



The Council of the City of New York
Hon. A. Gifford Miller, Speaker

Too Little, Too Late: *Special Education in New York City*



The Council of the City of New York
Committee on Education
Hon. Eva S. Moskowitz, Chair

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INTRODUCTION

Children with special needs deserve a first rate education. Today, despite three decades of litigation and advocacy, the majority of our city's special education students are ill-served by our education system. Only 20% of special education students receive a high school diploma.¹ Sixty-one percent drop out of school and only 18% are able to pass the English and Math Regents Exams.² Only 1.8% of children in District 75 (a separate citywide district for students with more severe disabilities) and only 9.6% of students in high-school based segregated classes graduate in four years.³ The poor quality of special education affects over 140,000 special education students enrolled in the New York City public schools.⁴ Clearly, children with special needs deserve much more from the \$3.2 billion the Department of Education currently spends on special education.⁵

On April 3, 2003, Mayor Bloomberg and Chancellor Klein announced a major overhaul of special education. In introducing these reforms, Chancellor Klein remarked that, "The time has come for a major refocus of our efforts – to move from a system that largely fails to provide effective education, that engages in multiple layers of evaluation, and that encourages excuses and non-accountability, to a system that focuses on the needs of our children, that puts our resources where they can best serve those needs, and that promotes accountability."⁶

The Committee applauds the Mayor and Chancellor for recognizing that special education fails to meet the needs of many students. The Committee supports the Mayor and Chancellor's efforts to focus on instruction throughout the Children First reforms. However, the Education Committee is concerned that many of the Department of Education's proposed reforms do not adequately address children's needs, and may in fact, exacerbate the problems currently plaguing special education.

In an effort to understand and review the Department of Education's proposed special education changes, the Education Committee held an oversight hearing on June 4, 2003. The Committee heard testimony from Linda Wernikoff, Deputy Superintendent for Special Education Initiatives and Susan Erber, Superintendent of District 75. The Committee also heard testimony from union leaders, students, parents from across the city, and organizations such as the Least Restrictive Environment Coalition, the Association for the Help of Retarded Children, and Resources for Children with Special Needs.

¹ July 30, 2003 Memorandum from the Department of Education

² NYU Institute for Education and Social Policy

³ July 30, 2003 Memorandum from the Department of Education

⁴ As of March 2003, <http://www.nycenet.edu>.

⁵ "Setting Higher Standards For Special Education in New York City," A Report of the Citizens Budget Commission, December 2002, p. 1.

⁶ <http://www.nycenet.edu/MediaRelations/JIKSpecialEducationRemarks.aspx>

This report is based on the hearing testimony, as well as substantial additional research and extensive parent input gathered at special education forums held in the boroughs. The analysis identifies promising changes, concerns with the proposed reforms, and downright inadequacies with the DOE's special education reform plans. The Committee's hopes that the Department of Education will carefully consider the analysis and recommendations presented in this report and adjust their reforms accordingly.

WHAT IS THE DEPARTMENT OF EDUCATION PLANNING TO CHANGE?

Organizational Structure

The Department of Education is making a variety of structural changes in the delivery of special education services. (*See Appendix A for organizational chart.*) For example, the number of Committees on Special Education (CSEs) is being reduced from 37 to ten. Under the previous system, there was a CSE in each of the 32 Community School Districts and each of the five high school districts. Now, there will be one CSE per Instructional Division. Under both the current and proposed special education systems, the term Committee on Special Education refers to both these central administrative offices that coordinate special education in a given district or region and also the working committee that performs evaluations and placements. The central administrative Committees on Special Education are responsible for non-public school assessments, assessments for hearing and visually impaired students, related service authorization, impartial hearings, pre-school assessments, and oversight.

In addition, the 37 District Administrators of Special Education (one per Community School Districts and high school districts) are being replaced with 50 Regional Administrators of Special Education. There will be 5 Regional Administrators of Special Education per Instructional Division and each will be responsible for 20-24 schools. Their primary responsibility will be to work with principals to ensure the delivery of mandated services.

Further, the DOE plans to hire 200 Instructional Support Specialists (20 per Instructional Division), who will each be responsible for six schools. The Instructional Support Specialists will be trained in the Orton-Gillingham and Schools Attuned programs and are intended to support and train general education teachers and special education teachers in the best practices for working with special education students. In addition to the math and literacy coaches that all schools will have in the fall, District 75 will receive an additional 40 coaches, including 18 for math and literacy and 22 working with schools on inclusion, positive behavior supports, and other supports for high-need students.

In addition to refashioning the special education organizational chart, the DOE has redeployed and in some cases eliminated, evaluation and supervisory personnel. Education Evaluators will return to the classroom as special education teachers. They will split their time between teaching and serving on school-based evaluation and placement teams called Instructional Support Committees (currently called School-Based Support Teams.) Three hundred and thirty-one Supervisors of Special Education, who are responsible for overseeing the delivery of services at one to thirteen schools, will be eliminated. Under the DOE's proposed reforms, school principals will now have this oversight responsibility. Supervisors of Social Workers, who are responsible for supervising school social workers, will be eliminated as well.

