In Practice

Justice, Understanding, and Mediation: When Talk Works, Should We Ask for More?

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Stimulated by reading Susan Silbey's compelling (1994) profile of Patrick Davis, who mediates special education disputes in Massachusetts, the author discusses the dimensions of these disputes and what it is that parents hope to gain by participating in the process. Recent research suggests that procedural justice is important to them: having the opportunity to voice their concerns, having those concerns acknowledged, and being treated with dignity and respect. These aspects of the process often contribute to personal and emotional goals as well. But parents are also clearly seeking a substantively fair and just result. Substantive justice may sometimes be overlooked as programs develop evaluative tools and other measures to assure quality in mediation. The author also traces the legal history of special education law and points to her research and personal experience as Director of Pennsylvania's special education mediation system in reflecting on mediation's potential in this area. She concludes by observing that skilled mediation is people-centered and has the potential to improve the relationship between the parties; it also can routinely attend to rights-based concerns.

Late last fall, a friend suggested that I pick up a copy of Deborah Kolb's (1994) book *When Talk Works* and read a chapter in it entitled "Patrick Davis: 'To Bring Out the Best…To Undo a Little Pain' in Special Education Mediation," by Susan Silbey. Although I had been aware of the book, regrettably it

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had never reached the top of my "to read" pile. The chapter recommended to me consists of observations of and commentary about Patrick Davis, one of the full-time special education mediators in Massachusetts.

I began reading the chapter while waiting for an oil change and repair estimate on my car. This bit of car maintenance was being squeezed in between two of my legal methods classes, and I had only a small margin of error in terms of the time I could fritter away at the garage. Despite my anxiety about getting back to class, the blare of an unreachable TV, and the slightly nauseating smell of gasoline fumes, I became so focused on Patrick Davis's story that, when the mechanics had finished, I did not hear my name the first two times it was called over the waiting room's intercom.

As I read, I felt the power of Davis's personality emerge from the pages. Much of what Davis practices in his role as special education mediator resonates with our deepest human instincts and needs for recognition, belonging, and respect. Davis devotes part of his time and energy to encouraging the parties in a special education mediation session to talk about the child's strengths as well as the child's needs. He is remarkably aware of the complex emotions of parents and of "what it feels like to face others who constantly treat you as if you did something wrong, as if you yourself are profoundly defective, rather than the normally less-than-perfect" (p. 100). He invites the parties to celebrate the child as a way of "undo[ing] a little of the pain." (p. 65). There are many reasons to believe that Davis's approach fits the forum of special education mediation particularly well.

As Silbey eloquently points out, powerful dynamics are an inherent part of a special education conflict. First, there is an imbalance of power between the district and the parents. The parents' relationship to their child makes them more emotionally and psychologically vulnerable than the school district personnel when they are in the midst of discussing educational alternatives. Educators are undoubtedly concerned with the success of a child's educational program but they are also inevitably aware of the costs associated with that program and precedents emanating from any negotiated agreement. This imbalance of emotional investment may be exacerbated when educators use technical legal and psychological testing jargon in a manner that further distances the parent.

Second, parents may also be coping with feelings of responsibility, and sometimes guilt or shame that are unrelated to the matter in dispute, but highly relevant to what they can accept in terms of an agreement. Third, parents' usually desire to preserve a nonadversarial relationship with the school in order to resolve their present concerns and develop a better working relationship for the future.

Given these fundamental and forceful tensions in special education disputes, it is almost indisputable a mediator must be able to establish trust quickly with the parties, quietly and calmly control and direct the discussion, and be exquisitely tuned to the timing of the directional calls he makes in each session. Mr. Davis wears these skills as comfortably as his clothes.

In addition, there is a very practical reason to embrace whatever Patrick Davis and mediators like him are doing — most special education mediations result in an agreement between the parties. According to Susan Silbey's profile, Davis's mediations result in agreements almost 70 percent of the time which is close to what other state programs experience including Pennsylvania's with which I am most familiar. It makes sense to encourage schools and parents to try mediation in light of the time, expense, and aggravation associated with the other dispute resolution process available, the due process hearing.

