



Public Advocate for the City of New York

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# **OVERWORKED, UNDERUTILIZED:**

**How the Department of Education's  
Reorganizations of Special Education  
Turned School Psychologists from  
Mental Health Professionals  
into Paper Pushers**

**A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM**

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# Office of the New York City Public Advocate

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## **EXECUTIVE SUMMARY**

Over the course of Michael Bloomberg’s tenure as Mayor for the City of New York—the first mayoralty with control of the school system—the city’s education system has gone through three major reorganizations. Two of these reorganizations—one in 2003 and another in 2007—focused, in part, on special education in New York City public schools. These two reorganizations included profound changes to the administration of special education services that shifted oversight, accountability, and many of the responsibilities from centralized offices to the schools. While these changes have put decision-making ability in the hands of school-level employees who know students with special needs the best, they have also overburdened school psychologists with administrative responsibilities.

In 2003, the Department of Education (DOE) consolidated the number of Committees of Special Education (CSE) from 37 (32 district offices and five borough-wide high school offices) to 10 regional offices. It shifted the responsibility of evaluating children for special education services from the CSEs to the schools and, at the same time, reassigned all 969 education evaluators in the school system to the classroom. It also shifted their responsibility for education evaluations, case management, and all associated paperwork to school psychologists.

In 2007, the DOE again reorganized the special education system by shifting many of the remaining responsibilities of the 10 CSEs to five borough-based Integrated Service Centers (ISCs). It also shifted the responsibilities of special education placement and transportation and the evaluation and placement of children with disabilities aging into the school system from the CSEs to the school psychologists.

In June of 2008, the Public Advocate’s Office surveyed veteran school psychologists to find out how the two reorganizations had affected their job performance and identify problems related to their new job responsibilities. In reviewing 100 surveys completed by veteran school psychologists, the Public Advocate found that:

- Ninety-seven percent of those surveyed report that their workload has significantly increased (89 percent) or somewhat increased (8 percent) since the 2003 and 2007 reorganizations;
- Nearly 94 percent of respondents report that they now spend more time on paperwork and compliance issues than they do on issues that directly benefit children and families;
- Nearly 84 percent of respondents report that their ability to evaluate students initially referred for special education services in a professional manner has suffered since the two reorganizations in 2003 and 2007;
- Nearly 63 percent of respondents agree they are under pressure from their supervisors to omit or reduce the scope of testing and rely exclusively on existing data for triennial evaluations and requested reevaluations of children already in special education;
- More than 71 percent of respondents report that the Individualized Education Plans (IEPs) they draft are now less effective because they do not have time to consult with the children’s teachers and service providers before they draft them;

- Nearly 87 percent of respondents report that they no longer have the time to consult with parents and staff regarding behavioral issues prior to a referral for special education;
- Ninety-one percent of respondents report that their new case management responsibilities and the associated paperwork hinder their ability to complete quality student interventions and evaluations;
- Seventy-one percent of respondents report that their new responsibilities as the point person for special-education-related issues at their school hinders their ability to provide quality interventions and evaluations to students in need;
- Nearly 68 percent of respondents report that their new responsibility to draft IEPs for students with special needs hinders their ability to provide quality interventions for and evaluations of students in need.

### **RECOMMENDATIONS**

The DOE must take immediate action to reduce the burden on school psychologists and provide better, more efficient services to children with special needs.

#### **The Public Advocate Recommends that the New York City Department of Education:**

- Re-distribute special education case management responsibilities equally among all members of the IEP Team (school social worker, school psychologist and IEP teacher) rather than assigning them strictly to school psychologists and hire more school social workers to facilitate this change;
- Hire more school psychologists to address the fact that the number of children in special education has increased by 51 percent and the number of schools in the city has increased by 43 percent since the current psychologists staffing levels were established in 1988. The DOE should also seek additional federal funds through the Individuals with Disabilities Education Act (IDEA) to help defray the cost to the city of these new hires during the current economic downturn;
- Shift the responsibility for the evaluation and placement of children with disabilities aging into the school system (known as the “Turning 5” population) to the CSEs or ISCs;
- Re-assign school psychologists and school social workers in the Absent Teacher Reserve who are rated satisfactory or above to the schools.

#### **The Public Advocate’s Office Recommends that the New York State Legislature:**

- Reauthorize the Mayor’s control of New York City’s school system with significant changes including Independent Budget Office (IBO) oversight of the DOE’s performance, including its management of the special education system.

## **INTRODUCTION**

Over the course of Michael Bloomberg’s tenure as Mayor for the City of New York—the first with mayoral control of the school system—the city’s education system has gone through three major reorganizations. Two of these reorganizations—one in 2003 and another in 2007—focused, in part, on special education in New York City public schools. These two reorganizations included profound changes to the administration of special education services. It remains to be seen whether children with special needs are better served by the city’s public education system as a result of the reorganizations. One major area of concern has become apparent, however: the changes made to the role of school psychologists and their effect on the special education system as a whole.