There will be no clinical supervision of the school social workers. Principals will supervise the school social workers. Vocational-Assessment Specialists are also being eliminated. The Vocational Assessment Specialists are responsible for conducting the mandatory vocational assessment that all special education students must complete when they are 12 years old. It is unclear who will absorb this responsibility. There will also be a reduction in Supervisors of School Psychologists (from 40 to 30 people) and Supervisors of Speech (from 46 to 30 people).⁷

As part of its reform agenda, the Department of Education also plans to increase the role of School Psychologists. Under the new plan, School Psychologists will be responsible for administering the educational assessments previously conducted by the Educational Evaluators in addition to maintaining responsibility for performing psychological evaluations. The School Psychologists will also take on the case manager role previously held by the Education Evaluators.

Evaluation and Placement

Under the Department of Education's new plan for special education, evaluations and the development of each special education student's IEP will be finalized at the school, rather than holding IEP meetings at both the district and school levels. The newly named Instructional Support Committees will handle evaluations, assessments, and placement decisions. The Instructional Support Committees must include, at minimum, the child's parent, a special education teacher (in the case of a child who already receives special education services, the teacher must be the student's current teacher), a general education teacher (if the child is or may be in a general education classroom), and a school psychologist. At least one of these people must also fill the required "district representative" role and be able to "interpret the instructional implications of evaluation results."⁸ Under these minimum requirements, if a parent does not attend the meeting and the student is already in special education, and thereby does not have a general education teacher, only two people will be on the Instructional Support Committee.

Instructional Support Committees will perform both initial evaluations and reevaluations. The committee will be qualified to make most placement recommendations and changes to a student's IEP. It will not, however, be eligible to recommend the following services: Special Class (full or part time); Specialized School; Defer to Central Based Support Teams (CBST); or Home Instruction. These recommendations may be made only at a review by the CSE, which includes all of the aforementioned participants and a parent member.

⁷ These numbers provided by the Council on School Supervisors and Administrators. The DOE disagrees with these numbers and says that each position is being reduced from 37 to 30 people.

⁸ "Special Education in New York State for Children Ages 3-21: A Parent's Guide," New York State Education Department, May 2002.

Curriculum

The Department of Education will train the 200 newly hired Instructional Support Specialists and 1,000 teachers in the Orton-Gillingham and Urban Schools Attuned programs. Orton-Gillingham is a multi-sensory literacy program and Urban Schools Attuned is a “system of supporting strategies for accommodating diverse learners in a classroom.”⁹ Special education students who currently take the standard assessments will also use the new standard curriculum implemented across the city, including Month-by-Month Phonics and Everyday Math.

School Improvement

The Department of Education established 21 benchmarks for measuring the success of special education services and programs. The benchmarks will be used to evaluate schools, regions, and the system as a whole. Benchmarks include achievement of students with disabilities on state and district assessments, attendance rates of students with disabilities, graduation rates, Regent’s diploma rates, decertification rates, percentage of time students with disabilities spend in a general education classroom, and percentage of students in their home school, among others.

Two and a half million dollars will be allocated to rewarding high-performing schools that exceed the benchmark targets and another \$2.5 million will be granted to low-performing schools to develop corrective action plans to improve special education programs and services in their school. The Regional Administrators of Special Education and members of newly-formed School Improvement Teams will assist the struggling schools to develop the corrective action plans.

District 75

District 75 serves 20,000 of the 140,000 special education students in the New York City public schools. Amidst the many proposed reforms, District 75 will, for the most part, stay the same, and remain a separate citywide district for children with severe disabilities. It will, however, undergo a slight reorganization. Instructional Network Leaders, similar to the Local Instructional Supervisors working throughout the rest of the school system, will be responsible for supervising approximately 12 schools in the district. As previously mentioned, District 75 will allocate 40 coaches to instruct classroom teachers in the areas of literacy, math, behavior management, communication skills, and specific techniques for students with autism. The

⁹ July 10, 2003 Memorandum from the Department of Education.

Department of Education also plans to implement the new standard math and literacy curricula for children in District 75 who will take the same assessment tests as children in general education classes.

PROMISING CHANGES

There are three promising elements of the Department of Education's proposed reforms to special education:

1. The focus on instruction
2. Increased principal accountability
3. Efforts to expand neighborhood District 75 placements

#1: Focus on Instruction

In keeping with the overall mission of Children First, the Department of Education's proposed reforms to special education focus on instruction. The Committee supports this emphasis. Specifically, the Committee applauds the DOE's decision to train the Instructional Support Specialists and 1,000 teachers in research-proven instructional techniques for teaching students with special needs. The highly regarded Orton-Gillingham program should improve substantially the outcomes for struggling readers and the Committee is optimistic that its use will prove very beneficial. The hiring of the Instructional Support Specialists and system-wide math and literacy coaches also provides a much-needed boost in instructional support for special education teachers and general education teachers with special education students in their classrooms.

