

Comprehensive Management Review and Evaluation of Special Education

Submitted to
The New York City Department of Education
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TABLE OF CONTENTS

	<u>Page</u>
I. Introduction	4
II. Management	26
A. Infrastructure	26
B. Data Management	37
C. Policies and Procedures	44
III. Pre-referral, Referral and Evaluation	50
A. Pre-referral	51
B. Referral and Evaluation	53
IV. Placement	63
A. Placement Process	63
B. Least Restrictive Environment	69
C. Access to the General Education Curriculum	79
V. Due Process	85
VI. Recommendations	91
References	101
Appendix A	105
Appendix B	112

LIST OF TABLES

	<u>Page</u>
Table 1. Percentage of students with disabilities in New York City requiring related services who are awaiting those services, by type of service and month, for June 2004 through April 2005	42
Table 2. Percentage of students with disabilities awaiting placement over 60 days, by month and Region: 2003-04 school year	65
Table 3. Movement of students with disabilities from District 75 to Regional settings, between Fall 2003 and Fall 2004	74
Table 4. Number and percentage of students with disabilities, overall and in CTT Classes, by school level: 2005	76
Table 5. Number of due process filings, by school year, for New York City, Chicago, and Los Angeles	91

LIST OF FIGURES

	<u>Page</u>
Figure 1. Number of District 75 and non-District 75 students with disabilities ages 6-21, overall and by setting: 2003	10
Figure 2. Special education budget allocations in New York City: 2003-04	11
Figure 3. Average scaled NAEP scores for students with disabilities, by grade and subject, for New York City, Chicago, Los Angeles, New York state and the nation: 2003	12
Figure 4. Percentage of students with disabilities served in substantially separate settings, by setting type, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003	70
Figure 5. Number and percentage of students with disabilities ages 6-21 who are educated in New York City schools compared to in District 75, by disability type: 2003	72

I. INTRODUCTION

The following is a comprehensive review and evaluation of the New York City (NYC) Department of Education's processes for pre-referral, referral, evaluation, placement, and due process, as well as oversight of these practices. The purpose of this study was to critically assess the recent reorganization of the Department of Education's special education evaluation and placement processes and special education oversight in light of the ongoing *Jose P.* litigation. The study was conducted independent of each party and hopefully will serve to inform both the NYC Department of Education and the plaintiffs' attorneys as to ways in which this special education reorganization can be improved. We feel confident that the findings of this report are accurate and the recommendations contained within will support the NYC Department of Education in its endeavor to educate students with disabilities. The study was conducted by a team of researchers led by Dr. Thomas Hehir, currently serving on the faculty at the Harvard Graduate School of Education, and took place over the past school year. The study involved significant data analysis, document reviews, school visits, and over 250 interviews of administrators, teachers, related services personnel, union representatives, State Education Department personnel, and parent advocates.

Purpose

The purpose of this study was to examine the extent to which the NYC Department of Education (DOE) has a management structure in place that is capable of implementing the fundamental requirements of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) (Pub. L. No. 108-446, 118 Stat. 2647 (2004) (amending 20 U.S.C. § 1400 *et seq.*). It is important to emphasize here that the purpose of this report was not to assess the relative compliance level or quality of services of the DOE in relationship to federal or state law but rather to determine how the new structure was supporting the provision of special education services in NYC. We focused specifically on the Department's policies and procedures associated with pre-referral, referral, evaluation, placement, and due process. We were particularly interested in examining the roles and responsibilities of the various offices and individuals involved in special education support and oversight within the context of the Chancellor's reorganization. Beyond stated roles, we sought to understand how this new structure supported the schools in meeting their obligations for educating students with disabilities and to intervene when problems arise. The management of special education is complex and schools require significant support in meeting the needs of these children. Further, when schools are either unable or unwilling to meet the needs of these children, the management and accountability structure must intervene to ensure students receive the supports and services they need to be successful. We therefore examined how the new support and accountability structures worked at the school, Regional and Central Office levels.

Evaluation Design

Our evaluation design comprised two distinct phases of data collection. In the first phase, we collected information at the administrative level that pertains to pre-referral, referral, evaluation, placement, and due process in NYC. In the second phase, we collected similar information at the school building level, focusing on a select sample of ten schools. Schools were chosen purposefully to represent a range of quality in special education service delivery based on available data. Therefore, the relatively small sample of sites was considered appropriate to achieve this objective. During both phases we collected qualitative and quantitative data, including extant quantitative indicators, interviews with administrators, teachers, advocates and other key personnel and stakeholders, on-site observations, and relevant documents. We received full cooperation from DOE, Regional and school staff in all aspects of data collection. Personnel at all levels were welcoming, candid, and evidenced a high level of commitment to the children they serve.

Phase One

During the first phase of data collection, we engaged in rigorous qualitative research methods (*see, e.g.*, Glesne, 1999; Maxwell, 1996; Maykut and Morehouse, 1994; Patton, 2002). Specifically, we conducted interviews with a large number of key staff in the Central Administration of the New York City Department of Education as well as personnel from 6 of the 10 Regions. The analytic tool of interviewing allowed the perspectives of a wide range of personnel at the various levels of management to emerge (Kavale, 1996; Patton, 2002; Seidman, 1988). From the beginning, the Chancellor set the tone for this study by emphasizing his desire to use the study results to help improve the education of children with disabilities. This tone of openness and commitment was reflected in all the interviews with the Chancellor's staff and impressed the evaluation team. Further, the degree to which most Central staff possessed both the level of knowledge of the challenges the Department faced in improving educational results, as well as the deep commitment to the needs of these children, was impressive.

Interviews conducted during this phase included, but were not limited to, the following key personnel: The Chancellor, Deputy Chancellor, Assistant to the Deputy Chancellor and Chief of Staff in the Teaching and Learning Division, Deputy Superintendent for the Office of Special Education Initiatives, Senior Instructional Manager for the Division of English Language Learners (ELLs), Regional Superintendents, Local Instructional Superintendents, Lead Regional Administrators of Special Education, Regional CSE Chairpersons, Special Education and ELL Instructional Support Specialists, and representatives of parent advocacy groups. We conducted approximately 113 interviews during this phase. The large number of in-depth interviews helped contribute to the depth and breadth of the study and ensure the validity of the findings (Patton, 2002). In accordance with the ethical principles of traditional qualitative research methods, all interviewees were assured of anonymity (Glesne, 1999;

Robson, 2000).

We also reviewed documents related to special education pre-referral, referral, evaluation, placement, and due process for the Department of Education, including specifically those documents involving policies and directives regarding these practices, state monitoring documents, and various documents provided by the plaintiffs' attorneys in the *Jose P.* case. We also collected and reviewed extant quantitative data on indicators such as referral rates, timeliness of evaluations, and number and certification status of evaluation and other special education personnel. All quantitative data were provided by the DOE.

Phase Two

During the second phase of data collection, we conducted in-depth case studies of a select sample of ten schools. The case study method was used to enable an in-depth, contextual investigation to be made (Merriam, 2001; Yin, 2003). The schools were chosen based on information from both the Department of Education and *Jose P.* plaintiffs' attorneys and reflected a mixture of schools with demonstrated high compliance, low compliance and average compliance with federal and state special education law. Specifically, the schools were selected on the basis of progress or lack of progress toward benchmarks developed by the Office of School Improvement (OSI). Some of the criteria included: percent special education students in least restrictive environment (LRE) placements; percent evaluations out of compliance (>30 days), percent students awaiting related services, and percent English Language Learners (ELLs) in special education. The sample of schools was also stratified based on level (elementary, middle and high school) and geographical location (borough).

We conducted over 150 interviews with principals and key staff at the ten schools. We spoke with staff, both general and special education, who were involved in the pre-referral, referral, evaluation and/or placement process at the school level. We paid particular attention to the overall consistency of policy and practice from the Central and Regional administrative levels to the school level. In addition, we collected relevant school building data regarding the evaluation process. This included extant quantitative indicators regarding referral rates, the completion of evaluations, placement in the least restrictive environment (including information regarding English Language Learners), and percentage of students awaiting related services. We also collected a sample of evaluation reports to examine the evaluation process and a sample of Individualized Education Programs (IEPs) to examine placement decisions.

Roles and Qualifications of Staff

The team of consultants who conducted this review is highly qualified, experienced, and together have the necessary blend of substantive and methodological expertise to conduct this study. Our team consisted of three groups of staff: Lead

Consultant, Principal Consultants and Analytic Consultants.

Our Lead and Principal Consultants provided conceptual oversight for the project. The Lead Consultant (Thomas Hehir) oversaw the entire study, with the two other Principal Consultants overseeing specific aspects of the study. Sue Gamm focused on legal issues, policies, procedures and management structures of the DOE. Richard Figueroa focused on issues related to the assessment of English Language Learners.

Our Analytic Consultants collected data during both phases of the study, with assistance from the Lead and Principal Consultants. The Analytic Consultants were also responsible for conducting the first round of analysis on all data that was collected. The team worked together to derive the summary findings in this report and have reached consensus on their accuracy.

Specific information regarding each staff member's qualifications is provided below.

Principal Consultants

Dr. Thomas Hehir, (*Lead Consultant*) Lecturer in Education at the Harvard Graduate School of Education and Director of the School Leadership Program. Hehir is the former Director of the Office of Special Education Programs, U.S. Department of Education Programs, in Washington, D.C. He previously served as Associate Superintendent for Special Education and Pupil Support Services for the Chicago Public Schools and Director of Special Education for the Boston Public Schools.

Sue Gamm, Esq., Consultant, Educational Strategies and Support. Gamm provides consultation to and has conducted special education reviews in numerous major urban school districts across the country. Gamm, an attorney, is the former Chief Specialized Services Officer of the Chicago Public Schools and Division Director of the Office for Civil Rights. In addition, she is currently working directly with four high schools in Philadelphia to improve the performance of students with disabilities.

Dr. Richard Figueroa, Professor of Education at the University of California at Davis. Figueroa's primary research is in those procedures and policies employed to assess testing bilingual, Hispanic children for special education placement. His most recent work involved working with federal court monitors in California school districts with severe compliance problems relative to the implementation of IDEA with minority pupils.

Analytic Consultants

Dr. Lauren Katzman is an associate professor at Boston University's School of Education, in the special education program. Her research has examined the effects of

high-stakes tests on students with disabilities. Katzman has worked for the past three years on a consultancy team with Dr. Hehir evaluating the implementation of IDEA in school districts. She also served as Dr. Thomas Hehir's teaching fellow in classes on disability policy and inclusion while receiving her doctoral degree at Harvard Graduate School of education. She was a special education teacher in New York City, as well as in New Jersey and St. Louis, Missouri for 14 years.

Dr. Allison Gruner is a recent graduate of the Harvard Graduate School of Education, where her research focused on the impact of inclusion on the academic achievement of non-disabled students. Gruner provides educational research consulting services to schools and school districts on issues related to the administration and evaluation of special education services. She recently accepted a position as a Senior Research Analyst with the American Institutes for Research.

Joanne Karger, Esq. is an advanced doctoral student at the Harvard Graduate School of Education. Her research focuses on implementation of the legal requirements of IDEA, including the provision of access to the general education curriculum for students with disabilities and parental rights associated with due process hearings. She has worked on a number of lawsuits involving disability and education related issues and currently provides consulting services to school districts and nonprofit organizations on matters pertaining to the administration of special education policies and procedures.

Dr. Jaime Hernandez recently graduated from the University of Southern California with a degree in Educational Leadership. He also currently serves as the Outreach Coordinator of the Office of the Independent Monitor, for the Los Angeles Unified School District. Hernandez has conducted research in LAUSD on the disproportionate identification of African American students identified as emotionally disturbed. He has also worked as a bilingual school psychologist, and special education and general education teacher in the LAUSD.

Overview of Special Education in NYC

Demographics

During the 2003-04 school year, approximately 137,930 students in the New York City public schools received special education services, making up 11.1% of the total student population. Within this group of students, the three most prominent disability types are learning disabilities (46%), speech-language impairments (24%) and emotional disturbance (13%). All other disability types make up less than 5% of the population of students with disabilities (see Table A-1 in Appendix A). These percentages are fairly similar to those in the state and nation, and in two comparable large cities—Chicago and Los Angeles.¹ An exception is the relatively large percentage of students with disabilities

¹ Throughout this report, comparisons are made between special education in NYC and that in the Chicago Public Schools (CPS) and the Los Angeles Unified School District (LAUSD). Chicago and Los Angeles were selected for comparison with NYC because these three school districts are the largest in the country

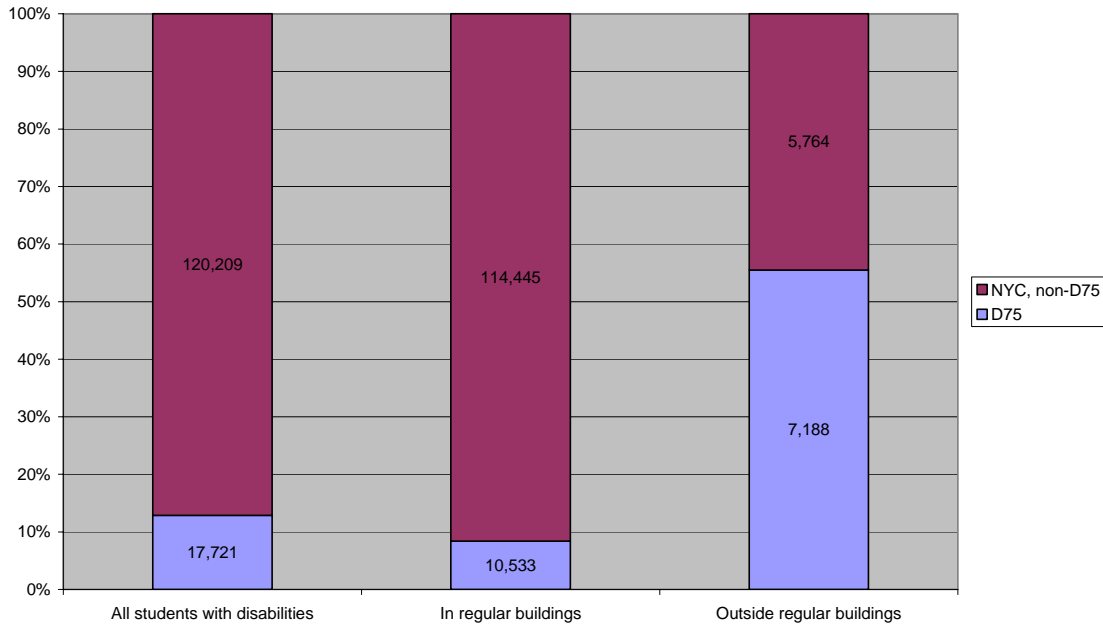
who are classified as speech-language impaired (24% in New York City compared to 8.9% in Chicago, 8.1% in Los Angeles, 17.7% in New York State, and 18.7% in the nation). We discuss this issue in greater detail later in this report.

