. The myriad of special education policies that teachers and administrators must navigate can overwhelm them financially, administratively, operationally, and legally. Administrators claim that special education mandates are under-funded by 40 to 85 percent. They typically remarked: **“You have to provide each individual student with services, but you only have two special ed teachers and a caseload of 45 and they all have different objectives, and in addition, they need to be taught district curriculum.”**

Teachers are bewildered by the added responsibilities a special education student brings to the classroom under the Least Restricted Environment (LRE) Law: “Our special ed teachers are even required to change catheters and shunts.” They also grapple with disparities in discipline policies between special education and regular students: **“You can’t expel special ed kids because their behavior might be a manifestation of their disability; too often we make exceptions for them that we would not make for other students; they cause a loss of learning and teaching time for all involved.”** Regular classroom teachers feel less effective with

other students when they have a special education student in their class: “I have trouble with the way we have to modify for them; the whole class falls behind.”

Educators’ Advice to Legislators

To conclude the focus groups, participants were asked to share their recommendations for improving the way education laws are drafted and passed in Colorado. Their number one concern was the lack of inclusion that policymakers exhibit in crafting new laws: **“Listen to the teachers in the trenches rather than the bureaucrats; make inclusion meaningful; ask us how we can make all these different programs really count.”**

The teachers and principals who participated in the focus groups were grateful for the rare opportunity to provide input on current education mandates. Their suggestions were insightful, heartfelt, and grounded in day-to-day experiences; they reflect the wisdom that comes from a combination of knowledge and front-line experience. Resultant recommendations are clear, confident, and profound. A comprehensive list of their recommendations is found in the final pages of this report.

Educators in Colorado want to maintain their love for teaching and their students, but instead say: “We are losing that because of rules, regulations, and policies.” They recommend getting back to the real three “R’s” of education so they can do the work they have been called to do and want to do.

Background

Nationally, and in the state of Colorado, teachers and school administrators are increasingly over-burdened by laws, regulations, and legal fears. A 2006 Common Good Colorado poll of Colorado school executives revealed that school administrators feel overly burdened by the amount of time they are required to spend on local, state, and federal compliance issues, and that decisions made in their districts are frequently influenced by litigation.¹ Fear and compliance, rather than personal responsibility, professional discretion, and genuine accountability govern school hallways and students stand to suffer the most when teachers and principals are unable to make common sense decisions when it comes to managing their classrooms and schools.

Groups such as the Colorado Association of School Executives (CASE) have undertaken research documenting the excessive number of education laws and regulations with which teachers, principals, and schools must comply. And a national Public Agenda poll found that 78 percent of teachers have been threatened with legal proceedings by their students.

To better understand these issues, Common Good Colorado commissioned this focus group study. It is imperative that those interested in reforming public education be aware of all the challenges educators face and carefully consider how the various laws, rules, and regulations originally put into place to improve education ultimately affect teachers and students.

¹ Common Good Colorado CASE Poll, August 2, 2006.

Framework

Study Objectives

Common Good Colorado (CGC) felt that a crucial step toward building long-term solutions for Colorado's schools involved the engagement of front-line educators in an in-depth discussion of how state policies, bureaucracy, and legal fear shape their everyday experiences in the classroom. Through a series of focus groups with teachers and school administrators, the impacts that compliance with multiple laws has on the individual behaviors and practices of Colorado educators and, consequently, on their students were explored.

Four primary objectives were outlined for the focus group study:

- Discover the extent to which teachers and administrators are burdened by laws, regulations, and legal fear.
- Identify the extent to which particular laws, legal mandates, and regulations have been successful in attaining goals for which they are designed.
- Isolate key variables that significantly limit the participants from using their best judgment and acting in the interest of their students.
- Gain feedback from frontline educators on what criteria they would like policymakers to consider when shaping public policy.

Focus Group Composition

Teachers and school administrators were purposefully recruited for the study from rural, urban, and suburban districts in Colorado. Twelve focus groups were conducted: six with administrators, six with teachers. Table 1. depicts the distribution of focus groups by type and location.

Table 1. Distribution of Focus Groups

	Teachers		Administrators	
	Elementary Level	Secondary Level	Elementary Level	Secondary Level
Rural	1 group	1 group	1 group	1 group
Urban	1 group	1 group	1 group	1 group
Suburban	1 group	1 group	1 group	1 group

A total of 69 individuals participated in the twelve focus groups:

- 43 teachers (62%)
- 26 administrators (38%), including 5 superintendents, 18 principals, and 3 assistant principals

The gender distribution was similar to that of the profession:

- 53 were women (77%)
- 16 were men (23%)

Most (71%) had 11 or more years of professional educational experience:

- 18% had five to ten years
- 12% had less than five years

All levels of K-12 education were represented:

- Approximately one-third (33%) represented high schools
- Slightly more than one-third (38%) represented elementary schools
- 19% represented middle schools
- 10% represented a combination of schools

Rural, urban, and suburban educators had a nearly equal distribution:

- 36% were from rural areas
- 32% were from urban areas
- 32% were from suburban areas

Most came from small or medium-size schools:

- 43% from small schools with enrollments of 500 students or less
- 32% from schools with enrollments between 501 and 1000
- 25% from schools with enrollments over 1000 students

Of those participants who were aware of the extent of the free or reduced lunch program at their schools:

- 23% said their schools had over 75% of all students on the program
- 39% said their schools had less than 25% of all students on the program

Study Validity

Structure

Qualitative procedures like focus groups allow us to genuinely get in touch with the target audience and discover their reality. When well executed, a focus group creates an accepting environment that puts people at ease, allowing them to share insights that might otherwise be unavailable through other data collection methods such as surveys. When structured in small homogeneous groups that guarantee confidentiality, the validity of focus groups is known to be quite high.

With regard for study validity, the study's focus groups were highly structured and expertly executed. Teachers and school administrators were organized into small groups of three to nine individuals each. Administrators and teachers were grouped separately to avoid any potential power differential. Professional facilitators led the discussions, which were held off school grounds and behind closed doors to support

uninhibited, unlimited participant disclosure. No spectators (media, legislators, CGC board members, etc.) were allowed to view the focus groups so as not to influence responses.

Convergence and Saturation

Convergence of comments and opinions across focus groups is a predominant indicator of validity among focus group findings. When the same or similar remark is heard over and over again across different and diverse groups, it indicates a significant and valid finding. Additionally, when no new information emerges on a particular topic with subsequent focus groups, it also indicates that findings are valid; commonly referred to as the “point of saturation.” Most studies require a minimum of three to four groups of similar individuals answering the same questions to reach saturation.

The abundant data produced by the twelve focus groups is characterized by a considerable amount of convergence and topic saturation. Each sub-group within the study—teachers, administrators, rural educators, urban educators, suburban educators, elementary level educators, and secondary level educators—reached saturation on several topics; all twelve groups together on many more. Considering the breadth of experience, and diversity of districts represented, the convergence of many of the responses adds power and validity to the findings. It also implies that focus group participants probably speak for many of their colleagues outside the study.

Most notably, teachers and school administrators who participated in this study exhibited considerable candor, honesty, and sincerity in the thoughtful responses they gave. Most of the comments are believable and not unexpected; the information is rich in insights and thought provoking.

Report Organization

All focus group participants answered the same set of nine open-ended questions. The questions were derived from the study objectives and are included in the Methodology section of this report. Focus group questions were designed to uncover the thoughts and perceptions of Colorado educators with regard to how laws, policies, and legal fear impact their daily work. The findings that follow are organized within these four over-arching topic areas:

- How Educators Are Burdened by Laws and Regulation
- How Educators Are Impacted by Legal Fear
- State and Local Policies that Impede Student Success
- Educators’ Advice for Shaping Future Education Policy

Responses to focus group questions came from “the ground up.” In other words, educators talked about the laws and regulations that were important to them; not

necessarily important to the researchers. There were no leading questions and no specific pieces of legislation to which participants were asked to respond. Findings truly reflect the issues most burdensome to the educators involved in the study.

How Educators Are Burdened by Laws and Regulation

Focus group participants are burdened by laws, rules, and regulations on a day-to-day basis. They are forced to make resulting compromises and adjustments in their classroom instruction and school management.

To get a rough sense of the extent to which focus group participants feel burdened by mandated laws and bureaucratic policies, we asked them the following question on a short written survey prior to participating in the focus group: **“On average, what percent of your time is dedicated to activities mandated by some rule or law that doesn’t make sense?”** Most said they spend between 20 and 30 percent of their time on these activities. Among those who said they spend 50 percent or more of their time on activities that don’t make sense, most were administrators as opposed to teachers. None were from small schools (<500 enrollment), but all had been in the profession for at least ten years. Figure 1. shows the complete distribution of the results. Figure 2. shows the relative distribution between teachers and administrators.

Figure 1.

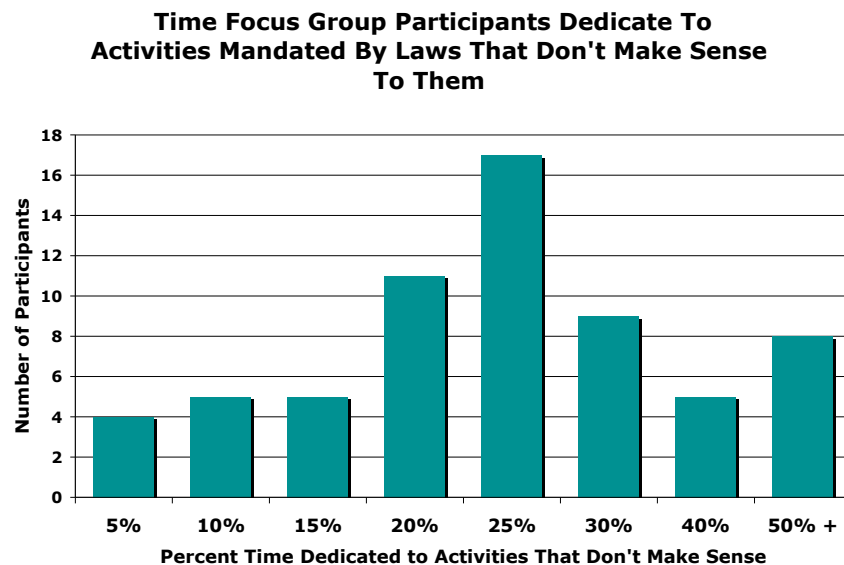
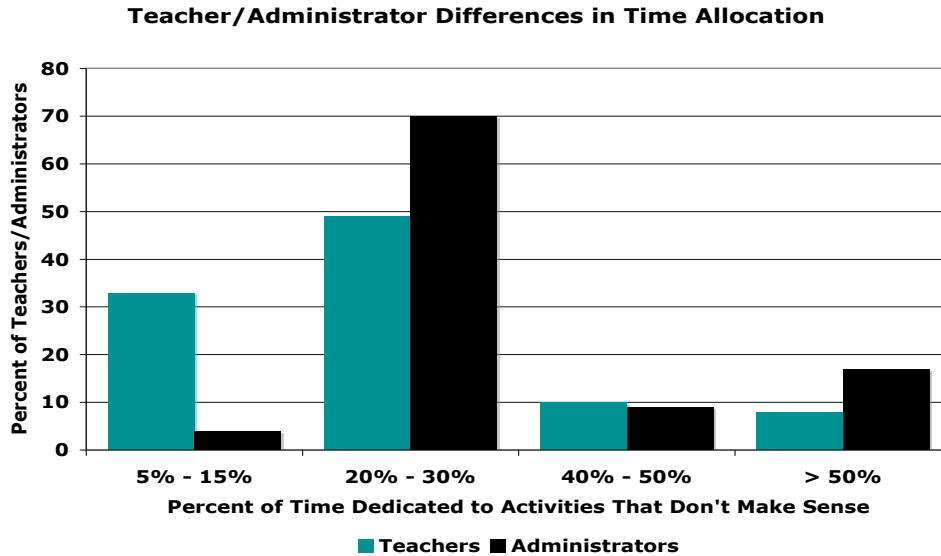


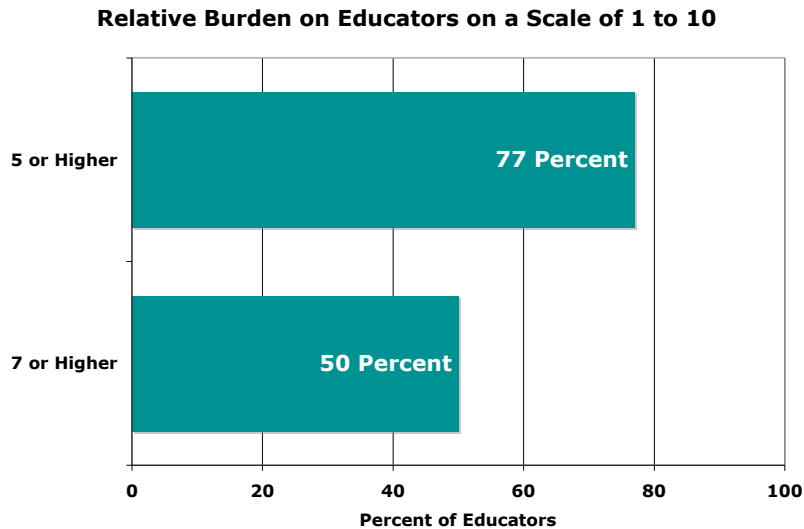
Figure 2.



