Why did the Texas mom and the special education teachers face such resistance? The answer's simple, though not satisfying. Schools (and related federal government agencies) are looking for ways to reduce special education's rolls. Why the pressing need to make it harder for kids to get services? Remember what the special education director said in the previous chapter? "Special education is often the only available program for students needing some kind of classroom help." Then she added, "Any student who does not meet [eligibility] criteria is illegally placed and when we are monitored, we will have to payback any funds collected for an ineligible student. We can't afford to do this."

"Q": Why is special education the only hand at the player's table? There are other seats available, one clearly reserved for regular education. "A": The answer might surprise you. Since the 1970s, regular education has been granted tacit permission to excuse its perennially underperforming classroom from any culpability when it comes to a child's weak scholastic achievement. That's sort of like excusing the US Congress for writing an indecipherable tax code that appears to have intentionally been written in Greek. Any other business (or institution) with the same record would have folded under its own futility.

Quickly, we shouldn't fault regular education entirely for its lack of effort to either monitor or improve its unwieldy system. After all, the field is simply taking full advantage of the gift that was bestowed. Make no mistake: we brought much of the current educational morass on ourselves when we resolved that a youngster's inability to succeed with his curriculum was due to his "organic" problem. That choice pleased many a vanquished teacher, and made lots of neurologists rich and happy. The expedient decision has been haunting us for years.

> A small, rural school close to my office has seventy-six third graders, divided among three classes. Twenty-four of the third-grade children have been referred and found eligible for special education services, either for learning disabilities or speech and language difficulties, the latter used in place of learning disabilities to obtain special education assistance with reading and writing assignments.
>
> During the second week of the school year, one of the third grade teachers announced she intended to refer ten additional students from her class for special education evaluation. The teacher reported the children were not prepared

In 1970, a task force studying students from the Boston school area "found over ten thousand students excluded from public school classrooms because they didn't match school standards for the normal student."[4] Later in the decade, it was estimated that well over a million school-age children were refused access to public schools and another 3.5 million children received little to no effective instruction simply because "they were different in some way."[5,6] One state supreme court justified excluding a young boy with cerebral palsy because he "produce[d] a depressing and nauseating effect upon the teachers and school children."[7] Many states had laws that explicitly excluded children with certain types of disabilities, including children who were labeled "emotionally disturbed" or "mentally retarded."[8] Markedly different children mostly found themselves isolated in institutions, secluded in basements of churches, or left to remain in their homes rather than seated inside public schools with qualified teachers at the tiller. The public schools' endearing message: Those kids and their parents would have to find their own educational facilities.

In the 70s, at my younger children's elementary school, I recall how school officials debated enrolling a wheelchair-bound child, the youngster eight or nine years of age, a victim of a recent horrendous automobile accident where he was propelled through the windshield of his mother's car when a drunk driver ran a red light. How would the children respond to such a sad sight? That was the question raised by troubled administration. Were they doing the other children a disservice by exposing them to this different child? Would the children be so taken aback that they'd ignore the youngster altogether? Not surprisingly, the school children instantly welcomed the boy as one of their own, several hoping to catch a ride in his big-wheel chariot.

Some of those different kids *did* attend public schools in the 1960s and 1970s. They had the good fortune to carry on their person a favored passport that allowed unchallenged passage beyond the school building's front door. Their good fortune? They didn't flail insubordinate arms, or sit with dangling, lifeless legs, or gaze with moon faces, half-closed eyes, and drooling mouths. In other words, they appeared like all the other pleasant-looking children.

Most of the fortunate children were cordial and cooperative, and their days in the school room passed with little additional teacher attention needed or offered. That is until they faced the instructor's preplanned curriculum and accompanying exams with questions and exercises that were

congress,] 142nd bill) was signed into law by the then president, Gerald Ford, federal costs required to assist the children newly designated as exceptional was accepted as necessary and politically correct. The federal government's spokesperson let it be known that "[c]ost was not an issue. The social value of ideals outweighed funding considerations."[18] That philanthropic attitude was about to change abruptly. A disability that had not officially existed before 1963 soon became a major presence.