Almost half of all students with disabilities in NYC (49%) are educated in regular school buildings and spend less than 20% of their school day outside of the regular classroom. Forty percent of students with disabilities are educated in regular buildings, but spend 60% or more of their school day pulled out of the regular classroom. Nine percent of students with disabilities are educated in a substantially separate setting that is outside of a regular school building (see Table A-2(a) in Appendix A).² Included within these percentages however, are students who are educated in District 75. While many District 75 students are integrated within regular buildings, and some in regular classrooms, their education is run and overseen by a separate administration and a separate set of teachers and service providers. District 75 students comprise 13% of all the students with disabilities in NYC; however, they comprise 8% of the students with disabilities who are educated in regular buildings, and they comprise over 50% of the students with disabilities who are educated outside of regular buildings (see Figure 1). District 75 students, therefore, are much more likely to be educated in substantially separate settings.

and each is under some form of class action litigation involving systemic issues relating to the implementation of IDEA.

² Throughout this report, we chose to measure the extent to which students with disabilities are served in the least restrictive environment by using the federal standard—percentage of students who are educated inside and outside regular buildings, and percentage of the school day that students spend outside of the regular classroom. We chose this measure first because we believe it is the most objective, and second because it allows us to use a common measure when comparing NYC data with data from other urban districts, the state, and the nation.

Figure 1
Number of District 75 and non-District 75 students with disabilities ages 6-21,
overall and by setting: 2003



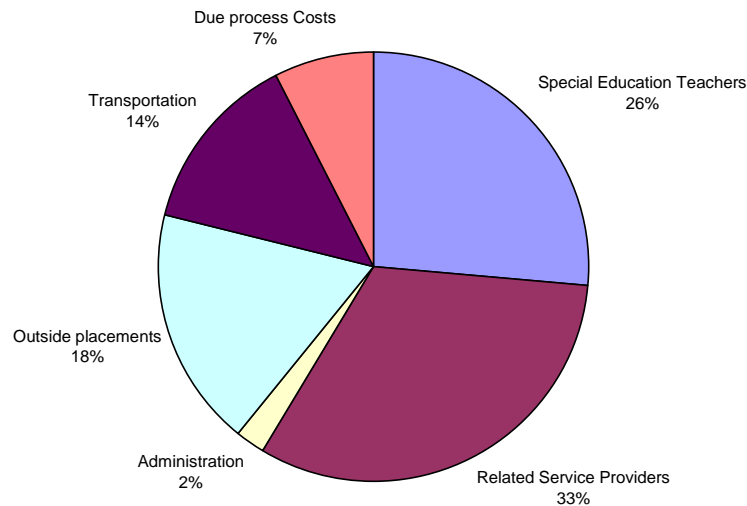
The percentage of students with disabilities in New York City who spend less than 20% of their school day outside of the regular classroom (49%) is similar to state and national averages. However, only 1% of students with disabilities in New York City spend between 21 and 60% of their school day outside of a regular classroom, compared to a state average of 12% and a national average of 19%. Compared to averages for Chicago, Los Angeles, the state and nation, a greater percentage of students with disabilities in New York City spend more than 60% of their school day outside the regular class (41% compared to 29%, 33%, 27% and 19%), and a greater percentage are educated outside of regular buildings altogether (9% compared to 6%, 8%, 7% and 4%).

During the 2003-2004 year, NYC employed 11,810 special education teachers, translating to an approximate ratio of 12.7 students with a disability per teacher. They also employed 12,156 teacher assistants or aides, equaling a ratio of 12 students with a disability per aide. These ratios are equivalent to or lower than averages for Chicago, Los Angeles, New York state and the nation as a whole, indicating a sufficiently staffed special education program. They also employed 1170 school psychologists, 2640 counselors, 2015 speech-language therapists, and 1151 occupational therapists to serve students with disabilities. For all of these numbers, students per personnel ratios are less than comparable school district and national averages, and for all but the number for school psychologists, the ratios are lower than the New York state average (see Table A-3 in Appendix A).

The total budget for special education in 2003-04 was \$3,406,942,546,

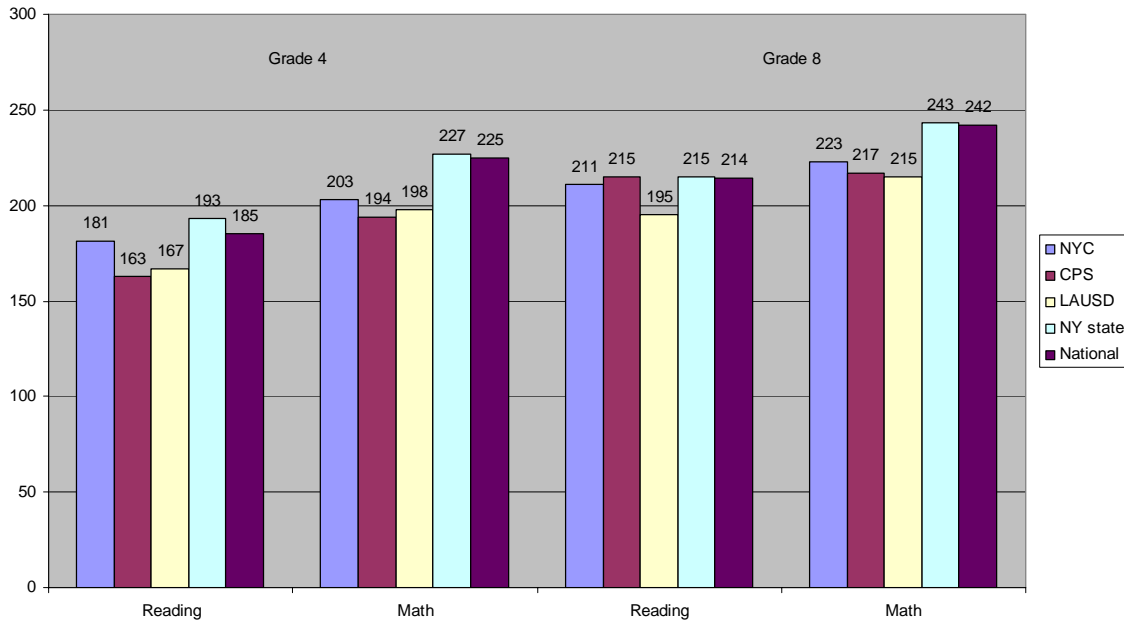
approximately 25% of the overall school budget in New York City for that same year. Compared to Chicago and Los Angeles, in which special education comprised 14.9%, and 9.6%, respectively, of their overall school budgets in 2003-04, New York City devotes a considerably large share of its overall budget to special education. As Figure 2 shows, the largest portion of this budget paid for related service providers (33%), followed closely by costs related to the employment of special education teachers (26%). Eighteen percent of the budget was allocated to outside placements, and 14% to transportation costs. The smallest portions of the budget were due process costs (7%) and administrative costs (2%).

Figure 2
Special education budget allocations in New York City: 2003-04
(Total special education budget = \$3,406,942,546)



A comparison of reading and mathematics scores on the National Assessment of Educational Progress shows that students with disabilities in New York City perform better than or similarly to their peers in the Chicago and Los Angeles Public Schools. On the other hand, their scores are lower than the average for all students with disabilities in the state and nation (see Figure 3). Students with disabilities consistently under-perform students without disabilities in grades 4 and 8 for both reading and mathematics. In addition, results from New York City's own city-wide assessment show that between 2004 and 2005, the percentage of students with disabilities scoring above "basic" has gone up and the percentage scoring "not proficient" has gone down (NYC English Language Arts and Math Testing Levels, reported June 2005).

Figure 3
Average scaled NAEP scores for students with disabilities, by grade and subject, for New York City, Chicago, Los Angeles, New York State, and the nation: 2003



Twenty-eight percent of students with disabilities who completed their high school careers in 2004 received Regents of regular diplomas, and twenty-seven percent received some kind of alternate diploma (GED diploma, IEP diploma, or local diploma). Forty-five percent of these students, however, dropped out. This dropout rate is higher than the average for the state (32%) and the nation (25%).³

Driving Assumptions

The overall delivery of special education services in NYC seems to be driven by a paradigm of service delivery that has been referred to in the educational literature, including reports by the National Research Council, as the “medical model” (Donovan & Cross, 2002; McDonnell, McLaughlin, & Morison, 1997). Under this model, children with disabilities are assumed to have a “condition” that is intrinsic to the child and that will respond to “treatments” such as speech therapy or resource room services. Frequently, this model is associated with categorical placement systems in which children with similar disability types are removed from regular classes to have specialized services by category of disability. Of course some children with disabilities do have medical conditions such as blindness or autism for which there are interventions that can minimize the impact of their disability. Many of these children have disabilities that are

³ The source for these statistics for NYC is the 03-04 PD5 report on exit from special education that was submitted to the state. State and national data come from the U.S. Office of Special Education Program’s Annual Report to Congress on the Implementation of IDEA. Due to vast differences in ways to calculate graduation and dropout rates, sufficiently comparable data for Chicago and Los Angeles were not available.

significant and that influence every aspect of their lives. The medical model clearly has relevance for disability determination and service delivery for these children.

However, other disability conditions, such as learning disabilities or emotional disturbances, have origins that are less clear cut, and it is difficult to distinguish their causes from other non-medical factors such as poor instruction or inappropriate discipline practices. Further, many of these disability types do not impact children's lives beyond school. In addition, the way in which the school environment is structured can exacerbate these conditions or even create functional disability. For example, a poor reading program can create the functional disability of illiteracy. On the other hand, a well functioning reading program can prevent illiteracy and minimize the problems experienced by children with dyslexia. The model of disability that is most relevant here is referred to as a "social systems" model. This model posits that disability is heavily influenced and even defined by the demands of the environment. Given the influence of environmental factors and the fact that some disabilities do have a medical aspect, IDEA's identification processes reflect both a social systems model and a medical model (McDonnell, McLaughlin, & Morrison, 1997).

Although the medical model of disability is useful in determining the existence of some disabilities and is relevant to certain intervention decisions, reliance on this model alone is problematic. First, it is important to note that all children with disabilities, whether their condition is easily identified with a medical model or not, have to exist within the social system of the school. Further, schools should be preparing these children for the future in which they will live and work in the broader community. Excessive reliance on the medical model typically pays little attention to this reality. Under the medical model, disability "symptoms" receive inordinate attention and the provision of various therapies and interventions may compromise the education they receive. Therefore, it is not uncommon to see children "pulled out" of core academic subjects in order to receive a therapeutic service such as speech. Further, under this model children may even be removed from their school and "placed" in a specialized segregated program far from home. This practice of moving large numbers of students with disabilities out of their home schools to receive special education services is not only educationally questionable but is costly and unnecessary. Although such practices may be justified for certain children, the potential downside must be considered in placement decisions. For example, it is less likely that a child will pass the Regents if he/she is pulled out of core academic subjects and misses valuable instruction. Children will have greater difficulty functioning in a community in which they did not go to school or have the opportunity to make friends. It is also more difficult for children to develop understandable speech if they are segregated from typical children and are exposed only to children experiencing difficulty speaking. These are examples of how the inordinate reliance on medical model service delivery systems can compromise the interests of children with disabilities.

Another problem with the medical model of disability is the fact that interventions

have not been developed to eliminate the impact of disability for the vast majority of properly-identified children with disabilities (Hocutt, 1996). The provision of special education related services under the medical model may give the inappropriate impression that the disability is being addressed when in some cases these practices may actually exacerbate the impact of the disability. For example, placing a group of students with emotional disturbances together in one classroom, as opposed to providing them with individualized interventions in the regular education classroom, could prevent them from fully benefiting from their academic experience (Walker, et al.,1996).

This is not to say that special education interventions and placements in special education programs are not justified. There are many examples of special education and related services provision that are effective (Hocutt, 1996). Further, some students do profit from being placed in specialized programs. However, more thoughtful individual decisions need to be made about special education placements. The standard upon which to judge the efficacy of interventions and placements should be the degree to which they minimize the impact of disability. If the Department's goal is to have children with disabilities prepared to participate in all aspects of community life and to achieve at higher academic levels, schools should be maximizing the opportunities for children to participate in all aspects of school life. Thus, children need carefully made individual placement decisions with the goal of minimizing the impact of their disability while maximizing their opportunities to participate in school (Hehir, 2002).

As we will discuss at greater length throughout this report, special education practices that are reflective of the medical model of disability are pervasive in NYC. Large numbers of children receive "pull out" therapies. Over a third of the special education budget is devoted to related services, more than is being spent on special education teachers. Large numbers of children are removed from general education classrooms, with many being removed from the school they would attend if they did not have a disability in order to receive special education services. It should be noted that the DOE currently spends 14% of its budget on transportation. Much of this expenditure is undoubtedly due to this practice of removing students from their home schools. Approximately 90% of children with disabilities in NYC have one (or a combination) of five conditions: learning disabilities, speech-language impairments, mild to moderate emotional disturbances, mild to moderate mental retardation, and attention deficit disorder (ADD)/attention deficit hyperactivity disorder (ADHD) (classified as other health impairments under federal and state special education law). Every school should be equipped to educate children with these common or high incidence disabilities. Unfortunately, the placement practices in NYC are not sufficiently guided by these principles. Not only are they excessively influenced by the medical model of disability but placement determinations are also bureaucratically driven. For example, placements are often based on available "seats" within rigidly defined service delivery models. We found that virtually no children are served from 20 to 60% of their school day in special education settings, even though IDEA calls for a continuum of services. Although the Chancellor's reorganization (discussed further below) has appropriately sought to have

schools develop the capacity to serve their students with disabilities, the practice of moving children with high incidence disabilities out of their schools to receive special education services continues. As will be demonstrated in later sections of the report, while the goals of the reorganization are commendable, some of the special education practices in NYC are inconsistent with these goals.

Jose P.

The special education program in NYC has been heavily influenced by litigation, most notably *Jose P.* The initial complaint in the *Jose P.* litigation, filed in federal district court in February, 1979, alleged violations with respect to the timelines associated with the evaluation and placement of students with disabilities. Over the next several months, two additional cases were filed that were related to and handled with *Jose P.* – one filed on behalf of United Cerebral Palsy of New York and the other on behalf of the Puerto Rican Defense Fund. Two advocacy organizations – the Public Education Association and Advocates for Children – appeared as *amici curiae* (friends of the court).