Extent of Burden

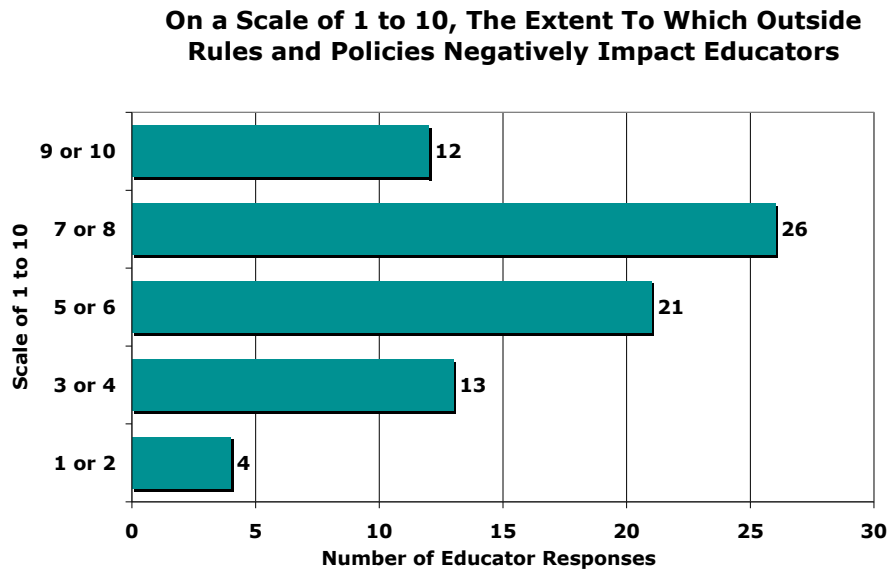
Although most educators told us they spend 20 to 30 percent of their time on activities mandated by some rule or law that doesn't make sense to them, **the "extent" to which they feel burdened is much greater.** When they were asked the following question: "On a scale of 1 to 10, to what extent do outside rules and policies negatively impact your teaching/school administration—you feel burdened, overwhelmed, your hands tied behind back, etc.?"—**77 percent responded with a "5" or higher. Half said "7" or "8" or higher.** (See Figure 3.)

Figure 3.



What educators are saying is that there is a difference between *how much time* they spend on nonsensical regulatory activities and the *burden* they feel from it. **Spending even 20 to 30 percent of their time on outside rules and policies that don't make sense is way too much.** Figure 4. displays the number or educator responses for each of five categories of burden on a scale of 1 to 10.

Figure 4.



*Note: Seven participants gave two responses due to variation in assignment or time of school year.

“The amount of time required for running a CSAP testing program in a school of 1700 is quite burdensome.”

In addition to being asked the extent to which they feel burdened by outside rules and policies (on a scale of 1 to 10), focus group participants were asked to give at least one example to substantiate their numerical rating. Their examples are organized below in the same five rating categories as depicted in the graph above, according to the number they assigned to their burden: 9 or 10, 7 or 8, 5 or 6, 3 or 4, 1 or 2.

9 or 10

Most participants who responded with a “9” or “10” were administrators and their primary burden was in some way related to meeting federal and state school accountability requirements. One educator commented on the time required for testing: **“The amount of time that it takes me to coordinate scheduling for testing, control the test booklets, train people to give the tests is overwhelming.”** An urban principal struggles with SAR (School Accountability Report): “SAR is damaging and difficult for me to administer for my school because it sets up a backward cycle of more requirements and less resources; the poverty rate in my neighborhood has changed from 30 percent to 79 percent inside of seven years.” Teachers who rated their burden a “9” or “10” described how they are severely burdened by special education requirements: **“Because of spec ed, I**

“I look at veteran teachers who have tenure and just make the rounds in the district; I've sat on committees where teachers were on ‘plan for improvements’; at final step, they were not fired, didn't resign; all this time wasted.”

spend at least an hour every day doing behavior documentation to protect the school and myself from legal issues.”

7 or 8

Among all educators who participated in the focus groups, the most common rating on the “1” to “10” scale was a “7” or “8.” Nearly half of those who rated their burden as a “7” or “8” attribute it in some way to CSAP (Colorado Student Assessment Program). For example, one principal said: **“All I have done lately has been to manage CSAP; it takes away from instructional leadership time that I really value.”** A teacher said: “I have a teammate who assessed for four weeks of instructional time out of a nine-week instructional block, which impacted student learning and reading.”

The complexity and ambiguity of special education laws can make them a “7” or “8” level burden for some teachers: “The time that is spent on making sure that we are following the [special education] law is very cumbersome; part of the problem is that it is so ambiguous, not clear itself.” Additionally, special education assessments consume an inordinate amount of time: **“We have ILPs (Individual Literacy Plans) coming up, spec ed yearly assessments, transition sheets to pass all the data that you have collected on to the next teacher so that continuum continues; I’m already planning for my five weeks off to come in and prepare for the new school year.”**

Additionally, some administrators in the “7” or “8” category feel exceptionally burdened by hiring, firing, and personnel management policies. **“The most constraining outside rules and policies are looking at my ability to hire and fire staff,”** said one urban administrator. Staff disciplinary issues can also be inordinately consuming: “I just had a case of a probationary teacher who came to the school under the influence; I spent a month and a half doing the paperwork and doing protocol, putting the individual on administrative leave; that person is finally out of the system, but it took up so much of my time.”

5 or 6

When focus group attendees rated the extent of their burden at a “5” or “6,” it was for a variety of reasons, none more prominent than any other. Included were: CSAP, pilot programs, discipline issues, special education, district-mandated curriculum, SAR, language barriers, and NCLB (No Child Left Behind). With regard to discipline, one teacher said, “I feel basically powerless that whatever I say to a kid carries any weight; I don’t have any step to take if a kid defies me.” Another cited her frustration with language barriers: “People who have never taught bilingual children are telling us what to do with teaching bilingual children.” Several other examples involved district level issues: **“Next year the district will change its focus; you**

“There are five major testing periods of the year; this has increased over the years; 10 years ago, I wouldn’t have given the same answer.”

“I can’t hire people who I know can do a job because of the highly qualified requirement and who can’t pay to become highly qualified.”

can't get a handle on anything or know what is working or what is not working.”

Some burdens are temporary because they are related to one-time pilot programs: “This year our 2nd and 3rd grades piloted another online test at the district level; our superintendent wanted it.” Sometimes educators require more support during a pilot than they ordinarily receive. When that support is not forthcoming it adds stress to an already full schedule. Also, language acquisition is a negative impact for some: **“We are bound by court order to provide for second language learners.”** Transitioning second language learners to mainstream education poses another burden: **“We have to provide instruction in Spanish for families who choose it or need it—TNLI (Transition Native Language Instruction).”**

“I can't understand why our district doesn't fund summer school; our students are struggling so much and they have three months off, which puts them even more behind.”

3 or 4

Basically, for those who feel burdened at the “3” or “4” level it comes down to CSAP or special education issues. These individuals feel burdened by CSAP because of the way it interferes with the usual way they like to teach. One teacher's comments exemplify the sentiments of others: **“I don't test the kids the way CSAP tests; it takes a week out of our school; I don't particularly agree with the dates when it is given.”** With regard to special education, the bureaucratic burden is what is felt most acutely by these teachers: “I'm a special ed teacher so a lot of rules and regulations apply to me; currently three documents are required for transition, they repeat one another; one goes to the county, one is part of NCLB (No Child Left Behind), the third is part of the IEP (Individualized Education Plan) program.”

“CSAP is almost a separate subject I teach.”

1 or 2

The four focus group participants who rated their burden as a “1” or “2” seem fairly immune from the burdens most of their colleagues expressed. One said, “There are no rules that negatively affect my teaching right now; I teach biology, zoology, aquatic biology.” The other: “We're a small school and our classes at the elementary are very small; the elementary teachers work real well, very close together, and we can keep an eye on things.”

Comparison of Burden

In addition to asking participants to rate their level of burden on a scale of “1” to “10,” the 69 educators who participated in the CGC focus groups were asked to cite a specific example to justify their rating. Because some participants could not limit themselves to just one example, a total of 95 different examples of burden were provided. In an effort to explore if different segments of educators—teachers and administrators; elementary, middle, and high school; rural, urban, and suburban—

experience relatively different burdens, the examples of burden were counted and coded according to six predominant themes across three different segments:

Predominant themes:

- Accountability (CSAP/SAR)
- Curriculum and Instruction
- Student Discipline
- Special Education
- School Management and Operations
- No Child Left Behind (NCLB)

Segments:

- Teachers and Administrators
- Elementary and Secondary Schools
- Rural, Urban, Suburban Districts

Looking at all 95 responses combined, the burdens most frequently mentioned resulted from laws and policies governing curriculum and instruction or accountability (CSAP/SAR). Least frequently mentioned were those regarding discipline. The relative burden from laws regulating special education, management, and NCLB fell somewhere in between.

When considering how teacher burdens from outside rules and policies differ from those for administrators, teachers clearly feel burdens related to curriculum and instruction most acutely. In fact, they outnumber those of administrators by four to one with regard to curriculum and instruction. Expectedly, most administrator burdens focus on rules and policies regarding CSAP/SAR, NCLB, and management. But teachers feel almost equally burdened by accountability mandates (CSAP/SAR). Teachers raised issues about discipline more frequently than administrators, perhaps because they interact with students on a more regular and intense basis.

Few relative differences in burden were noted between elementary and secondary educators with the exception of those related to discipline. None of the elementary school educators who participated in the focus groups provided an example of burden due to an outside law or policy impacting discipline.

With regard to differences by district, two major areas of regulation particularly burden suburban districts: those concerning accountability (CSAP/SAR) and those addressing special education. One suburban administrator said her district has many special education students transferring from out-of-state schools where forms and documentation requirements are different. Suburban districts are also disproportionately burdened with CSAP testing due to larger enrollments. Urban educators most frequently cited examples of burden related to complex curriculum and instruction demands among the large number of English language learners they serve. The main focus for rural educators was on discipline and management. Most management burdens mentioned related to “big city rules” that get applied to small rural areas.

Resulting Adjustments

When focus group participants were asked how burdens imposed by outside laws and policies get in the way, and how they adjust their teaching and administration accordingly, they provided several detailed examples. Included among their responses were descriptions of adjustments and compromises they make in **student engagement, instructional content, time allocation, discipline, resource allocation, professional satisfaction, and classroom fun and creativity.**

“I would like to be able to have teachable moments again; serendipity.”