#2: Principal Accountability

The Department of Education's effort to make principals more accountable for **all** students in their school building, including special education students, pleases the Committee. The Committee agrees with the Department of Education that the responsibility for the delivery of quality special education services and compliance with students' IEPs must rest squarely with the principal. While Supervisors of Special Education provided valuable service to schools and students, they often had too much responsibility for providing quality special education services – creating situations in which the school principal took no ownership in the quality of services received by her or his special education students.

#3: Efforts to Expand Neighborhood District 75 Placements

In an attempt to place more students in neighborhood schools closer to their home, the Department of Education is centralizing responsibility for developing new classroom space for District 75. According to the DOE, "This new centralized process will address one of the biggest challenges currently facing the District: identifying new classroom space to ensure that [the DOE] is able to serve children effectively in classes

as close as possible to their homes.”¹⁰ The Education Committee supports this reform for two key reasons. First, one of the most frequent complaints committee members receive from parents of special education students is that their children are spending lengthy periods of time on the bus to and from school, up to two hours each way. Second, the Department of Education spends about \$384 million annually to transport special education students.¹¹ Spending this sum of money for non-instructional services should be prevented and the Education Committee hopes that the expansion of District 75 classroom space will reduce the time and resources spent busing students across the city.

¹⁰ Department of Education

¹¹ “Setting Higher Standards For Special Education in New York City,” A Report of the Citizens Budget Commission, December 2002.

CONCERNS WITH PROPOSED REFORMS

While the Education Committee commends the Mayor and Chancellor for some of their proposed changes, it remains deeply concerned that many of the Department of Education's new policies and procedures will not make the system work better for students and their parents and may even make things worse. The Committee has identified five areas of greatest concern:

1. Concentration of control for evaluation and placement
2. Hiring and training
3. Practices for ensuring IEP compliance
4. Principal preparedness
5. Problematic benchmarks

#1: Concentration of Control for Evaluation and Placement

The Committee views the DOE's planned shift to a solely school-based evaluation and placement process as problematic. The Education Committee supports school-based decision-making and efforts to have evaluations conducted by personnel who better know the student and family. However, the Committee worries that the proposed changes to the evaluation and placement process will decrease responsiveness and jeopardize placements that are truly in the best interest of the student by placing too much control into the hands of the Instructional Support Committee.

As previously explained, under the Department of Education's proposed reforms, placement decisions will be made by the school-based Instructional Support Committee. If a parent chooses not to attend or is not sufficiently notified of the Instructional Support Committee meeting, the Instructional Support Committee can be made up of as few as two members – a School Psychologist and a special education teacher. If a parent disagrees with the Instructional Support Committee's recommendation and chooses to have the decision reviewed by the Committee on Special Education, only one additional person will participate in the meeting – a parent member. The other members of the CSE will be the same people who served on the Instructional Support Committee.

Chris Treiber, Coordinator of Advocacy Services for the Association for the Help of Retarded Children (AHRC), testified at the Committee's June 4th hearing about his similar apprehension that, under the proposed system, parents will not have access to a review if they disagree with the school-based decision. Mr. Treiber testified that, "[The DOE's new plan] is premised on the belief that most parents will accept the school's evaluations and the school based CSE team's recommendation. Experience has shown

that most times parents are seeking evaluation and a CSE meeting because they believe that the school is not meeting their child's needs."¹²

In addition, the Committee remains concerned that under the proposed system there will be strong disincentives to placing students in their neighborhood school with adequate supports and services. Under the proposed system, principals will effectively oversee their school's Instructional Support Committee, since all members of the team will be part of the school's staff. This may create pressure to place students with high needs outside of their neighborhood school or to develop IEPs that do not require costly services rather than IEPs that are educationally effective. As Kim Sweet, Associate General Counsel for New York Lawyers for the Public Interest and representative of the Least Restrictive Environment Coalition testified at the Committee's hearing, "By focusing decision-making at the school level and reducing the opportunity for CSE intervention, the DOE may be making it easier for schools to get rid of children they do not like. Unfortunately, we in the LRE Coalition have seen many, many cases where schools have attempted to deal with a child with challenging behaviors by convening an IEP meeting to recommend that he or she be placed somewhere else. In the past, CSEs were sometimes willing to overturn the decision, assuming it was without legal basis. Under the new plan, it appears that the CSE meetings will take place at the schools and be dominated by school personnel, which makes it unlikely that the CSEs will be a meaningful check on a school that acts in bad faith."¹³

Chris Treiber from AHRC expressed similar concerns, saying, "The key to useful and effective evaluations is simple: they must do more than state the functioning of a child. The evaluation must inform instruction and objectively review the appropriateness of the services being provided. Parents must feel confident that the evaluation is accurate and not influenced by the school administration. This will be a major challenge for the school-based evaluators and CSE teams. Principals must not be allowed to place undue influence on evaluators and CSE teams to make recommendations that are in the best interest of the school administration and not the child. Placement recommendations must be based on the individual needs of the child and must not be based on what services the District or local school has available."¹⁴ The comments of these experienced advocates echo the sentiments of committee members.