What is additionally striking and compelling about Mr. Davis's mediation style is that it seems to have developed from within. In one of the closing paragraphs of the article, the author briefly mentions that Mr. Davis does not claim to have an expertise in state laws and regulations governing special education or in the programs and services that may be available in an individual school district. He is also not specifically interested in techniques or ideology of mediation. "He is a lover of people, not processes," concludes the author (Silbey 1994: 102). From this genuine love of people, Davis has developed a way of mediating that acknowledges the parties' voices, treats the parties with dignity and respect, and leaves the parties in a better place emotionally and psychologically.

Taking all these skills and factors together — the ability to channel the powerful dynamics inherent in special education disputes, the rate of mediated agreements, the benefits that the mediated agreements confer on all the parties as well as the children at the heart of the dispute, and the potent attraction of mediation methods based on valuing people over process — it is clearly in every state's best interest to find, support, and hold dear mediators like Mr. Davis.

Evaluation: Stepping Into Dangerous Territory?

Nevertheless, one sentence in Silbey's introduction puzzled me. It was as if my attorney antennae picked up a signal but could not convert the reception into a clear picture. At the beginning of her article, Silbey writes: "[H]e insisted on questioning me. He insisted on that reciprocal exchange and informational intimacy that constitutes good conversation but threatens professional distance and objectivity. This was dangerous territory. I feared being taken in, losing my critical edge. Yet I began to like this man" (102). The author's candor kept me sifting through the article looking for how this concern was manifested. What was the author worried about in terms of her critical eye? In relation to what part of her commentary did she think her objectivity could be compromised?

This was of particular interest to me. During the time I directed Pennsylvania's mediation program and to this day, I held similar respect, affection, and appreciation of the people who served as special education mediators. However, it never occurred to me that these feelings could create a "dangerous territory" when I observed the mediators for evaluation purposes. On

the contrary, if observing mediators' performance could be represented as a map, I thought I knew where I was going, and was in no danger of getting lost. It was only after the observations, which were based on criteria developed collaboratively with the mediators and program advisers, that I realized that getting to the destination of accountability was much more complicated and circuitous than I thought. I also wondered if my affection for the mediators interfered with my objectivity.

Why evaluate performance at all? For the reasons discussed later in this essay, I believe mediators and mediation systems in general have to accept that, in order to enjoy the benefit of public resources and increased utilization, there is going to be a reciprocal public expectation of quality performance and standards. State and federal educational agencies, for instance, are beginning to look at measures of quality assurance. Although it is not easy to figure out how to measure quality in what in some respects is an art, many scholars suggest that, at the very least, the voices of the disputants need to be heard in the debate over what mediator interventions are valued, what constitutes ethical treatment of clients, fiscal integrity, and so on. According to Nancy Welsh (forthcoming), these voices are largely missing from the discussion on quality for a variety of unintentional and, to some extent unconscious, reasons:

> In court-connected mediation, most litigants, particularly individual litigants, are "one-shot" players. They do not interact informally or regularly with the directors of mediation programs, mediators, or judges. Researchers experience great difficulty in reaching disputants. Attorneys worry about the consequence of providing access to their clients, particularly the potential negative impact upon confidentiality. Further, one of the results of professionalism is that professionals are acknowledges as understanding more about what they do than laypersons possibly can. As mediators increasingly define themselves as professionals, the views of disputants may be understood as uninformed and largely irrelevant.

In special education mediation and other forums, participant satisfaction surveys are often the acknowledged "voice" of the participant. In Pennsylvania, and probably other states, these surveys may not be aggregated, analyzed or constructed in a way that gives programs or mediators feedback relating to specific interventions.

Concurring with Welsh's conclusion on the general absence of disputant voices in the debate over what is good practice, Jean Sternlight (2003) supports the call for more research to enlarge our viewpoint on mediator accountability. She also suggests that, based on the research available to date, disputants are generally looking for three benefits from a dispute resolution system:

1. A substantively fair and just result;
2. An opportunity for voice, acknowledgment of their voice, and dignified and respectful treatment; and

3. Achievement of other personal and emotional goals, such as reconciliation, or at least not feeling worse, emotionally and psychologically. (Sternlight 2003: 299)

In essence, what Silbey described in her observations of Patrick Davis were his skills in meeting the procedural justice, personal, and emotional goals of the parties — benefits two and three. The nagging question, at least for me, is what about the substantive result? Is it important to screen mediated agreements through some filter of substantive fairness? Or should we accept the untested proposition that substantive justice flows as naturally as water over Niagara Falls when a dispute resolution system is procedurally just and leaves the party no worse off emotionally and psychologically?

