

A MESSAGE FROM YOUR PRESIDENT – JOHN FREMER



PROMOTING HIGH STANDARDS AND THE “PROBLEM” WITH CONSTRUCT VALIDATION

I had thought about using this space to say how pleased I was to be working with our Annual Meeting Program Chairs, NCME Board members, Committees, and our Executive Director, Bill Russell. If I had chosen that route I would have said that we had a very productive Board meeting in Iowa City on August 26 and 27, that next year’s program development is nicely on track, and that all our Committee Chairs were in place and underway. Also I would have noted we are very fortunate to have Bill Russell’s thoughtful guidance as we carry out our tasks.

Now that I have avoided giving such a status report, I want to turn to two issues related to standards and testing – promoting high standards and what I am coming to think of as the “Construct Validation Problem”.

Promoting High Standards

The publication of the latest edition of the Standards for Educational and Psychological Testing is a major event for the field of educational measurement. Sometimes referred to as our “Holy Book”, the Standards provide reference points for NCME members to evaluate how we develop and use measures in education.

A question I asked myself was: what can I do to help draw attention to our new standards? Writing about them in our Newsletter is one way, of course. I have also accepted invitations to speak about the Standards at the Florida Educational Research Association and at the Forum on Educational Evaluation, a gathering that will take place in Ciudad Juarez and El Paso Texas at the end of October 2000. I am also looking for other such opportunities to personally “spread the word” about our new standards and their implications for educational measurement.

I am also encouraging the work of my friend and colleague, Wayne Camara, of The College Board who has initiated a project to develop a Joint Committee on Testing Practices Casebook around the Standards. Within our NCME structure, I am trying to support my fellow Board members and others in leadership positions as they turn their fine minds to the task of communicating about the new standards and encouraging their productive use.

The Construct Validation Problem

I want also to speak about what feels like heresy regarding a central foundation stone of the new standards. We have elevated, the concept of construct validation to so high a level that it seems an “out of reach” goal. Staying with the heresy theme, I can liken it to the difference between an individual aspiring to “saintliness” (construct validation) or being a decent, caring, and productive human being (the “old-fashioned” attention to meeting specific validation criteria, such as content representativeness and predictive value in a specific setting). I will grant readily the intellectual power of the concept of developing an even more powerful validity argument, accumulating more and more evidence over time. What troubles me, though, is that developing validity arguments is only one part of creating and using tests and there are many parts that must be managed and managed well.

Where am I going with this analysis, you may be thinking? I ask you to recognize, please, that I am a measurement-trained person who occasionally teaches a unit on validity in the Samuel J. Messick building at ETS. No, I do not think the solution is to abandon the fine work that has led us to emphasize the power of developing a compelling validity argument. But I do think we need to do a much better job of showing people how to construct such arguments. My ETS colleagues, Carol Dwyer and Miles McPeck, have raised this provocative possibility. Perhaps others who see merit in exploring this line of thinking about construct validation could also join in the task. Do you agree that there is a problem with the treatment of construct validation in our new standards? Do you have ideas about what would be helpful? Please share your thoughts through our Newsletter or in other ways. Contact me on this point, for example, and help me sharpen my understanding.

I have enjoyed this chance to “talk” on this issue.

Warm regards,
John Fremer

From the Editor: The following pages of this issue of the NCME Newsletter provide a lot of information on accommodations. Unfortunately, as pointed out by one of my Advisory Board members, it also underscores the unsettled nature of this area right now. Additionally, there continues to be tension between validity and advocacy. If you’ve got something to say, let’s hear from you!

STATES' PROGRESS TOWARD TESTING LEP STUDENTS EVALUATED

Charlene Rivera and Charles W. Stansfield

The Improving America's Schools Act of 1994 (IASA) requires states to adopt a standards-based system where *all* students, including limited English proficient (LEP) students, also known as English language learners (ELLs), are expected to reach the highest standards. One important element of the standards-based system is assessment. IASA requires states to implement assessment systems by the 2000-2001 school year that allow *all* students the opportunity to demonstrate their skills and knowledge.