The resulting adjustments are generally concessions in the way educators would ideally like to teach or lead their schools. Teachers would like to capture a teachable moment or engage students in a fun new project. Instead, they feel they can no longer be creative and spontaneous in the classroom due to excessive assessment and curriculum standards. Sometimes they feel they spend more time testing and fundraising than they do teaching.

Administrators make similar concessions. They would like to spend more time mentoring teachers and inspiring students and acting as the leaders they were hired to be. They desire the authority to hire and fire staff and make higher level decisions. Instead, they find themselves doing more paperwork, attending more meetings, and doing less and less of what they have been called to do.

“It’s a struggle to teach what I believe kids fundamentally need to know.”

The adjustments and concessions educators make carry a dual burden: (1) The addition of an activity that is unreasonable or does not make sense; (2) the time and energy that activity robs from what they should and want to be doing, i.e., teaching in the classroom. The segments below detail specific adjustments and concessions teachers and administrators make on a daily basis.

Student Engagement

Whether in a rural, urban, or suburban district, **teachers feel limited in their ability to respond to their students’ natural hunger for knowledge** due to the numerous mandates to which they must respond. One teacher described her dilemma: “You might want to drag it [the lesson] on deeper and longer if they are interested, but I have to weigh pros and cons of doing that or covering all the topics that are included in the CSAP.” Another teacher said, “It is really hard to find a way to include exploration because exploration takes time; you have to be so regimented in what you are going to present all the time; it is a luxury to explore.”

“I’m not sure higher level thinking skills are being addressed; we are not trying to develop robots.”

Several teachers decried their loss of spontaneity: “I miss having teachable moments where you can get off when the students want to talk about a topic; I’m losing some of that spontaneous teaching I used to do; if I can’t find a way to fit it in to the standard, I decide I better move on to something that fits in the standard.” Some also mentioned the ongoing debate of teaching as an “art versus a science.” They feel the pendulum has swung too far toward “science”: “Teaching is indeed a science and we are accountable for it, but it is also an art; when you are putting time

into the science only, you are losing the art—the opportunity to engage a child in their passion.”

Instructional Content

As one educator put it, **teachers feel “instructionally prescribed”** in the classroom. Among the various mandates, they feel particularly inhibited by CSAP and the IEP (Individualized Education Plan): “What was written into the IEP has nothing to do with the curriculum in the high school; it puts a crimp in what we are allowed to teach.” One teacher believes that the advanced content assessed on standardized tests drives some students right out the door:

“Since there has been so much accountability and structure that we have to follow, we have more and more kids dropping out of school than ever before; to have a drop out around here was unheard of; before, we could involve even those lowest achieving [students] and keep them in some types of classes and at least get them through high school; they left with a diploma and got into the workforce; these kids see no point in taking all these tests (ACT, CSAP, MAPS, Terra Nova); I’ve been here for 28 years and we had one drop out in the first 20 years but seven or eight in the last five years.”

“Time barriers cut into planning time, creative time, gathering resources, conferencing with other teachers.”

Time Allocation

Almost without exception, teachers and administrators feel valuable teaching and learning time is lost due to compliance with various mandates. Many focus group participants felt key “time robbers” had to do with assessment and the resultant data. **“The amount of testing is huge and limits what we are able to do with kids by minutes, hours, and days; if you have to spend specific time administering, grading, and aggregating data for tests, it takes away from education,”** said one administrator. The impact of data entry is also decidedly felt by teachers: “The data that we have to enter ourselves is incredible; the direction is correct, but using my professional time on it is not; it gets in the way of my plan time (so I plan at home).”

“Every year I feel like I teach less and less because of time spent on discipline and CSAP stuff.”

Discipline

Current discipline policies hinder teachers who long for more control over their classrooms: **“How I would like to regain some of the control I had in what goes on in my classroom; I know what is best for students in my classroom.”** One teacher believes he could be more effective if only he had more disciplinary power: “Imagine how much could be done if you had the discipline of the 1980s; if I had the kind of power that teachers in the 80s had, it would be amazing how much more content I would get in.” Most comments regarding discipline emphasized the inability to remove disruptive students easily and the resulting negative impact that one misbehaving student can have on other students in the classroom.

Resource Allocation

Faced with budget shortfalls at the school-level created by compliance with state mandates, schools end up with little other funding to address specific needs unique to their school communities. Administrators say: **“We have to put our money to what is mandated by the state; with whatever is left over we meet the needs of everything else in our building.”** Teachers and administrators must spend valuable time researching grants and hosting fundraisers to make up the difference. “We have had to become fundraisers; that's how we support our intervention programs.” Another teacher comments: “We get the kids out peddling; we hold assemblies to get the kids excited about selling; it takes away from instruction time.” Nor is it unusual for teachers to dig into their own pockets: “I have to have all kinds of materials in place for the variety of students in my class; I spent \$1500 of my own money on resources.”

“You hope your teacher keeps the love for the kids; [but] we are losing that because of rules, regulations, and policies.”

When all else fails, program cuts are made: **“In poorer districts, you cut programs because you can't do the fundraisers; parents can't support fundraising.”** Budget cuts sometimes force administrators to recruit volunteers to take the place of paid staff: “It is a lot more social work for me; I go out to find additional resources; we've had to cut teachers; then we are short staffed when it is time for lunch duty or giving kids recess time; we are constantly out looking for volunteers to help us supervise.”

Professional Satisfaction

Outside rules and policies can easily diminish the level of professional satisfaction that educators experience: **“Teachers see the teaching profession as not being fun for them; it is not rewarding because of the rules and regulations and what they need to implement,”** said one administrator. Limited time for professional development is a big contributor. Administrators struggle to carve out time for teachers to interact with one another: “How do you plan for in-services for teachers and for giving teachers time together that make sense, when you have all these mandates?” Teachers say, “We don't have time for collaborating with colleagues on amazing ways to reach emergent readers.”

“Without CSAP to worry about, teachers might take time to make kites for science class and fly them.”

As a result, some teachers are simply stressed out: “On a daily basis, what really affects me is my stress level.” Several stay for their love of kids: **“The only thing that keeps me going is that I love kids; I know I have to continue to be there for the kids; that is not being dictated for me to do.”**

According to one principal, an over abundance of administrators seem to be leaving their positions: “CDE [Colorado Department of Education] will tell you that the turnover in administrators is the highest it's ever been.” One of the reasons, shared a participant, is the lack of autonomy some principals feel: **“It's harder to make decisions; to make a difference in the lives of kids; you are bound by certain rules even if you know something else would be better.”** Administrators wish

they had the opportunity to provide more leadership: “We are charged with instructional leadership, but that is one of the last things that actually gets done; **I came into administration to be a teacher of teachers, but so many other things occupy much of my day.**”

Classroom Fun and Creativity

A considerable number of educators are saddened that fun and creativity have been robbed from their classrooms by state regulations: “**It has taken the fun out of teaching**; I have seen teachers do away with units that were fabulous because they felt did not meet the guidelines of CSAP; I see the classrooms as even colder, harder places to be because of it.” Another teacher commented: “I don't do as many fun things—things that make it enjoyable for kids to come to school—because I'm trying to get ready for CSAP or catch up after CSAP.” They also say, “The barriers have taken creativity away”; or “Barriers get in the way of motivation and inspiration; the teachers' as well as the students'; I can't capture that magic because I can't get in the rhythm.”

“There are fewer and fewer kids who say they love school; it is just work, work, work all the time.”

Summary: How Educators Are Burdened by Laws and Regulation

- Most educators say they spend 20 to 30 percent of their time on activities mandated by laws that don't make sense to them.
- Almost 80 percent of teachers and administrators ranked the extent to which they feel burdened by laws and policies emanating from outside their schools at a level 5 or higher, on a scale from 1 to 10.
- The burdens most frequently mentioned by educators fall primarily into two categories: Curriculum and Instruction and Colorado Student Assessment Program/State Accountability Report (CSAP/SAR).
- Most administrative burdens are related to rules and policies regulating CSAP, SAR, and NCLB; most teacher burdens relate to Curriculum and Instruction.
- Burdens are fairly consistent between elementary and secondary school educators.
- Suburban districts are most burdened by accountability and special education issues.
- Teachers feel limited in their ability to spontaneously respond to their students' natural hunger for knowledge due to the numerous mandates to which they must respond.
- The amount of testing is huge and limits what teachers are able to do with kids.
- Teachers feel instructionally prescribed by CSAP and IEPs (Individualized Education Plans).
- Teachers would like to regain more disciplinary control over their classrooms.
- Faced with budget shortfalls created by compliance with state mandates, teachers and administrators have turned into fundraisers and budget-cutters.
- The profession is no longer fun for some teachers.

How Educators Are Impacted by Legal Fear

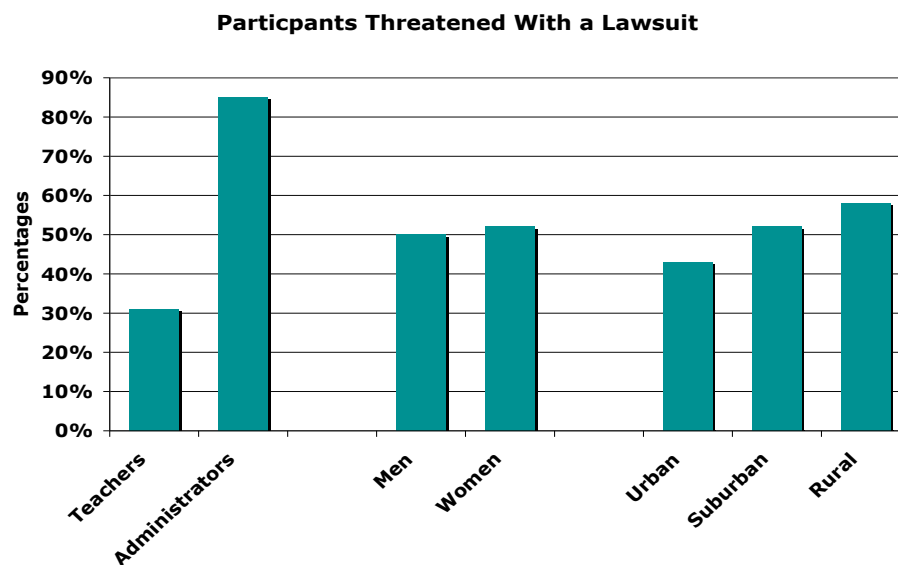
The majority of educators who spoke with us live with a modest to high degree of legal fear. Their fear of litigation ranges from fears induced by parents of a special education child who feel their child is not getting all the services they deserve to fears induced by the threat of an assault accusation for breaking up a fight between students. It can be for teaching evolution in science class or hugging a student for a job well done. It can also grow from specific situations in which they and/or their colleagues have been threatened with a lawsuit. In the focus groups, participants conveyed actual incidents of legal threats and lawsuits they experienced.

Prevalence of Lawsuits and Legal Fear

Focus group participants were asked on the pre-survey if they had ever been threatened with a lawsuit by a parent or student. Of the 68 individuals who answered the question, about half, or 51% (35) said they had, and 48% (33) said they had not.

Lawsuit threats among participants occurred more than twice as often for administrators (85%) as for teachers (31%). Responses were split almost equally among men and women. Although focus group participants from rural areas reported slightly more frequent threats (58%) than their suburban (52%) and urban (43%) counterparts, no definitive correlation can be made between location type and frequency of lawsuits. See Figure 5.

Figure 5.



Having had the experience of a lawsuit or lawsuit threat—either their own or that of a colleague—can influence the amount of legal fear an educator perceives. Teachers and school administrators run the gamut of having no legal fear to having a high degree of legal fear daily. Perhaps because few have been immune from legal threats, only a minority of educators feel little or no fear at all. Among those who participated in the focus group study, a fourth fit this description. They say their fearlessness is based on one of the following four criteria: (1) “Parents in our district lack the financial wherewithal to sue”; (2) “I am teaching children whose parents trust me”; (3) “I’ve become a master at documentation”; or (4) “I follow policies that would prevent the spin of a lawsuit.”