Substantive justice concerns are both important and easily overlooked when we observe mediator performance and in the development and implementation of quality assurance measures. In this discussion, I make reference to research published by Welsh (2003) and to data on mediator performance in Pennsylvania that is described in D'Alo (2003). The Pennsylvania and, to a lesser extent, the Massachusetts special education mediation systems are the context for the discussion because the systems have similar origins, goals, and practices. As a note of historical interest, Pennsylvania's program is based in part on the Massachusetts model, which is the model under which Patrick Davis works as a special education mediator. The Patrick Davis profile by Susan Silbey attracted me because it contains an immensely detailed description of one mediation session and insightfully portrays the circumstances that impact each special education dispute. It and the other profiles in *When Talk Works* make for a "good read" for anyone interested in mediation. But in order to understand why and how special education mediation developed, some contextual background is needed.

Why and How Special Education Mediation Developed

The history of the laws governing special education is similar both in Massachusetts and Pennsylvania. In both states, the entitlement to special education programs and services developed prior to the federal mandate (known as Public Law 94-142 in 1975 and as IDEA, Individuals with Disabilities Education Act, in 2003) because in both Commonwealths there was a systematic (and in the case of Pennsylvania a statutory) exclusion of disabled children from the regular schools.

The states' exclusionary policies were challenged in court on constitutional grounds by parents of disabled children. Parents prevailed on the state level in both states and the country soon followed. Two all-encompassing goals were realized in the parents' legal victory: (1) the state's obligation to identify children with special needs; and (2) the guarantee that parents would participate in developing individualized education programs (known as IEPs) for all identified children.

Today, the state's obligation to identify children with special needs and the IEP process remain the backbone of the safeguards and entitlements

guaranteed to parents and children under the law. Under both state and federal law, parents must be included in the IEP development process, and parents have the right to withhold their approval of programs and placements for their children. Without parental consent, the child's evaluation, identification, and placement cannot be altered unless ordered by a hearing officer through a due process hearing.

A due process hearing affords the parties the same procedural protections as an informal court proceeding. It also has all of litigation's drawbacks: hearings are usually costly, time consuming, and adversarial. Because of these byproducts of litigation, in Massachusetts and Pennsylvania, as well as across the country, many parents and school districts saw the due process hearing as an ineffective way to resolve special education disputes and searched for alternative dispute resolution systems.

In Pennsylvania, parents, working in collaboration with the Pennsylvania Department of Education, established a Task Force to examine the feasibility of establishing a mediation service. The Task Force took testimony from stakeholders in the special education system and also invited other states with mediation systems, including Massachusetts, to share information on their models. As a result of the Task Force's activities, the Pennsylvania Special Education Mediation System was established and began operating in 1988. The Massachusetts' program came into being as a result of similar political forces and began serving clients in 1976.

Although the two programs are different administratively (Pennsylvania contracts with individual mediators on a case-by-case basis in contrast to a staff of full-time, state-employed mediators in Massachusetts), both programs allow a great deal of autonomy to each individual mediator regarding technique, style, and conduct of the mediation sessions. Both programs value and use mediators who are not necessarily legal or education professionals but who relate well to people; can convey respect and sensitivity to the feelings of persons under stress; convincingly appear reasonable and calm; and can communicate clearly and simply to people not familiar with educational or psychological testing jargon.

Within this context it is interesting to examine how the goals of special education mediation were originally defined.

The Goals of a Special Education Mediation Process

In Pennsylvania, the stakeholders who were involved in creating the special education mediation system expressed their goal for a mediation system in these words:

> A reduction in the projected number of actual hearings is neither anticipated nor the goal of this Task Force. An increase in cooperative problem solving to meet the needs of exceptional students while allowing for the development of positive working relationships between parents and educators is the goal.3 (D'Alo 2003: 209)

The guidelines of the Massachusetts system reflect a similar emphasis on reaching decisions and mutual understanding between the parties. Put broadly, from inception of these systems there was an obvious dual goal: resolution of disputes when possible and building better relationship between the parties.