In order to assess progress toward meeting IASA requirements, the authors requested documents concerning policies for the testing of LEP students from all state education agencies (SEAs) in states with a state assessment program. (Iowa and Nebraska do not have state assessment programs.) The documents were analyzed for the 1998-1999 school year with the following broad questions in mind:

1. What were states' inclusion/exemption policies?
2. What were the states' accommodation policies for ELLs?
3. What were states' score reporting policies for ELL students who received an accommodated version of a state assessment?
4. What were states' alternate assessment and score reporting policies for ELL students?

Results

Inclusion Policies: Criteria and Decision-Making

Until recently, states normally exempted ELLs from inclusion in state mandated assessment programs. Since the passage of IASA in 1994, state inclusion policies have changed somewhat. The state documents analyzed for this study revealed that for the 1998-1999 school year, 47 states and the District of Columbia had policies in place that address the inclusion and/or exemption of ELLs in their state assessment program. Of these, 46 allow some opportunity for exemption, and 35 have established time limits on exemptions. The majority (21 states) set a three-year limit on exemptions. Eleven states set a two-year limit, two states allow more than three years, and one state has no time limit.

The criteria to be used in making inclusion decisions are addressed in the policies of most states (45). The greatest number of states (17) consider only one criterion. Eleven states consider two criteria, eight states consider three criteria, and the remaining eight states consider four or more criteria. Of the 17 states that focus on one criterion, 9 use a time-related criterion and the remaining states use a variety of different criteria. The criterion used by the most states (23) to make inclusion/exemption decisions is the student's English language proficiency as determined through a formal language proficiency assessment.

The individuals who should participate in the decision to include or exempt a student are identified by 39 states in their written policies. The most prevalent decision-makers are school/district official(s) (25 states),

parent(s)/guardian(s), (20 states), and a local committee composed of unspecified members (18 states). The student's classroom teacher is specified in 14 states' policies. A substantially smaller number of states specify inclusion of the student (6 states), the student's ESL/bilingual teacher (4 states), and the test administrator (4 states) in the decision-making process. It can be assumed that local committees include some of these decision-makers without naming them explicitly in state documents.

Accommodation Policies: Allowance and Prohibitions

The report also provides a national picture of state accommodation policies and a state-by-state analysis of practices regarding the allowance and prohibition of accommodations for ELLs. Accommodations are changes in the test or testing situation that address a student's special needs. The use of accommodations is intended to level the playing field for students who receive them. The special needs of ELLs are mostly linguistic in nature, due to their limited English proficiency.

States offer accommodations that can be classified into four types: 1) *presentation*, 2) *response*, 3) *setting*, and 4) *timing/scheduling*. The most prevalent accommodation types are ones that modify either the test setting or its timing/scheduling. Examples of *setting* accommodations include individual or small group administration, and administration in a separate location. *Timing/scheduling* accommodations are also popular. They include extended testing time and extra breaks. Less frequently used are accommodations that affect the presentation of the test.

Presentation accommodations include explanation, repetition, or oral reading of directions, bilingual or translated versions of the test, and administration of the test by a person familiar to the student. *Response* accommodations include allowing a student to dictate his/her answers, and allowing a student to respond in his/her native language.

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Riverside Publishing Fax: (630) 467-7126
425 Spring Lake Drive email: douglas_becker@hmco.com
Itasca, IL 60143

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While 40 states have accommodation policies for ELLs, 37 states allow accommodations, and three prohibit them. Of the 37 states that allow them, 13 prohibit at least one accommodation.

An important finding with regard to accommodations is that the more frequently allowed accommodations are those that do not address the linguistic needs of ELLs. These include *timing/scheduling* and *setting* accommodations. *Presentation* and *response* accommodations, which can address the linguistic needs of ELLs, are least the frequently allowed and the most frequently prohibited accommodations.

Accommodation Policies

Criteria and Decision-Making

Twenty-six states address the criteria for making decisions to provide accommodations to students taking state assessments. The majority of these states (21) make decisions to allow accommodations based on the student's routine classroom accommodations. Fifteen states use one criterion to determine accommodations; 13 of these 15 one-criterion states specify that the accommodations allowed should be the same accommodations routinely provided in classroom instruction. The next most popular criterion for determining the need for accommodations is formal assessment of English proficiency, which is used by six states.