Unfortunately, more than half of all educators who spoke with us work in districts where criteria (1) and (2) above are not the case. Others told us that although they know it’s a good idea, being a master documenter is time consuming and detracts from time that could be spent with students. With few exceptions, educators try to adhere to policies designed to avoid litigation when they are aware of and understand them. Regrettably that is not always enough to avoid threats or an actual lawsuit.

Specific Legal Threats and Fears

Focus group participants outlined specific aspects of their work where legal threats and legal fear were extremely prevalent. Their specific accounts are reported in this section under the following six headings: Special Education, Parent Involvement, Student Contact, Student Discipline, Curriculum and Instruction, and Administrative and Management Concerns.

Special Education

Parents of special education students have the potential to generate a considerable amount of legal fear for teachers and principals. “I feel legal fear essentially every day; last year I had a very heightened sense of fear because I had parents of a special ed student who wanted to get their child into a private school at the district's expense; they made a lot of motions to start a class action lawsuit; it was one of my hardest years,” said an urban principal. A suburban teacher told us, “I had one year when I worked my tail off on documentation with a parent to prove all was in order for her special ed child; it was stressful; I kept asking myself ‘is this going to be good enough?’”

Identifying the appropriate services and education plans for students with disabilities can quickly become an adversarial process. A general education teacher comments: “If the parents of spec ed students say their children are not totally integrated or exceptions aren't made, you hear from the parent liaison; the next step is the lawyers.” The reason parents of special education students pose a potential challenge, according to one special education teacher, is the over-inflated notion they hold of what their children can do academically. Yet, not all feel threatened when it comes to

“We are told special ed kids can't make below a C; we are faking grades; the principal at the end of the year comes and tells us to change grades to avoid lawsuits.”

working with special education students: “I am able to take care of this worry [not meeting the needs of special ed students in my general ed classroom] because I have special ed training; I have seen others struggle who have not had special ed training.”

“My principal said that there is one parent in every classroom who threatens to sue and it is all spec ed related.”

Parental Involvement

It’s not only parents of special education students who induce legal fear. Increased awareness of students’ rights by parents and a heightened sense of fear among them regarding school violence seems to create a wedge between educators and parents as well. In these kinds of situations, one teacher feels: “It’s their word against yours, and usually the powers that be will take theirs in order to eliminate the fear of the parent and the community.” Another teacher takes this approach: “I try to sense any difficulties; you may do special things for those parents; you want to make everyone happy in your classroom.” But sometimes it is not in the best interest of the student to make the parent happy: **“We had a 7th grader get busted for paraphernalia and pot; his dad was coming after the teacher ‘you had no right to be in his backpack.’”**

“I have a moderate level of fear, especially in an affluent community like ours; I get threats a couple of times a week.”

The violence at Columbine High School still looms large in the minds of some parents. A high school teacher from a suburban district relayed this personal story:

“I have moderate to high fear. Because we are in a litigious society in an especially litigious community, our parents are very aware of their rights. I’ve had a parent say ‘It was teachers like you who caused Columbine to happen,’ because I played lyrics of a song and asked for interpretation from students to teach them about metaphor. I walk a fine line between comforting my students and protecting myself; I err on the side of comforting my students and challenging them.”

A colleague spoke of the emotional toll that threats and inflammatory remarks can have on educators: “I fear repercussions from angry adults or children who cause personal injury, decimation of a school, someone with a gun; kids in our school or parents who threaten to hurt you takes an emotional toll.”

Student Contact

Hugging a student is perhaps one of the most innocuous but dangerous things a teacher can do. Educators in the focus groups had all heard stories about students who falsely accused teachers or principals of inappropriate touching or sexual advances. Some had their own horror stories to tell. “I knew a teacher who was real loving, a female who hugged the wrong kid; the kid reacted, she basically lost her job for hugging a kid.”

“Any time a boy wants to stay after school, ‘that’s a really, really bad choice’ is what I think.” (from a female teacher)

All can recite the legally protective policies embraced by their schools prohibiting student-teacher contact and one-on-one student-educator meetings. Some believe it is unfortunate they can no longer reward or encourage students with a hug or pat on

the back: “You used to pat a girl on the back or give her a hug if she did a good job; you don't dare do that any more.”

Sometimes incidents can be misconstrued. One teacher had a situation he could not have anticipated: **“I had my hand connect with a student who moved his head into my hand and he accused me of hitting him; there are so many disgruntled students, we try to connect with them and it just goes awry.”** Another, a middle school teacher, found herself caught in an ugly lawsuit due to a false accusation by one of her students:

“I asked a kid for his cell phone because he had pictures of a naked girl on it; I was put on administrative leave because the student said I had touched (frisked) him to get the cell phone. I spent \$13,000 for an attorney. My principal shunned me; the district shunned me; I'm leaving the district because of that. It took everything I had in savings [to defend myself]. The case was resolved in my favor but I was worried about a civil lawsuit afterward so I never gave a statement. I never searched a kid after this incident; I don't have another \$13,000 to spend on an attorney.”

“The principal said ,‘Never have any one student in your class alone’; it wasn't on my mind; since then it has never happened again.”

Teachers talked profusely about the preventive measures they take to avoid a potential lawsuit. Here are a few examples:

- “I never touch a student; I never give a hug (as a male), or get a hug if I see it coming; I'm never alone with a student in my room.”
- “I experience fear as a male teacher when a female student comes in early in the morning; I keep the door open, the lights on, and we sit at opposite ends of the room.”
- “I'm never with a student alone; I'll do one-on-one in front of a group; I teach 6th graders and they don't generally fall into accusing a teacher; high school kids are devious in that respect.”

Student Discipline

When a teacher considers disciplining a child, the underlying fear of a lawsuit can temper their decision. Choosing the right type of punishment can be tricky: “I've had kids do things like wash desks for punishment and I've been told that that is using labor as punishment and that I should watch it; if the parent is a squeaky wheel, I'll give the kid no recess because I know I won't get in trouble for that.” One teacher ended up having to give a student a pizza party in reparation for the punishment she appropriately dispensed:

“I had an OCR [Office of Civil Rights] complaint levied against me: We do detention for kids who owe us fees for unreturned books. This young lady was in detention for an hour and 15 minutes and went home and told her parent that she was in detention all day, not allowed to eat lunch, missed the yearbook signing and an assembly, and that I was the one who made her do all this. Her parents filed a complaint with OCR; her ethnicity is

African-American. It came out that if I apologized and gave her a pizza party she would drop the suit. I felt like I didn't get very much support from the district."

Teachers who survive a false accusation and stay in the system, can grapple with the emotional trauma for years to come: **"One year I was accused of abusing a student; I had no idea where that came from; I was pulled out of my classroom and had to talk with the sheriff; it devastated me; although I'm past that year, I still think about it at times."**

Curriculum and Instruction

Teachers watch what they say in the classroom and sometimes give students better grades than they deserve in order to avoid a lawsuit. Certain subjects can be especially problematic:

- "I teach evolution; I'm tiptoeing between 'we evolved' versus 'we were created.'"
- "Everything I teach is to some parent controversial—I teach genetics, forensic science; there is a threat of going against people's beliefs."
- "I have constant fear of what's going on with lecture, with student responses; am I saying something too real for them?"

Some parents threaten legal action when they disagree with a grade their child was awarded. To protect themselves, some teachers engage in extra documentation: **"I have been threatened several times because a parent didn't like the grade the kid earned; I ask myself 'If this were in a lawsuit, would I be able to defend it?' So I copy tests before I give them back."** Sometimes teachers just feel like it's less risky to just give in: "We give the children [of parents who repeatedly threaten us] specific grades and we allow them to do what they shouldn't be doing."

"To be an administrator, you think about it [legal fear] every day, in every way, in every discipline; we have a lawyer and a whole department about risk management."

Administrative and Management Concerns

Administrators deal with the legal, administrative, and policy issues of potential lawsuits: **"I've talked to a lawyer a lot more as an administrator than in anything else I've ever done; it takes time to do this and it is a concern."** Principals receive training: "As administrators we've all spent time in legal seminars; our district provides opportunities for us to update our knowledge; it is a constant awareness"; and they have staff lawyers available to them: "If I'm cloudy on the law, I call up our school district lawyer who works full-time (this is another resource that our district has to have; since two years ago, instead of hiring outside consultants, we now staff lawyers within the district)."

Teachers say there is inconsistency in how much a principal will actually enter the fray and provide backing for a teacher who has been threatened: "It depends on your principal; it helps to know you have a principal who will back you up in situations;

this year we don't have the backing of our administration and so the fear is rampant.”

Some principals are focused on a different type of legal fear: “What I think that principals fear is not necessarily federal or legal stuff in regards to law, but in regards to union contracts; people are fearful that staff may lash back if you are not following the contract.” Administrators fear possible repercussions of unionized staff: “We had a staff person who should have been a half-time position because of reductions, but she did have the right to a full-time contract; we have to look at reassigning this person over people who are probationary not because of the job that could be done with students but because she has tenure.”

Summary: How Educators Are Impacted by Legal Fear

- Roughly half of teachers and administrators said they have been threatened with a lawsuit, with very little variation across geographic location
- Lawsuit threats among participants occurred more than twice as often for administrators (85%) as for teachers (31%).
- The majority of educators who spoke with us (over 60%) live with a modest to high degree of legal fear.
- Educators try to adhere to policies designed to avoid litigation when they are aware of and understand them.
- Parents of special education students have the potential to generate a considerable amount of legal fear for teachers and principals.
- Hugging a student is perhaps one of the most innocuous but dangerous things a teacher can do. All can recite the legally protective policies embraced by their schools prohibiting student-teacher contact and one-on-one student-educator meetings.
- When a teacher considers disciplining a child, the underlying fear of a lawsuit can temper their decision.
- Teachers watch what they say in the classroom and sometimes give students better grades than they deserve in order to avoid a lawsuit.
- Teachers say there is inconsistency in how much a principal will actually enter the fray and provide backing for a teacher who has been threatened.

State and Local Policies That Impede Student Success

This section of findings is divided into four sub-sections. Each sub-section is organized by particular laws, policies, regulations, or mandates that educators named in response to the open-ended focus group questions: On a day-to-day basis what specific rules or policies (federal, state, or local) at your school pose barriers to maximizing student achievement with regard to the following?

- School Accountability
- Curriculum and Instruction
- Student Discipline
- Special Education

School Accountability Policies

- Colorado Student Assessment Program (CSAP)
- School Accountability Report (SAR)

Colorado Student Assessment Program (CSAP)

The Colorado Student Assessment Program (CSAP) is designed to provide a picture of how students in the state of Colorado are progressing toward meeting academic standards, and how schools are ensuring learning success of students, grades 3-10. Students are tested on their reading, writing, math, and science skills and, based on their test performance, receive a categorical rating for each content area.

Most educators believe in the need for regular standardized student assessment. In fact, they embrace it. But, in all the conversations focus group participants had about curriculum and instruction, **they were most vocal about the negative impact that the state-mandated assessment (CSAP) has on classroom instruction.** Across every sub-group of educators in the focus groups, five common perceptions emerged regarding CSAP. Educators said that CSAP:

- Is administered too early in the school year
- Takes too much time away from instruction
- Inappropriately influences curriculum selection
- Overly impacts a school's rating
- Is unacceptable for English language learners

Educators wish they could get CSAP results back sooner than they currently do. They would also like CSAP to be administered later in the school year. “We get reading scores back in April; we get math and writing scores back the following year; it’s useless information to us even though it goes on with the students,” claimed an

“By the time we get the data back we can’t use it to drive instruction.”