The reorganizations of the special education system have shifted much of the accountability and responsibilities for the administration of special education to the schools and ultimately to school psychologists. In April 2008, school psychologists voiced their concerns about their new responsibilities as special education case managers and the associated paperwork to the Panel on Education Policy (PEP)<sup>1</sup> chaired by Chancellor Klein.<sup>2</sup> At the time, school psychologists explained that their mounting caseloads, paperwork, and responsibilities were preventing them from adequately assessing and counseling at-risk children—historically the primary focus of school psychologists.<sup>3</sup>

In June 2008, the Public Advocate’s Office surveyed school psychologists in order to determine the extent of their problems and devise practical solutions. This report is based on the findings of that survey.

## **BACKGROUND**

### *School Psychologists*

School psychologists are licensed mental health professionals who assess students referred for special education services and reassess those students who already receive special education services. These assessments help to determine if a student needs special education services or if a student already in special education needs additional services or has made enough progress to move back into the general education population. In addition to assessments, school psychologists also provide individual, group, and crisis counseling services, as well as early intervention services for students with the goal of managing at-risk students’ behavior to keep them in the general education population.

School psychologists use a battery of diagnostic tools known as psychoeducational assessments in order to assess the overall functioning of a student. The assessments “explore and systematically study aspects of each student’s academic skill development, intellectual functioning, strengths and weaknesses in cognitive/learning processes and

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<sup>1</sup> Under mayoral control of the school system, the Panel for Education Policy, which consists of 13 members, replaced the school board. The Mayor appoints eight of the panel members, including the Chancellor who serves as Chairman. Each Borough President appoints one member.

<sup>2</sup> Einhorn, E., *School Psychs Plead For Help*, New York Daily News, April 15, 2008.

<sup>3</sup> *Ibid*

social/adaptive functioning”<sup>4</sup> in order to evaluate a student’s “reasoning, motor skills, language, executive functions, visuo-spatial skills, social/emotional and behavioral functioning, memory, academic achievement in reading, mathematics, written expression, and oral communication.”<sup>5</sup>

To provide a thorough assessment, school psychologists must use a variety of different sources including: student records and current classroom-based assessments; observation of student behavior in the classroom and testing settings; interviews with the student and school staff regarding the student’s functioning; consultation with the student’s parents; and testing.<sup>6</sup>

The goal of the psychoeducational assessment is to “discover and describe how best to help students learn.”<sup>7</sup> These assessments help to determine if a student meets the criteria for one or more of the 13 different disabilities that require special education intervention under state law.<sup>8</sup>

School psychologists are members of the school-based Individualized Education Plan (IEP) teams, which consists of a school social worker, IEP teacher, and school psychologist. Each school psychologist working in the city’s public education system is required to have at least a Masters degree in psychology. Many have doctorates, as well as New York State certification.

According to the New York City Independent Budget Office (IBO), there are currently 968 school psychologists budgeted in the city’s Fiscal Year (FY) 2009 budget.<sup>9</sup> School psychologists working in the public school system earn, on average, \$82,580 per year.<sup>10</sup> The total cost of school psychologists in New York City is \$91.8 million with city tax levy dollars accounting for \$50.2 million (55 percent) and federal Individuals with Disabilities Education Act (IDEA) dollars accounting for the other \$41.6 million (45 percent).<sup>11</sup>

#### *Jose P. Lawsuit and School Psychologists*

The minimum number of school psychologists working in the New York Public School system was established in 1988 by a “stipulation” or legal agreement between the two

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<sup>4</sup> Wernikoff, L., *Children First Reforms in Special Education Effective July 1, 2007*, Memorandum, New York City Department of Education, September 12, 2007.

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

<sup>8</sup> New York State Education Department Commissioner Regulations § 200.1(zz). Diagnoses include autism, deafness, deaf-blindness, emotional disturbance, hearing impairment, learning disability, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, speech or language impairment, traumatic brain injury, or visual impairment (including blindness).

<sup>9</sup> Email from IBO Analyst to Public Advocate Deputy Director of Policy and Research Mark Woltman on September 19, 2008.

<sup>10</sup> *Ibid*

<sup>11</sup> *Ibid*

opposing sides in a federal class-action lawsuit involving special education students in the city's education system.<sup>12</sup>

In 1979, Brooklyn Legal Services and other children's advocacy organizations brought a federal class-action lawsuit—*Jose P. v. Board of Education*—against the city on behalf of disabled students. The judge ruled that the Board had failed to provide Jose P. and other students with special education services to which they were entitled under federal law. As part of the landmark ruling in the Jose P. case, the court appointed a magistrate to oversee and monitor the board's compliance with special education law.<sup>13</sup>

In the years following the ruling, lawyers for the plaintiffs periodically brought new evidence to the magistrate about violations of federal law involving disabled students. The court would then attempt to fix the problems by means of stipulations arrived at through negotiations between the two sides instead of requiring a new lawsuit.