The individuals who should participate in the decision to accommodate or not, and the kind of accommodations to be offered, are addressed in the policies of only 23 states. The most frequently specified decision-maker is the student's classroom teacher. Fourteen states recommend teacher participation. Twelve states recommend setting up a local committee, but without specifying the kinds of people who should make up the committee. Eleven states recommend the involvement of school/district officials and parents/guardians. The ESL/bilingual teachers and the student are mentioned explicitly in only three state policies. Of note is the low frequency with which states specify that the student and ESL/Bilingual teachers should be included in the decision-making process.

Reporting Results

Some states have specific policies on the inclusion of LEP students' scores in school, district, and state averages. These policies may also depend on the use of accommodations. Accommodations that are viewed as giving an unfair advantage may result in the student's score not being included in the reported averages.

This study found that 17 of the 37 states that allow accommodations address score reporting practices in their documents. Of these 17 states, 9 indicate that when specific accommodations are used, scores are not to be included in state, district, and/or school totals, while 8 require the scores of accommodated ELLs to be included in state, district, and school totals.

Alternate Assessments

Alternate assessments are formal tests or assessment procedures that may be used when standard assessments are inappropriate for the student due to lack of English proficiency or other matters. States policies regarding

alternate assessments vary widely. The majority (27) do not mention alternate assessments for ELLs. Of the 22 states that refer to alternate assessments in their policies, 7 states prohibit them, while the remaining 15 states allow them. Six states require that ELLs be given an alternate assessment if exempted from the regular assessment. Technical and practical issues surround the use of alternate assessments. Among the 15 states that allow alternate assessments, most are far from having a fully developed alternate assessment program.

Conclusions

The analysis of states' policies leads to the following conclusions about state assessment program policies for ELLs in the 1998-1999 school year:

1. Almost all states (48, including the District of Columbia) have inclusion policies for ELLs. Forty-six (46) states allow some form of exemption. Of these, 35 states have policies regarding exemption time limits. Most states (40) have established accommodation policies.
2. State policies generally provide minimal guidance to local districts and schools. Very little is said about the process for implementing state policies.
3. State policies vary significantly in detail and in their focus on ELL assessment needs. They are often brief, lack specificity, and do not address important aspects of ELL participation in state assessments.
4. Most states' policies do not specify that a person with professional knowledge of language learning processes, such as an ESL or bilingual education teacher, take part in the decision-making process.
5. The accommodations most frequently allowed are carried over from Special Education accommodation policies and are not specifically designed to address the linguistic needs of ELLs.
6. Accommodations like linguistic simplification and test translation, which would provide the greatest amount of language support for some ELLs, are among those least frequently allowed and most frequently prohibited.
7. Most states have not yet developed policies regarding alternate assessment measures for ELLs.

In light of the efforts to provide equitable educational opportunities for *all* students, it is apparent that state inclusion, exemption, and accommodation policies need to be more fully developed, and to be periodically reviewed and updated to reflect their increasing understanding of the subject.

Endnote: This article is a summary of a federally funded survey of state policies regarding the participation of English language learners (ELLs) in statewide assessment programs during the 1998-1999 school year. Individuals who wish to obtain a bound copy of the full report, An Analysis of State Policies for the Inclusion and Accommodation of English Language Learners in State Assessment Programs during 1998-1999, by C. Rivera, C.W. Stansfield, L. Scialdone, & M. Sharkey, should send an email to CRivera@ceee.gwu.edu. The report and the database on which it is based will be available soon in searchable format on the web at <http://www.ceee.gwu.edu/>.

ACCOMMODATIONS IN NAEP

Mary Lyn Borque

The issue of non-standardized administrations of the NAEP assessment has taken on enormous importance in recent years. With the passage of the Americans with Disabilities Act (ADA) in 1990, the 1994 Improving America's Schools Act (IASA), and the 1997 Individuals with Disabilities Education Act (IDEA), testing programs at all levels have been forced to consider the issues of inclusion and accommodations. NAEP is no exception. Prior to the 1995 NAEP field testing, all students were administered NAEP under standardized conditions, that is, there were no accommodations for students with disabilities (SD) or English language learners (ELL). However, in recent NAEP cycles, efforts have been made to be more inclusive, and to provide a menu of accommodations from which school personnel can select to match a student's needs.