“It takes a chunk of time out of the classroom just for the (CSAP) test.”

elementary teacher from a suburban school. A biology teacher regrets that the early timing of the CSAP test means he has, “at least two full months that are not measured by the test.” The irrationality of test timing leads some educators to believe that the test is scheduled for the convenience of those scoring the test instead of for the benefit of teachers and students.

Many educators resent the time that mandated testing robs from traditional instruction. Preparing students for CSAP, as well as administering the exam to them, trumps what many believe to be essential and valuable course material. **“We are forced to drop content that is broad, engaging, and thought provoking in order to teach stuff that is on the test,”** according to one high school teacher. Another teacher said, “The time I spend on writing in my own classroom is better than the time I am contributing to the CSAP on writing; I question if the writing portion of CSAP is a valuable use of our time.”

Conceptually, educators agree with the need for school accountability. Some even like CSAP as a basis for comparison. What they don’t like are the repercussions—decreased funding, school closings, red lining—that can result from low scores: **“I like CSAP as a test; it’s a good measure; I don’t like the punishments that are tied to it nor the restrictions.”** Another reason the mandate is unfair say educators, is because **“you can’t guarantee that all kids are getting the same quality of education, but they are being held to the same testing.”** Inconsistencies in resources, teacher qualifications, school leadership, parent involvement, and economics are only some of the reasons for the variation in quality.

The lack of usable data in CSAP reports is an added issue for some schools: “It is good to be accountable for what you do, but **a lot of time with CSAP you don’t know where you went wrong to know where you need to make changes.**” A key improvement, according to several educators, would be the ability to compare cohort data from year to year: “One of the things that would improve CSAP would be looking at cohorts (the same groups of kids) and not looking at a different group every year—that’s the biggest issue of the law coming into conflict with what we have to do every day.”

One educator feels CSAP is a “political answer to an educational question.” Others concur. They **wish the data could be just as useful to them at the local level as it is to state policymakers:** “Maybe it is easiest for the legislature to have us do CSAP in order for them to have a look; but at the school level, CSAP may not be the best test.”

Additionally, **English language learners, in all district types, experience difficulty when taking CSAP and other assessment tests.** Teachers say they need to translate tests and to test in both languages to make the test equitable for students challenged by a language barrier. They are also frustrated by the lack of appropriate curriculum for English language learners: “Even with all the curriculum we have, we don’t have the curriculum to transition students from ELA (English Language Acquisition).” The district planning guides, which many teachers like so well, are not appropriate for this population: “The kids need really basic skills; often the guides

“Student success just doesn’t have to be about achievement, which rings of academics only.”

“Students need more English learning before they are required to take tests in English; we need to translate tests.”

“CSAP can hold our feet to the fire; it says ‘here is what we all believe.’”

“CSAP For special ed is ridiculous; we had probably 100 special ed kids who shouldn’t have taken the test; it was an awful, awful week for them and us.”

assume they are at a different level.” Educators in those areas say “the law doesn’t provide enough services” and they “don’t always get all the materials [they] need.”

School administrators across the state question the value of administering the state assessment test to some special education students: **“It takes eleven hours to test one student (special education) because the teacher needs to assist the student; it takes time away from teaching them the things they need to learn, basic life skills.”** This is a particularly common sentiment regarding students with severe impairments, “Some of these kids cannot even communicate and they are having to take CSAP-A; how can I use my regular curriculum if the kid is already at his potential with the IQ of 70? I'm for inclusion, but we don't all have to do trigonometry.”

“We are picking curriculum based on what is on the CSAP.”

“I believe realistic accountability is a good thing.”

School Accountability Report (SAR)

The School Accountability Report legislation directs the Colorado Department of Education (CDE) to develop and maintain a state reporting system to compile objective indicators of every public school’s academic performance. It also calls for the reports to be made readily accessible to parents and taxpayers in order to help them make informed choices that will enable all children to have an opportunity for a quality education. An additional purpose is to enhance the ability of the General Assembly and the State Board of Education to monitor the progress of education activity in all schools throughout Colorado through a comprehensive and uniform system of measurement.

“The sad thing is that the low schools are the ones who get the least funding; seems contradictory; you get punished and can't do the work you want to do.”

Under SAR, schools receive a performance rating based on the scores their students achieve on CSAP. Each school receives a separate rating for performance in reading, mathematics, and writing. Ultimately, a school’s three scores are combined together into one numeric performance rating or Standardized Score. Each school is assigned an overall rating based on their Standardized Score:

Excellent:	Top 8%
High:	Next 25%
Average:	Next 40%
Low:	Next 25%
Unsatisfactory:	Lowest 2%

“CSAP is the state's tool for holding people accountable and that is what people start to focus on entirely; that is a school's survival.”

In addition to the overall academic rating, schools are assigned one of the above ratings for each academic skill area measured by CSAP.

Schools must attain a certain proficiency level on SAR in a given number of years or run the risk of putting the district on notice to lose accreditation. About fifteen schools so far in Colorado have been closed or converted to charter schools due to a low SAR rating. At that point, the school’s entire staff must reapply for their jobs. Parents are also notified of the school’s low performance: “Our school had dropped from average to low; at the end of January or early February, a lot of parents at our

school were mailed letters from the district telling them that there are higher achieving schools in their neighborhoods (i.e., ‘you may want to transfer your students’).”

Some feel ridiculed by the publication of SAR ratings in local newspapers: **“The SAR report is very public; it is ridiculing you to get better.”** Others resent the loss of heterogeneity it can create when parents move their children to other schools because of low SAR ratings at their original school: “SAR creates flight; kids with resources tend to leave a certain area or choose private or other schools; therefore, you lose your heterogeneity.”

Some have a problem with the limited amount of data used for the rating: **“It is a pretty shallow rating;** I have a hard time playing the game; we may have an excellent rating, but it is hard to toot your horn because it is a pretty minimal basis that you are rated on.” Also: “CSAP is a summative assessment; a shot in time; not a picture of the entire student or what the student is learning; it certainly doesn't let you know about educating the entire child.”

Data reliability is another area of concern: **“It (SAR) has tremendous inaccuracies on the data;** we turn the data in correctly and it gets reported wrong; the district forwards the data to CDE; CDE is not on top of it.” The inability to understand and easily use the data can also be a problem: “We spend so much time trying to read it; but **it is so cryptic, people can't read it;** so then we spend additional time defending or explaining it.”

Rather than using the data to improve their schools, some use it as a competitive tool: **“SAR creates a competition between schools that can be unhealthy; schools may push out certain students because of how those students impact their rating.”**

A few educators in all three district types—urban, suburban, and rural—have found ways to make the data useful. It takes time, training, and dedication but they are making the effort and realizing results: “Smart conversations are coming out of data collecting; parents are starting to understand as we train them.”

“SAR is another report that doesn't take into account a comprehensive high school and all the things that are going on that are benefiting kids.”

“The accountability piece has improved schools compared to where we were back in the 1980s.”

Summary: School Accountability

- Educators said that CSAP (Colorado Student Assessment Program):
 - Is administered too early in the school year
 - Takes too much time away from instruction
 - Inappropriately influences curriculum selection
 - Overly impacts a school's rating
 - Is unacceptable for English language learners
- Many educators resent the time mandated testing robs from traditional instruction.
- English language learners have difficulty taking the CSAP exam.
- It takes eleven hours to administer CSAP to one special education student.
- School Accountability Report (SAR) has tremendous inaccuracies on the data and is hard to read.
- With CSAP, teachers don't know where they went wrong to know where they need to make changes.
- CSAP data is not as helpful at the local level as it is to state policymakers.
- Teachers don't like the punishments that are tied to CSAP nor the restrictions. They wish the data could be just as useful to them at the local level as it is to state policymakers.

Curriculum and Instruction Policies

- Teacher Tenure Laws
- Highly Qualified Teachers
- Higher Education Admission Requirements
- District Grading Policies
- State Graduation Requirements
- K-12 Standards
- Mandated Curriculum

Teacher Tenure Laws

An administrator from a suburban high school told us she thought that, “the biggest impact on student achievement is the teacher.” She was referring specifically to teacher competency. Other school administrators concurred. In particular, they feel that **current tenure laws in Colorado suppress their ability to eliminate teachers whose performance is less than satisfactory**: “The laws don’t allow us to get those teachers the training they need or to eliminate them from employment once they’ve gone through the training.”

Principals feel that they should be able to hire and fire their own staff and manage them. They want all seniority-driven stipulations for teacher hiring and firing removed: “That should be a principal’s decision; not a protected right.” School administrators throughout the state believe the tenure legislation is poor because it compromises professionalism: **“It tends toward employment of less than professional people in something that should be a profession; once they make it through three years, they don’t have to keep doing their jobs well.”**

Though most criticism of the current teacher tenure policy came from principals, one teacher said to us, “Someone needs to make it easier to get rid of poor teachers; it costs money and makes public education look bad.” **Administrators find it nearly impossible to implement the state’s current tenure policy** due to its complexity and numerous steps and stipulations. In addition to the obvious implications of employing an ineffective teacher, the longer a “poor” teacher stays, the more expensive they become.

Highly Qualified Teachers

Though the Highly Qualified Teacher mandate stipulated in No Child Left Behind is not a distinct, state, or local policy, many focus group participants voiced concerns over its impact on their schools. One frustrated rural administrator said, **“Sometimes we’d be better off canceling the part-time music and art positions to meet the requirements of highly qualified, which seems counter-productive.”** But even some urban educators are burdened by the highly qualified requirement. The threat of decreased federal funding compels school officials in all

“We don’t have the capability or process to get rid of bad teachers, like other professions do; bad teachers drain the system.”

“Even in a big district like ours, we have a hard time finding highly qualified teachers.”

districts to strive to comply with the federal regulation. An administrator from a rural district told us that if he could only make one request to his state legislator he would say: “Help us get highly qualified teachers.”

Higher Education Admission Requirements

One size does not fit all when it comes to students and their curriculum needs. Some administrators believe the state emphasis on the college bound student is out of proportion with, and at the expense of, the student who is not college bound: “We are forcing 100 percent into that mold and valuing only that path; we are saying only a college prep education is of value.”

Several disagree with the prominence that the Higher Education Admission Requirements (HEAR) played in crafting the recent statewide policy that requires all students to have four years of math and two years of a foreign language. **“I’m afraid that increased requirements will push kids who are struggling into dropping out and thereby increase our drop out rate;** being able to enhance their life skills, work skills, career skills, and vocational skills can be just as beneficial for some students.”

Administrators constantly struggle with a mandate that forces them to teach all students the same content as they teach high-achieving students. Instead of a one-size-fits-all approach to curriculum and instruction, educators want state policymakers to consider a broader definition of student success: “There are so many ways in which we can help students be successful.”

District Grading Policies

Some middle and high school teachers are troubled by the grading policies in their suburban district, which force them to assign grades that do not reflect the quality of students’ work. A middle school teacher told us that **“A student can earn a 5 percent for the entire quarter for math tests and class work and the lowest grade we can give them is a D.”**

High school teachers feel the repercussions of this policy when the same students show up in their classrooms: “Kids come to high school from middle school and think they ought to get a work habits grade; we tell them college doesn’t do that, and we are preparing them for college; it’s hard for freshmen to understand.”

Beyond the academic implications of the grading policy, teachers are frustrated by their inability to effectively communicate a student’s performance to his or her parents because the current policy masks true student performance. One teacher wonders how influential parents are in keeping the grading policy the way it is: “There is something about how grades fit in a parents’ belief system and we aren’t going to change that by changing the grading policy.”

“Seventeen percent of all jobs require a traditional bachelor’s degree but we are forcing 100 percent of students into that mold.”

“I don’t like the idea that I can’t send a strong message home about what is really going on.”