The judgment, signed by Judge Nickerson in December, 1979, found that the DOE had not provided students with disabilities a free appropriate public education in a timely manner, thereby violating the Education for All Handicapped Children Act (EAHCA), the precursor to IDEA, as well as New York State law. The court ordered the DOE to “take all actions reasonably necessary to accomplish timely evaluations and placements in appropriate programs of all children with handicapping conditions” (*Jose P. v. Ambach*, Civ. No. 79-270 (E.D.N.Y. filed December 14, 1979), at 9). Specifically, the DOE was ordered to conduct evaluations within 30 days⁴ of receipt of written notification that the child may have a disability and require special education services. In addition, the DOE was to set up an appropriate placement within 30 days of the evaluation (or 60 days of the referral, if shorter).

Under the original judgment, the DOE was ordered to make a large number of changes related to a variety of areas including: (1) development of an “outreach office” for identifying children in potential need of special education services; (2) establishment of a “school-based team” at each school for the purposes of evaluation and placement; (3) development of a plan to establish procedures for the evaluation of English Language Learners; (4) development and dissemination of informational materials regarding parental rights; (5) compilation of a set of standard operating procedures; (6) development of a data bank and data tracking system; and (7) submission of monthly reports to the special master in the case, the parties and *amici curiae*.

Over the years, the *Jose P.* litigation has expanded, as numerous court orders and stipulations have been instituted, and the parties have continued to debate the issues. For example, according to the lengthy 1988 stipulation, the DOE was to hire a significant number of qualified professionals, including additional bilingual and monolingual staff,

⁴ The order defines “days” as “school work days,” except during July and August, in which “days” refers to all days except Saturday, Sunday and legal holidays.

to reach the following numbers: 960 educational evaluators (320 of whom would be bilingual); 960 school psychologists (320 of whom would be bilingual); and 572 social workers (286 of whom would be bilingual). Similarly, the DOE was to hire additional special education monitors (to reach a total of 58) to oversee implementation and compliance under the litigation. In addition, the stipulation called for changes to the school-based team that would incorporate preventive services and included specific requirements regarding unilateral enrollment in approved non-public schools for those students who had not been placed in a timely manner. Furthermore, the 1988 stipulation provided for the possibility of disengagement if the DOE could demonstrate “substantial compliance” – i.e., if the DOE could show, among other factors, that for 8 of the 12 months of the school year 90% of the students (with the exception of those considered “hard-to-place”) had been evaluated and had an appropriate placement arranged within 60 days and 99% within 80 days (*Jose P. v. Board of Educ.*, Civ. No. 79-270 (E.D.N.Y.), Stipulation (July 28, 1988), at 59). “Substantial compliance” as described in the 1988 stipulation, however, was never achieved, and the litigation continued.

Several studies of the DOE’s special education program, highlighting the persistence of systemic problems, were also conducted over the years. For example, in the mid-1980s, Mayor Koch commissioned a study of special education, which reported, among other findings, that the personnel conducting evaluations spent “too little time... observing behavior in the classroom and consulting with regular education teachers. Existing diagnostic tests are not sophisticated enough to be used as the primary method for distinguishing between children with learning disabilities and slow learners” (quoted in Sandler & Schoenbrod, 2003, p. 76). It is noteworthy that this study, which was conducted 20 years ago, identified problems with the evaluation process that persist today – i.e., an over-reliance on the medical model (see Chapter III).

Thus, the protracted *Jose P.* litigation, which has lasted for more than 25 years and outlived numerous Chancellors and administrations, has cost the DOE a great deal of time and resources. Although some positive initiatives have resulted from the litigation, there has not been a strong push through the years from either side to end the litigation; nor has there been a comprehensive directive from the court, beyond mention of “substantial compliance” in the 1998 stipulation, regarding steps the DOE could take to terminate court oversight. Ironically, *Jose P.*, the lead plaintiff in the original complaint, would be 41 years old today.

Also contributing to the inability of the *Jose P.* litigation to bring about fundamental changes in special education in NYC is the fact that the litigation (as is the case with the schools system’s special education program) has been driven, in large part, by a number of problematic assumptions regarding the nature of disability and special education services. In fact, close examination of the court documents reveals the extent to which these assumptions are deeply embedded in the culture of special education in NYC, impacting both the evolution of the litigation as well as special education practice. First, the language of the court documents tends to reflect the assumption of a medical

model of disability. For example, there is frequent mention of the crucial role played by “clinical” staff in the evaluation and placement processes (*see, e.g., Jose P. v. Ambach*, Civ. No. 79-270 (E.D.N.Y. filed December 14, 1979), at 13). Similarly, the 1988 stipulation called for all children referred for special education to be provided hearing and vision screenings, two “medical examination procedures” (Civ. No. 79-270 (E.D.N.Y.), Stipulation (July 28, 1988), at 25). Subsequent chapters of this report will point out examples of the DOE’s over-reliance on the medical model in current special education practice.

In addition, the *Jose P.* documents reflect the assumption that special education is a “place” rather than a “service.” For example, the original judgment described the need for the DOE to develop a sufficient number of “programs” for students with disabilities in addition to resource rooms (Civ. No. 79-270 (E.D.N.Y. filed December 14, 1979), at 20), and the 1988 stipulation, as noted, referred to “hard-to-place” students (Civ. No. 79-270 (E.D.N.Y.), Stipulation (July 28, 1988), at 59). In this context, the creation of “programs” has been translated in NYC as well as other school districts across the country as a “place” in which students with similar characteristics receive a set of core services that are pre-determined to be needed by the students in question. The notion of special education as a place, however, works against the IDEA principles of the “least restrictive environment” and individualization and leads to the inordinate segregation of students with disabilities.

The documents also include the assumption that a strong bureaucracy is necessary to effect tangible results. For example, as noted, the 1988 stipulation called for the hiring of significantly more staff, including a sufficient number of personnel to fill 58 special education monitor positions (Civ. No. 79-270 (E.D.N.Y.), Stipulation (July 28, 1988), at 46). Large numbers of staff, however, do not necessarily lead to better outcomes and, as will be shown in later chapters of this report, can also create confusion and result in non-compliance. Finally, the court documents highlight an emphasis on compliance with timelines and procedures rather than improvement of the quality of instructional programs for students with disabilities. Although it is important to make sure students are evaluated and placed in a timely manner, this emphasis is not sufficient in and of itself to assure that children are being educated appropriately.

As will be discussed in the remainder of this report, we found that, although the reorganization has attempted to focus on improvements in the quality of instruction for students with disabilities, the above assumptions, which characterized the *Jose P.* litigation from the outset and are deeply embedded in the culture and practices of the system, have persisted until today and continue to influence special education practices in NYC.

Reorganization

On April 3, 2003, Mayor Michael R. Bloomberg and Schools Chancellor Joel I.

Klein announced a comprehensive reform agenda to improve special education programs throughout the New York City schools. The Chancellor's reorganization of special education implicitly sought to change the service delivery pattern by emphasizing home school placements and the implementation of programs such as "Schools Attuned" that seek to improve the capacity of general education to serve children with disabilities. Specifically, the reorganization sought to improve instruction for students with disabilities by: appointing instructional specialists and initiating professional development in nationally recognized instructional strategies; holding schools and principals accountable for improvements in special education; providing services and incentives for better school performance; and streamlining the special education evaluation process. These are positive goals and directions; however, we feel that the DOE needs to go much further in promoting a more effective special education support system that minimizes with the goal of minimizing the impact of disabilities while maximizing the opportunities for children with disabilities to participate in their schools.

In describing the impetus for the reorganization, Mayor Bloomberg stated:

The need for comprehensive reform of the special education system in our public schools is manifest – for too long, the system has failed shamefully to help our children learn and raise their levels of expectation and achievement both in the classroom and in life. We will no longer tolerate a largely segregated and largely failing system that unmercifully ravages the lives and future of our children. Today's reforms reflect our commitment to providing first-rate instruction and high-quality services for those children with special learning needs in the classroom. By prioritizing the needs and interests of our children and eliminating unnecessary bureaucracies, we will increase the level of accountability for improved special education where it matters most – in the public schools of New York City.

Chancellor Klein added:

We are focusing our energy and resources on significantly improving classroom instruction by providing proven professional development for our teachers so that they can most effectively meet a wide range of learning needs in each classroom ... At the same time, we will hold schools and principals accountable for ensuring that as many students as possible are able to be educated in general education classrooms. To help meet these important goals, we will provide schools with incentives for improved performance and assist schools that are falling behind.

To support improved classroom instruction for children with disabilities, the DOE committed to appoint Instructional Support Specialists and train these specialists in nationally recognized Orton-Gillingham based reading programs, as well as other leading

instructional strategies. To ensure that individual schools make progress in improving their special education programs, the DOE established an enhanced school improvement system consisting of benchmarks, improvement plans, and technical assistance for schools. The Department further committed to provide assistance to those schools that are under-performing and incentives to improve school performance.

A major feature of this reorganization was the assumption of greater responsibility by the schools for the evaluation of students. Rather than having this process take place at centralized offices, the Department sought to have these evaluations conducted and finalized exclusively at the students' schools. In addition, the reorganization sought to have special education evaluation staff, who in the past had primarily administered evaluations, become directly involved in classroom instruction. The DOE also streamlined the 37 district-level Committees on Special Education (CSEs) into 10 Regional CSEs, which were intended to change their role toward supporting school-level evaluations. The CSEs each became part of one of 10 Learning Support Centers and continued to conduct specialized evaluations of students with hearing or visual impairments and non-public school students, and place children who could not receive appropriate services in their current schools. By conducting the entire evaluation process at the schools, the Department sought to have critical decisions concerning students made by instructors and administrators who interact with the children on a daily basis. Under this reorganization, District 75 continued as a separate Citywide district for children with severe disabilities, with organizational changes to provide more coherent and consistent instructional programs.

Findings

As both the Mayor's statement concerning the reorganization and the continued *Jose P.* litigation have demonstrated, the NYC Department of Education, like many large urban school districts, has long-standing significant problems in meeting its obligation to provide quality education to its students with disabilities within federal and state legal requirements. Therefore, it is important to emphasize that this reorganization did not cause many of the problems identified in this report. Indeed the stated intent of the reorganization was to address these difficult long-standing issues. Further, it is inappropriate to assume that any major organizational change effort can produce the types of changes necessary in approximately one year's time. However, this evaluation was conducted specifically to provide guidance to the DOE on ways to improve its management of special education. Therefore, this report identifies both the long-standing issues that need attention, as well as ways in which the management of special education can be improved within the context of the Chancellor's reorganization.

It is also important to note that the authors of this report do not believe the Department of Education should return to its previous organizational configuration. We believe the old structure created a special education system that was inordinately separate and not accountable for educational results. Further, we believe that the thrust of this

reorganization has been appropriate and that there are some signs that positive results are occurring. If anything, we believe the thrust of this effort has not gone far enough and therefore we have included a number of recommendations designed to improve accountability and promote an even greater emphasis on improving instruction for students with disabilities.

Below we present our specific findings:

Finding 1: The Chancellor's reorganization is moving special education in positive directions.

Although this report documents long-standing problems in the implementation of IDEA and state special education regulations, the Chancellor's reorganization has begun to bring about positive changes to the education of children with disabilities. Principal among these has been the emphasis on improving academic outcomes for students with disabilities and, in fact, recent data show that achievement levels of students with disabilities are rising (NYC English Language Arts and Math Testing Levels, reported June 2005). A major feature of this reorganization has been the assumption of greater responsibility for the education of children with disabilities by general education leadership, principals and Regional leadership personnel. Although one cannot expect a major reorganization to bear fruit in short time, the degree to which positive change is occurring in many of the Regions and schools is commendable.

Finding 2: NYC devotes significant resources to the education of children with disabilities.

Compared with other large cities used as comparatives in this study (LA and Chicago), NYC devotes significantly greater levels of resources to the education of children with disabilities. This is particularly the case in the commitment to providing related services such as speech and language services to students with disabilities. Although this report recommends significant changes, we believe, broadly speaking, that these improvements can take place within current budget allocations. However, this will require achieving efficiencies in areas where resources are not sufficiently aligned with improving outcomes for students with disabilities. For instance, we found that the due process system consumes an inordinate amount of resources on attorney fees and costly placements due to the inability of the system to resolve disputes with parents with less adversarial means. Transportation is another area for possible future savings if the DOE continues in its efforts to have more students served in home schools. These funds would be better spent on training teachers to help children access the general education curriculum or improving inclusionary practices.

Finding 3: Special education leadership is dedicated to improving educational opportunities for children with disabilities.

The evaluators were impressed with the level of dedication and the degree of diligence that special education leadership exhibited in promoting improved education for children with disabilities. Both Central and Regional leadership staffs work long hours and have begun to lay the foundations for future improvements in the education of children with disabilities.

Finding 4: The Chancellor and his staff are committed to the inclusion of children with disabilities in efforts to improve the NYC schools for all children.

The degree to which the Chancellor and his staff understood the importance of including children with disabilities in all reform efforts was consistent and impressive. Interviews with Central Office leadership staff evidenced a remarkable degree of understanding of the issues involved in improving education for children with disabilities and commitment toward that goal. This internalization of responsibility, unfortunately, is not the case in many large districts in which the evaluators have worked and is commendable.

Finding 5: School-based staff are by and large committed to improving the education of children with disabilities.

Although there were instances in which school based staff did not evidence sufficient commitment to the education of children with disabilities, the vast majority of principals, assistant principals, teachers, and related services personnel demonstrated a high level of commitment to improving educational opportunities for children with disabilities. Most recognized the importance of including these children in reform efforts and in the need to improve academic outcomes for these children.

The remainder of our findings highlight areas in need of improvement and form the basis of the recommendations that are included at the end of the report. These findings have been organized into thematic areas that correspond to the specific aspects of special education that we were asked to investigate as part of this study. Each finding is discussed in greater depth within the body of the report.

Chapter II: Management

Infrastructure

Finding 6: The complex special education infrastructure in NYC leads to confusion with respect to roles and responsibilities and does not provide sufficient support to principals and school staff.

Our review of special education in NYC found that the current special education infrastructure has not enabled the DOE to move sufficiently forward in the direction espoused by the reorganization. Specifically, we found that the Office of Special

Education Initiatives has talented staff who in the future would be better utilized devoting more of their time to policy matters and the proactive management of special education. In addition, there appears to be confusion regarding roles and responsibilities as well as limited communication among various staff at the Regional and school levels. Moreover, we found that there is not an effective structure in place to support principals and school staff in the implementation of special education practices and procedures. Some of this confusion is to be expected when a new organization is being implemented.

Data Management

Finding 7: The management of special education in NYC is not sufficiently data-driven, in large part because of the inaccuracies and unnecessary complexities associated with its data system.