This more inclusive approach was first implemented in 1996 with a partitioned sample. Each grade-level sample was partitioned into three subsamples, S1, S2, and S3. S1 used the earlier exclusion rules and a standard administration. S2 used new "inclusion" rules and a standard administration. S3 used new inclusion rules and a standard set of approved accommodations that were judged not to change the construct being measured. Data from the three subsamples were then used to evaluate the effect of changing the inclusion rules, as well as the effect of offering accommodations to both the sample selected under old exclusion rules, as well as the sample selected using new inclusion rules.

Under the old exclusion rules, ELL students *could be excluded* if the student was a native speaker of another language other than English; AND had been enrolled in an English-speaking school less than two years; AND was judged to be incapable of participating in the NAEP assessment. Under the new inclusion rules, all ELL students who have received academic instruction in English for three years or more are to be *included* in the NAEP assessment. Students with less than three years of English instruction are to be included unless judged to be incapable of participating in the assessment.

SD students *could be excluded* under the old rules if the students were mainstreamed less than 50 percent of the time in academic subjects and were judged to be incapable of participating in the assessment OR the IEP team determined that the students could not meaningfully participate. Under the new rules, all students with IEPs are to be *included* in the NAEP assessment unless the IEP states otherwise; OR the student's cognitive functioning is so severely impaired as to preclude participation; OR the student's IEP requires a testing accommodation that NAEP does not allow, and the student can not demonstrate his or her knowledge without such an accommodation.

The kinds of accommodations offered in NAEP are of three general types: those that impact the language of the assessment; those that impact the administration of the assessment; and those that impact the mode of students' responses to the assessment. Language accommodations include bilingual booklets (available in math only), bilingual dictionaries (word equivalents only) in all subjects, Braille

(in some subjects/grades), and reading words or phrases aloud (in all subjects except reading). The administrative accommodations include such things as extended time (not to exceed three times the standard time) and may include frequent breaks and/or multiple sessions, one-on-one testing, small group administration, and format or equipment accommodations such as signing, amplification or magnification devices provided by the school. Modes of response accommodations include the use of a scribe or a computer to record answers. Many of these allowable accommodations are used in conjunction with one another. For example, it is assumed that students whose IEP requires one-on-one testing will also require extended time, reading questions and/or directions aloud by the examiner, and perhaps assistance in recording answers.

The NAEP data from 1996 and 1998 show that changing from a philosophy of *exclusion* to one of *inclusion* had little or no impact on student performance. The average performance for S1 and S2 under a standardized administration was not significantly different. However, the differences between the non-accommodated S2 sample and the accommodated S3 sample are more difficult to judge. Since 1996 NAEP has continued to use the non-accommodated sample as the official reporting sample for the *Nation's Report Card*. It will continue to do so through 2001 when world geography and US history are assessed for only the second time in seven years, in order to protect the short-term trend results in these subjects. However, by 2002 NAEP hopes to be able to use the accommodated samples for that and all future reports.

There are major technical and political hurdles to overcome before this goal can be reached, however. Because the states are aggressively trying to meet the new requirements of the law, many have introduced accommodations that may be more of a modification to the test than would be allowed by NAEP. These modifications are incorporated into IEPs and then become the source of judgment about whether or not a student should be included or excluded. Consequently, in 1998, there were a number of states where the percentage of exclusions soared – even though NAEP was trying to be more inclusive. An investigation led to the findings that some states, for example, allow the state reading test to be read aloud to students. NAEP does not allow this accommodation in reading, judging this to be a modification directly related to the construct being measured. In those subjects where the accommodation is unrelated to the construct being measured reading aloud is offered.