#2: Hiring and Training

The extensive proposed personnel changes require hiring 50 new Regional Administrators of Special Education, 200 new Instructional Support Specialists, and the transitioning of Education Evaluators back into the classroom. Further, school

¹² Written testimony of Chris Treiber, June 4, 2003 Education Committee hearing.

¹³ Written testimony of Kim Sweet, June 4, 2003 Education Committee hearing.

¹⁴ Written testimony of Chris Treiber, June 4, 2003 Education Committee hearing.

psychologists are gaining substantial new responsibilities and 510 clerical aides are being reassigned from the former district CSE offices to schools. Hiring and training is a massive undertaking and the Committee has little confidence that it will be done well.

During the Committee's June 4th special education hearing, Linda Wernikoff, Deputy Superintendent for Special Education Initiatives, testified that the school psychologists would be trained in their new role during the month of June. Numerous school psychologists have contacted the Committee to report that no such training has taken place and they have not been given any information on when or if the training will happen. DOE officials tell committee members that the initial training for the school psychologists will not take place until September, impossibly late for them to be adequately prepared on the first day of school.

In addition, many Education Evaluators have contacted the Committee to testify that the process for moving them back to the classroom has been fraught with problems. Information about a placement fair was not adequately distributed. They were not given any information about which positions they would be eligible for. They were not permitted to meet with principals of schools with special education openings to determine which schools they are interested in working for. In addition, though many Education Evaluators have been out of the classroom for over 20 years, they are not being trained to return to the classroom. Given these accounts of the hiring and training process, the Committee is skeptical that personnel will be hired, trained, and ready to go in September.

#3: Practices for Ensuring IEP Compliance

The Department of Education's inadequate plan for ensuring compliance with students' IEPs greatly concerns the Committee. Historically, IEP compliance has been an area of widespread failure. Parents frequently contact the Committee reporting that the DOE is violating their children's IEPs. Common parent complaints are that students spend more time in transit than their IEP allows, mandated related services such as physical therapy and occupational therapy are not provided, and they are not given the assistance of full-time paraprofessionals. Advocates and education lawyers also report tremendous caseloads of families seeking assistance with the enforcement of their children's IEP.

In his testimony to the Education Committee, Miguel Salazar, Program Director at Resources for Children with Special Needs, shared his experience working toward IEP compliance. Mr. Salazar reported:

Based on the calls that [Resource for Children with Special Needs] receives from parents and professionals, the issue that appears to be most prevalent is the quality of special education students are

receiving... Closely linked to the issue of instructional quality is the failure of schools to fully implement students' IEPs.... [In May] I represented a child who had not received either the mandated Occupational or Physical therapy since the beginning of the school year. He had been receiving speech therapy only twice a week instead of the mandated three times a week as indicated on his IEP. Unfortunately this type of complaint is the rule rather than the exception.¹⁵

Statistics on the number of Impartial Hearings that take place in New York City each year further illustrate the Department of Education's poor compliance with student's IEPs. Parents often seek review at an Impartial Hearing when their children's IEP is not being implemented properly. At the Education Committee's hearing, Chris Treiber from AHRC provided the Committee with the following statistics:

- During the 1998-1999 school year, the most recent year for which data is available, there were 1,234 Impartial Hearings in New York State. 1,122 (91%) of the 1,234 hearings in New York State took place in New York City and only 112 took place outside of New York City.
- Parents prevail 38 percent of time and the Department of Education prevails only 17.8 percent of the time.¹⁶

The Department of Education asserts that the new Regional Administrators of Special Education (RASE) will be the "Guarantors of Service" in the new system – responsible for improving this poor record of compliance and making certain that students receive the services they are due.¹⁷ When asked how the RASEs would perform their duties, the Department of Education provided insufficient detail. Department of Education officials would only assert that the cornerstone of the RASE's efforts to ensure compliance will be an elaborate data system. Reportedly, the data system allows the administrators to look at how long it takes for students to receive each of the mandated items on their IEPs.

The Committee remains skeptical that the Regional Administrators of Special Education will be effective. While the Committee favors data-driven decision-making, a database, no matter how comprehensive, cannot in and of itself see to it that students get the services they need. A data system is only as good as the data entry and skill of those who interpret and utilize the data. Experience has shown the Education Committee that maintaining and effectively using data is not the Department of Education's strong suit. Currently, even basic IEP information is not digitized and maintained electronically.

¹⁵ Written testimony of Miguel Salazar, June 4, 2003 Education Committee hearing.

¹⁶ Performance Report of Educational and Vocational Services and Results for Individuals with Disabilities, 1998-1999 – Volume 1.

¹⁷ July 9, 2003 Education Committee Meeting with Linda Wernikoff.

The lack of details the Department of Education can provide about any other tools and practices the Regional Administrators of Special Education will use to successfully do special education oversight troubles the Committee. The Committee urges the Department of Education to implement procedures for verifying that students receive the services they need. The Regional Administrators of Special Education must be out in school buildings, looking at the quality of services provided, talking with parents, and meeting with advocates. They must not rely only a questionably accurate database. The Education Committee calls on the Department of Education to immediately develop a service-verification plan to ensure IEP compliance.

