

# Pitfalls and Potential of Adversary Evaluation

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*An approach in which pro and con evaluators intentionally present conflicting positions has merit—if circumstances are appropriate.*

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During the past few years, a new approach to education evaluation—the so-called adversary or judicial approach—has received considerable publicity. Proponents of adversary evaluation claim advantages for using a process similar to a jury trial in judging the worth of educational programs. Others argue that the adversary approach is inappropriate in education. We believe the method is potentially valuable but will offer some cautions to those considering its use.

## Origins

Over a decade ago, Guba (1965) suggested that educational evaluation might use aspects of the legal paradigm. Five years later, the first real adversary evaluation in education was conducted (Owens, 1971). Following some thoughtful conceptual work on this new method (Owens, 1971; Wolf, 1973), several evaluations were conducted which could be judged truly adversarial in nature (for example, Hiscox and Owens, 1975; Wolf, 1975; Stenzel, 1976; Levine, 1976; and Northwest Regional Educational Laboratory, 1977). These studies have used widely divergent styles, and reactions to them have been mixed. Much more thought and experience is necessary before it will be clear whether the adversary method has the potential claimed by its proponents.

## Our Position

Until fairly recently, we would have been classified as skeptics about the utility of adversary evaluation. Examining the sparse literature in this area and observing some of the evaluation "trials" referred to above had left us unconvinced. Then we both became involved in a large scale adversary evaluation, one as a member of an adversary evaluation team and the

other as co-director of the overall study and arbiter of disputes and negotiations between the teams.<sup>1</sup>

Through participating in this study and observing its aftermath—enthusiastic acceptance by decision makers—we regard the approach more favorably. Although we still have reservations and cautions, we are convinced that the basic concept has real merit, if it is applied with prudence and judgment to those situations for which it is appropriate and advantageous. There is clearly great potential in the adversary approach for making evaluation findings more meaningful to educational decision makers.

This does not mean that we accept without reservation all the claims made by proponents (for example, Wolf, 1975; Wright and Sachse, 1977). We are frankly fearful that overzealous supporters may fail to be sufficiently introspective to find and correct critical flaws in the concept. We are equally fearful that preoccupation with the paraphernalia of the adversary model could cause evaluators to overlook the benefits and problems that can result from its use.

Six issues are central to the future of adversary evaluation in education.

### 1. *Is There a Clearly Delineated Model of Adversary Evaluation That Evaluators or Decision Makers Can Apply?*

One of us has argued elsewhere (Worthen, 1977) that the term *models* is a misnomer when applied to current conceptualizations about educational evaluation. This argument, which will not be repeated here, is not intended to denigrate the largely helpful suggestions which arise in the evaluation literature, but

<sup>1</sup> This evaluation, which serves as the basis for much of the experience reported in this paper, is the Northwest Regional Educational Laboratory (NWREL) evaluation of the Hawaii "3 on 2" (three teachers for two classrooms) Program, a large, controversial statewide team teaching program in the primary grades (NWREL, 1977). This study, which won five awards in the American Educational Research Association's 1978 competition for best evaluation study, will hereafter be referred to as the 3 on 2 evaluation.

only to correctly describe them for what they are and are not. In no instance is the term *model* less appropriate than in the case of the so-called adversary model of evaluation. None of the criteria for models stated by philosophers of science is met; adversary evaluation offers no unified framework or coherent set of principles. It is only a rubric under which to describe a collection of divergent practices which might loosely be referred to as adversarial in nature. In its broad sense the term refers to all evaluations in which there is planned opposition in the points of view of different evaluators or evaluation teams—a *planned effort* to generate *opposing* points of view *within* the overall evaluation.

As Owens and Hiscox's (1977) descriptions make abundantly clear, none of the adversary evaluations conducted so far (or their basic procedures) are sufficiently well developed to set a standard for future efforts or to serve as a model of even the specific procedures employed. As yet there is little beyond personal preference to determine whether such evaluations should be patterned after jury trials, congressional hearings, debates, or other arrangements. Until these various approaches are further developed, applied in different educational contexts, and studied to determine their relative utility under varying conditions, there is little compelling rationale for fixating on any one method. In the meantime, it seems most defensible to use the term *adversary evaluation* in a broad sense; we will assume that planned opposition among evaluators is the only requirement.

## 2. *Is the Legal Paradigm the Best Approach to Adversary Evaluation in Education?*

Much of the effort to apply adversary evaluation in education has drawn on courtroom procedures, with an advocate and an adversary questioning and cross-examining witnesses and applying rules of admissibility of evidence customary in legal proceedings. If you were to ask any ten educational evaluators to describe the adversary evaluation approach, nine would probably talk in terms of witnesses, cross-examination, the jury system, and so forth.