Our review found that there is a lack of systematic data-driven decision-making on the part of the DOE. In particular, there appear to be challenges associated with the data system itself, the entry of data into the system, and the limited use of data for management purposes. The result is an inability to manage special education in an effective and efficient manner, as well as an inability to establish baselines of performance for compliance within the context of the *Jose P.* litigation.

Policies and Procedures

Finding 8: Due to external and internal factors, the policies and procedures governing special education in NYC are not being communicated to personnel in an effective manner and, in some instances, appear to be having a negative impact on the provision of services to students with disabilities.

With respect to special education policies and procedures, we found that although the DOE has developed a draft Standard Operating Procedures Manual (SOPM), this manual has not yet been finalized, due in part to unresolved disputes between the DOE and the *Jose P.* plaintiffs' attorneys. The lack of an official SOPM has led to confusion and inconsistency in implementation and has likely led to non-compliance. Moreover, we found that a number of specific policies and procedures appear to be having a negative impact on the ability of the DOE to provide services to students with disabilities in an effective manner.

Chapter III: Pre-referral, Referral, and Evaluation

Pre-referral

Finding 9: The DOE has put into place processes to support students prior to a referral to special education; however, these measures are implemented inconsistently and are often duplicative.

Our review found that the DOE has available a large number of intervention services to help students experiencing challenges in general education prior to formal referral to special education. At the same time, however, although there is a wide array of intervention services available, there does not appear to be consistency in implementation. In addition, we found that the two main avenues for securing such pre-referral services – Academic Intervention Services (AIS) and the Pupil Personnel Team (PPT) – are implemented inconsistently across schools and are often duplicative.

Referral and Evaluation

Finding 10: The process for referring and evaluating students for special education eligibility and services is driven by a medical model of disability and may in practice work against the team-oriented approach advocated by IDEA.

In the area of referral and evaluation, we found that current assessment practices in NYC appear to be driven by the same medical model of disability that was in place at the time of the original *Jose P.* judgment. In addition, the expanded role of the psychologist following the reorganization has turned the referral and evaluation processes into what many have called a “one-person show.” Although psychologists report feeling overburdened by their new responsibilities, there appears to be an adequate number of psychologists. At the same time, we found that, as the responsibilities of psychologists have increased, the roles of other personnel in the referral and evaluation processes have concomitantly become quite limited. Finally, we also found there to be a lack of understanding of and support for conducting assessments of English Language Learners.

Chapter IV: Placement

Placement Process

Finding 11: The placement process in NYC emphasizes the notion of placement as the availability of “seats” in special education programs rather than as the services and environment that are appropriate to the individualized needs of the student.

The process in which placement determinations are made on the basis of where there are available “seats” in special education programs reinforces the notion of the medical model of disability by requiring a student to “fit” into a special educational placement. Similarly, this process promotes the idea that special education is a “place” rather than a service. We also found that the placement process at the high school level poses unique challenges to the DOE and likewise perpetuates the notion of special education as a place.

Least Restrictive Environment

Finding 12: Students with disabilities are overly segregated in special education classes and programs, despite the existence of a few promising, yet underutilized, models of inclusive education.

Our review found that the historic perception in NYC of special education as a place rather than a service perpetuates the need for separate special education classrooms. Specifically, large numbers of students with disabilities are being educated in separate, special education classes and programs. In particular, we found that District 75, which provides placements mainly for students with emotional disturbances (ED) and students with significant cognitive and physical disabilities, operates separately, for the most part, from the rest of the Department in a manner that may be inconsistent with IDEA’s LRE requirements. At the same time, we also found that several models operating within the NYC public schools, including one District 75 model, support the move towards more inclusive special education services; however, these models are both underutilized and perceived as separate “placements.”

Access to the General Education Curriculum

Finding 13: Although there have been some noteworthy efforts to provide staff development, these efforts are insufficient to ensure that students with disabilities are receiving effective access to the general education curriculum.

In our review, we identified two specific problems associated with the provision of access to the general education curriculum for students with disabilities. First, although teachers are being told to provide curriculum and instruction that is “parallel to the mainstream,” they are receiving limited support from the DOE with respect to *how* to provide meaningful access to the general education curriculum. This is especially important since it is likely that many special education teachers are not qualified to teach core academic subjects, and students with disabilities need teachers who have content knowledge as well as teachers who understand how to provide appropriate accommodations and curricular modifications. Second, we found that the provision of related services is often disconnected from the general education curriculum.

Chapter V: Due Process

Finding 14: While the DOE has recently begun to implement positive changes in the area of due process, an effective system is still not in place to manage and ultimately reduce the large number of impartial due process hearings.

We found that the DOE receives a disproportionately large number of due process hearing requests each year. In addition, unlike most other major urban school districts, NYC does not use attorneys to prepare for and represent the DOE at impartial due

process hearings but, rather, relies on clinicians, who have large caseloads and feel unprepared in their roles. We also found that there is limited involvement of school-based staff in the impartial hearing process. Finally, we identified challenges associated with the implementation of hearing orders. Although there are significant problems associated with the DOE's management of due process, the DOE has recently begun to implement a number of positive changes, including plans to develop a centralized data tracking system and hire additional attorneys.

II. MANAGEMENT

The following chapter presents our findings concerning the DOE's management of special education with respect to infrastructure, data management, and policies and procedures. Specifically, we found that the management of special education in NYC is characterized by a complex infrastructure with confusing roles and responsibilities and limited support for principals and school personnel in the effective implementation of special education practices and procedures. The management of special education is also not sufficiently data-driven, in part as a result of the DOE's antiquated data system. Finally, we found that the policies and procedures governing special education are not being communicated to personnel in an effective manner and, in some instances, are negatively impacting the provision of services to students with disabilities.

A. Infrastructure

Finding 6: The complex special education infrastructure in NYC leads to confusion with respect to roles and responsibilities and does not provide sufficient support to principals and school staff.

Two of the major goals of the 2003-2004 special education reorganization were to improve instruction for students with disabilities and to increase school level accountability for students with disabilities. While we commend the DOE in establishing these goals, we found that certain aspects of the current special education infrastructure are in practice hindering the full achievement of these goals. (For a description of roles and responsibilities following the reorganization, see Appendix B.) With respect to the nature of the special education infrastructure, we found the following: (1) the Office of Special Education Initiatives has talented staff who in the future would be better utilized devoting more of their time to policy matters and the proactive management of special education; (2) there is confusion concerning roles and responsibilities of Regional staff; (3) there is a lack of communication among various staff at the Regional and school levels; and (4) there is not an effective structure in place to support principals in taking full ownership of the education of students with disabilities in their schools.

6.1. The Office of Special Education Initiatives has talented staff who in the future would be better utilized devoting more of their time to policy matters and the proactive management of special education.

We found that Regional and school personnel are overwhelmingly appreciative of the timeliness with which the staff of the Office of Special Education Initiatives (OSEI) responds to questions and concerns. For example, one interviewee noted, "I e-mail when we have a problem, or I call, and [the OSEI staff] are just unbelievable. They have been very, very good, and very kind. And just very supportive." Similarly, another Lead RASE noted about the Director of OSEI, "She's always available. I must e-mail her several times a day, late into the evenings sometimes. She's always responsive, always

can put you in the right direction, like, who to contact. She's unbelievable...She really is."

At the same time, however, we feel that the heavy focus on administrative functions hinders the ability of OSEI to take a comprehensive view of special education and assume a strong leadership role in the development of operative strategies to direct the DOE toward achieving its overall goals for the education of its students. Such operative strategies are dependent upon an effective utilization of data analysis to measure progress toward specific benchmarks as well as a clear understanding of the special education budget. In our evaluation, we found that the management of special education in NYC was not sufficiently data-driven (see Section B below).

Moreover, the special education infrastructure in NYC is characterized by a large number of staff at both the Central Office and Regional levels (1121 staff members). In fact, NYC has a smaller ratio of students with disabilities to administrative staff (135:1) than in Chicago (154:1) and the national average (353:1) (see Table A-3 in Appendix A). In spite of the large staff, however, the significant portion of time spent by OSEI on administrative tasks – reacting to problems and “putting out fires” – reduces the time available for the proactive management of special education. Although some of this heavy focus on administrative details can be expected during a reorganization, movement toward more proactive management and leadership is needed at this time. Moreover, although we found that some positive initiatives have come out OSEI, there are major areas of policy and management that have not received sufficient attention. We believe that many of the administrative functions currently being carried out by OSEI could be handled more appropriately by administrative Regional staff. Such a reallocation of priorities would enable OSEI to focus on systemic issues that require in-depth analysis and strong leadership – for example, evaluation of the impact of new roles and responsibilities, the efficacy of particular models of instruction such as Collaborative Team Teaching (CTT), and the implementation of a computerized data system for IEPs.

6.2. There is confusion concerning roles and responsibilities of Regional staff.

The 2003-2004 reorganization created a complex infrastructure involving numerous positions (see Appendix B for a description of roles and responsibilities following the reorganization). As part of the overall change in the organizational structure of the school system, the DOE created 10 Regions, each consisting of two to four Community School Districts and approximately 120 schools, including the high schools within the Region's geographical area. Each Region is headed by a Regional Superintendent, who reports to the Deputy Chancellor for Teaching and Learning. Each Regional Superintendent supervises 10-12 Local Instructional Superintendents (LIS's), who provide instructional leadership for a network of 10-12 schools. The LIS's supervise math and literacy coaches as well as special education and English Language Learner (ELL) Instructional Support Specialists (ISS's).

Each Regional Superintendent also supervises the Lead Regional Administrator of Special Education (RASE), who is responsible for oversight of the delivery of services to students with disabilities, and the Committee on Special Education (CSE) Chairperson, who is responsible for oversight of the evaluation and placement processes. The Lead RASE, in turn, supervises a staff of four to five RASEs, and the CSE Chair supervises a large staff, which includes supervisors of psychologists, psychologists, placement officers, social workers and clerical workers. In addition, District 75, the citywide district for students with more significant disabilities, was aligned to a greater extent with the other Regions by the appointment of District 75 LIS's and coaches to focus on instruction. Finally, the reorganization also created a new Office of School Improvement (OSI), the purpose of which is to provide executive-level assistance and ongoing consultation to schools identified as needing improvement. The OSI staff consists of a director and approximately 35 team members.

The reorganization's transition to a Regional structure reduced the level of staff; however, there still remain a large number of special education staff at the Regional and Central Office levels. As noted, NYC has a smaller ratio of students with disabilities to administrative staff (135:1) than in Chicago (154:1) and the national average (353:1) (see Table A-3 in Appendix A). In spite of the large number of personnel, however, there does not appear to be an effective structure in place to support the principals and school staff in the implementation of special education practices and procedures. In addition, some of the aforementioned positions seem to have overlapping responsibilities and/or confusing lines of accountability. Specifically, we found confusion with respect to the following:

Regional Superintendent and Deputy Regional Superintendent

Under the new organizational structure, each Regional Superintendent is responsible for the implementation of the Chancellor's "Children First Initiative" for all children, including children with disabilities. In some of the Regions we visited, however, we found that the Regional Superintendent had not taken a leadership role in special education and had delegated full responsibility for the management of special education to the Deputy Regional Superintendent. In fact, in one Region, the Regional Superintendent delegated our interview for this study to the Deputy Regional Superintendent because he/she told us that he/she knew nothing about special education. While it is understandable that the Regional Superintendent might delegate *some* responsibility to the Deputy Superintendent, especially if the Deputy Regional Superintendent has expertise in special education, in general, delegating *full* responsibility to the Deputy Regional Superintendent, without maintaining direct involvement and/or oversight, obfuscates accountability and sends the wrong message to staff by perpetuating the notion of special education as a separate and less important entity.

LIS and RASE

We also found a lack of clarity with respect to the roles of the LIS's and the RASEs in providing support to the principals. All of the LIS's with whom we spoke indicated that they serve as the major source of overall instructional support for the principals in their network of schools. We found, however, that the extent to which the LIS's were involved in matters pertaining to special education varied. Some LIS's reported that providing support for principals in special education-related issues was an integral part of their job responsibilities. For example, one LIS stated, "For the most part, we're supposed to focus on providing support for principals, assistant principals and ultimately staff in all instructional areas. Of course, special education falls under that umbrella." In contrast, some LIS's tend to defer to the RASEs in matters pertaining to special education. According to one Lead RASE, "[T]he LIS's are instructional superintendents, yet they're not specialists in special ed. So when there's a special ed issue, they rely on the RASEs to handle that with the ISS's."

Further complicating the accountability structure is the fact that the positions of LIS and RASE are parallel to one another on the organizational chart with no direct lines of communication between them. A number of LIS's indicated that they would like to provide additional support to their principals with special education-related issues but felt that they were unable to do so. Although each LIS is supposed to have two ISS's under his/her supervision, many interviewees indicated to us that there were vacancies in these positions. In addition, although according to the organizational chart, the ISS's focus on instruction and report to the LIS's, because the ISS's are often called upon to work on compliance with the RASEs (see below), the ISS's are not always available to help the LIS's provide support to the principals. One LIS noted:

The only people who can influence principals enough right now in this structure is us, the LIS's. And we really don't have the team resources that we would need ... I have this Instructional Support Specialist who supposedly is my ISS but she's really on the RASE side.

Thus, it is unclear who is ultimately accountable and in what manner support should be provided to principals when a problem arises with respect to a student with a disability.

A second area in which there is confusion and overlap between the LIS's and RASEs is the planning of professional development in special education-related issues. Personnel from multiple Regions reported that, while the LIS's organize much of the overall professional development for the Region, the Lead RASEs usually plan the professional development in areas relating to special education, including training for the special education ISS's. Thus, the current organizational structure perpetuates a separation of professional development in special education from that in general education. Effective special education management requires that special education staff participate in the overall training for the Region and, similarly, that all general education

staff receive training in special education-related issues.

Lead RASE and CSE Chair

Additional confusion exists with respect to the roles and responsibilities of the Lead RASE and CSE Chair. The organizational chart depicts the Lead RASE and CSE Chair as lateral positions. In all of the Regions, we found that these two individuals worked collaboratively to a certain extent; however, there appears to be a lack of consensus regarding the specific responsibilities of each of these positions. In some of the Regions, interviewees indicated that the Lead RASE and CSE Chair are responsible for two separate strands – the CSE Chair for overseeing the evaluation and placement processes (prior to the delivery of services) and the Lead RASE for ensuring appropriate and timely delivery of services (after the evaluation and placement processes). One Lead RASE explained the division of responsibilities as follows: “[The positions are] parallel. She [CSE Chair] has... the first half of the process and I have the second half of the process.” Similarly, another interviewee described the CSE Chair as being involved to a greater extent in clinical issues, whereas the Lead RASE is “not involved with the clinical side.” Although this statement reflects the distinction between the roles and responsibilities of the CSE Chair and Lead RASE, the mention of “clinical” issues also reinforces the notion of the medical model of disability that is deeply ingrained in special education practices in NYC.