In 1988, one such stipulation mandated that the Board of Education establish a team of specialists in each city school to help alleviate delays in evaluating and placing students with disabilities.<sup>14</sup> Pursuant to the stipulation, each school<sup>15</sup> had to establish a full-time School-Based Support Team (SBST) consisting of a school psychologist, an educational evaluator, and a social worker. To facilitate the establishment of the school-based support team model, the stipulation mandated minimum staff levels for the three different types of staff including 960 school psychologists, 960 educational evaluators, and 572 school social workers.<sup>16</sup>

*This year, getting a bilingual social worker to do an initial social history became impossible. Several cases needed them. No bilingual social worker from another school could be redeployed. An agency had to send someone. Well, there was a complete breakdown in the administrative offices... These kids never got evaluated. Totally out of compliance. Now they've been sent to the summer school. This administration has set back special education 10 years. And the kids are suffering!*

-School Psychologist  
Queens Middle School

### *Reorganization of the New York City School System in 2003*

In October 2002, Chancellor Klein announced a plan, backed in part by private funding from philanthropist Eli Broad, to study the city's education system and then use the findings to make major policy changes to the system.<sup>17</sup> In January 2003, as part of this initiative known as *Children First: A New Agenda for Public Education in New York*

<sup>12</sup> *Jose P. v. New York City Board of Education*, July 1988 Stipulation, available online at <http://www.advocatesforchildren.org/litigation/litdocs/josepdocs/july1988stipulation.pdf>

<sup>13</sup> Fried, J., *Schools Found in Violation of Order on Disabled Pupils*, *The New York Times*, February 26, 1983.

<sup>14</sup> *Jose P. v. New York City Board of Education*, July 1988 Stipulation, available online at <http://www.advocatesforchildren.org/litigation/litdocs/josepdocs/july1988stipulation.pdf>

<sup>15</sup> Except for schools with student populations too small to justify a full-time team.

<sup>16</sup> *Ibid*

<sup>17</sup> Goodnough, A., *Fixing the Schools*, *The New York Times*, October 4, 2002

City, the Mayor announced a sweeping reorganization of the city's public education system.<sup>18</sup> It was later announced that as part of this reorganization there would be major changes to the city's special education system.<sup>19</sup>

In April 2003, the Chancellor announced that he was streamlining the process by which children with special needs were evaluated for special education services. To this end, he consolidated the existing 37 Committees on Special Education<sup>20</sup> (CSE)—the administrative offices responsible for identifying, locating, evaluating, and placing students with disabilities within their districts—to 10 so that they would correspond with the ten newly created instructional regions.<sup>21</sup>

Additionally, he moved the responsibility for review of special education decisions from the CSEs to the school-level teams, thus eliminating additional oversight by the school district.<sup>22</sup> As part of this reform, he reassigned 969 education evaluators from SBSTs to classrooms throughout the city. Prior to this reorganization, the evaluators were responsible for the management of special education cases (case management), educational evaluations of students in special education or those referred to special education, and social history updates for students already in special education.<sup>23</sup> The 2003 reorganization shifted these responsibilities to the school psychologists. The changes took effect in the fall of 2003.

*Be advised that at the times when I have complained to my clinical supervisor about the excessive amount of work, the response has been, "you do not have to test the students (reevaluations and triennials), just use the teacher's reports." Had I not tested 13 pre-school children this year, I would not have found out that 11 out of 13 children classified as autistic at age 2 or 3 were just speech impaired or mildly learning disabled.*

-School Psychologist  
Bronx Elementary School

### *Consequences of 2003 Reorganization of Special Education*

Within a few months of the implementation of the first reorganization, the problems in the special education system were noticeable. Published reports exposed the fact that students with disabilities throughout the city were not receiving evaluations or services mandated on their IEPs. Other problems included IEPs missing from students' files and calls for help from parents to district and regional offices going unresolved.<sup>24</sup>

<sup>18</sup> Goodnough, A., *Vision for the Schools: Overview; Mayor Sets Plan For Tight Control Over City Schools*, The New York Times, January 16, 2003.

<sup>19</sup> Yan, E., *A Special Ed Shake-Up; City to Streamline Academic System*, New York Newsday, April 4, 2003.

<sup>20</sup> Prior to the first reorganization there was one Committee on Special Education for each of the 32 community school districts and one for each of the 5 borough-wide high school districts.

<sup>21</sup> Yan, E., *A Special Ed Shake-Up; City to Streamline Academic System*, New York Newsday, April 4, 2003.

<sup>22</sup> Herszenhorn, D., *Bloomberg and Klein Have Plan to Improve Special Education*, The New York Times, April 4, 2003.

<sup>23</sup> Division of Special Education, *Assessment Improvement Plan: School Based Support Teams – Enhanced Model*, New York City Board of Education, August 1986.

<sup>24</sup> Lucadamo, K., *Special Education Program Faulted*, The New York Sun, January 19, 2004.