The legal paradigm has intriguing possibilities for some evaluation situations, and Wolf (1973) has provided a good analysis of certain of these. We are not inclined, however, to view the legal paradigm as necessarily the best pattern. In fact, one of our greatest concerns is that evaluators will seize on some of the more trivial features of the courtroom and fail to isolate and extract those adversarial aspects that might be most pertinent in education. All that we have read and seen suggests that rigid adherence to the legal perspective is likely to result in weak evaluations and eventual rejection of the whole concept.

It might be useful to illustrate a few aspects of the legal system which seem to us unnecessary or downright inappropriate in educational evaluation.

First, we believe some of our colleagues should be chided for their compulsion to replicate the theatrical aspects of the courtroom in their adversary hearings. Cloaking the person presiding over an educational hearing in a black robe seems as pretentious and inane as placing powdered wigs on senators presiding over congressional hearings.

Second, we believe use of the legal model can result in a seductive slide into what might be termed an "indictment mentality," which can do a disservice both to evaluation efforts and to the programs being evaluated. Adversary evaluation literature which invokes the legal model tends to use terms such as "statement of charges" (Hiscox and Owens, 1975), "guilty or not guilty" (Levine, 1976), and the like. That orientation may be appropriate when there is a formal complaint against an educational program, as in the widely publicized investigation of the University of Massachusetts School of Education programs. But formal complaints, plaintiffs, and litigants are conspicuously absent in the typical educational evaluation—and rightly so. Evaluation in education should aspire to be an instrument for improving educational programs, not for determining their guilt or innocence. Although it is true that evaluators must of necessity render judgments of worth, that seems to us a far cry from invoking a model in which the program stands "accused" on specific charges.

It is not just the vocabulary of the legal model that is problematic but its characteristic of serving only when there is a problem to be solved. There is already too much of a tendency to view evaluation as something you do when a program is in trouble, when there is a crisis or failing which requires correction. It would be unfortunate if this tendency were exacerbated and evaluations conducted only when a complaint had been lodged, an accusation leveled, an offending program accused. It is precisely this orientation that we fear may be a side effect of basing evaluations on the legal model, or on any model which is meant to be applied only in problem-solving or crisis situations. It would be far more salutary if educators came to view evaluation as something routinely carried out to help them keep programs operating at maximum effectiveness and efficiency.

Obviously, one should not dismiss all aspects of the legal paradigm as inappropriate. For example, cross-examination (properly conducted) would seem to have a potentially useful role in evaluations which use human testimony as a major source of data. Of course one can use cross-examination by adversaries without requiring full or even partial courtroom procedures (as demonstrated by congressional hearings or

interviews conducted jointly by partisan interviewers). Wolf (1975) and Hiscox and Owens (1975) have shown that one can adapt portions of the legal model without adopting it in its entirety.

Hiscox and Owens (1975) list five advantages which could accrue from less strict adherence to a rigorous legal model. Briefly, they are: (1) Evaluations could be conducted with lower investments of time and money; (2) Evaluations would be less dependent on availability of trained legal professionals; (3) Hearings would be understood more easily by evaluators and decision makers; (4) There would be greater flexibility in addressing non-dichotomous issues; and (5) Adversary evaluations or reporting could be conducted without formal hearings. We agree with these points. Although the legal paradigm has merit, it carries many features which could be detrimental to education. We hope others will view it with appropriate skepticism and entertain other alternatives before deciding which adversary approach is most suited to their needs.

### 3. *Does Adversary Evaluation Provide Decision Makers with the Full Range of Information Needed to Make Informed Decisions?*

During our evaluation of the Hawaii 3 on 2 Program, we worried about whether the strong pro and con positions might increase the probability of an extreme decision without consideration of the full range of possible decisions which might be made. Would adversary evaluation result in an unwitting loss of the middle ground? In the typical evaluation an evaluator is charged with strict neutrality and objectivity, so the middle ground may receive as much attention as the ends of the spectrum. But what about adversary proceedings in which the antagonists anchor the ends of the decision spectrum and ignore the middle? Which best serves the decision maker, conflict or compromise, contrast or convergence, polarized positions or plea bargaining? Does the adversary approach lend itself to the type of diagnostic information so often needed by the thoughtful decision maker?