#4: Principal Preparedness

Principals' lack preparedness to oversee special education in their schools is of great concern to the Committee. Most principals have very little to no expertise in the area of special education. Currently, many principals rely heavily on Supervisors of Special Education for the supervision of special education in their school building. With the elimination of these administrators, principals will now be directly responsible for this day-to-day management.

The Committee supports this ideological shift, but remains troubled by the lack of training for this additional responsibility. As Council of School Supervisors and Administrators President Jill Levy testified at the Education Committee's hearing, "It is the principals and assistant principals with NO special education expertise who will be observing, evaluating, and supporting special education and general education teachers in instructional and behavioral strategies." While the Committee supports increasing principals' accountability for special education, it cautions that for this shift to be successful the Department of Education must provide principals with ample training. The Committee applauds the Department of Education for including training in special education in the Principal Leadership Academy, but urges the DOE to expand the training to reach **all** principals.

In addition, principals are not receiving sufficient financial resources to successfully manage special education. Linda Wernikoff has assured the Education Committee that principals have been given permission to dedicate an assistant principal position to supervise special education if they desire.¹⁸ However, schools are not being given the resources to exercise this option. Schools were allocated a lump sum amount more or less equivalent to the overall school budget for the previous school year.¹⁹ Unfortunately this lump sum does not include the value of the full or part time salary of a Supervisor of Special Education because Supervisors of Special Education split their time between multiple schools and as a result were frequently not included in a

¹⁸ July 9, 2003 Education Committee Meeting with Linda Wernikoff.

¹⁹ Department of Education officials report that FY 2004 school budgets may vary up to 2.5% in either direction from the school's FY 2003 budget.

school's budget. The Education Committee urges the Department of Education to provide principals who wish to hire an assistant principal for special education with the resources to do so. The discretion to hire an assistant principal to take on many of the responsibilities of the Supervisor of Special Education means nothing without the funding.

#5: Problematic Benchmarks

The Department of Education has established 21 benchmarks for measuring the success of special education services and programs. The benchmarks will be used to evaluate schools, regions, and the system as a whole. While the majority of the benchmarks make sense, one creates strong disincentives to comply with the DOE's discipline policy and one establishes disincentives to provide needed services. In addition, the list lacks any benchmark measuring rates of IEP compliance.

The benchmark to reduce the number of suspensions for students with disabilities does nothing to measure actual discipline incidents. It simply measures the number of suspensions handed out, not the number of infractions that occurred. Judging programs on number of suspensions creates a disincentive for strictly enforcing the discipline policy.

The entirely subjective benchmark to "decrease the number of unnecessary referrals" creates a disincentive to ensuring that students get the services they need. Who deems which referrals are unnecessary? This benchmark punishes principals who refer a high number of students to be evaluated for placement into special education, regardless of whether or not the referrals are warranted.

In addition, the DOE must add a benchmark to ensure IEP compliance. If schools, regions, and the system as a whole are not evaluated on whether or not they are complying with students' IEPs, no incentive to comply exists. As a result, schools will not focus on rates of compliance and many students will slip through the cracks and not get the services they need. In addition, because schools are not accountable for IEP compliance, expensive services may be withheld in order to save money. The Education Committee calls on the Department of Education to immediately amend the matrix to include a benchmark that calls for full compliance with all students' IEPs.

WHAT'S MISSING?

Unfortunately, the Department of Education's proposed plan omits key changes needed to improve special education. The Committee believes the most fundamental unaddressed problems are:

1. Poorly trained teachers and principals
2. Insufficient inclusive settings
3. Delayed identification and treatment of special needs
4. Insufficient support services
5. Minority overrepresentation
6. Lack of parental access and choice
7. Shortage of related service providers
8. Services for students with emotional and behavioral problems

#1: Poorly Trained Teachers and Principals

By failing to adequately address the need for highly trained teachers and principals, the Department of Education seriously jeopardizes its reforms before they even get off the ground. The education of our students with special needs can only be as good as the people who deliver it. Well-trained principals, special education teachers, and general education teachers are **essential** to improving special education. The Education Committee calls on the Department of Education to increase its efforts to recruit and train quality principals and teachers and makes the following specific recommendations.

First, efforts to recruit certified and well-trained special education teachers must be increased. In 2002, only 52% of newly-hired special education teachers were certified.²⁰ The Department of Education's proposed reforms do nothing to address this shortage of certified, well-trained special education teachers. The Committee urges the Department of Education to work with area schools of education to increase the number and quality of training programs for special education teachers and to add training in working with students with special needs to teacher preparation programs for general education teachers. Meeting the needs of diverse learners must be a part of all teacher preparation programs.