At the time, education officials denied that there were any systemic problems created by the reorganization and said delays in services and evaluations were no longer than usual.<sup>25</sup> A senior DOE official was quoted as saying that, “When we know there is a problem, it’s solved expeditiously. We rolled out a very strong support and monitoring system that is working proactively in schools to identify problems and resolve them.”<sup>26</sup>

Nearly a month later, the Public Advocate’s Office discovered that problems with special education services and evaluations still existed, even after the DOE assured the public that they were addressing the problems “expeditiously.” Speaking on condition of anonymity, school psychologists throughout the city came to the Public Advocate’s Office for help. They revealed that delays in services and evaluations still existed and that their new responsibilities as case managers and a lack of training on the new procedures by the DOE had led to the delays.<sup>27</sup>

*“The current special education process has largely been constructed in response to federal law and court order. Perhaps for that reason, it has become a system with a myopic attention to compliance with mandates and timetables...”*

Chancellor Joel Klein  
April 4, 2003  
The New York Times

School psychologists also informed the Public Advocate’s Office that both principals and school psychologists were under intense pressure from the administration to keep the number of referrals to special education down.<sup>28</sup> In fact, city data revealed that, in just the first few months after the reorganization, initial referrals to special education were down 35 percent, evaluations were down 36 percent, and reevaluations were down nearly 50

percent in comparison with the same time period the previous year.<sup>29</sup> The DOE once again reassured the public that there was not a problem in special education and that the Public Advocate was using “the old model of judging special education.”<sup>30</sup>

In March 2004, the Public Advocate released a survey of school psychologists and school administrators that confirmed DOE employees were under pressure from the administration to keep referrals to special education down. The survey found that more than 40 percent of respondents had been given a direct order by the administration to keep special education referrals and evaluations down. The survey also found that 81 percent of respondents had a backlog of students awaiting a reevaluation and 74 percent had a backlog of students awaiting special education placements.<sup>31</sup>

The day after the release of the Public Advocate’s survey, published reports indicated that the city “acknowledged that Mayor Michael R. Bloomberg’s overhaul of the schools had

<sup>25</sup> *Ibid*

<sup>26</sup> *Ibid*

<sup>27</sup> Gotbaum, B., *Crisis in Special Education: Gotbaum Charges DOE Created Backlog of Evaluations*, Public Advocate for the City of New York, Press Release, February 9, 2004.

<sup>28</sup> *Ibid*

<sup>29</sup> Mayor’s Office of Operations, *The Preliminary Mayor’s Management Report: Fiscal Year 2004*, New York City.

<sup>30</sup> Yan, E., *Gotbaum Knocks City on Special Ed*, New York Newsday, February 10, 2004.

<sup>31</sup> Gotbaum, B., *Gotbaum to Klein: Stop Stonewalling and Fix Special Ed*, Public Advocate for the City of New York, March 18, 2004.

created a particularly difficult transition for children with special physical, mental or emotional needs.”<sup>32</sup> The DOE vowed to fix the problem and sent a memo to the 10 regional superintendents instructing them to review all students awaiting an assessment, placement, or a provision of service.<sup>33</sup> The review of records revealed that, at the time, 20,000 students in special education were not receiving services they needed, and 40,000 students were awaiting evaluations.<sup>34</sup> As a result of these problems, the DOE offered children who missed out on special education services during the school year, make-up sessions during the summer.<sup>35</sup>

In August 2006, an investigation by the Special Commissioner of Investigation for the New York City School District revealed that a school psychologist had failed to properly evaluate 21 students at P.S. 276 in Brooklyn and falsified documents to indicate that she had conducted the evaluations. The school psychologist told investigators that she was too overwhelmed to complete the evaluations properly.<sup>36</sup>

*Because of the pressure of compliance and the interference of paperwork, I often feel that I have to cut short the amount of time I spend on evaluating the students...I don't get to see any students or parents for at-risk counseling. I don't get to do teacher consultation as often as I would or I would like to.*

-School Psychologist  
Manhattan Elementary School

### *Reorganization of the New York City School System in 2007*

In the 2007 reorganization of the New York City public school system, the DOE transferred much of the remaining administrative authority for public school special education cases from the 10 regional CSEs—created just four years before as part of the 2003 reorganization—to five borough-based Integrated Service Centers (ISC).

The ISCs created under the 2007 reorganization would now be responsible for the following special-education-related actions<sup>37</sup> involving public school students: requests for translations; requests for assistive technology<sup>38</sup>; evaluation for/procurement of assistive technology devices; requests for assistance for assessments; requests for specialized assessments such as speech, occupational and physical therapy evaluations; issuance of related services authorizations; and assistance with litigation, impartial due

<sup>32</sup> Herszenhorn, D., *New Deputy Says Fixing Special Education is Paramount*, The New York Times, March 19, 2004.

<sup>33</sup> *Ibid*

<sup>34</sup> Lucadamo, K., *Special Ed's Neglected; No Aid for 20,000 Kids*, New York Daily News, May 12, 2004.

<sup>35</sup> Klein, J., *Department of Education Announces Special Education Summer Program to Provide Students with Make-Up Related Services; Program Available to Special Education Students who Missed Related Services During the School Year*, New York City Department of Education, Press Release, June 8, 2004.

<sup>36</sup> Melago, C., *School Shrink Busted in Special Ed Caper*, New York Daily News, August 30, 2006.

<sup>37</sup> CSEs are still responsible for the administration of non-public-school special education cases and are still responsible for the logging in of initial referrals of public school students, as well as evaluation/placement materials to be filed upon completion of public school student cases.

<sup>38</sup> Assistive technology is defined as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

process hearings, and resolution sessions.<sup>39</sup> The DOE also transferred the school psychologist supervisors (30 total), among other staff, from the CSEs to the ISCs.