Similarly, IEP teams are becoming more sophisticated in writing IEPs for students that cover many in-school situations like state and local testing. However, the IEP is what typically drives a decision for a student on NAEP. The school staff will normally follow the IEP in most cases. If the IEP dictates either no testing or testing only if a specific accommodation/modification is allowed, that can exclude a student from NAEP. Local staff makes the decision not NAEP staff.

Further, there appears to be an uneven application of 'rules' to determine who is included and excluded in NAEP. In other words, since these types of decisions are made at the local level, different states may be using different criteria for

deciding who to include and who to exclude. This results in non-random differences in the tested population, making cross-state comparisons very tenuous. Anecdotal evidence even suggests that there may be inappropriate uses of NAEP accommodations in some instances, for example, providing extended time for the whole assessment group rather than solely to those students who need it.

These complications, coupled with items that behave differently when administered to different groups, have given NAEP cause to pursue a vigorous research agenda in this area. For 2000 and 2001 NAEP will continue to examine the effect of accommodations by comparing performance of students in the S2 and S3 samples. NAEP will also continue to monitor exclusion rates among the states.

Finally, NAEP is conducting research on *total population reporting*, that is, reporting NAEP achievement for all students, *including the excluded students*. There are two proposals currently being studied. This research will investigate impact, technical issues, and alternative support structures (e.g., using a national model for state NAEP administrations), that may move NAEP closer to an all-inclusive assessment.

TESTING ACCOMMODATIONS ON COLLEGE BOARD TESTS

Cathy LW Wendler and June Zumoff
Educational Testing Service

The College Board and Educational Testing Service have been committed to providing testing accommodations for students with documented disabilities for many decades. For example, the SAT Program began providing testing accommodations as early as 1939. The underlying philosophy is to provide, for all eligible test takers, accommodations appropriate to their disabilities.

Eligibility and Documentation

To be eligible for testing accommodations, students must: (1) have a disability that necessitates testing accommodations, (2) have documentation on file at school that supports the need for the requested accommodations and meets prescribed guidelines (see list below), and (3) receive the requested accommodations, due to the disability, for school-based tests. If a student does not meet all of these requirements, an appeal process is available. Students who meet these requirements submit one Student Eligibility Form through the College Board Students with Disabilities (SSD) Program to request testing accommodations for all the high-school level College Board tests: PSAT/NMSQT™, SAT®, and Advanced Placement®. Once approved, students continue to receive the same testing accommodations on all tests as long as they remain in their school or unless the school indicates that the accommodations have changed.

The existence of an IEP, 504 Plan, other plan, or professional evaluation does not guarantee that a student is eligible to receive testing accommodations. Documentation that supports the need for testing accommodations must:

- State the specific disability
- Be current – usually within three years of the request for accommodations

- Provide relevant educational, developmental, and medical history
- Describe the comprehensive testing and techniques used to arrive at the diagnosis
- Describe the functional limitations supported by the test results
- Describe the specific accommodations requested
- Establish the professional credentials of the evaluator

Accommodations. Students may request all accommodations appropriate to their disability. This may include, but is not limited to, the use of a nonstandard test format, a reader to dictate test questions, a writer or computer to record answers, and/or extended testing time. Nonstandard accommodations typically available include: 14 pt photo-enlarged; larger print; Braille; cassette; reader; writer; and, computer for writing. However, students may only request an accommodation if that accommodation is used for classroom tests and is specifically supported in their documentation. It is also important to note that students can not receive accommodations on College Board tests just because they may have been given accommodations by individual teachers on an informal basis. Accommodations will only be provided when there is a formal accommodation plan in place at the school that is supported by documentation meeting the prescribed guidelines.

College Board tests are timed tests and while a specific amount of extended time may be appropriate for a student with a particular disability, “untimed” or “unlimited” testing time is not considered appropriate for these tests. When determining how much additional time is appropriate for an individual test taker, the following should be considered:

- Most students with disabilities who use regular or large type test formats can be accommodated with 50% additional time; those using a Braille or cassette format, or a reader, can usually be accommodated with 100% additional time.
- Extended time accommodations are not intended to guarantee that students have an opportunity to reach all questions on the test, just as students without disabilities have no guarantee of completing the test.
- The student’s IEP, 504 Plan, or other planning team, along with the documentation and teacher observations, should determine how much additional time is appropriate as a result of the disability.