Many mediators, attorneys, bureaucrats and scholars have expressed different opinions on the questions of goals in this forum of mediation. For most of my tenure as director of the Pennsylvania Special Education Mediation Service, the goal of the state education agency was to reduce to the number of requests for due process hearing. Others have suggested that certain goals predominate and to some extent exclude others. Robert Baruch Bush suggests that understanding, empowerment, and recognition outweigh other goals that parties might have in educational disputes. At the annual conference of the Consortium for Alternative Dispute Resolution in Education in Washington, D.C. in 2001, Professor Bush was the keynote speaker. In his presentation, he used imaginary conversations with participants in special education mediations to demonstrate his belief that conflicts between parents and school districts are first and foremost opportunities for transformation.

Susan Silbey observed many mediations conducted by Patrick Davis and had the opportunity to speak with him about the parties as well as about his choices in the mediation sessions. As mentioned earlier, Silbey deduces from this protracted examination that exposing the parents' pain and celebrating the child are primary goals of the parents in special education mediation. She supports this conclusion partly through her discussions with Mr. Davis and his cumulative experience with many parents. She writes:

> He is concerned about the parents' guilt and shame. They are the object[s] of a poorly concealed loathing because they are in the position that every parent fears: they have an impaired or "abnormal" child. He invites parents to announce their pain, without facing an accusing authority, and to celebrate the child before a receptive, generous audience. (Silbey 1994:100)

But is a receptive and generous audience of this profound information what the parents primarily value in the special education mediation process? Outside of interviewing the parents, I think Silbey did everything possible to assure that her affirmative answer to this question was supported, well reasoned, and thoroughly examined. But I reluctantly suggest that the emphasis on this value standing alone can be questioned. This is a glum suggestion because it is both challenging and unattractive to tease out these nuances of practice where so many other admirable and perhaps fragile traditions exist. But the mediation profession may be in a perilous position if substantive justice concerns are overlooked. And, in light of the dedication, devotion, and skill of the many wonderful mediators in this field, it is easy to overlook some difficult questions and project disputants' voices rather than listen to them.

For instance, in regard to the transcripts of the mediations that Silbey analyzed for the Davis article, she points to the fact that the word "pain" is mentioned more than any other word. The reader does not know, however, whether the word "pain" is used by the parties or by the mediator or if the discussion of pain is prompted by the mediator's direction or even by his subtle insistence. Earlier Silbey mentions that when she met Davis he "insisted on questioning me." (p. 61). Later she observes, "Having failed to move the Donnellys [the parents], Davis nonetheless encourages them to believe that they have had a caring audience and that he has heard their concerns" (p. 92) and "Davis seems to have an agenda that he will not let the participants derail" (p. 77). If the mediator directed the content of the conversations with the author, is it also possible that he also directed the discussion around pain in the mediation sessions that were analyzed?

As a corollary conclusion, Silbey also points to the lack of words relating to rights or statutes in the transcripts as evidence that legal rights and entitlements are not the primary focus of the parties. This conclusion does not appear to take into account Mr. Davis's admitted lack of knowledge or interest in these technicalities. If the mediator subtly or directly moves the parents toward a discussion of their frustrations and fears, and as a willing and informed listener encourages such expression, it is likely to be valuable and important conversation. But is it the goal of the parents in the mediation session?

Similarly, the lack of discussion of rights may have in this case reflected the mediator's acknowledged lack of legal expertise, or the reluctance of a nonattorney mediator to refer to legal standards for fear of being charged with the unauthorized practice of law. It is also possible that the parties' failure to refer to the law reflects their desire to have a conversation with each other that is not premised on the implied threat of litigation. Not wanting to frame a discussion in terms of lawsuits and legal battles is not necessarily the same thing as wanting to put aside those rights in the context of a negotiation.

Despite raising these issues, I think it is very simple to see how Patrick Davis delivers mediation at its best in terms of procedural justice and other personal and emotional goals. But if, as Sternlight suggests, the participants also want a system that provides a substantively fair and just result, where is that analysis? Do we need to even concern ourselves with it? I would argue that we must.

A mediator once called me during a break in her mediation session in which "mainstreaming" was the issue. The parents wanted their eight-year old child, who had always been educated in a special education classroom in a building separate from the regular school, to be integrated into the regular third grade classroom. The district's position in the mediation was that the child was successful in her current segregated placement and that it would not be appropriate to change her IEP. The child was well behaved, successful in her setting, and a pleasure to be around. The mediation appeared to be at

an impasse when the mediator called me. The mediator was unaware of the standards for determining whether a child should be included in a regular education class. In our phone conversation I was able to give the mediator the broad outline of the questions established by the controlling case on the issue. These were the questions that the school district would have to answer if the case went to court.