The 2007 reorganization shifted even more responsibilities to school psychologists. Prior to this reorganization, the CSEs were responsible for finding appropriate placements for children with special needs, administering home instruction placements for those students unable to attend a traditional school, and arranging transportation for students with disabilities. The 2007 reorganization shifted these responsibilities directly to the schools and specifically to the school psychologists.

Perhaps most significantly, the 2007 reorganization shifted the responsibility of the evaluation and placement of the “Turning 5”<sup>40</sup> population from the CSEs to elementary school psychologists.<sup>41</sup> Elementary school psychologists are now responsible for the evaluation and placement of *all* Turning 5 children who are home-zoned for the psychologist’s school and regardless of whether or not the child will actually attend that school when he or she is of school age. In FY2008, there were 21,345 children in a pre-school special education program in New York City. This means that, on average, there are 22 Turning 5 children for every school psychologist.<sup>42</sup> The actual average, however, is considerably higher given that only elementary and intermediate school psychologists are affected by this policy.

As part of the reorganization, each school psychologist received a full-time family worker or clerical assistant to support the school psychologist and assist schools in various special education support functions.<sup>43</sup>

*The workload is unmanageable – EVERYTHING is now done at the school level; work that used to be done at (the) CSE, field psychologists must do now. We do not get responses from (the) administration at the ISC or we get different answers to the same question. NOTHING is written – we have not gotten any policy directions/answers in writing so we can be held responsible for “mistakes.” We are paying for many of our own supplies...Basically, we in the field feel abandoned and unsupported!*

-School Psychologist  
Staten Island Elementary School

<sup>39</sup> Wernikoff, L., *Children First Reforms in Special Education effective July 1, 2007*, New York City Department of Education, Memorandum, September 12, 2007.

<sup>40</sup> Term used to describe the population of students with disabilities who were receiving pre-school special education services and who turn five years old or become school age and must be evaluated and placed in special education.

<sup>41</sup> Prior to 2007 reorganization, some regions handed the responsibilities of the Turning 5 population over to the schools. The 2007 reorganization gave all schools the responsibility of evaluating and placing Turning 5 students who live in the school’s home zone.

<sup>42</sup> This calculation assumes that all 968 school psychologist positions budgeted in the FY09 budget are full staffed.

<sup>43</sup> Wernikoff, L., *Children First Reforms in Special Education effective July 1, 2007*, New York City Department of Education, Memorandum, September 12, 2007.

## *Consequences of the 2007 Reorganization*

In April 2008, overburdened school psychologists throughout the city voiced their concerns about increased caseloads, paperwork, and responsibilities during the public comment period for the calendar meeting of the PEP. According to published reports of the meeting, school psychologists explained that, following the two reorganizations of special education, their caseloads rose and they are currently overworked. They also explained that the full-time administrative assistants assigned to them after the 2007 reorganization were not sufficient to offset their increased responsibilities.<sup>44</sup> According to minutes of that meeting, no action was taken by the PEP.<sup>45</sup>

*“Psychologists are spread so thin that they are reduced to being paper pushers. They don’t have time to advocate for the children or spend time with the children”*

Ann Englesbe  
UFT School Psychologist Chapter Leader  
The New York Daily News  
April 15, 2008

## *The Rise in Special Education Cases in New York City*

Further increasing the burden on school psychologists has been the substantial increase in the number of special education students in New York City since the 1988 stipulation in the Jose P. case that established the minimum number of psychologists in the system. In FY 1988, when the 1988 stipulation ordered the city to employ a minimum of 960 school psychologists, there were 114,823 school-aged students<sup>46</sup> receiving special education services in New York City,<sup>47</sup> approximately 12.2 percent of the total student population, or approximately 120 special education students per school psychologist. By FY 2008, the number of school-aged students receiving special education services in the city had grown by nearly 60,000 students to 173,856,<sup>48</sup> approximately 16.8 percent of the total student population, or approximately 180 special education students per school psychologist— a 51.4 percent increase.<sup>49</sup> Furthermore, the population of 173,856 special education students currently in New York City does not include an additional 21,345 children in pre-school special education, the majority of whom will be evaluated and placed in special education by a school psychologist when they become school-aged.

During the same period in which the number of special education students rose in New York City, the number of schools also rose. In 1988, when the minimum number of school psychologists was established, there were 980 schools in the city’s school system and an average of nearly one school psychologist for every school. Since 1988, the

<sup>44</sup> Einhorn, E., *School Psychs Plead for Help*, New York Daily News, April 15, 2008.

<sup>45</sup> Klein, J., *Minutes of Action: Public Meeting for the Panel for Educational Policy*, NYC Department of Education, April 14, 2008.

<sup>46</sup> Includes both public school (105,945) and non-public school students (8,878).

<sup>47</sup> Mayor’s Office of Operations, *The Mayors Management Report: Fiscal 1988*, New York City.

<sup>48</sup> Includes both public school (154,881) and non-public school students (18,975).

<sup>49</sup> Since FY1988

number of schools increased to more than 1400 system-wide—a 43-percent increase.<sup>50</sup> There is now one school psychologist for every 1.45 schools.