Scores. Currently, score reports for students who take tests from the PSAT/NMSQT, SAT, and AP Programs with testing accommodations that include additional time are marked “Nonstandard Administration.” This informs score users that the tests were taken under nonstandard conditions, without telling the user the reason why the accommodation was required or the nature of the disability. The usual caution that test scores should be considered as only one criteria in the determination of a student’s academic potential is especially applicable when interpreting scores of students with disabilities.

Only those accommodations that have been approved by the College Board Services for Students with Disabilities may be

used. Scores may be canceled if it is discovered that a test taker received inappropriate or unapproved accommodations.

Certain testing arrangements may be provided that do not result in the “Nonstandard Administration” indicator. Examples include students who need a large type or large block answer sheet; use a sign language interpreter for oral test directions; have a medical condition that necessitates snacks or medication during testing; etc. Other adjustments may be approved that allow the student to test within standard timed conditions; in these cases, the “Nonstandard Administration” indicator is not used.

The College Board and Educational Testing Service continue to strongly believe in providing the appropriate testing environment for all test takers, including those with disabilities. As a result, a variety of test formats and other testing accommodations are made available to eligible students. Recent efforts have led to streamlining the process for requesting eligibility to receive testing accommodations. These efforts also help ensure that the process is fair and equitable to students who require such testing accommodations.

Cathy Wendler is the Executive Director for the Statistical Analysis group responsible for College Board Tests, Educational Testing Service. June Zumoff is a Director in the Assessment and Research group of Admissions & Guidance Programs. Formerly, she was Director of SAT and PSAT/NMSQT Services for Students with Disabilities, Educational Testing Service.

ADA AND CBT

Betty Bergstrom – CAT, Inc.

Many of the ADA issues that surface with pencil and paper tests are also applicable to computer-based tests (CBT). Issues specific to CBT generally relate to one of three areas: 1) physical attributes of the testing space, 2) hardware, and 3) software.

Centers that deliver computer-based tests must adhere to ADA guidelines with regard to size, configuration and mobility guidelines for the testing room and furniture. This includes adequate space for wheelchair mobility and accessibility for hearing- and sight- impaired test-takers. Seating must accommodate people in wheelchairs so table height and knee clearance must be adjustable and meet ADA requirements. Desk chairs should be adjustable. Requests for special lighting may be received.

Hardware accommodations may include adjustable monitors and keyboards, large monitors for visually impaired test-takers and special peripherals such as trackball, special mouse and keyboard.

Accommodations that relate to time extensions and additional or extended breaks are software enabled. For example, in order for a test taker to receive additional time, CBT registration and scheduling software must allow test sponsors to accommodate individual test duration requests. When requests for extended breaks or additional breaks are received, test administration software must be programmed to allow these accommodations.

The future holds much promise in the area of ADA accommodations for CBT. While not yet widely enabled for testing, “assistive” technology already makes computers accessible for people with disabilities. Some computer aids

include: screen enlargers or screen magnifiers; screen reviewers including synthesized speech; on-screen keyboards that let people select keys with a pointing device; keyboard enhancement utilities and typing aids; and voice input aids including speech recognition programs. As these technologies become more widely available, they may become part of “reasonable” accommodations for CBT test-takers with disabilities.

Visit the following website for additional information: (<http://www.microsoft.com/enable/microsoft/technology.htm>)

LEGAL UPDATE

APPEAL IN FALVO CASE SUCCESSFUL

Stephen J. Friedman—University of Wisconsin-Whitewater

In past issues of this newsletter (Volume 7, Numbers 1,2, and 3), a lawsuit brought against the Owasso (OK) Public Schools by Kristja J. Falvo on behalf of her three children was discussed. She questioned the long-standing, district-supported practices of some teachers whereby students score each other’s papers in class and then announce their scores aloud as the teacher records them. Her case rested primarily on the claim that these practices violate the *Family Educational Rights and Privacy Act* (FERPA) and the 14th Amendment. In April, 1999, United States District Judge Terry C. Kern ruled in favor of the Owasso Public Schools. An appeal was filed in the Tenth Circuit Court of Appeals in Denver. On July 31, 2000, the circuit court overruled the district court saying that these practices are a violation of FERPA.