State Graduation Requirements

The Colorado Commission on Higher Education (CCHE)'s recent decision to create more stringent college entrance requirements has impacted high school graduation requirements. Secondary education teachers and principals from all districts represented in the focus groups relayed their concerns about the effect they felt CCHE's decision would have in their classrooms: **"The HEAR (Higher Education Admission Requirements) promulgated by CCHE bother me; we now have two grade levels in our high schools that need to take four years of math and two years of foreign language; it's a shift to a more academic slate of courses,"** said one administrator. Another remarked: "I'm very, very concerned about a graduation requirement that mandates four years of math; it makes it difficult for us to educate the whole child."

"The new graduation requirements get us away from the 'comprehensive' high school."

The four-year math requirement poses a particular challenge for students with low math literacy and the teachers who educate them. A high school teacher feels the requirement has put him in a Catch-22 position with some of his students: **"If a student comes ill-equipped to start Algebra 1, they can take something lower but can't get credit for it; what child is going to do that? There's no provision for getting them to a point of readiness for being able to pass those four math classes."** "And the math gets harder every year," added another teacher.

Beyond the unreasonableness of the "across the board" four-year math requirement, educators feel it precludes students from taking other important courses: **"It's frightening for requirements to get into college to become so stringent that kids cannot take art, music, and those kind of classes;** those are such important classes in order for students to stay in school and be well-rounded human beings." Another teacher told us that, "CCHE has a rigid list of 'these classes count and these don't'; if a kid wants to go to a Colorado university they have to have classes that fit this list." Teachers feel pressured to have students take mandated classes instead of the classes they need or want to take.

K-12 Academic Standards

Although Colorado educators seek improvements in other areas of curriculum and instruction policies, they appreciate the K through 12 academic standards. They say the standards help focus both teachers and students. Regarding students, educators told us: "We use the standards as the basis for our curriculum; if the kids know the standards, they can really jump on board and be participants in their education; I've seen that working well; it's a new system that I wasn't sure I wanted to embrace but I understand it better now."

With regard to teachers, an urban principal relayed this story: **"My teachers didn't use to know what standards were, but because we are focusing on standards now they are understanding what standards are and their teaching has become more intentional, deliberate, and rigorous."** The following comment from a rural principal coincides: "Having the standards in place and what kids are

expected to learn at each grade level has really helped my teachers become more focused; when I was teaching, we used to teach our favorite subjects.” **Teachers like common standards because they support students for whom mobility is an issue.** It allows teachers to more easily integrate students who transfer from other public schools and at different times of the year: “I like that the district has gone to common assessments across middle schools, and will have common textbooks eventually; if a child moves to a different class across county and state, we would be teaching the same course.”

Mandated Curriculum

Despite some disgruntlement with the state-mandated assessment system, **several teachers and administrators support aspects of mandated curriculum.** An administrator from a rural district said he realized that “In small districts, a lot of us did not have very well-established curricula; it has forced us to align our curricula and have curricula in place so that whoever we hire will teach what is needed to be taught per the state’s recommendation ... not just at the whim of the teacher we hire that year.” Urban teachers like the consistency that mandated curriculum engenders for high mobility inner city students.

At the district level, **urban educators appreciate the literacy planning guides** available to help them respond to literacy plans developed under the Colorado Basic Literacy Act (CBLA). “There’s lots of information in those guides; for a new teacher the district literacy planning guide has incredible resources.”

“Mandated curriculum is working well; it’s consistent and addresses the mobility issue within the district.”

Summary: Curriculum and Instruction

- Administrators have difficulty complying with the highly qualified teacher requirement, especially in rural areas.
- Teacher tenure laws suppress administrators' ability to eliminate teachers whose performance is less than satisfactory.
- Educators feel that the Higher Education Admission Requirements have led to a one-size-fits-all approach to curriculum and instruction, and they want state policymakers to consider a broader definition of student success.
- Teachers feel constricted by district grading policies that limit their ability to award students the grades they deserve.
- Teachers like common standards because they support students for whom mobility is an issue.

Student Discipline Policies

- Habitually Disruptive Rule
- Truancy Policy
- Schools of Choice Law
- Reasonable Physical Intervention
- Zero Tolerance Policy

Habitually Disruptive Rule

Handling disruptive students poses a challenge for educators. “One of these disruptive students can ruin the whole school year if not removed from the classroom,” said one exasperated teacher. **“The real problem,”** she said, **“is the whole process that you have to go through to get rid of a disruptive student;** they will tell you they don’t want to be there, but you can’t do anything about it.” Students with behavioral problems can negatively affect the learning experience of the whole class and teachers find it difficult to teach students to behave properly. And it seems to some teachers that, “everything revolves around these kids’ needs; other students have to get up and leave while the one disruptive student rages.” One of the major contributing factors, some believe, is the movement to mainstream all students.

A number of administrators find the process of expelling a habitually disruptive student to be somewhat impractical under current law: **“The amount of documentation and setting action plans into place is overwhelming;** they all have to be pretty severe incidents instead of looking at the habitually disruptive nature of the student.” In other words, the cumulative effect of a moderately, but continually disruptive student cannot be adequately addressed under current regulation. A relentlessly disruptive student who keeps his or her level of interference below a certain threshold may escape expulsion but do as much or more to interrupt the learning of fellow classmates as a severely disruptive student. Consequently, “many disruptive students just get passed on.”

Truancy Law

The problem with the truancy law, according to Colorado educators who participated in the focus groups, is not that it is a bad law, but that it is difficult to enforce for two reasons: (1) expense to the district; and (2) no place to put students. One principal described what happens in her district: “The law does say what to do about children missing school, but it is not followed; when kids miss, they (district officials) stop short of having us file truancy; when we do file, it is very expensive for the district because they need to hire an attorney, and assistant principals have to go to court.” Another administrator explained: **“There used to be more teeth in the law. When students continued to be absent we could take them to court, but**

“At home there aren’t consequences; we do a lot to teach them boundaries in the schools, but we have our limits.”

“We get a lot of pressure to keep kids in the classroom: I feel like a discipline problem is best put out of the classroom.”

“The amount of paperwork our central office requires for a severe disciplinary action has doubled in eight years.”

now there is no place to put them; the law is there but there's no way to enforce it."

"It takes years to get rid of a disruptive student."

One inadequacy in the truancy law noted by administrators is that it does not instruct principals in how to locate their missing students: **"It's difficult to find a child when she/he is missing a number of days; the law doesn't really say what to do about that."** Despite the obvious reasons for returning a missing child to school as soon as possible, it also impacts a school's performance. Principals said it puts a burden on the schools to say where a child is and the student counts as a dropout of that school if not found.

Schools of Choice Law

In Colorado, students may transfer to other schools within and outside of their home districts, subject to limitations of capacity or desegregation plans, and assuming the school has appropriate services to meet any special needs they may have. In theory, according to the educators in the study, the law makes sense for students who have specific educational goals that can only be met at certain schools. However, it also provides students who have behavior problems with an opportunity to shift their problems around. One rural principal described his dilemma this way: **"The School of Choice Law has hurt us all; if they [students] don't want to conform to our discipline codes, they pick up and transfer their funding with them; they take that problem around the loop of our districts."**

"Some parents switch kids back and forth three or four times a year; most of them end up dropping out."

Urban areas have the same problem, but with even more choices for students running from their problems. An urban principal told us the following story:

"We had a young man who had been in five schools and on the edge of being expelled at all of them. Do I have to let him in? I don't want to. I think, how can I do this to other kids and to our teachers? But, it's his right to come in if he lives in my area. We'll have to go to a hearing if we deny him admission."

School officials want to stop the misuse of the School of Choice Law by behaviorally challenged students. They would like students to choose their school for its amenities instead of being a temporary asylum from their problems.

Reasonable Physical Intervention

According to focus group participants, teachers throughout the state are unsure how to interpret the "reasonable physical intervention" component of Colorado's Anti-Violence Code. As a result, they sometimes find themselves in ambiguous and potentially litigious positions. One teacher said, **"I need to be able to intercede in situations where one student is bullying another, but I worry about being sued; I don't think the district's anti-bullying regulation would protect me; I have to get security to intercede."** He said he felt conflicted by two different laws:

"I can't refrain from touching the student and at the same time enforce the anti-bullying regulations."

one that says not to touch a student and another that asks him to intervene with a bully. Another teacher talked about a fellow teacher who lost his job over breaking up a fight between two high school boys: “He was sued for assault because he pushed one of the kids against the locker.”

Zero Tolerance Policy

“Zero tolerance” rules and laws require severe punishment not only for possessing drugs or guns, but also for having anything that looks like a prohibited item. Some educators feel this policy leaves no room for common sense. **“We can’t make a judgment call,”** said one urban principal: “State regs require mandatory expulsion for students with play guns and knives.”

The inability to make decisions about what students should and should not be expelled for, is frustrating for educators and can lead to damaging impacts on students. A teacher at a suburban elementary school thinks “Zero tolerance and blanket district-wide policies need to be differentiated by age level.” She relayed the story that hit the newspapers regarding a six-year old boy who brought butter knives to her school:

“A sweet little boy brought butter knives to school to build a fort. We had to turn him in and he got suspended. It’s in his permanent record. His parents were devastated. By being so rigid, we lose the efficacy of the policy.”

Summary: Student Discipline

- Removing disruptive students from the classroom is a challenge for teachers.
- The amount of documentation and setting of action plans that are required in trying to expel a habitually disruptive student is overwhelming.
- The Truancy Law is difficult to enforce and inadequate in that it does not instruct principals in how to locate their missing students.
- The Schools of Choice Law has provided students who have behavior problems with an opportunity to shift their problems around within their own district or into other districts.
- Zero Tolerance Policies leave no room for educators and administrators to make judgments using their common sense when it comes to disciplining students.
- Teachers have difficulty interpreting the “reasonable physical intervention” component of Colorado’s Anti-Violence Code and feel conflicted by laws that tell them not to touch students but also ask them to intervene with a bully.

Special Education Policies

- Individuals with Disabilities Education Improvement Act (IDEIA, formerly IDEA)
- Discipline
- 504 Plan
- Individualized Education Plan (IEP)
- Least Restricted Environment (LRE)
- Response to Intervention (RTI)

Individuals with Disabilities Education Improvement Act (IDEIA; formerly IDEA)

The Individuals with Disabilities Education Improvement Act (IDEIA) is a federal law that outlines specific policies state and local agencies must implement with regards to the education of students with disabilities. With IDEIA, comes an alphabet soup of policies and guidelines—LRE, RTI, IEP—that schools and school districts must navigate. While teachers and administrators who participated in the focus groups agree with the merit of IDEIA, the ultimate impact on them can be overwhelming—financially, administratively, and legally.

To implement the complex layers of categorical programs defined by federal regulations and ensure that students receive all eligible services, teachers and administrators must remain current and competent in their knowledge of IDEIA requirements. In addition, they must identify extra dollars needed to supplement the inadequate funding that accompanies most special education mandates in order to be responsive to the needs of their students and the expectations of parents, and district, state, and federal officials. An urban elementary school principal explained: **“You have to provide each individual student with services, but you may have only two special ed teachers and a caseload of 45 and they all have different objectives; trying to meet their objectives and teach them district curriculum is difficult relates back to funding.”**

Focus group participants told us that all special education mandates are underfunded: estimates ranged from 15 to 60 percent of actual costs. An unbudgeted and unexpected upgrade of special education services can be particularly costly: “We have a student who transferred to another school but the parents still live in the district; we’re billed for the services that he gets at another school, which is a high needs facility.” Unplanned for transfer students can also strain the budget: **“When we get a high needs or profound needs student in the middle of the year, there can be high dollar impacts for a short time depending if they come and go; it also happens when we get foster kids; it can drain federal funds quickly.”**

“People don’t understand that, depending on the disability of a student, they could cost you three times what it costs you to educate a regular, non-impaired student.”

“The federal government says that students need to be served, though they don’t come up with the money.”