When the mediator reconvened the session, she posted these questions on a flip chart. The school district immediately acknowledged and recognized that the questions represented the controlling standard. The first prong of the standard is to ask what previous attempts the district had made to integrate the child. Since there had been no attempts to integrate the child, the district had a legally indefensible position. Within a short time, the mediation ended with the school district agreeing to the parents' request.

In this case, there were no obvious additional costs associated with the district yielding to the parents' preference for a regular classroom placement, and yet the district chose to maintain a legally indefensible position. If the standard had not been introduced into the discussion, the mediator felt certain the mediation would have ended without agreement. Parents are even more vulnerable when the services they are requesting could result in increased costs or put more demands on scant district resources.

For example, in the Patrick Davis mediation described in *When Talk Works*, the agreement eventually mediated buttressed the school district's initial legal position. Going into the mediation, the parents were asking that the public school pay tuition and costs for a private school that they felt was best suited to their child's needs and, therefore, legally appropriate. The district maintained that it could provide an appropriate educational program within the public school system. Mr. Davis suggested a compromise that would require the school district to reimburse the parents in the amount equal to the cost of educating their child in the public school. The proposed reimbursable amounts comprised about 50 percent of the cost of the private school. Two weeks after the mediation, the parents signed an agreement that provided that the public school would reimburse them only for transportation costs to the private school; all tuition or other costs were the parents' responsibility.

It is not clear from the profile whether the merits of the parents' legal position were explored in light of the relevant legal standard. Were they entitled to a private school placement? In fact, given the breadth of Mr. Davis's experience, it is difficult to imagine that some evaluation of the parents' position did not occur. In the article, however, this did not enter in to the overall assessment of his performance. Does this matter?

Assume, for purposes of this discussion, that the parents' position was legally the more defensible one but the mediation proceeded as described. Assume also that during the course of the mediation it became increasingly clear that the district was not going to change its position and, in fact, was not willing to consider any compromise. Even with legal assistance, what

choices do the parents have? They can contest the district's position by going to a due process hearing which will consume a great deal of time and money. In their minds, time is a precious commodity for their child. As Silbey points out, "[D]elay between filing appeals, arranging mediation sessions…has become a regular feature of special education, with direct, often detrimental consequences for children."(p. 71). 5 Money spent for legal representation could be as easily applied to private tuition payments. In addition, it is likely that the parents would see their inability to get satisfaction through mediation as a sign that their legal chances are "iffy." Since parents are entitled to reimbursement for attorney fees only if they prevail in a due process hearing, they are potentially risking thousands of dollars.

As in the example from Pennsylvania, when the district's legal position can go essentially unchallenged in the mediation process, the process itself can be seen as an obstacle to fairness. This may be tolerable if the parties want a process that focuses only on being procedurally fair and emotionally safe. But if the parties see the process as a way to achieve a fair and just resolution of the underlying dispute, it becomes relevant to know whether this has also been achieved. So, it comes down to what the parties want from mediation and in order to know that we have to ask them.

What Do Parties Want From Special Education Mediation

In a recent research project in Pennsylvania, participants were interviewed prior to mediation and asked what they hoped to achieve in mediation. Responses (see Welsh forthcoming) from some of the school district participants include the following statements:

> I think just staying objective, making sure that everyone has their chance to speak, that we are uninterrupted, and that the decision that is reached at the end will be done just based on fact and not emotion.
>
> We are hoping that another neutral party will help the parents to problem solve.
>
> One thing has nothing to do with the mediator. It doesn't matter who would be sitting in the mediator's seat or you could put a bottle of soda there. But what will happen is that the parent will state what is on their mind and what their issues are because I really haven't heard that…why they're saying 'no.' I'm just hearing that they're…I'm sensing and getting the feeling that there is a lack of trust and the feeling that there is no help out there for their child, and from the school district. I want to hear whatever her position is, whatever her issues are…I mean a good mediator will explore all sides of something the parent and talk to them in a way that they'll feel comfortable just putting it out there and taking some risks as to what they see as a resolution, without, if they said it to us they might feel that they were committing themselves.