At the same time, we heard from other Regions that the roles of the Lead RASE and CSE Chair were viewed as overlapping. Moreover, although the organizational chart presents the Lead RASE and CSE Chair as parallel to one another, personnel from some of the Regions indicated that the Lead RASE is considered the overseer of all special education-related issues and actually supervises the CSE Chair. The CSE Chairs, however, were sometimes reluctant to view the Lead RASE as their supervisor. According to one CSE Chair, “It sometimes works out that the Lead RASEs then become sort of the supervisor of the chairperson. And that’s fuzzy ... Structurally I don’t think that’s the way it’s intended to be, but that’s somehow what comes about.”

ISS and RASE

In an effort to improve instruction, the reorganization created the new position of special education ISS at the Regional level (see Appendix B). The reorganization also eliminated the position of Special Education Supervisor. The rationale of the DOE was that in order to change the previous situation, in which most special education personnel were consumed by “bean counting” and compliance with numbers, the new structure should provide for qualified staff members (i.e., ISS’s) who would be able to go into classrooms and model effective instruction. Such staff would be trained and certified in Wilson and Schools Attuned (see Chapter III). According to the DOE’s website, “With the support of the Instructional Support Specialists and additional professional development, classroom teachers will learn to accommodate a broader range of learning

styles in their classrooms” (NYC DOE, *Special Education Reforms: Frequently Asked Questions*. Retrieved from <http://www.nycboe.net/Parents/Essentials/Special+Education/FAQs.htm>). What essentially resulted was the creation of two separate lines: (1) an instructional line, in which the ISS’s report to the LIS and (2) a compliance line, in which the RASEs report to the Lead RASE. We feel that the separation of compliance from instruction was a positive feature of the reorganization. At the same time, however, although the intent of the DOE was to strengthen instruction, we found that in practice confusion has resulted concerning the roles and responsibilities of the ISS and the RASE.

Because NYC, like many other large urban school districts, is struggling with everyday special education procedural compliance, the reorganization’s goal to strengthen instruction has not been fully realized. There appears to be an inconsistency with which the ISS’s are actually providing assistance with respect to instruction. On the one hand, a number of the personnel with whom we spoke indicated that the ISS’s are in fact providing instructional support to school staff. For example, one ISS described her role as follows: “I’m there as a support to talk about modifications and adaptations to the curriculum, so that if anyone is having a problem [and] ... needs some help with a specific child that’s having ... difficulty with a particular item, they will come to me.” Another ISS noted, “I am responsible for going into the classrooms, and looking at instruction. You know, best practices, and seeing where the strengths and weaknesses are.” Similarly, one LIS explained that his/her ISS is “like my special education coach that really meets the needs of the teachers in schools.”

At the same time, however, we also heard from multiple interviewees that the ISS’s are often called upon to “put out fires” and deal with whatever compliance issues arise at the school at a particular time – for example, locating records or ensuring that services are delivered appropriately. We were told that such tasks formerly were often the responsibility of the Special Education Supervisor. In fact, one Lead RASE indicated that because the ISS’s are focusing to such a large extent on compliance issues, they “may be gradually morphing into Special Ed Supervisors.” Many of the ISS’s were Special Education Supervisors prior to the reorganization, and they feel that their jobs essentially have not changed. Moreover, some of the ISS’s feel that they are not able to have much of a presence in the schools or a real impact. Although they are supposed to have a caseload of only five or six schools, some of the ISS’s with whom we spoke were responsible for many more (the largest number we heard being 14). According to one ISS, “In order to really be effective, I think you have to be there [in the schools] more. It’s like, you put a little Band-Aid here, and you run over to the next person, put another Band-Aid.” Similarly, another ISS noted, “Follow-up [is] very difficult because if I’m in a school, I may not be back in that school for another two weeks.” In several of the schools we visited, the principal and special education staff indicated that they interact with the ISS on a minimal basis. For example, one Assistant Principal stated, “[We interact] a little bit.” In other schools, the special education and administrative personnel did not know the name of the person in the position of ISS.

Some of the ISS's appear to have become resentful that they are being pulled to work on compliance issues because in the beginning they were told that their responsibilities were going to focus on instruction. One ISS described the situation as follows:

Well it seems like the RASEs are separate, according to the organizational flowchart ... I thought the RASEs were supposed to deal with mostly compliance issues and the ISS's instruction. But I think since we are starting to deal more with compliance issues, we work more often with the RASEs. I think some of the other ISS's are bitter about this.

Along with the confusion with respect to the role of the ISS, there has also been a blurring of the lines of accountability. Although the ISS's report to the LIS's on the organizational chart, we found that because the ISS's often deal with compliance issues, they frequently meet with the Lead RASE as well. In fact, in some Regions, the personnel indicated that the ISS's actually report to the Lead RASE. One Lead RASE explained that he/she was responsible for hiring and firing the ISS's and described the "troublesome line" that connects the Lead RASE to the ISS's. Moreover, although many of the ISS's with whom we spoke had close relationships with their LIS's, other ISS's felt detached from their LIS's. One ISS explained that the ISS's had spent the first half of the school year ensuring that all IEPs were in their correct school buildings. As a result, the ISS's "started off with compliance this year, which disconnected us from the LIS at the beginning because we didn't [know] who we were working with."

Furthermore, the exact role of the RASEs is not clear. Although the majority of those we interviewed agreed that the RASEs are responsible for service delivery, there was disagreement as to whether service delivery includes both instruction and compliance. For example, one interviewee stated: "The RASE doesn't do instruction, the RASE does compliance issues." At the same time, other personnel felt that service delivery was inclusive of instruction as well as compliance. According to one Lead RASE, "The Lead RASE is responsible for the delivery of services to all students with disabilities as well as responsible for supporting high quality instruction in all of our classrooms."

OSI Team Members and Other Regional Staff

The reorganization also established the Office of School Improvement (OSI), the role of which is to provide ongoing consultation and assistance to schools that have been identified as needing improvement based on a set of predetermined benchmarks such as academic achievement and access to the general education curriculum. Last year OSI identified 50 schools as being in need of improvement, and OSI team members are currently working with some of these schools to develop proposals for grants that would enable the schools to strengthen their least restrictive environment (LRE) placement options (see Chapter IV). According to those we interviewed, the OSI teams have been

providing valuable assistance to some schools. For example, one LIS reported:

I've been working with school improvement in terms of monitoring schools that might not be as effective as they need to be, and how together we can get them to that point. And in one of my schools in particular, they have been very, very effective in helping the principal to put better procedures into place.

Similarly, the OSI team members with whom we spoke indicated that they have been able to develop positive relationships with school personnel in order to bring about improvements in special education at the schools. For example, one OSI team member stated, "We've been spending time with [the principal] and with some of the PPT team, talking about professional development in general and instructional issues for the staff ... and what kind of things might be helpful, and then how we can be ... strategic about bringing those issues up." This individual further explained: "[When the OSI team arrived at the school], we decided *together* [with the school administration] what we would do. [The principal] and I talked about what my support might look like and where there was really a need."

At the same time, however, there appears to be some confusion concerning the role of the OSI teams and their relationship to other Regional staff such as the RASEs and ISS's. Some of the school personnel with whom we spoke seemed to view the OSI team members as additional Regional staff but were unsure of the exact role of the OSI team. According to one interviewee, "I don't think they're doing the work that Children First anticipated for them to do." Another interviewee noted, "There is a school improvement team, and the question I know I have and some of my colleagues have is 'What are they doing?'" Further complicating the situation is the fact that the RASEs and ISS's report to the Regional Superintendent while the OSI teams report to the Director of OSEI.

6.3. There is a lack of communication among various staff at the Regional and school levels.

We found there to be a lack of communication among various personnel throughout the infrastructure. For example, as noted, the LIS, Lead RASE, and CSE Chair all report to the Regional Superintendent, but the organizational chart does not indicate any connections among these positions below this level. Similarly, although the special education ISS's and English Language Learner (ELL) ISS's both report to the LIS's on the organizational chart, we found minimal collaboration between the individuals in these two positions. While special education and ELL ISS's might interact around instructional support for teachers of bilingual, self-contained special education classes, for the most part, the two groups operate independently. Some interviewees expressed a desire for combined professional development training for special education and ELL ISS's. One ELL ISS stated:

From what I'm understanding and what I'm seeing, there is a humongous interconnection. But there's a huge disconnect also. We have many ELL students who have been identified as special ed students and who are still receiving their services, ESL services, but they're in a special ed setting ... And I feel that I'm not equipped or it's difficult for me because I really don't have a knowledge of special ed and, you know, what their needs are and how to incorporate that in what they need for their second language acquisition.

In addition, we found there to be limited communication between the Regional staff and the schools. Multiple interviewees at the school level indicated that they are confused about the new roles under the reorganization and are unsure whom to contact at the Region when there is a problem. In particular, we found there to be limited contact between the Regional placement officers (SEEPOs) and the schools regarding placement determinations (see Chapter IV for a discussion of placement issues). Similarly, there was minimal communication between the clinicians who represent the DOE at impartial due process hearings and school staff (see Chapter V for a discussion of impartial due process hearings).

We also found there to be a strong disconnect between District 75 personnel and the Regional staff. The District 75 staff members with whom we spoke indicated that they rarely speak to the RASEs from the Regions and that they are often not notified about impartial due process hearings pertaining to the students in their schools. Similarly, some of the personnel from the Regional CSEs reported that the placement of students with disabilities in District 75 settings is a complicated and cumbersome process as a result of the strained communication with the District 75 placement officers. (See Chapter IV for a more in-depth discussion of issues pertaining to District 75).

6.4. There is not an effective structure in place to support principals in taking full ownership of the education of students with disabilities in their schools.

As noted above, one of the goals of the reorganization was to increase school level accountability. In an effort to involve principals to a greater extent in the education of students with disabilities in their schools, the reorganization eliminated the position of Special Education Supervisor. On the one hand, elimination of this position has helped to make special education more a part of the school culture and community. Whereas previously, special education had been viewed as a separate entity and was very isolated, students with disabilities are now considered more a part of the school community. Moreover, while in the past, principals were not necessarily involved to any great extent because special education personnel reported to the Special Education Supervisor, under the new system, principals are required to have more direct responsibility for the education of their students with disabilities. According to one principal, "I know that every meeting I go to, I'm being [told], 'You are responsible now for what happens in special ed' – that the principal is now going to be held accountable for things, whereas in the past there was more of a mix in terms of accountability." Similarly, one LIS

explained, “I think that a lot of complaints of principals were that special education personnel saw themselves as reporting to the Special Education Supervisor, and not to the building principal ... I think that we’re in a very healthy place in terms of ... special education staff in the building reporting to the principal and being part of the faculty.”

At the same time, however, elimination of the position of Special Education Supervisor has created a void at the school level in terms of knowledge of special education practices and procedures. A significant number of principals last year knew very little about special education, and many who were brought in had less than three years of experience. Because the reorganization happened quickly with limited transition, respondents reported feeling that many of the schools spent last year “in crisis mode.” According to one interviewee, “There’s an anger [on the part of principals] in that ‘We have to do it now, and they didn’t teach us.’ It’s just too much, too fast with not enough support.” To help principals in their new roles, the DOE provided them with a training module concerning special education in the summer of 2004. It is imperative that the DOE continue to expand upon its efforts to provide training for principals in the area of special education.

Although, as noted, there are large numbers of special education personnel at the Regional level, there does not appear to be an effective or predictable structure in place to support principals in their new roles. While in some schools we visited, the ISS and RASE were very involved, in other schools, they had minimal interaction with the teachers and administrative personnel. For example, one principal described the role of the RASE as follows: “They make sure that they send us e-mails telling us to get our paperwork done and our work in CAP ... and I don’t know what they do all day, quite honestly.” Another Assistant Principal explained that the ISS and RASE are rarely in the building and, as a result, it is difficult to develop relationships with these individuals. The restructuring has consequently led to a bottleneck of resources at the Regional level and a lack of knowledge of best practice to implement change at the school level. The disconnect appears to be particularly strong at the high school level.

One new position at the school level that has helped some schools deal with the void created by the elimination of the Special Education Supervisor is the Individualized Education Program (IEP) teacher. The DOE has specified that IEP teachers were added to serve two main purposes: (1) to ensure availability of special education teachers to prepare for and attend initial IEP meetings; and (2) to cover for a teacher who has to attend an IEP meeting for his/her own student (*School Allocation Memorandum No. 12, FY06: Special Education IEP Teacher Allocation* (May 11, 2005). Retrieved from http://www.nycenet.edu/offices/d_chanc_oper/budget/dbor/allocationmemo/fy05-06/datafiles/sam12.pdf). We found, however, that in practice many individuals are unclear of the exact role of the IEP teacher and that the role varies to a certain extent from school to school. In some schools, the IEP teacher provides instructional support to the special education teachers – for example, serving on the Pupil Personnel Team (PPT) and/or the IEP Team. In other schools, however, the IEP teacher works on compliance-

related issues. As one individual noted, “The IEP teacher for the most part, if they’ve been a former ed-eval, is used by the principal to be doing all kinds of paperwork, but they’re not working with kids.” (See Chapter III for a discussion of the role, or lack of role, that the IEP teacher plays in the assessment process).

We found that the level of involvement of principals in special education-related issues varied from school to school. While in some of the schools we visited, the principal played an active role in special education, in other schools, the principal had not taken on responsibility for the education of students with disabilities, as envisioned by the reorganization but, rather, had delegated almost all of the responsibility to the Assistant Principal. For example, one principal explained to us that he told his Assistant Principal: “You are the principal up here of this [special education] department, and you’re going to make programming decisions and decisions for kids [with disabilities].” The practice of delegating *full* responsibility to the Assistant Principal without maintaining direct involvement and/or oversight, however, is problematic because it diminishes the level of accountability of the principal and perpetuates the separation of special education from the rest of the school community. We found that the delegation of responsibility to the Assistant Principal and the concomitant total abdication of accountability on the part of the principal were also more common at the high school level.