Discipline

Teachers and principals grapple with disparities in disciplinary policies for special education students. A rural principal mentioned a limitation with IDEIA: **“I can't talk about special ed without talking about discipline; under the IDEIA regulation, if a certain behavior is found to be a manifestation of a student's handicap, then you cannot suspend them from school.”**

Teachers uniformly feel hampered in their ability to bring disciplinary action against a special education student: **“You can't expel special ed kids because their behavior might be a manifestation of their disability; too often we make exceptions for them that we would not make for other students; they cause a loss of learning and teaching time for all involved.”** Some teachers worry about the impact that this has on other students: “Regular kids pick up special ed kids' bad behaviors and find that they get inequitable treatment for the same behavior.” Also: “It is difficult for the teacher to enforce classroom rules that apply differently to different kids.”

“I have a problem with the way they are making spec ed as inclusion, rather than a pull-out program.”

504 Plan

A 504 plan is less involved than the IDEIA process. The plan is a legal document falling under the provisions of the Rehabilitation Act of 1973 and delineates specific accommodations implemented by the school. A student's disability and corresponding need for reasonable accommodations are identified and documented in a 504 plan. Examples of situations encompassed by the plan include a child's seat assignment being changed to accommodate a disability, a diabetic child being allowed to eat in the classroom, or an adjustment of testing conditions.

When it comes to severely disabled students, however, a 504 plan can include extensive accommodations. According to a high school administrator from a rural area:

“I will sit with sixteen people at an IEP [Individualized Education Plan] meeting for a kid who is in a wheelchair, palsied, breathing through a tube, eating through a tube—are these kids educable? Are we a health care institution? Do these kids belong in school? At my last school I had two full-time nurses to accommodate special ed students which meant I had to cut shop and home economics to meet requirements—such as changing diapers—to comply with federal legislation.”

Another administrator described transportation expenses that a school can incur for a special education student: **“The expense of transportation for special ed students is high; it can cost the district \$30,000 for one person, door-to-door service (per year); if the district doesn't adhere, the district gets threatened; a family can file a 504 complaint.”**

Individualized Education Program (IEP)

Instruction and accommodation under the IDEIA are provided in accordance with a plan called an Individualized Education Program (IEP). A student's IEP sets forth the duties and responsibilities of the school district and staff regarding that particular student. It is the responsibility of special education teachers, regular education teachers, administrators, counselors, and other professional educators to be thoroughly familiar with the provisions of the IEP for *each* of their students with disabilities.

Some teachers feel burdened by having to integrate the IEP needs of a special education student with those of other students in their classroom. It becomes even more overwhelming when multiple special education students have different needs. Some teachers say it makes them less effective with the rest of their students: **“I have trouble with the way we have to modify for them (spec ed students); the whole class falls behind, the more IEPs in the class; I suggest they need to have separate one-on-one work with them; mainstreaming doesn't work.”**

“Our IEPs are 32 pages along—is that a Colorado thing? In Montana I heard it was three pages.”

Teachers in rural districts feel an extra burden: “In a small school you may have a half-time spec ed teacher and not enough staff to help that student; you spend so much time trying to develop services for spec ed that you can't do good with the rest of the class.” Another rural educator said, **“Quite often I feel like I've wasted my time, because special ed students haven't gained anything; and I feel I've slowed the other kids down; we shortchange everyone.”**

Least Restricted Environment (LRE)

Another provision under the Individuals with Disabilities Education Improvement Act (IDEIA) that sometimes impedes student success, according to educators, is the Least Restricted Environment (LRE) Policy. LRE stipulates that students identified with a disability must spend as much time as possible with non-disabled peers.

“Our special ed teachers are even required to change catheters and shunts; the law says ‘whatever the child needs to be in a LRE.’”

These stories illustrate some issues that can arise under LRE:

“It is difficult to maintain students in LRE; a para in our school got poked in the eye, she needed seven surgeries; her eye is permanently affected by what this special ed student did; it cost the district thousands of dollars; the kid got to stay in school; many of these kids are too dangerous for schools to follow that law to the letter.”

“We had a student who because of LRE went to every class; she could not feed herself, she could not understand English, she could not speak; she was in a wheelchair and would scream from time to time; the kids would take her around and be sweet to her but she impacted all those classes; she had three full-time staff with her all the time; she had to be toileted, fed; this went on year after year after year; because of federal special ed laws we have to take care of these students.”

The majority of educators who shared their comments with us are opposed to mainstreaming extremely disabled special education students. They feel all students, special education as well as regular students, receive more educational benefit when severely disabled students are pulled out of the classroom for instruction despite the stigma it might create. Educators are then available to devote themselves fully to the rest of the class.

Response to Intervention (RTI)

Focus group participants told us: “The big buzz word today in special education is RTI—Response to Intervention.” RTI is a relatively new approach to identifying students’ unique educational needs. Sometimes it leads to a special education designation; sometimes it does not. It promotes data-driven classroom intervention first before a child is referred to special education.

RTI is encouraged under IDEA. An RTI team meets to assess student needs and proposes an intervention. If the first intervention they propose does not work, then a second tier is tried. If that does not work, the third tier is usually a referral to special education. Most districts in Colorado have some form of RTI currently in place.

Many of the educators who participated in the focus groups welcome RTI. They like the ability to respond quickly to a child’s needs and to try several interventions until they find one that works. Several think it is good model and a good alternative to the traditional approach to special education. One suburban high school principal put it this way:

“We’ve seen a whole move toward interventions; it addresses the needs of all students whether or not they have an IEP; in the way past, what would end up happening if a teacher or parent had a concern about a student not doing well, they would all meet and fix the kid by putting them on an IEP and suddenly they were a special ed student and the responsibility of special ed teachers; now every child is everyone’s responsibility.”

Although many educators embrace RTI, some fear it might place an additional burden on teachers: “As the change to RTI happens, teachers are going to be more and more responsible for instruction with kids who need more special ed services.” Another teacher echoed the concern: **“The RTI model is placing more of the responsibility for educating special ed students on the regular classroom teacher; having been a special ed teacher and now a regular teacher, [I feel] it is not a good way to go.”**

“I like the RTI; no matter what the kid’s label is they are getting help now.”

Summary: Special Education

- Special Education mandates place constraints on school spending, teacher's time, resources allocation, and various instructional practices.
- All special education efforts are under-funded. Teachers must identify extra dollars needed to supplement the inadequate funding that accompanies most special education mandates.
- Teachers uniformly feel hampered in their ability to bring disciplinary action against a special education student.
- Teachers feel burdened by having to integrate the Individualized Education Plan (IEP) needs of a special education student with those of other students in their classroom.
- Many educators are opposed to mainstreaming extremely disabled special education students.
- Many educators like the Response to Intervention (RTI) system because it is responsive to students' unique needs and can be implemented quickly.

Educators' Advice for Shaping Future Education Policy

It doesn't make sense to front-line educators that they are not consulted about education laws that impact them and their students. When given the rare opportunity to reflect on current educational mandates, focus group participants were eager to share their thoughts and opinions. Their suggestions are insightful, heartfelt, and grounded in day-to-day experience. The wisdom they display reflects their knowledge plus years of experience.

In this final section of findings, educators provide clear, confident, and precise recommendations for future education policymaking in Colorado. A considerable amount of convergence in the conclusions they draw lends power to their pointed recommendations.

Biggest Fears/Biggest Hopes

Before focus group participants were each asked for their recommendations, they were asked to state their biggest fear and their biggest hope for the next imminent educational rule, policy, or regulation they may have to face.

- Their biggest fear is that it would create more work for them— paperwork, testing, documentation, etc.
- Their biggest hope is that it would in some way improve the quality of education for their students.

Tables 2. and 3. provide summarized comments in order of frequency of response.

Table 2.

Educators Biggest Fears Regarding the Next Rule or Policy		
47%	More Work	<ul style="list-style-type: none"> • “How much more paperwork will this add to my day?” • “How much time will it take? Is it worthwhile?” • “Is it a reinvention of something we’re already doing?” • “Being a principal already means doing hurdles with the biggest backpack; don’t make me feel like George Jetson falling off the conveyor belt.”
28%	A Distraction	<ul style="list-style-type: none"> • “Will it take away from my teaching time which is already minimal?” • “Does it pull me away from making connections with kids?”

9%	Unreasonable/ Unrealistic	<ul style="list-style-type: none"> • “I fear it’s a good idea that hasn’t been thought through.” • “I fear we would have to design it, put it in place, with no guidance; just make it happen.”
9%	Punishment/ Criticism	<ul style="list-style-type: none"> • “I fear we would be bad-mouthed and have to defend what we do every day.”
7%	Financial Burden	<ul style="list-style-type: none"> • “Is it another unfunded mandate that we would have to make work?”

Table 3.

Educators Biggest Hopes Regarding the Next Rule or Policy		
43%	Improved Quality	<ul style="list-style-type: none"> • “It impacts children positively.” • “It helps me do my job.” • “It helps our students learn more.” • “It would help us reach kids better.”
28%	Streamlining	<ul style="list-style-type: none"> • “It would take something off my plate.” • “It would alleviate some of the roadblocks.” • “It connects with something we are already doing.”
13%	Thoughtful Process	<ul style="list-style-type: none"> • “I hope that before they mandate something, a thoughtful discussion would take place.” • “It would be based on data.”
8%	Efficacious	<ul style="list-style-type: none"> • “It will be a productive use of my time.” • “It would help with something that is already working.”
8%	Financial Benefit	<ul style="list-style-type: none"> • “I hope the money and supplies would be behind the new program.”

Educators' Advice to Legislators

At the conclusion of the focus groups, participants were asked to give their honest and open response to two primary questions:

- (1) **“What would you like legislators to consider when they are drafting and passing legislation that will affect you and your students?”**
- (2) **“What one educational rule, policy, or law would you change and why?”**

In responding to these questions, teachers and administrators had specific suggestions for legislators on how to improve public education. When developing new laws and policies, the focus group participants believe that:

- **Legislators should solicit input from those in the trenches** because good policy-making requires the collaboration of all stakeholders involved, including teachers and principals and
- **Legislators should spend an extended period of time visiting classrooms** because educational mandates should be informed by a realistic knowledge of day-to-day classroom operations.

Beyond this critical call for legislators to become more familiar with day-to-day school life when crafting rules and regulations, there were recommendations on how to improve the current situation in schools as well. Educators' responses spanned the realm of education policy, from modifying the current accountability system to increasing school funding. The comments specific to the themes of this report are synthesized below and organized into six sub-sections: School Accountability; Curriculum and Instruction; Student Discipline; Special Education; and School Management and Operations.

School Accountability

Advice: Modify the school accountability system to give more time to improve.

Rationale: Change does not happen in less than five years; it takes longer than the three years currently allowed.

Advice: Use CSAP to assess students, not schools.

Rationale: CSAP results should be used to help students improve instead of punitively rating schools.

Advice: Move the CSAP testing date to later in the year.

Rationale: Students are currently tested two months before they have acquired all the knowledge they need to respond to assessment questions.

Advice: Align the test with the curriculum rather than the curriculum with the test.

Rationale: It is more educationally sound to teach students what they need to know than what they will be tested on (CSAP).

Advice: Compare CSAP scores longitudinally by cohort.

Rationale: Comparing test scores by cohort from year to year provides more accurate and effective data and diminishes the influence of confounders.

Advice: Allow students who are instructed in Spanish to be assessed in Spanish.

Rationale: It takes an inordinate amount of teacher time to translate the CSAP exam and the translated test is not a fair assessment of student knowledge.

Curriculum and Instruction**Advice: Eliminate social promotion.**

Rationale: Students do not learn and benefit from grades they have not earned, nor is it fair to other students.

Advice: Mandate proficiency before a student can move on to the next grade.

Rationale: When students are moved on to a grade level beyond their capability, it is of little benefit to them and can negatively impact their teachers and peers.

Advice: Increase teacher autonomy in the classroom.

Rationale: Teachers feel they can do a better job if they are not excessively hampered by mandated assessments and prescriptive curricula.