A letter written in 1993 by LeRoy S. Rooker, Director of the Family Policy Compliance Office (FPCO) at the United States Department of Education was introduced as evidence when the case was heard by the district court; in 1999, he made a sworn declaration for the defense affirming that the letter stated the current position of the FPCO regarding this grading practice. Rooker’s argument that papers being graded by other students fall outside of FERPA because they are not being maintained by an educational agency or institution was influential. Regarding the claim that 14th Amendment rights were violated, Judge Kern followed a three-part test that has been applied in similar cases. The first part of the test focuses on the fact that there is an expectation of privacy; Kern ruled that the case did not pass this test. He did not view the assessment data in this case as “highly personal” matters worthy of constitutional protection.

In his brief to the circuit court, Wright (2000), attorney for Falvo, raised the concern that this ruling “would lead to the unthinkable consequence of allowing college professors require their students call out their grades. Under the district court interpretation this is permissible. Thus, law school professors may require their students to publicly announce their test grades, but not post them on the wall. It is self-evident that such a result would have the consequence of everyone knowing each others’ final grade since the exam is most typically the students’ course grade. . . . How can the court draw a line in the sand by finding that interim test grade information is not subject to protection? Shall the court monitor which teachers give ten tests as opposed to those that only give one as the final course grade?” (pp. 22-23)

He argued that Falvo can expect privacy in grading under FERPA. "The U.S. Department of Education concurs that once the student calls out the grade and it is received by the teacher a legal duty exists not to publicly disclose the information. However, the District Court would allow students call out their test grades. Yet this begs the question: how can the law allow the teacher to publicly disclose the test grade, if upon *receipt* of the audible grade information, the teacher is under a legal duty not to disclose the information? Falvo maintains that since a legal duty exists to protect the grade information, the teacher cannot require the student to announce that which is protected." (pp. 4-5)

The three justices who heard the case were evidently persuaded. Writing on behalf of the justices, Murphy (2000) wrote:

The grade the correcting student places on the paper is also "maintained," because that student is preserving the grade until the time it is reported to the teachers for further use. In sum, the grades which students mark at the teacher's direction, on each other's homework and test papers later report to the teacher are "maintained . . . by a person acting for [an educational] agency or institution" [quoted from FERPA].

This interpretation of FERPA is consistent with Congress' intent to protect from disclosure grades in a teacher's grade book. . . . This court therefore concludes that the district court erred when it resolved that the grading practice did not offend FERPA because the grades at issue did not constitute "education records" protected by that statute. (pp. 24-25)

The opinion also indicated that because the Rooker letter and declaration ". . . lack sufficient reasoning, fail to account for the breadth of FERPA's language, and indicate the FPCO's somewhat cursory and purely hypothetical consideration of the issue before this court, the interpretation of FERPA offered in those documents is not persuasive." (p. 22) However, the district court ruling that there was no violation of 14th amendment rights was affirmed. The decision can be appealed.

References

- Murphy, M. (2000). *United States Court of Appeals for the Tenth Circuit—Falvo v. Owasso Independent School District*, No. 99-5130.
- Wright, W.K. (2000). *Appellant's opening brief to United States Court of Appeals for the Tenth Circuit—Falvo v. Owasso Independent School District*, D.C. No.—98-C-765-K.

AN APPEAL FOR HELP

Irv Lehman

A few years back, the Committee of Past-Presidents felt that it would be nice to have a history of NCME and asked if I would undertake the role of acting as chairperson of such a committee. However, in order to be a chairperson, one needs a committee. Accordingly, I am asking the membership as a whole, to be this committee. Please don't become frightened thinking that you will be asked to commit yourself to some time-consuming task and will stop reading what I ask of you.