Certain critical factors appear to impede the ability of the principals to take full ownership of the education of the students with disabilities in their schools. For example, we heard from multiple principals that the inflexibility associated with the budgeting process allows for minimal input on the part of principals. Each year schools receive a set allotment based on enrollment figures and the number of students receiving specific mandated services (e.g., CTT classes and SETSS services).⁵ In addition, there are Special Needs/Academic Intervention Services (SN/AIS) funds for students with disabilities, students with academic needs, low income students and ELL students (*School Allocation Memorandum No.1, FY06: Preliminary Fiscal Year 2005-2006 Initial School Allocations* (May 11, 2005). Retrieved from http://www.nycenet.edu/offices/d_chanc_oper/budget/dbor/allocationmemo/fy0506/datafiles/sam01_memo.pdf).⁶ While some principals have been able to come up with creative ways to use funding, other principals (from both high and low performing schools) expressed frustration with the budgeting process. For example, one principal described the limited involvement of principals in the budgeting process as follows:

The rhetoric is that the principal is in charge of the building. Yeah, you’re in charge of the building, except the money is mandated to be spent in lots of different ways ... Even though it is all IEP driven, it also really needs to be driven

⁵ The DOE recently made a number of changes to the allocation formula for mandated special education services for the 2005-2006 school year based on a series of focus group discussions held with principals (*School Allocation Memorandum No.1, FY06: Preliminary Fiscal Year 2005-2006 Initial School Allocations* (May 11, 2005). Retrieved from http://www.nycenet.edu/offices/d_chanc_oper/budget/dbor/allocationmemo/fy05-06/datafiles/sam01_memo.pdf).

⁶ Changes were also made for the SN/AIS formula for the 2005-2006 school year.

by the wisdom of the professionals who work with the kids, and the IEP has to follow that ... The horse and the cart are sometimes reversed. I'm not sure the system understands that.

Moreover, some of the principals with whom we spoke indicated that they do not actually have full responsibility for all special education staff in their buildings. While the principal may act as the "rating officer" for staff in his/her building, many of the special education personnel (i.e., school psychologists and some related service providers) also have separate supervisors at the Regional level. The principals explained that psychologists can be pulled from their school at any time, with minimal communication with the principal, if a need arises at another school.⁷ In addition, while the school psychologists and related service providers may at times participate in building-level professional development training, these personnel often have their own professional development training, separate from that of the rest of the school. Some of the principals find it difficult to be fully accountable for special education when they do not have control over all aspects relating to the oversight of the special education personnel in their school. For example, one principal noted:

All of those [Regional special education staff] are in my building ... and I am their immediate supervisor; however, they also have another supervisor at the Region ... they don't attend the professional development workshops that we have put together at the school for this building, they attend Regional workshops with their supervisor at the Region ... I think the principals need to be part of their workshop as well.

In summary, we found that the management of special education in NYC is characterized by a complex infrastructure with confusing roles and responsibilities and limited support for principals and school personnel in the effective implementation of special education policies and procedures. The following section describes our findings relating to data management.

B. Data Management

Finding 7: The management of special education in NYC is not sufficiently data-driven, in large part because of the inaccuracies and unnecessary complexities associated with its data system.

Under the original *Jose P.* judgment, the NYC DOE was ordered to establish and maintain a data system designed to track critical elements related to compliance with federal and state special education law. These included, among others: source and type of referral, date of evaluation appointment and nature of evaluation, program placement, date of first letter to parents offering placement, date of parent's response, parent's response, type of transportation, and date of first class attendance or receipt of related

⁷ We were told by the DOE that the redeployment of psychologists is part of a UFT contractual agreement and is available as an option if the Region is struggling with compliance issues.

services (*Jose P. v. Ambach*, Civ. No. 79-270 (E.D.N.Y. filed December 14, 1979), at 41-43). In consultation with the plaintiffs’ attorneys, the DOE created what is now known as the Child Assistance Program, or CAP. CAP is a computer-based system that records and reports information about evaluations, placements, and receipt of related services. Since its original inception, CAP has expanded greatly to meet the increasing special education data needs of staff at all levels. The CAP system is integral to the DOE’s management of compliance with the *Jose P.* litigation; packages of CAP summary statistics and reports are submitted to the plaintiffs’ attorneys monthly and it is on the basis of these reports that judgments are made about the progress that the DOE is making in coming into compliance with *Jose P.*

Despite the existence of a relatively comprehensive data system, the DOE is plagued by a lack of systematic data-driven decision-making. There exist considerable challenges related to (1) the data system itself, (2) the entry of data into the system, and (3) the limited use of data for management purposes. The problematic result is twofold – an inability to effectively manage special education, and an inability to establish baselines of performance for compliance within the context of the *Jose P.* litigation.⁸

7.1. The current data system is overly complex, antiquated, and not user-friendly.

Problems with CAP

By all accounts, CAP is not a user-friendly data system. In order to review information from CAP, one must use the Report Management Distribution System (RMDS), which consists of nearly 500 different reports, each containing a specific subset of information from CAP, organized and categorized in a specific way. There is no way to manipulate the system on one’s own, and sort data to suit specific purposes and information needs. Rather one must choose from a pre-specified list what kind of information one needs to see. One interviewee expressed a desire for a more user-friendly system: “It would be really nice if we had a dynamic system, where we’re able to reach into the data banks, and pull up data that is sorted and sliced in meaningful ways for us.” Moreover, CAP is an antiquated data system that has not evolved over the years or benefited from advances in technology.

At the time of our data collection, the only RMDS report that we observed consistent use of at the school level was the “201” report (and in some cases the “214” report as well). The 201 is a list of upcoming initial reviews, annual reviews, and triennial meetings for students in a particular school. The principals do not access these reports themselves from a computer; rather they receive them by fax or courier on a biweekly basis, which as one Lead RASE explained, doesn’t guarantee that the principal will receive or use the information: “The expectation certainly is that the principal is aware of what the information is on the 201, the 214 and all of those compliance reports. But we would like to be able to get them into their hands rather than relying on courier

⁸ We acknowledge that changes to the data system are ongoing, and some of the problems we identified during our data collection could have since been corrected.

service...to get the information out there.” One principal described her frustrations with the 201 delivery, calling it “erratic” and explaining that she is “dependent on a fax machine.” Furthermore, the information on these reports is updated weekly, so it can be out-of-date; the same Lead RASE explained, “We’re always working in the past.”

Multiple Data Systems

Another problem relates to the existence of multiple data systems in NYC. CAP is a stand-alone system that operates separately from the primary data information system for NYC, known as Automate the Schools, or ATS. Because CAP is not integrated into the general education data system, using it is not necessarily intuitive for principals, many of whom have little background in or knowledge of special education. Some principals create their own data systems that meet their specific needs. For example, one principal we interviewed showed us an entire data system she had created herself to track information related to all of the special education students in her school. She had to include information from both ATS and CAP in order to create this system. Another principal described her system to keep track of related service provision; she asks all related service providers to provide her with detailed information on their service provision, in addition to the attendance cards they are required to fill out for the Region. While such efforts are commendable and may help principals to be more effective in their own use of data, creating additional systems can frustrate efforts to gather and manage consistent information across NYC.

The existence of multiple data systems is common at higher management levels as well. Many of those we interviewed at the Regional and city levels told us ways in which they use separate, sometimes self-created data systems to record, manage and use information. We heard this from LIS’s, CSE Chairs, the Office of Legal Services, the Impartial Hearing Office, District 75 administrators, and the Central-Based Support Team. Even OSEI uses CAP to create a document delivery system that makes data use more efficient and targeted. All of these efforts are an attempt to make the data more user-friendly, and to help staff throughout the system develop a data-driven approach to decision-making and management. However, with over 1200 schools and principals, multiple self-generated systems are more likely to add confusion than lessen it.

Given the numerous problems associated with the current data system, it is difficult for individuals at all levels of management to identify accurate levels of performance for compliance. The NYC DOE is in desperate need of a comprehensive system for tracking relevant general and special education information that is convenient, clear, and accessible for staff at all levels.

Recent Improvements

The DOE is working to address some of the challenges associated with the current data system and has contracted with a consultant from Microsoft who is working closely

with the Division of Instructional and Information Technology (DIIT) to accomplish several goals. One is to integrate the special education data system with the overall school data information system. Second is to create a system that is web-based and user-friendly (this system is called Student Information System, or SIS, and includes the Special Education Component, or SEC). Soon there will also be a “principal’s dashboard,” which will allow principals to quickly and easily access information about the students with disabilities in their school. Third is to automate key special education processes. Currently, CAP is used to record key special education compliance events, after the fact. For example, after a placement officer makes a placement decision, he or she must enter the decision, and record parental consent and school authorization, in the CAP system. At the time of our data collection, DIIT was in the process of piloting a placement module that will make the actual process data-based. Placement officers will use the data system to look for appropriate placements. When they select one, the system will automatically generate parent authorization letters and cue the next step in the process. This system is being field-tested in four Regions. The staff in those Regions with whom we spoke gave consistent positive feedback about the potential for this system to make their jobs easier and more efficient: “It’s helpful,” “[The new system] will add to making things ... easier,” “The new system is great.” We applaud NYC’s efforts in this respect and encourage this process to move forward quickly.

7.2. The data that is entered into the current system is often inaccurate and unreliable.

Ultimately, a data system is only as good as the quality of the data that populates it. As one interviewee stated, “My concern is, an updated CAP is great, but if the quality of the data there isn’t what I need, it doesn’t matter.” Many expressed their concern that the underlying problem relates to data entry, and the efforts to overhaul the system will not solve everything: “It’s not a permanent fix, see. It’s just putting out the fire, once the plaintiffs get angry enough to complain about it.” For many of the people we interviewed, the solution lies in ensuring that those who are responsible for collecting and entering the information are doing their jobs correctly. The concept of having “data entry people,” however, is outdated. In other school districts using computerized IEP systems, providers enter information into the system directly and do not have to wait for additional staff members to enter the data. The new system being developed is going to rely on clinicians or providers inputting data themselves and is thus moving in a positive direction.

Limited Training for School Staff

During the 2003-2004 school year, for the first time, much of the responsibility for entering CAP data was transferred to clerical staff at the school level (it had previously been the responsibility of Regional staff). Each psychologist was assigned a clerical worker who was responsible for entering referral, evaluation, and IEP meeting results into CAP. For the most part, the clerical staff were not trained in how to use the

CAP system. One Lead RASE explained, “In this restructuring ... the staff responsible for that data entry ... have not had sufficient training ... The training occurred after the fact as opposed to anticipating our needs.” As a result, much of the data simply was not entered.

To improve the accuracy of data entered, OSEI has begun intensive CAP training for school-based staff; however, there is an inordinate amount of training that still needs to be done, and only one trainer to do it. While in the majority of the schools we visited the clerical staff seemed competent and aware of their responsibilities, we also observed some very ineffective and untrained clerical staff in some of the low-compliance schools that we visited. The problem may even extend beyond a need for training. One interviewee explained, “The problem is getting people to do it, and there’s also another issue: even when there are people out in the schools who are capable of doing it, the Regions are very reluctant to let them do it. They don’t want to give it up, they’re afraid they’re going to screw it up.” Ultimately, the issue should not revolve around training data entry people but, rather, the extent to which service providers enter their own data and are able to access and use these data to meet their responsibilities in a more effective manner.

Lack of Computers

Complicating these issues is the lack of sufficient hardware in the schools to input, maintain, and use the data. Many of the Regional staff we spoke with blamed the lack of accurate data entry on a lack of hardware at the school level. Even where the appropriate hardware existed, it was often out-of-date. One CSE Chair had recently done a survey of the schools in her Region and found that 50% either did not have a computer at all or did not have a working computer. Sometimes, the computer would not have access to CAP, which we heard about at a few of the schools we visited. Or, oftentimes, a school will have only one computer, making it difficult and inconvenient for a clerical staff member to coordinate schedules with others in need of the computer in order to get all of the appropriate data entered. For example, some of the clerical workers we spoke with explained that they have to find time to use the school computer when the secretary is on a lunch break.

Related Service Monitoring

One of the biggest problems in data entry involves related service provision. For the 2004-2005 school year, the NYC DOE contracted with Sourcecorps to implement a new system for tracking and monitoring related service provision information. This new system involves detailed attendance sheets that providers fill out daily and submit to their Supervisors once a month. This information is then scanned directly into the CAP system.

Despite the implementation of the new Sourcecorps data collection system, CAP

data on related service provision continue to show relatively high percentages of students still awaiting services.⁹ As Table 1 shows, at the end of the 2003-04 school year, between 10% and 29% of students with disabilities were not receiving various related services to which they were entitled. These percentages increased in September of 2004, and have yet to fall to the levels they were at in June, 2004. It is therefore not yet clear if Sourcecorps has helped to solve the problem of tracking related service provision.

Table 1. Percentage of students with disabilities in New York City requiring related services who are awaiting those services, by type of service and month, for June 2004 through April 2005

	Jun 04	Sep 04	Oct 04	Nov 04	Dec 04	Jan 05	Feb 05	Mar 05	Apr 05
Counseling	10%	41%	32%	27%	24%	24%	20%	18%	16%
Speech	15%	38%	31%	27%	24%	24%	24%	23%	20%
Occupational Therapy	29%	66%	55%	47%	41%	41%	38%	37%	35%
Physical Therapy	23%	52%	44%	37%	31%	31%	30%	28%	27%
Hearing Service	11%	42%	34%	32%	20%	20%	19%	19%	16%
Vision Service	15%	34%	29%	28%	20%	19%	15%	14%	15%

The existence of a better, more detailed related service data collection system does not by itself “fix” the problem of large numbers of students awaiting services; it would merely bring the problem to the attention of principals and managers, and it does so with more detailed information about the extent of the problem. The more important problem, therefore, lies in the accountability of schools for ensuring related service provision, not in the way in which the data is collected (see Chapter IV for a more detailed discussion of problems related to related services).

7.3. The problems associated with the current data system and the inaccuracy of the data being entered into the system impede the ability of the DOE to manage its special education system in an effective and efficient manner.

Inaccuracy of data

The end result of the problems related to data entry is that the reports generated by CAP end up being highly inaccurate. For example, in an audit conducted during the 2003-2004 school year, the Office of the Auditor General (OAG) found that half of the students who were documented by CAP as “awaiting” related services in fact were receiving those services, and 28% of those students were not attending the same school that they were designated as attending in CAP. Despite these inaccuracies, high-level

⁹ Part of the problem is that determination of non-compliance may in fact be leading to an overestimation of the number of students who are awaiting related services. Within the context of *Jose P.*, as soon as the required related service is listed in the student’s IEP, the compliance clock starts ticking. There is no distinction between a relatively short duration of non-compliance and a relatively long duration of non-compliance – i.e., students who have not received their related service for 1 day are counted the same as those who have not received their related service for 80 days. The lack of this type of a distinction makes it difficult for the DOE to address the cases that need the most immediate attention.

administrators have no choice but to act on the information as if it is accurate: “I can’t tell from looking at the data whether it’s accurate or not. I have to make the assumption that it’s accurate.” Because data entry problems are more prominent in the beginning of the school year, interviewees explained that the data is much more accurate by the middle of the year than at the beginning. Indeed, the OAG study documented this exact pattern. However, once the data has become accurate, the school year is over, and the level of inaccuracy inevitably returns at the beginning of the following year. For example, at the end of the 2002-2003 school year, OAG found that 37% of the students listed as “awaiting” services were in fact receiving them; that percentage jumped to over 50% by the fall of the following year. Thus, the audits found that the data system was likely to overstate non-compliance. This finding again points to the conclusion that the DOE’s determination of non-compliance, within the context of the *Jose P.* reporting mechanisms, is leading to an overestimation of the number of students awaiting services (see footnote 11).