Advice: Make the grading policy in middle school the same as it is in high school.

Rationale: Consistent grading policies between middle and high schools will prepare students for the more stringent expectations of secondary education.

Advice: Do not require every high school student to meet CCHE recommendations.

Rationale: Not all students are college bound; having to take and pass four years of math will cause some students to drop out of school prematurely.

Advice: Overhaul high school graduation requirements.

Rationale: The current system is outdated and lacks sensibility.

Student Discipline

Advice: Give teachers more authority and support to discipline students.

Rationale: It is difficult for teachers to control their classrooms when students perceive they (students) have the upper hand.

Advice: Strengthen and bring uniformity to school discipline policies.

Rationale: Consistent discipline rules within and across districts could prevent transience of disruptive students and support teachers in minimizing classroom disruption.

Special Education

Advice: Change AYP (Annual Yearly Progress) requirements for special education.

Rationale: The progress of special education students should not be measured on the same scale with that of other students.

Advice: Do not mandate unfunded special education programs.

Rationale: Current special education funding only covers a portion of costs requiring cost-shifting from other cost centers.

School Management and Operations

Advice: Do away with teacher tenure laws.

Rationale: It is very difficult to remove a low-performing teacher from the system once they are tenured; keeping them in the system compromises quality and negatively impacts teacher morale.

Advice: Allow principals to hire and fire their own staff.

Rationale: Principals are stymied by laws that force them to retain staff based on their seniority.

Advice: Reverse the CSAP funding equation so low scoring schools receive more funding.

Rationale: Schools with low scores need more resources to help students elevate their scores.

Advice: Do not pass unfunded mandates.

Rationale: New programs and increased expectations require (but usually do not receive) full funding for effective implementation.

The educators who participated in the focus groups believe that there are many changes, which could help reduce the legal and regulatory burdens placed on schools

and hope that legislators will work hard to better understand the challenges they face daily.

Focus Group Methodology

Question Design

Phone interviews were conducted with six key informants to conceptualize and design the focus group questions. Their collective input produced nine open-ended, compelling questions. Key informants included representatives of the Colorado State Legislature, the Colorado Governor's Office, and the three major education associations in the state (Colorado Association of School Executives, Colorado Association of School Boards, and Colorado Education Association).

The set of focus group questions used with all twelve groups is as follows:

- (1) Imagine: You receive a vague memo stating that it is mandatory you attend an upcoming meeting regarding a new educational policy, rule, or regulation. What immediately comes to mind as your biggest fear? Your biggest hope?
- (2) On a scale of 1 to 10, to what extent do outside rules and policies negatively impact your teaching/school administration—you feel burdened, overwhelmed, your hands tied behind back, etc.? Give us a specific example.
- (3) We know that the threat of lawsuits can impact teaching and school administration. How often do you fear the repercussions of your actions or act in ways to avoid lawsuits while working with students? When and under what circumstances?
- (4) On a day-to-day basis what specific rules or policies (federal, state, or local) at your school pose barriers to maximizing student achievement with regard to
 - Curriculum and Instruction
 - Special Education
 - Student Discipline
 - School Accountability?
- (5) How do these barriers (mentioned above) get in the way of how you want to teach/lead your school, e.g., time, quality, content, coverage, discipline, etc.? How do you have to adjust your teaching/administration accordingly?
- (6) We have been talking about what doesn't work so well. Now give us some examples of rules and policies that are working well in providing quality education and maximizing student achievement. If there are aspects of these rules and policies that are burdensome what are they, and how might you suggest improving upon them?
- (7) If you had the chance to talk with a state legislator, what would you tell them to consider when they are drafting and passing legislation that will affect you and your students?
- (8) If you could make one change to a rule, policy or law that impacts your classroom, school and students, what would that rule, policy or law be and why would you change it?
- (9) What haven't we asked about but need to know in order to inform the public and policymakers about how your day-to-day teaching is impacted by rules, regulations, bureaucracy and legal fear?

Recruitment Process

The focus group study called for twelve focus groups of six to eight participants each. In collaboration with Common Good Colorado and its partnering organizations, selection methodology was established for rural, urban, and suburban communities and inclusion/exclusion criteria for the participants (such as including only teachers who had at least two years of experience and only administrators who had at least one year of experience).

The initial recruitment design separated out teachers and administrators at both the elementary level and secondary level, thus creating four focus groups in each of the three target communities (Denver Public Schools, Douglas County Public Schools, and East Central BOCES Public Schools). A letter from Common Good Colorado was sent to the superintendents in Denver and Douglas County and the director of East Central BOCES, introducing them to the focus group project and letting them know that teachers and administrators in their district would be contacted directly. Since the majority of Colorado public schools have websites and the majority of those websites post faculty/staff lists that include individual email addresses, email was selected as the most efficient and effective way to invite focus group participants.

The priority at first was to target schools that represented geographic diversity within each district. It was anticipated that the response to the invitation would yield sufficient numbers to enable us to be selective in getting good geographic representation. When sufficient numbers did not respond to the initial emailings, all districts were blanketed with emails to all schools.

When it became clear that the original strategy was not producing the number of participants needed, we conducted a mini-survey with people who had responded to the invitation asking them the following:

- What are the barriers to getting people to signup for our groups?
- What would it take to get people there?
- Can we enlist your help?

The results of the survey generated the following suggestions, which were implemented:

- Increase the honorarium.
- Call principals personally to invite them.
- Use the VNet (video-conferencing) for BOCES.
- Combine administrators (both elementary and secondary level) into one group, if need be.
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Group Facilitation

All participants were asked to complete a consent form prior to the group. They also completed a short survey asking them their age, gender, duration in their position (e.g., "How long have you been a teacher?"), etc. before the group began so the source of the findings could be referenced.

The facilitator started each group with a welcome and thank you to participants, a review of the purpose of the group, ground rules for interaction, and encouragement of open and honest disclosure. Participants were guaranteed the utmost confidentiality. They were made aware that the session was being tape-recorded and transcribed on a laptop computer, but assured that all names and other identifiers would be stripped from the proceedings and never conveyed to study sponsors, other researchers, or participants in other focus groups.

Groups were conducted in a way that generated a maximum number of different ideas and opinions from as many different people in the time allotted. All prepared questions were adequately covered within the time allotted. An open-ended question at the end of the group allowed participants the opportunity to make additional comments or raise issues not addressed by the set of prepared questions.

Data Analysis

Focus group tapes were thoroughly reviewed and missing content inserted into the computer transcription. The data was then stripped of all identifiers and nonessential words to prepare it for entry into a spreadsheet.

The complete transcript was manually entered into an Excel spreadsheet line by line to allow for coding and sorting of each individual thought and idea. As major themes and categories emerged, the data was re-coded and re-sorted until a clear picture came into focus. Data was organized along major themes and categories and analyzed for patterns, similarities, and inconsistencies.

Appendix

Index of Acronyms

Organizations

CCHE – Colorado Commission on Higher Education

- Governs higher education in Colorado
- Its recent decision to create more stringent entrance requirements has impacted high school graduation requirements in Colorado school districts

CDE – Colorado Department of Education

- Responsible for implementing state and federal mandates
- Usually writes regulations and oversees monitoring efforts
- Is the fiscal agent for many federal grants

Legislated Programs/Requirements

AYP – Annual Yearly Progress

- The progress districts are expected to meet in terms of student performance in order to comply with NCLB (No Child Left Behind)
- In the year 2014, all students must be proficient in CSAP

CBLA – Colorado Basic Literacy Act

- Requires district to develop a literacy plan for every 3rd grader and above who does not score proficient on CSAP

CSAP – Colorado Student Assessment Program

- Requires yearly testing in basic academics, 3rd through 10th grades
- Informs NCLB (No Child Left Behind)
- Predates the federal regulation for annual assessments as stated in NCLB

HEAR – Higher Education Admission Requirements

- Requirements for Colorado students for college admission to Colorado colleges and universities
- Set by CCHE (Colorado Commission on Higher Education)

ILP – Individual Literacy Plan

- The plan required by CBLA (Colorado Basic Literacy Act) and must be written beginning in 3rd grade if the child is below proficiency on CSAP
- Describes instructional strategies that will be used to help the child become proficient as well describes the role parents will play in fostering literacy in the home
- Schools report back to state on progress

NCLB – No Child Left Behind

- The federal act that requires all children become proficient in reading and math
- States must report their yearly progress on state assessments to the federal government

SAR – School Accountability Report

- Schools must attain a certain percentage of children at proficiency level in a given number of years or run the risk of putting the district on notice to lose accreditation

TNLI – Transition Native Language Instruction

- Provides literacy instruction in both English and Spanish in a pull-out program
- May only be in Denver Public Schools

Curriculum Programs**90-90-90 Plan**

- In Denver Public Schools: 90 minutes of reading, 90 minutes of writing, 90 minutes of arithmetic

Everyday Math

- A spiral curriculum for teaching math; very popular
- Introduces concepts and then spirals back to them with different algorithms as opposed to traditional teaching of math which teaches addition, subtraction, multiplication, etc. as separate activities

Special Education Related**504 Plan**

- Comes under the Rehabilitation Act not Special Education
- It fundamentally assures equal access to education in schools that are receiving public monies
- Unlike special education, it provides for only accommodations not specific learning goals or specialized instruction
- The qualifiers are also less stringent than for special education
- It usually covers physical disabilities like diabetes

- It should be administered through general education

IDEIA – Individuals with Disabilities Education Improvement Act

- Special education regulation at federal level
- Was Individual Disabled Education Act ; this is the reauthorized IDEA; new name, same law

IEP – Individualized Education Plan (or Program)

- Describes disability, current levels of performance, needs, individualized annual goals, accommodations, and whether the child will participate in state and local assessments

LRE – Least Restricted Environment

- Students identified with a disability must spend as much time as possible with non disabled peers

RTI – Response to Intervention

- A relatively new method of qualifying students for special education
- Encouraged in IDEIA
- Promotes data-driven classroom interventions first before a child is referred to special education
- There is usually an RTI team that proposes the interventions
- If the initial classroom based interventions do not work, then a second tier of interventions is tried
- This might be something like the Lindamood-Bell system
- If that does not work, then usually the third tier is referral to special education
- It really just describes what good teaching should be about, but it is the current trend
- Most districts have some system in place

Participants' Schools

Denver Public Schools

Abraham Lincoln High School
 Cory Elementary
 Doull Elementary
 Ellis Elementary
 Godsman Elementary
 Hamilton Middle School
 Henry Middle School
 Knight Fundamental Academy
 Kunsmiller Middle School
 Merrill Middle School
 Mitchell Elementary
 Rachel Noel Middle School
 Skinner Middle School
 South High School
 Teller Elementary
 University Park Elementary
 West High School
 Wyatt-Edison Elementary

Douglas County Public Schools

Castle Rock Middle School
 Cresthill Middle School
 Highlands Ranch High School
 Legacy Point Elementary
 Mountain Ridge Middle School
 Mountain View Elementary
 Pine Grove Elementary
 Prairie Crossing Elementary
 Rock Canyon High School
 Roxborough Elementary
 Sagewood Middle School
 Sand Creek Elementary
 Sedalia Elementary
 Wildcat Mountain Elementary

East Central BOCES Schools

Arickaree District Administration
 Arickaree Elementary
 Arickaree High School
 Arriba-Flagler District Administration
 Arriba-Flagler Elementary
 Arriba-Flagler High School
 Burlington Elementary
 Burlington High School
 Byers Elementary
 Cheyenne Wells District Administration
 Cheyenne Wells Elementary
 Kiowa Elementary
 Kit Carson District Administration
 Kit Carson Elementary
 Limon High School
 Woodlin District Administration

Adams County Public Schools

Horizon High School
 Thornton High School

Jefferson County Public Schools

Conifer High School

Western Slope Public Schools

Central High School, Grand Junction
 Debeque School
 Montrose High School
 Olathe High School
 Palisade High School