What is lacking is primary source materials such as copies of our earlier YEARBOOKS, Measurement News, Programs of our Annual Meeting, Financial Statements, Committee Reports, and anything else you feel might be of value to a historiographer or archivist (neither of which is in my bag of skills). I understand that some of you might be accused by your spouses or significant others as being packrats, and I hope that there are many packrats around. So, if you or someone else wishes to clean up your office, basement, or attic, here's your chance. I would welcome receiving them. And for those of you who have a sentimental attachment to these materials, I will be happy to return them if you so request me to do so.

Also, if any of you have some recollection/anecdote/memory that you would like to share with the membership—for example, those of you who have attended the Annual Breakfast, you will recall that when the Financial Statement was presented, the late Bill Coffman *always* raised a question about the report—please drop me a note.

Again, I thank you in advance for providing me with the information needed to prepare a history of our illustrious organization. You would be surprised to learn that NCME, Inc., when founded in 1938 was called the National Association of Teachers of Educational Measurements which then became the National Council on Measurements *Used* in Education, and finally, the National Council on Measurement in Education. Please contact me at:

Irvin J. Lehmann
College of Education
458 Erickson Hall
Michigan State University
East Lansing, MI 48824
FAX: (517) 353-6393
e-mail: lehmann @ pilot.msu.edu

APPLIED PSYCHOLOGICAL MEASUREMENT INC. ANNOUNCES A PROGRAM OF GRANTS FOR GRADUATE STUDENTS IN PSYCHOLOGICAL AND EDUCATIONAL MEASUREMENT PROGRAMS

Grants of up to \$750 are available to support costs of psychological and educational measurement research that is part of the graduate student's training. Priority will be given to grants that will be used for

- Purchase of computer software
- Purchase of computer hardware
- Purchase of specialized books
- Other research expenses

The program may also fund travel to meetings/conventions to deliver an accepted paper.

Applicant must be currently registered in a Ph.D. or M.A. program with a concentration in psychological or educational measurement at an accredited university. Applications will be accepted from applicants worldwide. Priority will be given to requests that include matching funds from the applicant's university. Awards are made quarterly based on applications received in a calendar quarter. For complete information and an application contact: djweiss@tc.umn.edu.

**ASSESSMENT TRAINING INSTITUTE FOUNDATION,
INC. ANNOUNCES DISSERTATION RESEARCH GRANTS**

The Assessment Training Institute of Portland, Oregon, has created the ATI Foundation* to fulfill a two-part mission. One purpose is to recognize teachers for excellence in classroom assessment. We do this through our "Teachers' Classroom Assessment Recognition Programs" across the country. The second part of the foundation's mission is to support research on classroom assessment. To encourage ongoing exploration of the unique and critically important challenges of the classroom assessment process, we have created our "Dissertation Research Grant Program."

The purpose of this announcement is to solicit research grant applications from graduate students interested in studying the processes and impacts of classroom assessment. Specifically, we offer small grants to doctoral students who wish to complete dissertations that intend to:

- Help us more clearly and completely understand the complex day-to-day classroom assessment, evaluation and communication challenges faced by teachers,
- View the assessment process through the students' eyes, helping us understand how students at differing levels of academic success make meaning of the process of being evaluated and use of the information they receive,
- Assist faculties of education in designing productive undergraduate or graduate assessment training programs for teachers or administrators, or

- Provide insight into the effective use of student-involved classroom assessment, record keeping and communication as a means to greater student motivation and achievement.

Grants are limited to \$1000, with funds to be used to cover the costs of data collection, analysis and reporting only. The proposal submission process is simple and straightforward. Each proposal is evaluated on its merits when it is received. There are no deadlines for submission. The evaluation is conducted by independent reviewers, who apply explicit selection criteria. For details, contact:

Rick Stiggins
Assessment Training Institute Foundation
50 SW 2nd Ave., Suite 300
Portland OR 97204
800-480-3060
ati@assessmentinst.com

**The Assessment Training Institute Foundation is a private nonprofit corporation chartered under Section 503-c of the Internal Revenue Code*

The NCME Board is pleased to announce the following slate of candidates for the 2001 elections:

Vice President

Linda Crocker & Anne Fitzpatrick

Board Member: Federal/State

Gerald DeMauro & Sharif Shakrani

Board Member/at Large

Mark Reckase & Jeffrey Smith