	Fiscal Year 1988	Fiscal Year 2008	% Change
Total Enrollment	939,933 <sup>51</sup>	1,035,300 <sup>52</sup>	10.1%
# of Special Education Students	114,823 <sup>53</sup>	173,856 <sup>54</sup>	51.4%
% Special Education Students	12.2%	16.8%	37.5%
# of School Psychologists	960 <sup>55</sup>	968 <sup>56</sup>	0.8%
Ratio of Special Ed Students to School Psychologists	120	180	50.2%

In the 20 years since the 1988 Jose P. stipulation<sup>57</sup> that established the minimum staffing levels for school psychologists in the city (960), the DOE has not hired additional school psychologists in numbers significant enough to keep up with the rise in special education students and the number of schools in the system.<sup>58</sup> In practice, the minimum staffing level set by the Jose P. stipulation in 1988 has become a maximum staffing level.

Despite the fact that staffing levels have not kept pace with the rise in special education students and the number of schools in the system, there are currently 28 school psychologists and 58 school social workers in the DOE’s Absent Teacher Reserve (ATR).<sup>59</sup> The ATR is a pool of certified teachers, including school psychologists and school social workers,<sup>60</sup> who have been moved, or “excessed,” from their schools due to declining enrollment and closing schools and have been unable to find another full-time position within the school system. DOE employees in the ATR often fill-in as substitute or temporary teachers while continuing to receive their full salary and benefits. In other words, the DOE does not make use of the expertise of school psychologists and school social workers in the ATR. Collectively, the 28 school psychologists in the ATR earn more than \$2.3 million<sup>61</sup> per year in salary and the 58 school social workers earn \$4.8 million per year in salary.<sup>62</sup> According to the United Federation of Teachers (UFT), all 28

<sup>50</sup> Available on the New York City Department of Education’s website at <http://schools.nyc.gov/AboutUs/default.htm>, accessed on October 31, 2008.

<sup>51</sup> Mayor’s Office of Operations, *The Mayor’s Management Report: Fiscal 1988*, New York City.

<sup>52</sup> Mayor’s Office of Operations, *The Mayor’s Management Report: Fiscal 2008*, New York City.

<sup>53</sup> Mayor’s Office of Operations, *The Mayor’s Management Report: Fiscal 1988*, New York City.

<sup>54</sup> Mayor’s Office of Operations, *The Mayor’s Management Report: Fiscal 2008*, New York City.

<sup>55</sup> Jose P. v. New York City Board of Education, July 1988 Stipulation, available online at <http://www.advocatesforchildren.org/litigation/litdocs/josepdocs/july1988stipulation.pdf>.

<sup>56</sup> Email from IBO Analyst to Public Advocate Deputy Director of Policy and Research Mark Woltman on September 19, 2008.

<sup>57</sup> *Ibid*

<sup>58</sup> The IBO reports 968 budgeted school psychologists in FY09.

<sup>59</sup> Conversation between Mark Woltman, the Public Advocate’s Deputy Director of Policy and Research, and the UFT, 10/28/08.

<sup>60</sup> According to the UFT, there are currently 58 school social workers on the ATR. Fifty-five of the 58 have employee review ratings of satisfactory or above.

<sup>61</sup> This figure was calculated by the Office of the Public Advocate using the school psychologist and school social worker average salary of \$82,580 per year. The actual figure could be higher or lower depending on the seniority of the individual school psychologists and school social workers in the ATR.

<sup>62</sup> Not including benefits.

school psychologists and 55 of the 58 school social workers in the ATR have ratings of satisfactory or above on their employee evaluations.<sup>63</sup>

A recent report by the Council on Great City Schools (CGCS) on improving special education in New York City found evidence suggesting that community schools over-refer students—particularly students of color—with emotional/behavioral issues to District 75, the city’s special education district.

CSGS found many inconsistencies in the case files of students with challenging behavior—including those with ED—in District 75. Students with challenging behavior were “often referred to District 75 without functional behavior analyses, behavior intervention plans, and/or without attempting to provide different or intensive settings in the community schools such as...crisis counseling.”<sup>64</sup> Functional behavior analysis, behavior intervention planning, and crisis counseling are all responsibilities of school psychologists that are time- and labor-intensive.

Unnecessary referrals to and placements in District 75 are costly to the school system. The average expenditure per student in a community school is \$15,144 per year,<sup>65</sup> while the average expenditure per student in District 75 is \$57,615.

*I had a case of a student with serious health issues, paraplegic, in a wheelchair, with a catheter, who receives nursing services, paraprofessional services, physical therapy, occupational therapy, busing, and a myriad of assistive devices. Of course I was under time constraints to complete this case and needless to say it was very complicated and I am not very familiar with all these services... While completing some of the paperwork involved in this case – I made a couple of clerical errors in adding in the assistive technology. They [DOE] threatened to remove these devices away from the student. It took me countless phone calls and emails to various clerical staff to have the error correct[ed]. I am a PSYCHOLOGIST, not a clerical worker and I made a CLERICAL mistake. This took me countless hours to correct, which set me back further in my caseload and took me away from other needs of students.*

-School Psychologist  
Queens High School

## **METHODOLOGY**

Following the PEP meeting, the Public Advocate’s Office decided to re-survey school psychologists working in the New York City public school system to determine if they were still overburdened and, if so, to propose common sense recommendations to help alleviate the burden and better serve students with special needs. This report is based on the findings of that survey.