(FYI: To know how often an event occurs, the one who keeps count must know what s/he's counting? You can, for example, visit zoos and count the number of aardvarks basking in the sun. The creature's been photographed, which helps if you've never seen an aardvark. That special education had yet to develop a means to confirm or deny the presence of the new disability, much less take its picture, didn't dissuade the federal government from compiling its figures.)

The following federal government's compiled LD numbers are only guesstimates. The actual numbers are unknown and will always remain so. The reasons in part being that

> [t]he federal government … failed to provide the professional special education community a satisfactory method to either confirm or deny the presence of the new disability. Outspoken others were more pointed. Writing in the 1973 Journal of Learning Disabilities, they doubted that a "technically sound solution to the problem of LD identification even existed."[20]

In 1968, 120,000 children were *designated* learning disabled. In 1977, the number increased to 796,000. In 2003, the number neared 3 million.[21]

(**FYI A**: Currently, it is estimated that there are 2.4 million American public school students (approximately 5% of the total public school enrollment) officially identified as learning disabled. This reduction in frequency counts might be better understood when considering the increased numbers of students who have qualified for special education assistance under the rubric of speech and language disorders and/or autism. The phenomenon is known as "diagnostic substitution" where children, no longer found eligible to receive special education services under other diagnostic categories—specifically speech impairment and learning disabilities—are now being served under the autism spectrum

Directed by a departmental professor, I'd often drive into the Arizona desert to a Native American school where I'd administer the test the professor had scheduled. It was mid-spring day, the temps already in the low 90s, the desert in full bloom. The test I used with the school youngster included a section where the boy needed to look at a standardized picture (shown to every child of a similar age) to see if there was something out of tune—like a car with two round and two square wheels. If a child correctly identified the picture's oddity, he'd earn points toward his IQ, a factor that would influence his possible special education eligibility. The picture in question was a black-and-white depiction of a snowy landscape where portions of tree trunks were buried. Though the boy examined the picture's every square millimeter, he failed to see the subtle error. (I had shown the same picture to several advanced college students. *Not one* found the missing component. Does the word "absurd" fit the test picture?) Unable to solve the puzzle in the allotted time, the delightful boy failed to gain points toward his total IQ score. Unfortunately, every point mattered. The higher the score, the greater the chances he'd be eligible for resource help, which would have served him well.

It wasn't until I drove away, traversing the sunbaked desert with its scruffy bushes, its cacti, and long-tailed lizards, that the obvious struck me, perhaps suggesting something about my limited intelligence. My young Native American friend, born and raised on the remote reservation, may never have seen snow in any degree of abundance—a prerequisite to answering the picture-question correctly. I realized how easy it would have been to influence this boy's IQ score simply by talking to him, showing him magazines, taking him to movies, walking with him through a beautiful field of deep snow where he'd see covered trees and buried rocks. He'd have answered that picture-question correctly, or at least have had a better shot at it. The troubling issue was not the one point he missed on that one question. The troubling issue was the principle of that one point. How many other points had he forfeited for lack of experience—not for lack of smarts. If memory serves me, that was the last IQ test I ever administered.

> Error and inaccuracies inherent in the test itself play a major role in final tallies and recommendations.[64]

I always began my university lectures on IQ testing with an interactive discussion on how a child's experience affects his or her IQ test scores. It

s/he was part of the problem, s/he'd have conferenced with the principal or colleagues to gain instructional suggestions.