Impact on the management of special education and establishment of a baseline of performance for compliance within the context of *Jose P.*

With such major inaccuracies, NYC is unable to use data for its intended purpose. This is problematic for all areas of management, but some interviewees expressed an especially high level of concern: “In CAP, whereas 95% accuracy is probably better than phenomenal, in the payment scenario, 5% error is totally unacceptable.” In other words, since CAP information is used to populate CAFS (the database that tracks payment information), inaccurate data, even if only slightly inaccurate, could potentially prevent many related service providers from being paid on time and the appropriate amounts. In truth, the data in CAP is far from 95% accurate, leading to errors that can be quite problematic. Some school personnel told us they felt challenged in planning for their students with disabilities because they cannot rely on the data in CAP to give them the information that they need. More importantly, if the data is inaccurate from the beginning, there is little incentive to make decisions based on data. For example, the problem of such large numbers of students awaiting related services has not been fully addressed, partly because of the belief that the data are overstating the degree to which this is a problem. Inaccurate data therefore also impacts the speed with which children who are genuinely underserved can receive the services they need.

Not only is the data unreliable for the effective management of special education; it also frustrates efforts to come into compliance with the evaluation and placement timelines under *Jose P.* The plaintiffs’ attorneys use CAP data regularly to judge NYC’s ability to comply with special education law. One Regional staff member explained, “Our effectiveness in terms of delivery of programs and services is based on whether people can see it in CAP.” If CAP shows poor outcomes in terms of evaluations completed, placements made, or services received, the plaintiffs’ attorneys will complain.

Exacerbating this is the sheer volume of information that is provided to plaintiffs’

attorneys each month from the CAP system. This information is provided with little to no narrative context, it is not framed within any measurable goals, and the summary statistics are provided in formats that are not easy to interpret (e.g., numbers instead of percentages). These reports most likely contribute to the disagreements between the DOE and *Jose P.* plaintiffs' attorneys regarding priorities. For example, we witnessed one meeting between the parties in *Jose P.* concerning the large numbers of students with disabilities who continue to await related services. Because of the inaccuracy of the data, the parties were neither able to gain a solid understanding of the extent of the problem nor to begin developing a strategy for addressing the problem. Furthermore, much of the meeting was spent discussing the different interpretations of the data report in question. After a series of emotional and non-productive accusations, the meeting ended with the parties agreeing that the DOE would produce a more focused and targeted data report on how long the children had been awaiting related services, in order to begin assessing the severity of the problem.

In summary, the challenges experienced by the DOE with respect to its data system, data entry, and data use have impacted the ability of the DOE to manage special education in an effective and efficient manner and to negotiate successfully with the *Jose P.* plaintiffs' attorneys. The next section discusses our findings relating to the DOE's policies and procedures.

C. Policies and Procedures

Finding 8: Due to external and internal factors, the policies and procedures governing special education in NYC are not being communicated to personnel in an effective manner and, in some instances, appear to be having a negative impact on the provision of services to students with disabilities.

In addition to the challenges associated with infrastructure and data management, we identified two problems with respect to the DOE's special education policies and procedures. The first pertains to a lack of an official *Standard Operating Procedures Manual* (SOPM). Although the DOE has developed a draft SOPM, this manual has not yet been finalized, due in part to unresolved disputes between the DOE and the *Jose P.* plaintiffs' attorneys. We found that the lack of an official SOPM has led to confusion and inconsistency in implementation and has likely led to non-compliance. Second, we found that a number of specific policies and procedures in place in NYC appear to be having a negative impact on the ability of the DOE to provide services to students with disabilities in an effective manner. These policies and procedures in essence divert resources and staff attention from the important work of student instruction and support. The following section presents our specific findings with respect to policies and procedures.

8.1. Special education policies and procedures are not being communicated effectively to personnel.

Although the DOE has been in the process of developing an SOPM for many years (with the latest draft version dated August, 2003), this manual has not yet been distributed to personnel. The delay in dissemination is due in part to extensive differences of opinion between the DOE and the *Jose P.* plaintiffs' attorneys and the lack of an expeditious process to resolve differences of opinion outside of court. The requirement that the DOE develop standard operating procedures was included in the original *Jose P.* judgment (*Jose P. v. Ambach*, Civ. No. 79-270 (E.D.N.Y., filed December 14, 1979), at 28). The disputes between the DOE and plaintiffs' attorneys and the lack of a timely resolution process result in unnecessary delays in important special education management decisions.

Given the absence of a comprehensive, written policy and procedural manual, special education in NYC has been guided by a piecemeal approach of written documents, which includes the publication of several manuals on specific issues such as *Special Education As Part of A Unified Service Delivery System: The Continuum of Services for Students with Disabilities* and *IEP Manual - Creating a Quality IEP*. In addition, the DOE has issued individual Central Office memoranda that specify policy and procedural guidelines for special education that are not included in the above documents. Furthermore, the DOE seems to have relied heavily on organizational culture and a tacit understanding of special education policies and procedures. Multiple interviewees indicated that, for many years, the Special Education Supervisors in each school had a broad understanding of the DOE's policies and procedures, which they would share with the other staff members in their schools. This over-reliance on oral communication for the purposes of dissemination of policies and procedures has led to inconsistency in implementation and has likely led to non-compliance, as each individual's understanding was based on someone else's interpretation. Moreover, interviewees reported that elimination of the position of Special Education Supervisor following the reorganization further exacerbated the inconsistency in implementation across Regions and schools.

The lack of an official SOPM has also added to the ongoing confusion over new roles and responsibilities that developed following the reorganization (see Section A above). As a result of the changes under the reorganization, many policies and procedures had to be rewritten or clarified in order to define new roles and responsibilities stemming from the elimination of certain positions, the combining of districts into Regions, and the shifting of greater responsibility to the schools. One interviewee explained how the lack of an SOPM affects his/her daily work:

They promised a standard operating procedures manual. The questions have come up, 'What do you do with this? What forms do you need?'

And a manual will tell us, you need this form for this, what form for that ... they never did that [Instead,] we keep getting isolated memos from all over the place. New procedures for annual review, new procedures for this, updates and modifications to the IEP, the stuff is scattered.

Principals and other Regional and school staff receive Central Office memoranda as well as ongoing training to update them on policies and procedures; however, there is no comprehensive manual for them to use as a resource on a daily basis. Moreover, the lack of a comprehensive manual places an added burden on Regional personnel such as the RASEs, who must field questions that could perhaps be answered if staff were able to look up specific issues in an SOPM.

8.2. A number of policies and procedures appear to be having a negative impact on the ability of the DOE to provide special education services in an effective manner.

In addition to the lack of written policies and procedures, we found that a number of individual policies in NYC appear to be placing an unnecessary burden on personnel. These policies and procedures, which are the result of the DOE's own initiatives and the *Jose P.* litigation, seem to be thwarting the ability of staff to focus on student instruction and support. Below we identify specific policies that we found to be particularly problematic.

DOE Initiated

Duplicate School Records at Regional Offices

The DOE currently maintains duplicate school records for students with disabilities at all Regional CSE offices. This practice results in expenditure of funds related to the following: the courier service to run records back and forth from schools to Regional offices, clerks to file and retrieve records, and staff and resources necessary for the replication of documents. One CSE Chair, for example, described the difficulty of maintaining sufficient personnel to staff the records room: "I have a limited amount of staff in the records room. But we have tremendous paperwork, filing that needs to get done." In addition, because the records are transferred via courier service, the process of transfer is slow. According to one interviewee, "It takes no less than a week for the paperwork to get from the school to [the Regional office], and that's if they do it right away. Because based on the courier system ... there's Pickup once a week and there's Delivery once a week." Similarly, another Regional staff member noted, "... when they [school staff] have to send the package, [and] they missed the courier ... it's still sitting in the school another few days." As previously noted, highly paid administrative staff at the Central, Regional and school levels report spending a good deal of their time locating records.

In contrast, District 75 personnel rely only on school records as they have found

them to be more accurate and complete. Similarly, most other urban school districts, including Chicago, Los Angeles, Dade County, and Houston do not maintain duplicate records. Further, some districts such as Los Angeles and Boston have IEPs accessible online. While the NYC DOE engages in the practice of maintaining duplicate records as a safeguard for lost records and convenience for Regional staff, the practice perpetuates the perception that schools are not ultimately responsible for their students, including their records. The implementation of a computerized IEP system could also help eliminate the need for duplication of records.

Voluminous Number of Forms

The appendix to the DOE's draft SOPM reflects nearly 100 different forms. For example, the document referenced nine different forms¹⁰ relating to notice for placement recommendations. By contrast, Chicago has only one notice of placement form that is mandated by the Illinois State Board of Education. The plethora of forms associated with placement determinations complicates an already complex process (see Chapter IV) and could potentially exacerbate non-compliance. Another example is the inclusion of a "Specific Learning Disability Justification Form." While the DOE is most likely trying to curtail inappropriate classifications and placements, this process could be simplified and not require the use of a non-mandated extraneous form that places an additional burden on IEP Teams. Finally, while the draft SOPM is comprehensive in scope, it is extremely detailed and not reader friendly. As a result, even if it were finalized, it might be difficult for personnel to access and understand easily.

Jose P. Required

Although, as noted in Chapter I, the *Jose P.* litigation has resulted in some positive changes, there are also a number of policies stemming from the *Jose P.* litigation that should be examined by the DOE to ascertain whether they might inadvertently be resulting in non-compliance with IDEA. These policies were instituted to improve compliance with procedural timelines; however, their implementation may be contributing to more restrictive educational placements for students with disabilities.

Prescriptive and Significant Compensatory Education Required If Timeframes Not Met

Whenever the DOE fails to arrange for a student's placement within the relevant timeframes, the DOE must send a letter (called a "Nickerson Letter") to the parents,

¹⁰ These forms include the following: (1) C-4 Notice of Recommendation to Remain in General Ed; (2) C-6 Final Notice of Recommendation – Initial; (3) C-11 Final Notice of Recommendation – Initial Following Issuance of P1-R Letter; (4) C-8 Final Notice of Recommendation of Modification of IEP; (5) C-10 Final Notice of Recommendation Change of Program/Service Category; (6) C-12 Final Notice of Recommendation – Rev/Tri Following P1-R Letter; (7) C-13 Final Notice of Recommendation for Interim Placement; (8) C-13A Notice of Recommendation for Interim Monolingual English Language Placements for ELL Students; (9) C-14 Notice of Recommended Deferred Placement.

informing them that they may identify a State-approved non-public school (NPS) to compensate the student for the delay (unless the parent caused the delay). In addition, parents may obtain private tutoring (along with transportation) if SETSS services are not arranged in a timely manner.

Although this form of remedial compensatory education has been in place for many years in NYC and is intended to assist the parents of children who have not received timely placements, it is contrary to the principle of LRE that requires educational placements to be based on the needs of students. Moreover, this policy perpetuates the notion of special education as a “place” rather than a “service” (see Chapter IV). The continued requirement that the DOE use this outdated *Jose P.* remedial action institutionally creates a segregated set of private school services.

Timeframes for Initial Evaluations and Placements

In addition, there is confusion regarding evaluation and placement timelines within the context of the *Jose P.* litigation. We found that the plaintiffs’ attorneys and the DOE do not entirely agree as to the specific timeframes for evaluation and placement under *Jose P.* This disagreement again highlights the extent to which the parties in the case have been unable to resolve issues. The current SED regulations require that the CSE arrange for the provision of appropriate services to a school-aged student with a disability within 60 school days of receipt of the parent’s consent for evaluation (Part 200.4(d)). However, according to Central Office personnel, the DOE continues to use the SED’s prior regulation, based on a court-ordered stipulation, with the following more restrictive timeframe: “Case is due 60 days from consent or 70 days from receipt of evaluation’s request, whichever is sooner.” At the same time, the plaintiffs’ attorneys indicated that for the purposes of reporting under *Jose P.*, the DOE continues to use the timeframes that were instituted under the original *Jose P.* judgment, which specified that evaluations were to be administered within 30 days of the referral and placements were to be arranged within 30 days of the evaluation (or 60 days of the referral, if shorter). This 30/30 time frame reflected existing state regulations at the time the original judgment was entered.

The timeframes for evaluation and placement under *Jose P.* are even more restrictive when compared to IDEA 2004, which provides for a 60-day timeframe for evaluation that is triggered by receipt of parental consent (or within a timeframe established by a state educational agency) (20 U.S.C. § (1414(a)(1)(C)(i)(I)(2004)). In addition, the current regulations implementing IDEA provide school districts an additional 30 days from the date a child is determined to need special education and related services to conduct a meeting to develop an IEP and requires services to be provided “as soon as possible” following the IEP meeting (34 C.F.R. §§ 300.342 (b)(1)(ii), 300.343(b)(2)). In June, 2005, the U.S. Department of Education proposed to amend this provision to require the IEP meeting to be “conducted within 30-days of a determination that the child needs special education and related services” and “[a]s soon

as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP” (70 F.R. 35781, 35867). Thus, in the absence of a state provision to the contrary, the federal government would allow a maximum timeframe of 90 days for an IEP to be developed (from receipt of parental consent) and require IEP services to be made available as soon as possible thereafter.

The fact that, for the purposes of *Jose P.*, the DOE uses timeframes for evaluation and placement that are more restrictive than the state and federal requirements, places an added burden on personnel and may be contributing to non-compliance. These restrictive timeframes are especially problematic given that noncompliance elicits the “Nickerson Letter” and consequences discussed above. Moreover, the lack of consensus between the DOE and *Jose P.* plaintiffs’ attorneys over evaluation and placement timelines is significantly hindering progress in the improvement of special education in NYC.

III. PRE-REFERRAL, REFERRAL, AND EVALUATION

Research has shown that the use of targeted interventions prior to formal special education referral, in particular with respect to reading and behavior, can positively impact the success of children in school as well as prevent inappropriate referrals to special education (*see, e.g.*, Horner, Sugai, & Horner, 2000; Lewis, Sugai, & Colvin, 1998; Lyon et al., 2001; Snow, et al., 1998; Vaughn & Fuchs, 2003). Furthermore, the 2004 reauthorization of IDEA encourages the use of pre-referral strategies (*see, e.g.*, 20 U.S.C. § 1465(b)(1)(2004)).¹¹ Similarly, the current New York State Education Department Regulations emphasize the importance of pre-referral by specifying that when a building administrator receives a referral, the administrator may request a meeting with the child's parent to determine whether the student could benefit from additional general education services (Part 200.4(a)(9)). Finally, the special education reorganization in New York City promotes the implementation of pre-referral strategies through its use of such programs as Schools Attuned and the Wilson reading program.