Second, the Committee urges the Department to offer recruitment incentives to entice more teacher candidates to go into special education. The school system will not attract enough well-trained teachers to teach special education unless it recognizes that there are additional barriers to entering the field – it takes more schooling and training to be a good special education teacher than a general education teacher. It is therefore

²⁰ "Certification Status of Teachers Entering the New York City Public Schools August 25, 2002 Through September 17, 2002." Department of Education, December 5, 2002.

logical and necessary to compensate teachers accordingly. Further, one can convincingly argue that being a special education teacher is one of the most difficult teaching positions to have in the city. More teachers may be attracted to the field if they know they would be appropriately compensated.

Third, to meet the needs of the many teachers already in the classroom, the DOE must also provide in-service professional development. As previously discussed, the DOE's proposed reforms include training 1,000 teachers in Orton-Gillingham and/or Schools Attuned. While this is a step in the right direction, it is far from adequate. There are approximately 70,000 general education teachers in the city – training 1,000 of them hardly scratches the surface. Principals, general education teachers, and special education teachers need in-service training in strategies for identifying students who are struggling, modifying instruction, and using research-proven programs for teaching students with special needs. The upfront costs of training teachers in proven programs will be offset by the money saved by avoiding placements into special education that could have been prevented had students been given proper instruction while in general education. The Committee urges the DOE to expand their training plan, at a minimum, to train all K-3 teachers in Orton-Gillingham and Schools Attuned.

In addition, if the Mayor and Chancellor intend to increase opportunities for inclusion, as they have vowed to do, there must be professional development in collaborative teaching. Many advocates assert that a lack of this sort of training in inclusion has significantly inhibited the successful implementation of the New Continuum. The New Continuum cannot be put into practice if general education principals and teachers do not have basic familiarity with the instructional principles of educating children with special needs.

#2: Insufficient Inclusive Settings

The Department of Education has failed to address the need for increased quality inclusive settings in which students with special needs are educated in general education classrooms. Although some students are best served in More Restrictive Environments, many could benefit greatly from inclusion programs. As Kim Sweet from the Least Restrictive Environment Coalition cautioned at the Education Committee hearing, "Once a child is placed in a segregated special education class, he or she is unlikely to ever leave, and...children educated in segregated special education classrooms fare worst of all [students in New York City]. While half of all students in general education settings (including both regular education and special education students) graduated after four years, only about a third of the students in self-contained

programs graduated even after seven years in high school.”²¹ These statistics clearly illustrate the need for expanded inclusive placements.

In his introduction of the Department of Education’s reforms, Chancellor Klein praised PS 87, saying, “At PS 87 they put a strong emphasis on integrated learning, where special education students learn side-by-side in classrooms with their non-disabled peers. Again, this is an area we need to get right and, for some students, non-integrated settings may be educationally appropriate. But we should not casually accept that conclusion as we too often do now. Our rate of students in the most-restrictive settings is about twice the national average. We can and must do better, much better.”²² Despite this public acknowledgement of the success of integration, nothing in the Department of Education’s reforms focuses on increasing quality inclusive options.

Collaborative Team Teaching (CTT) classes are one proven model of successful inclusion. The New Continuum, a special education reform plan adopted by the Board of Education in 2000, established CTT classes.²³ The New Continuum describes a Collaborative Team Teaching class as, “an integrated service through which students with disabilities are educated with age appropriate peers in a general education classroom.” Up to 10 students or 40% of the students in the classroom may be students with special needs. A full-time special education teacher and a full-time general education staff a CTT class. In addition, many CTT classes have one or more paraprofessionals working with the two teachers.

Despite widespread expert consensus that Collaborative Team Teaching classes and other inclusive options improve student outcomes, the DOE’s proposed special education reform does nothing to increase inclusive settings. The Committee calls upon the Department of Education to require that all schools with over six zoned-students in any given grade that would be best served in a CTT class (as determined by the student’s parent and other Instructional Support Committee members) to establish a CTT class for that grade. The requirement must be based on the number of zoned students, not the number of enrolled students, because if the requirement is based on the number enrolled, the Instructional Support Committee will have an incentives to place students out of their building to avoid being required to establish a costly CTT class.

²¹ See Least Restrictive Environment Coalition, Learning Together: Lessons in Inclusive Education In New York City p. 6 (October 2002).

²² <http://www.nycenet.edu/MediaRelations/JIKSpecialEducationRemarks.aspx>

²³ The New Continuum is officially called “Special Education Services as Part of a Unified Service Delivery System.” The overarching goal of the New Continuum was, “To the greatest extent possible...for students with disabilities to attend the schools they would normally attend if they did not require special education services to address their learning needs.” While focusing on increasing inclusion, the New Continuum outlined a range of services and placement options, from remedial reading instruction to hospital or home instruction.

#3: Delayed Identification of Special Needs

The Department of Education's proposed reforms glaringly omit a plan for improving the early identification of students with special needs. Department of Education data shows that there are more than twice as many 12 year-olds in special education than there are 5 year-olds.²⁴ While a small number of disabilities may be caused or developed as a child ages, this data indicates that many children are not identified as being in need of special education services until they have spent years in the school system. At this point, they are far behind their peers and have experienced years of failure. We cannot continue to allow our youngest students to suffer this educational nightmare. We must intervene early and reduce the number of students whose needs are not being met. Currently, most disabilities are not identified until 4th grade test results reveal that students are far below grade level.