Worst of all, the struggling child, after weeks of curriculum suffocation, might be found ineligible for extra assistance, sentencing the youngster to months with the ill-prepared teacher, producing an outcome that benefits no one. Emeritus educator and psychologist Joe Torgesen gave notice:

> The IQ-discrepancy criterion is potentially harmful to students as it results in delaying intervention until the student's achievement is sufficiently low that the discrepancy is achieved. For most students, identification … occurs at an age when the academic problems are difficult to remediate with the most intense remediation efforts.[77]

MTSS's primary goal is the prevention and remediation of academic and behavioral difficulties through effective classroom instruction that involves close cooperation between general education and special education.[78] Again, when properly employed, MTSS uses a student's responses to interventions as a basis for determining instructional needs.[79] That means that it determines and modifies its strategies by monitoring their effectiveness on student performance. That's the essence of self-regulation where an educator maintains responsibility for his or her own actions rather than assigning fault for underachievement to a child's faulty brain or the categorical designation "learning disability." In my judgment, correctly administered MTSS has much going for it. With one damning exception.

Pointedly, RtI/MTSS has been hijacked. Once again, special education's federal monitors have genuflected to the medical model and its proposition that a child's persistent classroom underachievement is a function of some error *within* the youngster, thus relieving itself and general education of any responsibility. It's the (expletive deleted) LD game again.

> A secondary goal of the RTI models is the provision of useful data that contributes to referral and decision making about students with LDs.[80]

Ugh! Pray tell how so? Here's how so:

> People are identified as LD when they demonstrate low achievement and intractability to *appropriate instruction*.[81,82] "If a child responds poorly to instruction that benefits most students, then this eliminates instructional

Adjectives such as "learning disabled" used to *describe* the children gathered around the flag pole add a quality to a conversation. A "learning disabled" child implies more than the single word "child." Likewise, a "sad" face describes more than just a face. The descriptive terms "sad" and "learning disabled" are known as constructs. Constructs are convenient shorthand terms that make conversation easier but rarely specific enough to convey much useful information.

Constructs, however, are not directly observable. They represent what is observable. We don't see "sad." Instead, we might see a person cry and bury his face in his hands. Based on our own experience with what we've observed, we might assume the individual is feeling sad. There's a problem with that assumption, of course. Happy people, given a set of circumstances, cry and drop their face in their hands. That tells us that constructs do not lend themselves to precise measurement, a problem inherent in the shorthand construct "learning disabled."

Consider the adjective "cold." It, too, is a construct. By itself it speaks only in generalities. Consider describing outside as "cold" without the benefit of useful backup information, like providing the added "30 degrees Fahrenheit" taken from an outdoor thermometer. The numerical temperature reading lets a listener decide if cold is cold enough to stay hunkered down under goose-feather covers, or don a sweater for 9 holes of golf. "Cold" at least is no problem. We can stick our nose outside and define it for ourselves. Some constructs, however, require more thought.

Recently, I learned of an acquaintance whose daughter had been diagnosed with cerebral palsy. Cerebral palsy is a construct with its own acronym, CP. CP represents the neuromuscular disability's sizable web of symptoms. An individual with CP may exhibit markers so subtle that if you met the person, you'd not notice anything of consequence. Only a trained eye might observe the slight right-leg limp, or the stiffness of the right hand's fingers.

Conversely, CP can be so thoroughly involving that an individual is confined to a wheelchair with insufficient control of muscles needed to speak or exhibit mastery over any limbs. If I were to provide you only the adjective-phrase "a CP child," would you know the individual child's skill sets?

Box 3.1 Pneumonia

Symptoms
104 fever. Sweating and shivering. Aching. Weak. Thick wet cough.

Your cousin searched WebMD to learn what walloped her. She entered her symptoms, answered several questions, and learned from a virtual physician that she likely *has* pneumonia and that's the *cause* of her woes. Though the advice sounds right, the virtual doc's answer is *wrong*, the point significant as we consider *all* educationally framed disabilities.

WebMD's virtual docs are confident that typical visitors don't hold degrees in respiratory infections or internal medicine. They, therefore, select their words carefully. In your cousin's case, they chose the familiar term "pneumonia" when your cousin described her ills. I'll insert pneumonia under our boxes dual "cause/has" column (Box 3.2).