In response to the same question parents' responses (Welsh 2003) included:

> What I'm hoping to do is convey some of our feelings of being alienated and not understanding why certain things have been done and some of what we hope to attain for our son in the educational environment.
>
> I think after the mediator hears the facts, I think she needs to make them understand at the vo-tech that they did indeed break the law
>
> I think it's important that the mediator understand what's led to the mediation and what's currently happening…I think they can probably present my goals and my perspective of the situation without passion and the emotion that I have about it, which may make it easier for the district to understand.
>
> What I would really, really love is if they would take some responsibility for the failure of my son….

From the school district's perspective, there is a desire to be understood. There is the hope that the mediator will serve as a translator of the district's program decisions and help the parties to problem solve. From the parents' perspective there are two equally important goals: a legally fair solution to the problem and the development of positive working relationships and a sense of shared responsibility.

What do the parties say about the outcomes they reach in mediation sessions? In post-mediation interviews (Welsh 2003), neither the parents nor the district representatives saw success in terms of an abstract celebration of the child or the opportunity to share fears and frustrations. Success or failure was almost always linked to whether an agreement had been reached and how the prospects for resolving disputes in the future looked. The following response (D'Alo 2003) from a parent on what was successful and not successful in the outcomes of the mediation session is typical:

> It was successful in that we walked away with an acceptable Chapter 15 service agreement. That's why it was successful [What part wasn't successful?] I guess I was sort of hoping we'd walk away with a little more of a warm and fuzzy feeling.

Asking the same questions of school districts elicited responses (D'Alo 2003) like the following:

> The most satisfying thing about it is that I got two parents who are talking to me now, smiling, thanking me; you know it's a very different face. There's a very different face on things to what I felt maybe a month ago when I last met the parents.

The interviews of parents, whether pre- or post-mediation, did not uncover an isolated desire to talk to the mediator about their fears, frustration, and pain. What surfaces most frequently is the parents' wish that the school district understand them and realize that it needs to hear and understand them. From the school district's perspective, the representatives

interviewed looked to the mediator to help them understand the parent, narrow the issues, and problem solve. A more detailed examination of participant responses and the implications from this data is the subject of Nancy Welsh's research. From this limited data, it appears that the parties in special education disputes want a procedurally and substantively just process as well as a process that affords the emotional and relationship benefits described above.

Conclusion

How you view mediation's benefits and goals — or as some would say the "value added" — affects how you evaluate success in meeting those goals. So what is the value added to mediation in a special education context? There are, of course, many pragmatic reasons to value mediation. Parents may choose mediation for their own emotional, financial, or personal reasons. School districts may choose mediation because litigation is such an unattractive option. The time it takes to prepare witnesses, hold hearing, and coordinate class coverage are tasks that most school administrators would prefer to avoid.

For many parents, mediation may be the only formal dispute resolution process they engage in. Statistics in Pennsylvania indicate that the increasing use of mediation does not result in fewer hearings, which suggests that parties opting for mediation are not necessarily following along a continuum with respect to dispute resolution alternatives. But even with the limited data available from participant interviews, it is clear that the benefits parties are seeking are not an either–or proposition. They want to be heard, be part of a dignified process, be acknowledged, build better relationships, repair trust in each other, and resolve the problem before them in a substantively fair way. When parents reach agreements in mediation without legal representation, should we be concerned about the potential of these agreements to be substantively unfair? As long as there is little objective scrutiny of the mediator's performance or substantive knowledge, I think it is a critical concern.

Finally, Silbey and many other practitioners and scholars suggest that a skilled, spiritually oriented mediator can mitigate any imbalances of power apparent in a mediation session. As Silbey (1994: 62) observes with respect to the contentiousness of special education disputes, "In this contested ground, Patrick Davis calmed the spirits." In Pennsylvania, there was a conscious effort to identify and select mediators who had this same type of soothing presence. When the educational ground between parents and schools is contested, a calm spirit is extraordinarily helpful.

In her conclusion, Silbey points to the parallels between Davis's Catholic faith and the mediation process:

> But his Catholicism is not about the church or Catholic institutions. He is less interested in the church than in a personal spirit and a Christian for-

> mula for living. Davis seems to break everything down into smaller units, and he views those units as more important than the overall picture. It is not the institution of the church but the Christian spirit that is important, not the process of mediation but the individuals — family, school, and child — in each case. (p. 102)

The question raised is a simple one — can special education mediation be both a "spiritual," people-based process that provides procedural justice and enhances the likelihood of achieving personal and emotional goals *and* also be a routinely secular process that balances legal rights and responsibilities? I hope the answer is yes.

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