Wrestling with these questions forced us to examine them in terms of three other questions: (1) Does adversary evaluation provide a solution to the problem of evaluator's biases slipping unnoticed into the evaluation; (2) Is there a possibility for convergence in adversary evaluation; and (3) Should an effort be made to present equally strong positive and negative arguments in adversary evaluations? Each of these areas is discussed briefly below:

**Evaluator's Biases.** Proponents of adversary evaluation (for example, Wright and Sachse, 1977) have argued that evaluators are not the impartial, objective paragons they purport to be, and that they bring with them certain biases, often unrecognized, that influence

their findings. Adversary evaluations are proposed as a solution because they intentionally counterbalance biases. One evaluator (or team) is assigned to present the positive case and is expected to be biased in favor of the program, while another is expected to be opposed to the program and be biased against it. The object then is not elimination of bias but rather balancing bias and making it public. Of course, still other biases and predispositions of the evaluators are unlikely to be affected by the mere assignment to a position. An individual evaluator's biases will obviously influence the rigor with which he or she can defend or criticize a program. Imagine the plight of Ralph Nader if he were assigned to defend a program or product. There is no great insight here; merely a reminder that bias is not magically eliminated or rendered inoperable by efforts to balance it.

**Convergence.** In moving from the usual evaluation stance of neutrality to that of having two biased protagonists, educators stand both to gain and lose. The gain is likely to be an increase in the spectrum of data and interpretations provided to decision makers; few other evaluation approaches seem likely to push as far in both the positive and negative directions as the adversary method. The loss could easily come from unnecessary polarization that shifts attention away from the middle ground so often essential to rational decision making.

Many adversary supporters (for example, Hiscox and Owens, 1975) have claimed that conclusions and recommendations agreed to by both sides may be held with greater confidence by a decision maker. While this seems patently sensible, experience with adversary evaluations suggests such agreement is unlikely to be a spontaneous by-product of the sparring and jousting that often occurs between adversaries. Most adversary approaches have a competitive element; it is expected that one of the adversaries will win and the other lose. When competition is high, cooperation tends to be lower. There is less of an inclination to search for agreement than is true under more collaborative circumstances. In highly competitive evaluations, mutual agreements are often abandoned in the adversaries' rush to dispute each datum in hopes of turning it to their own advantage. When winning is at stake, even pronouncements of the obvious are sometimes questioned by seemingly rational opponents. Antagonists are often leery of agreements, even about things they may both believe, especially if they construe the agreement as potentially injurious to their case(s); shared conclusions are not easy to come by. Most adversary approaches could profit from a better mechanism for seeking and reporting areas of agreement.

**Relative Strength of Adversary Positions.** It may not be an explicit assumption of the approach, but many adversary evaluations proceed as if there is an

unspoken obligation to present two equally convincing cases, one pro and one con. Of course no one would tolerate an advocate who slacked and presented a weaker case than was deserved on the basis of the data; but what about one who erred in the other direction, who felt compelled to keep up with the opposition, even if it meant straining or ignoring the data? Here is where we part philosophical company with some colleagues who seem to believe sincerely that a program is not represented well unless both sides are argued equally convincingly. That orientation strikes us as appropriate in a forensic society where the result of the debate seldom has much effect on the proposition being argued, but not in an evaluation where the outcome will influence real programs and real people.

Like the legal paradigm the debate model also has irrelevancies that should be strained out before it is applied to education. The critical difference is that the touchstones of debate are polemics and persuasion, not truth, which is central to the validity of evaluation studies. Debates surely use facts and cannot normally afford to ignore them—at least not totally. But seldom is the debater forced to adhere as tightly to the plain unadorned facts as is the conscientious evaluator. Logic can provide a permissive climate for manipulating the data until its form is favorable. Probably more sophistry results from debaters' perversions of syllogistic logic than any other form of self-deception. At least part of this tendency must be traced to efforts to build strong cases on flimsy foundations.

Our recommendation would be for decision makers to think carefully about the charge they give to adversary evaluators. We believe the appropriate mandate is that of presenting the most positive and most negative cases possible *on the basis of the evidence which exists*. Within that framework, the evaluator might be encouraged to employ all the techniques of persuasion possible, just so adversarial zeal does not lead to flights of fancy or specious arguments that go beyond the evidence. Of course, one could depend on rebuttals or cross-examination to expose fallacies and errors introduced by overly enthusiastic adversaries but that dependence seems optimistic. It would be better to require documentation and evidence for arguments at the outset.