The Education Committee strongly urges the Department of Education to address the issue of early identification of special needs and makes the following recommendations. First, the DOE need to encourage enrollment in the State's two fully-funded programs for children with special needs – Early Intervention and Pre-school Special Education. Currently, New York City fails to make full use of these programs, thus losing millions of dollars in educational services.²⁵ The Early Intervention program provides services for children ages 0-3 with language and physical delays with special services. As of fiscal year 2000, 10,250 New York City children²⁶ were receiving these services, out of an estimated 60,000 eligible New York City children.²⁷ The Committee urges the Department of Education to work with the Department of Health in conjunction with the city's pediatricians, childcare agencies, day care providers, social workers, and parents to identify all eligible children and encourage them to apply for State-funded services. This effort could bring over one billion additional educational dollars into New York City.²⁸

Through the State's Pre-school Special Education program, the Department of Education contracts with for-profit and not-for-profit educational organizations to provide services for three and four years olds with special needs. These services can be provided at home or at a Pre-K program. Currently, 22,751 New York City children²⁹ obtain such services though approximately 32,500 are eligible.³⁰ The Committee calls

²⁴ "School Age Public School Special Education Population by Age," Department of Education, March 2003.

²⁵ The federal Individuals with Disabilities Act (IDEA) that governs Early Intervention pre-school special education and school-age special education and New York State education law mandate that state and local agencies develop policies and procedures for locating and evaluating children with disabilities that live in the district. This is called "child find." Yet, it is not clear whether the state and local agencies are meeting the full requirements of the child find mandate.

²⁶ Inter Agency Council of Mental Retardation and Developmental Disabilities Agencies

²⁷ Based on an estimated population of 400,000 children aged 0-3 and a conservative estimate that 15% of those children have language and/or physical delays.

²⁸ Assuming service provision for an additional 49,750 children at an average rate of 15 hours per week, 40 weeks per year, at cost of up to \$122 per hour. (The hourly figure was provided by YAI, an approved EIS provider).

²⁹ Pre-K Special Education Service History, Department of Education

³⁰ This eligibility number is an estimate based on a current population of 217,000 three and four year olds and an estimate that 15 percent of all children are eligible for some form of special education services.

on the DOE to heighten collaboration with the Department of Health to access the approximately \$440 million additional available educational dollars that New York City currently fails to obtain.³¹

In addition to making full use of Early Intervention and Pre-school Special Education, the Education Committee calls on the DOE to make the early identification of students with disabilities a priority of the Instructional Support Specialist. The Instructional Support Specialists should aid Kindergarten and first grade teachers in recognizing common signs of learning disabilities or other special needs so that students can be evaluated as early as possible.

Further, the Education Committee urges the Department of Education to modify the ECLAS test (Early Childhood Literacy Assessment System) or establish a new assessment tool to help K-3 teachers identify students who may have learning disabilities. The city's private schools often employ early assessments to identify potential learning difficulties. These private schools, such as Bank Street, can provide the DOE with model early assessment tools and practices.

#4: Insufficient Preventative Support Services

The Education Committee strongly believes that increased academic and psychological support services for students in general education will dramatically decrease the number of students placed in special education. The National Institutes of Health have said that perhaps 40% of children have trouble learning to read. Despite this widespread knowledge that many students need additional support to succeed in school, there are insufficient resources and energies dedicated to early intervention for students with learning disabilities or psychological and emotional needs. Without this early intervention, many students do not get the help they need until they are evaluated and placed into special education – often far too late as previously noted.

The Education Committee urges the Department of Education to increase its efforts to provide students with early and effective support and intervention. For example, as previously mentioned, coaches to instruct classroom teachers in behavior management, communication skills, and specific techniques for working with students with autism are being hired by District 75. The Committee supports this initiative and strongly encourages the Department of Education to provide all teachers and students with comparable supports. Without these needed academic and psychological supports, students who have trouble reading or act out are unnecessarily sent to special education.

³¹ This \$440 million figure is based on the estimate that an additional 9,799 children are eligible and information from current Pre-school Special Education contracted private providers about the average cost per student. A typical student may receive services for 15 hours a week, 40 weeks a year, at a \$75 hourly rate.

#5: Minority Overrepresentation

Minority children are disproportionately placed in special education. During the 2000-2001 school year, Black students had a 12% overrepresentation rate in special education in New York and Hispanic students were overrepresented by 6.6%.³² In addition, minority students are more frequently placed into More Restrictive Environments. Of the students in the More Restrictive Environment, 16,922 (45.92%) are Hispanic, 14,639 (39.72%) are Black, and only 3,548 (9.62%) are White. Plans to address this situation must be integrated onto the Department of Education's reforms and decreased rates of overrepresentation should be a prioritized element of the special education benchmark matrix.