The Public Advocate’s Office conducted the survey between June 12 and June 26, 2008. The survey was designed to measure the effect that changes to the school system in 2003 and 2007—particularly changes to the special education system—had on the workload of

<sup>63</sup> Conversation between Mark Woltman, The Public Advocate’s Deputy Director of Policy and Research and UFT, 10/28/08.

<sup>64</sup> *Ibid*

<sup>65</sup> Mayor’s Office of Operations, *The Mayors Management Report: Fiscal 2008*, New York City.

school psychologists and on their ability to effectively carry out their responsibilities. Using a mailing list of all psychologists working in the New York City public school system, the Public Advocate's Office assigned each one a number and then used a random number generator to randomly selected 400 psychologists.<sup>66</sup> The Public Advocate's Office mailed a copy of the survey to each one of the 400 randomly selected psychologists. School psychologists were given two weeks to respond. School psychologists who were not employed by the DOE prior to October 2003—when changes related to school psychologists as part of the first reorganization took effect—were filtered out of the survey results. Thus, all respondents had a sound basis for comparing the current situation to the situation prior to the first reorganization.

## **FINDINGS**

These findings are based on the responses of 100 veteran school psychologists working in the New York City public school system.<sup>67</sup>

### *The Vast Majority of School Psychologists Say their Workload has Significantly Increased Since the Reorganizations of the Special Education System.*

- Ninety-seven percent of school psychologists surveyed report that their workload has significantly increased (89 percent) or somewhat increased (8 percent) since the 2003 and 2007 reorganizations;<sup>68</sup>
- Only two respondents report that their workload has stayed the same;
- Only one respondent out of 99 reports that his/her workload has decreased.

### *The Vast Majority of School Psychologists Indicate that They Now Spend More Time on Paperwork than Working with Children*

- Nearly 94 percent of respondents report that, after the two reorganizations, they now spend more time on paperwork and compliance issues than they do on issues that directly benefit children and families.

### *The Vast Majority of School Psychologists Say that Their Ability to Evaluate Students Initially Referred for Special Education Services has Suffered*

- Nearly 84 percent of respondents report that their ability to evaluate the students initially referred for special education services in a professional manner has suffered since the two reorganizations in 2003 and 2007.

### *The Majority of School Psychologists Believe They are Under Pressure from Their Supervisors Not to Re-evaluate Children with Special Needs*

- Nearly 63 percent of respondents strongly agree (36.1 percent) or somewhat agree (26.8 percent) that they are under pressure from their supervisors to omit or

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<sup>66</sup> Random number generator available online at [www.random.org](http://www.random.org).

<sup>67</sup> The Public Advocate's Office received 107 completed surveys from school psychologists. Seven school psychologists who responded were not employed by the DOE before October 2003 and were removed from the survey pool.

<sup>68</sup> The Public Advocate's Office received 99 responses to the question on workload. One respondent skipped this question.

reduce the scope of testing and rely exclusively on existing data for triennial evaluations and requested reevaluations of children already in special education.

*The Majority of School Psychologists Indicate that the IEPs They Draft are Now Less Effective than the IEPs They Drafted Before the Reorganizations*

- More than 71 percent of respondents report that the IEPs they draft now are less effective because they do not have time to consult with the children's teachers and service providers before they draft them.<sup>69</sup>

*The Vast Majority of School Psychologists Say that They DO NOT Have Enough Time to Consult with Parents and Staff About Students*

- Nearly 87 percent of respondents report that, after two reorganizations, they no longer have the time to consult with students' parents and staff regarding behavioral issues prior to a referral for special education.

*The Vast Majority of School Psychologists Report that Their New Responsibilities Since the Reorganizations have Hindered Their Ability to Provide Quality Interventions for and Evaluations of Children with Special Needs*

- Ninety-one percent of respondents report that their new case management responsibilities and the associated paperwork substantially hinder (75 percent) or somewhat hinder (16 percent) their ability to complete quality student interventions and evaluations;
- Seventy-one percent of respondents report that their new responsibilities as the point person for special-education-related issues at their school substantially hinder (52 percent) or somewhat hinder (19 percent) their ability to provide quality interventions for and evaluations to students in need;
- Nearly 68 percent of respondents report that their new responsibility to draft IEPs for students with special needs substantially hinders (50.5 percent) or somewhat hinders (17.2 percent) their ability to provide quality interventions for and evaluations of students in need;
- Sixty-six percent of respondents report that their new responsibility of providing direction to clerical staff substantially hinders (34 percent) or somewhat hinders (32 percent) their ability to complete quality student interventions and evaluations.

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<sup>69</sup> While, in theory, school psychologists co-author IEPs with a school social worker and IEP teacher, the DOE has not specifically assigned the responsibility for drafting them and so it falls on school psychologists.