#### 4. *In What Settings and Under What Circumstances Would an Adversary Evaluation be Appropriate?*

Even the most enthusiastic advocate of the adversary approach is unlikely to argue that it would be appropriate in every evaluation. In an effort to get others' opinions on this issue, a questionnaire<sup>2</sup> was sent to key figures in the Hawaii 3 on 2 evaluation. It asked, based on their experience, when they thought

adversary evaluation would be appropriate. A majority of the respondents said it would be appropriate:

- When the program is controversial and people are polarized in their opinions (93 percent);
- When decisions must be made about whether to continue or terminate a program (81 percent);
- When the program is large and affects many people (77 percent);
- When there are many different audiences for the evaluation report (65 percent); and
- When the evaluation is conducted by persons external to the program (56 percent).

Very few respondents felt adversary evaluation would be appropriate when the evaluation was conducted by internal evaluators (15 percent); or for purposes of making decisions about how to improve the program (15 percent).

These reactions and our own experience lead us to suggest several factors which we think should govern decisions about when to use the adversary approach.

The Decision. As implied above, adversary evaluation would seem less relevant for most formative decisions than for summative decisions about program continuation. Proper use of adversary evaluation assumes that a range of decision alternatives is available to the decision maker. Aside from the intellectual enjoyment, arguing from adversary positions is of dubious worth if one side has no chance; if, for example, lack of funds dictates that the program must be terminated regardless of its quality. If clearly competing courses of action are not available, the adversary approach has little to recommend it.

The Object of the Evaluation. The Hawaii decision makers felt adversary evaluation was most appropriate for large, controversial programs which had a variety of interested audiences. We tend to agree. The adversary approach is an ambitious, costly, and sometimes cumbersome method. It should be reserved for cases which warrant the increased investment of time and money and where its use would add significantly to the results of the study. It would be presumptuous for us to suggest types of programs for which it should be used, but it seems clear that one does not wheel out heavy artillery for every minor skirmish.

Clarity of Issues. Adversary evaluation loses its meaning unless issues to be addressed by the adversaries are clearly identified and adhered to. If one adversary dwells solely on test scores and the other deals exclusively with financial aspects of the program,

<sup>2</sup> Developed jointly by one of the authors and William J. Wright.

the potential advantages of the adversary method are seriously diluted.

**Credibility.** There are instances when a program is so controversial that no evaluation of it will be believed unless it can be shown that the evaluation made every effort to represent fairly both sides of the issue. This is often true where previous evaluations of the program have been condemned as one-sided or discounted on grounds of evaluator bias. Here the adversary approach comes into its own with its built-in neutrality (or balanced bias) which allows both sides of an issue to be well-illuminated.

A related feature of the adversary approach is its potential for diffusing political heat surrounding an evaluation. Some evaluators have commented that the best use for this approach might be the "hot potato" evaluations in which the evaluator will be pilloried no matter what the results. As one wag put it, "It's hard to claim an evaluation is wrong when it argues both sides of the issue." There may be some truth in that bit of facetiousness, since the 3 on 2 evaluation was conducted in a political inferno and not only survived but was generally acclaimed in wide press coverage as "unbiased," "a comprehensive study," and a "balanced evaluation." At least no one claimed that the evaluation was biased, and the heated exchanges and dual recommendations provided all the fodder necessary for the administrative and political decision makers. The evaluators did not get drawn back into the fray to defend recommendations which were under attack. Those recommendations had already been attacked as part of the evaluation process.

**Courageous Clients.** By now it should be apparent that not all administrators are likely to have the heart to initiate adversary evaluations of their programs. Hiscox and Owens (1975, p. 6) found that

... some administrators indicated that they would not be interested in using an adversary hearing as a decision-making tool. They felt that many of their decisions were based largely on personal experience, were not to be resolved publicly, or had political overtones so that a logical decision based on solicited facts might not be adequate for their needs.

Such administrators probably would prefer avoiding evaluation completely. They should be doubly tempted to avoid an adversary evaluation, where few stones remain unturned. The competitive nature and processes of adversary proceedings also make them less predictable than more standard approaches. An administrator who willingly requests an adversary evaluation is either a self-confident and visionary leader or uninformed about the approach.

**Costs.** Much of the informal dialogue among evaluators the past two or three years has questioned whether the adversary approach is worth its considerable costs. In fairness, the cost depends on how you

play the game. If a full-blown courtroom procedure is employed, the cost is likely to be proportionately quite high for the amount of data produced. If every phase of an evaluation involves the kind of two-party cross-checking Wright and Sachse (1977) describe, the resulting data may be better, but you need not be a mathematical whiz to predict that the cost will double. Even a simple debate as a vehicle for presenting findings from a standard evaluation is an added expense.