Box 3.2 Pneumonia

Cause/Has	*Symptoms*
Pneumonia	Fever. Sweating and Shivering. Aching. Weak. Thick wet cough. Yuk

Here's the rub.

- **First**, pneumonia is *not* the cause of your cousin's symptoms.
- **Second**, pneumonia is *not* something to have.
- **Third**, "pneumonia" *is* merely an accessible, useful, shorthand term, what we've called a "construct," a word that makes conversation easier, though invariably void of details.
- **Fourth**, the cause(s) of your cousin's symptoms remains (temporarily) unknown, hence the added question mark under the "cause" column in the following box. While the symptoms have remained the same, I've repositioned "pneumonia" where it belongs—under the important new heading that I've named "convenient construct" (Box 3.3).

Box 3.3 Pneumonia

Cause	*Convenient Construct*	*Symptoms*
?	Pneumonia	Fever. Sweating and Shivering. Aching. Weak. Thick wet cough. Yuk

- **Fifth**, medical doctors *don't* treat pneumonia. That's a critical point. Medical docs treat the fever, the cough, the yuk—*and* what's thought to be at the root of the fever, the cough, and the yuk. Think about that last statement. Medical docs treat the symptoms *and* what's *contributing* to those symptoms. "Contributing" is the essential word, particularly when we look at learning disabilities. In pneumonia's case, *those* contributors happen to be tiny critters that have invaded your cousin's body, critters that are measurable[100] and thus verifiable *or* refutable, both possible outcomes essential components of the scientific model.

What does your cousin have? She has either a bacterial or viral infection known by the very rude, cumbersome names *Pneumocystis jiroveci, streptococcus*, Group B, *Mycoplasma pneumoniae*. Your cousin's doctor treats the symptoms and the wriggly, strangely named bugs that have produced the respiratory infection and the rest of her ills. "Pneumonia" is merely *window dressing*, that earlier mentioned shorthand construct, a word that has no role in any technical discussion. Look closely. Our corrected box reads as follows (Box 3.4).

Box 3.4 Pneumonia

Cause	*Convenient Construct*	*Symptoms*	*Intervention*
Pneumocystis jiroveci, Mycoplasma pneumoniae	Pneumonia	Fever. Sweating and Shivering. Aching. Weak. Cough. Yuk	Multiple

But the box needs one more adjustment. Once your cousin begins treatment (if not before), the approachable term "pneumonia" is no longer needed. Initially, it was used for your cousin's benefit, and for the benefit of

(•• Notice I've replaced "symptoms" with the term "behaviors," what the child is observed to do in the classroom. "Symptoms" is a medical term that with scarce exception doesn't belong in any discussion regarding a child's classroom achievement or underachievement.)

Next, we'll consider the suggestion that an LD is responsible for your child's achievement woes. Again, it has been stated that "[a] learning disability [LD] can *cause* a person to have trouble learning and using certain skills" (Box 3.7).[101]

Box 3.7 Learning disabilities

Cause/Has••	*Convenient Construct*	*Behaviors*	*Intervention*
Learning Disability		Underachievement	

Asserting LD as the "cause" for your child's underachievement is *not* a valid claim for several reasons. Foremost, Sam Kirk did not intend his term to be used in that manner. He spoke of an LD as a short-hand construct that he used to *describe* children, not a condition of fact that could *cause* or explain an outcome. Any of us can play with words to satisfy our personal whims, but the meaning of the term "learning disability" as Sam Kirk intended, remains. Further, even as a descriptive construct, "learning disability" is neither measurable nor diagnosable. We don't see a learning disability, and we have no educational litmus test that can accurately verify or deny its presence or absence. Accordingly, I've moved "learning disability" from "Cause" and inserted it under "Convenient Construct" where it accurately serves as Sam Kirk's umbrella term. "Cause" as it pertains to the child's underachievement, remains unknown (Box 3.8).

Box 3.8 Learning disabilities

Cause	*Convenient Construct*	*Behaviors*	*Intervention*
?	Learning Disability	Underachievement	?