#6: Lack Of Parental Access and Choice

New York City's special education system is incredibly complex and unresponsive. Parents have limited access to information about their child's educational options and little to no choice in determining where their child attends school. Parents of students with special needs are not allowed to freely visit kindergartens, middle schools, or high schools when their child progresses from one stage of their education to another. Parents of newly evaluated students are denied requests to visit multiple special education programs in their district to determine where they think their child will be best served. In contrast, general education parents are able to freely tour multiple kindergartens and high school students and their families are able to peruse a high school directory listing all their choices. None of these options is made available to special education parents.

Special education parents with limited cultural capital have an even more difficult time navigating the special education system. Parents who work multiple jobs, struggle with language, or lack the resources to hire an attorney often have little recourse when their children are not receiving quality special education services. As Chris Treiber from the Association for the Help of Retarded Children testified at the Committee's hearing, "In New York City the reality is that parents who have the resources to hire an attorney or are fortunate enough to get free legal representation or an advocate are able to get appropriate services for their children while parents who are not represented are not."

If parents are to be informed and active members of the Instructional Support Committee and Committee on Special Education, as the DOE claims they want them to be, they must have access to comprehensive information on the array of programs in the system and must be given real power to select the program that will best serve the needs of their children. To withhold this information from them is unacceptable. The Education Committee urges the Department of Education to make special education

³² The Metropolitan Parent Center of Sinergia, Inc., *Race, Language, and Special Education in New York City*, 2000.

choice a reality by providing parents with a list of all special education programs in their district in advance of an IEP meeting and offering all students multiple placement options. Special education parents must have access to the information and leverage they need to advocate effectively for their children.

Further, the Department of Education must address the needs of parents with limited means by initially providing adequate services, rather than requiring parents to go to great effort to see that their children receive the services they are entitled to. Additionally, the Department of Education must ensure that all Parent Coordinators are trained to advocate adequately on behalf of parents of children with special needs. Parent Coordinators must understand parents' and students' rights, as well as be able to refer parents to outside advocacy organizations such as Parent to Parent, the Association for the Help of Retarded Children, and Resources for Children with Special Needs.

#7: Shortage of Related Service Providers

The shortage of related service providers frustrates vast numbers of New York City parents. It was the biggest complaint raised at the Education Committee's parent forums on special education and spurs the majority of special education related parent calls to Education Committee members. When a student is recommended to receive related services (occupational therapy, physical therapy, and speech therapy) the services are provided in one of three ways: by a Department of Education employee, by an agency contracted by the DOE, or through a private provider hired by the parent and paid for by the DOE through a Related Service Authorization. Over the past several years, low pay and red tape has led many occupational, physical, and speech therapists who were previously employed by the DOE to leave to work for agencies or go into private practice. In addition, many agency and private providers have stopped contracting with the Department of Education because of snail-pace reimbursement and other bureaucratic headaches. As a result, the Department of Education faces a severe shortage of related service providers and students often do not receive mandated services for up to several months at a time.

The Department of Education's efforts to provide scholarships and other recruitment tools have not solved the related service provider shortage – it must do more. The Education Committee urges the Department of Education to include a comprehensive strategy for addressing the shortage in its proposed special education reforms.

#8: Services for Students with Emotional and Behavior Problems

Thirteen percent of all students in special education are emotionally disturbed, making it the third-largest classification for students with disabilities.³³ Only the learning disabled and speech and language impaired classifications are larger. The 18,715 emotionally disturbed students in the system are not getting the services they need to succeed in school.

Grouping all students with emotional problems in the same class despite their vastly different needs greatly weakens the DOE's provision of service for students with emotional and behavioral problems. For example, students who have been emotionally, physically, or sexually abused, students who are severely mentally ill, and students who are intellectually gifted but have tremendous difficulty controlling their behaviors are often placed into the same classroom. Due to the vastly different needs present in the class, teachers are unable to meet the needs of all the students. This situation can also be dangerous as students who have been abused are victimized, withdraw, and are afraid to go to school when placed into class with aggressive students. In addition, mentally ill students frequently are not offered the proper level of clinical support and become a danger to themselves and others.³⁴

The Education Committee calls on the DOE to amend their proposed reforms to include provisions to address the needs of students with emotional and behavioral problems. A good first step would be to recognize the distinctions among students with emotional and behavior problems and establish specialized programs to meet their differing needs. Several New York State approved private schools, such as the Hallen School in Yonkers and the League School in Brooklyn, can provide successful models.

³³ "Counts by Disability," Department of Education, August 4, 2003.

³⁴ Guidance provided by Chris Treiber, AHRC.

CONCLUSION

The Education Committee urges the Department of Education to consider carefully the analysis and recommendations presented in this report and adjust their reform efforts accordingly. The Committee's conclusions are based not only on the testimony provided at the Committee's June 4, 2003 hearing and extensive additional research, but, most importantly, from years of aiding the parents of special education students in their attempts to secure needed services for their children. The Committee hopes that the Department of Education will welcome this report and will work collaboratively with the Education Committee to achieve our shared goal of an improved special education system in New York City.

NEW SPECIAL EDUCATION STRUCTURE IN LEARNING DIVISION