The real question, however, is not cost, but cost-effectiveness or cost-benefit. On these dimensions it seems apparent that benefit must be argued on grounds that adversary evaluation increases things like representativeness of the data, fairness of the instruments, communication between evaluators and decision makers, and identification of all the pros and cons. Whether adversary evaluation really provides more benefits will remain an open question until someone sees fit to research the issue. In the interim, the survey of Hawaii educators is instructive. When asked if the information produced by the adversary approach was worth the cost of having two teams involved, 78 percent said it was, and another 15 percent said it was worth more than the cost. Only seven percent felt it was not worth the money. Of course, these reactions should not be generalized beyond the evaluation to which they were reacting, but they demonstrate that even a relatively costly adversary evaluation can be viewed as worth the cost.

##### *5. Does Adversarial Evaluation Alter the Nature of Evaluation Ethics?*

The field of educational evaluation does not yet have an articulated, formalized code of ethics. Although the work of the committee on evaluation standards empaneled jointly by AERA and other professional associations (Joint Committee, in press) is directly relevant, it is still too early to tell just how much guidance that effort will give in the area of ethical practices. In the interim, there seems to be general agreement among evaluators on certain minimum essentials of ethical behavior. In the typical educational evaluation, evaluators are to be neutral and impartial, leading to a fair unprejudiced evaluation. The evaluator's role is roughly parallel to that of a judge, where impartiality in weighing the evidence is absolutely essential. In adversary evaluation it is only the overall structure and process which is obliged to be impartial. The evaluators are intentionally partisan and their roles approximate those of lawyers, so neutrality gives way to advocacy.

Theoretically, shifting from nonadversary to adversary evaluation does not lessen the impartiality with which decisions and judgments will be made. But it most decidedly forces the individual evaluator

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to put aside reverence for personal impartiality and adopt standards of behavior more like those followed by debaters and attorneys.<sup>3</sup> Is that good? Or is the sudden shift to a new role disruptive and dysfunctional for evaluators? Frankly, we have no idea. It seems unlikely that evaluators' psyches will be permanently damaged by occasional forays into fields where different standards are followed. But might adversarial behavior prove addictive, making the tough job of remaining unprejudiced in nonadversary evaluations even tougher for the evaluator who traverses the ethical boundary too frequently? Time will tell.

## 6. *Are Educational Evaluators Competent to Conduct Advocacy Evaluations?*

This issue cannot be addressed well until someone completes a careful analysis of the skills and knowledge required of evaluators in the various adversary approaches. In the meantime, predicting who will make good adversary evaluators must be categorized with other forms of crystal ball gazing. There are basic considerations like technical ability, communications skills, and general ability, to be sure, but those are too gross to be very helpful. Lack of information about what skills are needed also makes it difficult to develop criteria to measure how well qualified an evaluator is to conduct an adversary evaluation. Adding adversary skills to the repertoire of techniques provided in training programs for educational evaluators will also be impeded until better information is available.

In the meantime, based on our limited observations of adversary evaluations, we suspect that most educational evaluators are not well prepared to play the adversarial role, especially if the legal model is adopted. Hiscox (1976) noted the following problems in previous adversary hearings:

- Political and professional considerations make it difficult for educator-advocates to attack incompetence of statements and evaluations presented as evidence.
- Educator-advocates fail to appear adversarial; they often make points for the other side with their questions and/or evidence.
- People unskilled in soliciting "testimony" often get rambling, unproductive evidence.

We have noticed similar tendencies in educators functioning in adversary hearings based loosely on the legal model. Questioning skills were notably lacking and witnesses were permitted to ramble in long monologs that addressed the questions indirectly, if at all. Probing of obvious contradictions in testimony usually stopped short of highlighting the contradiction, as if it were more important to avoid embarrassing the witness. The relevance of testimony to major issues in the case was often left obscure.

Educators may be able to function more readily in the debate model, but even this bit of optimism is mostly speculative. If adversary evaluation is to become a potent force in educational evaluation, more thought must be given to defining and providing training in the area.

## Conclusion

We have discussed what we believe to be some major potentials and pitfalls of adversary evaluation. We suspect that the courtroom model may have limited utility for adversary evaluations in education, and we have pointed out difficulties that seem inherent in the debate model. We think the core of adversary evaluation is the existence of opposing viewpoints, not adherence to existing formats for presenting them, so we suggest that evaluators develop adversary methods more appropriate for education.

Where our analysis has been critical, it is prompted by a desire to see improvements in an approach we feel could be very useful in selected evaluation settings. Adversary evaluation seems to hold considerable promise for improving the process by which important educational decisions are made—if the pitfalls we have outlined can be resolved. *ET*

<sup>3</sup> In this post-Watergate period when potshots at attorneys are a lamentable national pastime, we stress that our reference here is to impartiality, not personal integrity.

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