Respondents by Borough:

<b>Respondents by Borough<sup>70</sup></b>		
	# of Responses	% of Total Responses
Bronx	15	15.2%
Brooklyn	34	34.3%
Manhattan	13	13.1%
Queens	26	26.3%
Staten Island	11	11.1%

Types of Schools:

<b>Type of School<sup>71</sup></b>		
	# of Responses	% of Total Responses
Elementary	66	48.9%
Middle School	29	21.5%
High School	18	13.3%
District 75	15	11.1%
Other	7	5.2%

## **RECOMMENDATIONS**

Over the last five years, the DOE has overburdened school psychologists with job responsibilities unrelated to their profession's core responsibilities of intervention, counseling, and assessment. The DOE must take immediate action to reduce the burden on school psychologists and provide better and timely services to children with special needs.

### **The Public Advocate Recommends that the New York City Department of Education:**

#### *Re-distribute Special Education Case Management Responsibilities Equally Among Members of the IEP Team*

In 2003, the DOE reassigned 969 educational evaluators from school-based support teams (SBSTs) to the classroom and shifted the responsibilities of case management, educational evaluations of students in special education or those referred to special education, and social history updates for students already in special education to the school psychologists. To relieve some of the burden on school psychologists, the DOE should distribute the responsibilities of case management equally among the three

<sup>70</sup> The Public Advocate's Office received 99 responses to the question on borough of employment from 97 different school psychologists. Three school psychologists skipped the question, and two worked in multiple boroughs (two each).

<sup>71</sup> The Public Advocate's Office received 135 responses to the question on type of school from 99 different school psychologists. One school psychologist skipped the question, and 25 indicated that they worked in multiple school types (15 psychologists worked in two different school types, nine in three different school types, and one in four different school types).

members of the school-based IEP team members—school psychologist, school social worker, and IEP teacher—rather than assigning them strictly to the school psychologists. The DOE should hire more school social workers to facilitate this change.

#### *Hire More School Psychologists*

The DOE has failed to increase the number of school psychologists working in the school system despite a 51-percent increase in the number of students receiving special education services and a 43-percent increase in the number of schools citywide since the psychologist staffing levels were last set in 1988. The DOE should ensure that there is at least one school psychologist for every school in the city except for those schools with small student populations. While the city budget has tightened significantly during the past year due to the economic downturn, the DOE should seek additional federal funds through the Individuals with Disabilities Education Act (IDEA) to increase school psychologist staffing levels. Currently, IDEA funds more than 45 percent of the cost of school psychologists.

Furthermore, the DOE must respond to increases in the special education population by ensuring that there are enough school psychologists to effectively and efficiently perform their job. To accomplish this, the DOE should peg the number of school psychologists in the system to the overall number of students in special education and the number of schools in the system.

Hiring more school psychologists and reducing the burden on current school psychologists could result in a cost savings for the school system. As noted in the recent report by Council on Great City Schools (CGCS), it is possible that students with emotional and behavioral issues are over-referred to District 75. Decreasing the burden on school psychologists would help free up valuable time that could be spent working with students with behavioral and emotional issues in their community schools, thus avoiding costly placements in District 75.

#### *Re-Assign School Psychologists and School Social Workers in the Absent Teacher Reserve who are Rated Satisfactory of Above to the Schools*

There are currently 28 school psychologists and 58 school social workers on the DOE's Absent Teacher Reserve (ATR). All 28 of the school psychologists and 55 of the 58 school social worker have an employee review rating of satisfactory or above but are currently working as substitute or temporary teachers instead of in their respective fields of expertise. The DOE should make it a priority to move these school psychologists and school social workers from the ATR to schools where they can apply their skills as psychologists and social workers and help reduce the burden on overworked school psychologists.

#### *Shift Responsibility for the Evaluation and Placement of the "Turning 5" Population to the CSEs or ISCs.*

Prior to the 2007 reorganization, the Committees on Special Education were responsible for the evaluation and placement of children with special needs aging into the school system from pre-school special education. The 2007 reorganization shifted this responsibility for the Turning 5 population from the CSEs to the school psychologists. This responsibility should be shifted to the borough-based Integrated Service Centers or

back to the CSEs in order for school psychologists to devote more time to students currently enrolled in their schools.

**The Public Advocate's Office Recommends that the New York State Legislature:**

*Give the Independent Budget Office Oversight of the DOE's Management of Special Education*

In recent years, the DOE has failed to provide the public with adequate information regarding special education services in New York City. To date, the DOE has failed to comply with the Public Advocate's Freedom of Information Request (FOIL) submitted on June 28, 2007 for a number of special education indicators disaggregated by district despite public statements by the DOE that this information is readily available.<sup>72</sup>

In September 2008, the Public Advocate's Commission on School Governance recommended in its final report that the New York State Legislature vote to reauthorize the Mayor's control over the New York City school system but with significant improvements. One of the Commission recommendations is for the legislature to grant the city's Independent Budget Office (IBO) the authority to monitor the DOE and provide reliable statistics to the public.

The Public Advocate's Office fully agrees with this recommendation to address the DOE's failure to provide reliable information to the public. If the legislature does grant oversight authority, the IBO should pay particular attention to the DOE's administration of special education in New York City, including, but not limited to, the workloads and effectiveness of school psychologists.

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<sup>72</sup> Statement by Michael Best, DOE General Counsel, before the New York City Council Education Committee, 9/16/06.