With respect to the evaluation process, IDEA includes a number of requirements to ensure that evaluations are carried out appropriately. For example, the law mandates that the evaluations must “use a variety of assessment tools and strategies” (20 U.S.C. §1414(b)(2)(A)(2004)) and be “provided and administered in the language and form most likely to yield accurate information on what the child knows and can do ... unless it is not feasible to so provide or administer” (*Id.* § 1414(b)(3)(A)(ii)). In addition, determination of appropriate services for students with disabilities must be made by a multi-disciplinary team, consisting of, at a minimum, the child's parent, general education teacher, special education teacher, representative of the school district who will supervise the specialized instruction and is knowledgeable about the general education curriculum, someone who is knowledgeable about and able to interpret the evaluation results and, when appropriate, the child (*Id.* § 1414(d)(1)(B)). IDEA 2004 added the following change with respect to IEP Team attendance: “A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting” (*Id.* § 1414(d)(1)(C)(i)). The parent's consent must be made in writing (*Id.* § 1414(d)(1)(C)(iii)). This provision took effect on July 1, 2005 (*see note on <http://www.vesid.nysed.gov/specialed/publications/lawsandregs/home.html>*).

The following chapter presents our specific findings concerning the pre-referral, referral and evaluation processes. First, our review found that measures to support students prior to a referral to special education are in place, yet have not been developed to their fullest potential. Second, we found that the assessment process is deeply flawed, running against the team-oriented nature of assessment that underlies the intent of IDEA.

¹¹ In particular, with respect to students who may be identified as having a specific learning disability, IDEA 2004 states, “In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention...” (20 U.S.C. § 1414(b)(6)(B)).

A. Pre-referral

Finding 9: The DOE has put into place processes to support students prior to a referral to special education; however, these measures are implemented inconsistently and are often duplicative.

New York City has worked to develop a support structure to meet the needs of students experiencing academic difficulties prior to a special education referral. This three-tiered model begins with general education, moves to the School Intervention Team, and at the third tier is the special education referral. The purpose of the second tier (School Intervention Team) is to ensure that prior to moving a student to the third tier; all options available via general education have been exhausted.

Our assessment found that there are an abundant number of general education and intervention services available to students prior to special education referral. At the same time, however, although we saw such an array of services available, there does not appear to be consistency or expertise in their implementation. Additionally, the two main avenues for securing such pre-referral services – Academic Intervention Services (AIS) and the Pupil Personnel Team (PPT) – are implemented inconsistently and are often duplicative.

Academic Intervention Services (AIS)

AIS is used to support the needs of students who are experiencing difficulties in general education; often students who experience difficulties in reading. One member of AIS explained to us that each Region has a Regional Director of AIS and each elementary school is supposed to have an Academic Intervention Team, with two goals: “We have two-fold goals – one is to ensure that there are as many kids as possible who do move on to higher grades and are not retained, and the other is to reduce special education referrals.” While it is written in several documents that AIS may be used for all students, there is a particular focus on third graders, who have or may be retained, and fourth graders who were considered “promotion-in-doubt” while in the third grade. Following referral, the AIS team must meet and develop a Personal Intervention Plan (PIP) that describes the concerns and the plan to address those concerns.

In our interviews, we found inconsistency in implementation of AIS across schools and Regions. For example, two of the schools we observed had been selected as model intervention sites and were consequently providing extensive academic interventions. At the same time, however, we found that other schools had no structure in place for the provision of intervention services and had poorly run AIS models. For example, one school we observed had no literacy instruction programs available to assist struggling readers. Across schools and Regions, we found two commonalities: (1) the Wilson Reading System was often recommended for students with disabilities who

demonstrated challenges with reading and (2) behavioral issues were often not addressed. According to one interviewee, AIS “focuses exclusively on academics, not behavior.”

AIS has targeted literacy support, which includes, but is not limited to, Wilson. Examination of the *New York City Department of Education Intervention Toolbox 2004-2005* reveals assessment tools, programs/strategies, and computer-based options for phonemic awareness, phonics, fluency, comprehension, and vocabulary. To illustrate the sheer number of options, there were four program/strategy options for phonemic awareness, seven for phonics, and four for fluency. According to a staff member in the Department of Literacy, “We have actually identified a rather large number of reading programs... that are well-documented in terms of their effectiveness and have been used in various classrooms in New York City, and that we can replicate.” While the ability to draw upon various resources is a strength, we did not see evidence of consistency in implementation or expertise with respect to these programs.

Our data do indicate, however, that a substantial number of teachers use the Wilson Reading System. In fact, Wilson is provided to students who receive services through AIS or students with disabilities who receive their services in a SETSS or self-contained special education class. The DOE’s intent is for the Wilson reading program to supplement the Balanced Literacy program for students experiencing reading difficulties. However, we found there to be confusion regarding the relationship between the two programs and a lack of consistency in implementation across Regions and schools. According to NYC guidelines, “For maximum effectiveness, the group of students should receive WRS instruction five days a week for 90 minutes each day,” and “[a]t minimum, a WRS class must be scheduled for 45 minutes five days a week. It can be scheduled during the Sharing Session and Word Work part of the Balanced Literacy curriculum.” In practice, however, we were told that “teachers are not allowed to circumvent [parts of] Balanced Literacy... [and] because of [the] time Wilson takes, [it is] impossible to combine them.” In effect, for many of those students with the need for the most intensive instructional services, they receive literacy instruction in two distinct programs. According to one ISS, Wilson is “not part of Balanced Literacy.”

While we found many instances in which schools were addressing literacy through AIS, we saw little to no evidence that schools were providing behavioral interventions via AIS. As noted, research has shown that interventions that address reading as well as interventions that address behavior can help prevent inappropriate referrals to special education.

The Pupil Personnel Team (PPT)

The PPT runs laterally to the AIS team and is often confused with and overlapping with AIS. Similar to the AIS process, the PPT is supposed to develop a plan with “specific actions, measurable goals, responsible persons, timelines, monitoring, data collection, evaluation and ongoing parental communication.” Our review found that the

PPT process is implemented inconsistently across Regions and schools; in fact, we found that PPT is not active in every school. According to one LIS, “There should be a pupil personnel team in place... Now the reality of those teams aren’t always there.” For those schools and Regions with PPT teams, we found the procedures to be inconsistent. There was confusion concerning how often and how consistently the PPT met. Some Regions and schools had a PPT process, while others did not. Even the name of PPT teams varied; in one Region, the PPT was called the “Intervention Team” and in another, the “Learning Support Team.” According to some, the purpose of the PPT was not clear and some saw it as a delay to a special education referral, “[Some] just don’t respect the PPT process, because they see it as a long-winded route to referral.” Others explained that the PPT meetings were often unproductive, serving as a time for participants to vent their frustrations regarding specific students.

There appears to be much confusion and overlap between the AIS and PPT processes. We heard from many that the AIS process was used to address academic needs, and when there were issues involving behavior, the PPT process was used. One principal explained, “A lot of the PPT time is taken up with issues of ACS [Administration for Children’s Services]. Many, many ACS reports for neglect, for abuse, for just a host of issues.” That said, even the PPT process did not fully cover behavioral issues, as one CSE Chair described, “One of the things that I think is very important that they don’t try often is behavior intervention plans.” One explanation for this oversight provided by several staff is that psychologists and social workers are overburdened with their increased responsibilities in the evaluation process and therefore do not have the available time to support students in need. While this may or may not be the case, there does not appear to be a strong system in place to support the needs of students with behavioral concerns prior to special education.

Both the AIS and PPT teams are supposed to develop a plan to address the needs of students experiencing difficulties in school. Indeed, both processes appear to duplicate one another, resulting in confusion for staff. It appears that the AIS process is used when students have not reached certain benchmarks on standardized tests, as well as through school referrals. Further, it appears that the PPT process is used when students are being considered for special education services. Because these criteria can involve the same student, there is confusion about which process is appropriate for which student.

B. Referral and Evaluation

Finding 10: The process for referring and evaluating students for special education eligibility and services is driven by a medical model of disability and may in practice work against the team-oriented approach advocated by IDEA.

10.1. Assessment practices are driven by a medical model of disability.

As noted in Chapter I, many practices in NYC appear to be fundamentally driven

by a traditional medical model of disability, a paradigm of service delivery that has been criticized in the educational literature. The influence of the medical model is particularly evident with respect to assessment practices. In the area of assessment, the basic orientation of the medical model is that the problems related to underachievement reside in the student and that current diagnostic practices and procedures are reliable and valid for operationalizing special education eligibility criteria irrespective of cultural and linguistic considerations (Mercer, 1979; Skrtic, 1991; Donovan & Cross, 2002; Figueroa, 2002; Figueroa, 2005). Under this model, assessments tend to be very similar across students and very focused on the results of testing, on the scores. At the heart of this model is a reliance on IQ, or on measures that purport not to be IQ (but which are validated with IQ tests) – e.g., *Developmental Neuropsychological Assessment (NEPS)*, *Differential Assessment Scales (DAS)*, and *Cognitive Assessment System (CAS)*. As noted in Chapter I, the medical model orientation that exists today is the same one that existed at the time of the original *Jose P.* judgment.

The National Research Council (Donovan & Cross, 2002) has recently recommended that the medical model of assessment be replaced by one that is focused on an educational, intervention/treatment-resistant model of assessment. Many of the problems associated with the misplacement of minority students and with relying on tests to “fit” students into categories/eligibility/placement in special education may be precluded or diminished under this new model.

A review of more than 50 diagnostic reports of students with disabilities in NYC clearly shows that standardized tests are at the heart of the diagnostic process in NYC, as would be consistent with the medical model. The primary focus of these reports is test scores. Interpretations of what is “wrong” with the students flow from these test scores and seldom give much weight to factors related to opportunity-to-learn, cultural differences, English language proficiency, bilingualism, or current instructional experiences. Tests and their scores operate much like MRIs, or other medical procedures, in which sociocultural factors do not apply. Most of the psychological reports we examined rely on a fairly consistent battery of tests: *the Wechsler Intelligence Scale for Children*, *the Bender Visual-Motor Gestalt Test*, and a set of projective/personality tests. Similarly, most of the educational reports rely on *the Woodcock Johnson Psycho-Educational Battery*, *the Kaufman Test of Educational Achievement*, or *the Wechsler Individual Achievement Test*. The same applies to speech and language assessments.

The one group of professionals who do not seem to rely on standardized instruments is social workers. For example, one social worker noted that most social workers do not use an established protocol, and explained, “I just use a basic format, and I go with that format. You know, a family background, with the social interaction of the household involving that child, things of that sort.” However, two points are worth noting with respect to social workers: (1) their input in diagnostic decisions appears to be marginal at best (see discussion below regarding the role of social workers in the evaluation process), and (2) their data gathering methods seem idiosyncratic and without

much consistency.

10.2. The expanded role of the psychologist in the referral and evaluation process has turned the process into what many have called a “one-person show.”

The reorganization of 2003-2004 introduced changes that significantly impacted the assessment process for special education. The most dramatic change was the elimination of the educational evaluator, and transfer of that staff member’s responsibilities to the school psychologist. In addition to conducting psychological assessments, the psychologist now conducts all academic assessments, and serves as case manager for all evaluations, and initial and triennial IEP meetings. Acting as case manager involves scheduling meetings, coordinating various assessments, serving as the main point of contact for parents and teachers, coordinating the writing of IEPs, and ensuring that all information is recorded accurately and on-time in the CAP system.

While other school personnel continue to play roles in the referral and evaluation process, initial IEP development, and record-keeping, the accountability for completing this process appropriately within the legal timelines now lies solely with the psychologist. Many interviewees described the current process as a “one-person show.” One psychologist explained, “The psychologist has become basically everybody,” and another said, “It puts a lot of weight on the psychologist to wear a lot of hats and run the whole show.” In fact, prior to the enactment of the Education for All Handicapped Children Act (currently IDEA), in many states, the psychologist was the sole evaluator and individual making eligibility determinations. The execution of this law was designed to change this individual process into a multi-disciplinary process (Huebner & Gould, 1991; Gibbons, 1978).

Shortly after the reorganization, the percentage of evaluations that were not completed within the requisite 60-day time period increased dramatically (from 10% of all evaluations in June 2003 to 26% of all evaluations in September 2003), creating a backlog in evaluations that lasted throughout the school year. Although this initial backlog has been largely reduced over the course of this most recent school year, many blamed the initial backlog on the elimination of the educational evaluator position. Psychologists, for the most part, expressed resistance and anger about the change, in large part because of what they perceived as a lack of support to make this transition effectively. One CSE Chairperson explained, “They’ve been used to being a part of the team and now they’re, you know they’re flying solo. And we haven’t had the ability to support them I don’t think as much as probably they need to be supported.”

While this frustration is quite widespread, levels of frustration do vary among psychologists. One described a “dichotomy of experience” in terms of how well psychologists have adapted to their new roles: “New people coming in, brand new to the system, seem to have adapted much better. Whereas psychologists who have been with the older system for 20 years had a hard time making the shift.” Regardless of the level of

resistance, however, we noted several common themes and complaints throughout all of our interviews with and about psychologists.

Although the psychologists received some training last year, a number of interviewees indicated that they felt the training was not sufficient. For example, one psychologist described the training as “mostly theoretical...they brought in university people and very knowledgeable but the complaint that most people had, including myself, they didn’t really give you the brass tacks, the procedural.” Another concern related to the grouping of schools into networks. For many psychologists who worked in two schools across networks, this shift meant that they now reported to more than one Supervisor of Psychologists. On top of this, psychologists receive their ratings from the building principal, adding to the number of people acting in a supervisory role. This confusion over supervision exacerbated the feeling of insufficient support for performing these new responsibilities.

On the whole, many of the psychologists with whom we spoke seemed to agree with the idea of conducting the educational assessments. As one Supervisor of Psychologists explained, “[The psychologists] seemed, most of them, to run with it. The psychologists are testers! I get excited about it, and I think most every psychologists do.” We believe that placing so much responsibility on the psychologists – i.e., “clinicians” who are accustomed to testing – underscores the extent to which the medical model of disability is driving the assessment process in NYC.

The most common aspect of their new responsibilities that psychologists did not agree with was the case management piece. Many interviewees commented that the case management part of the job was the most difficult aspect to get used to; one Lead RASE reasoned, “I think the piece that they’re missing by not having the ed evaluator is not on this testing piece but on the case management piece.” A psychologist described how case management gets in the way of being able to focus on what she feels is her true job:

I feel this is my vocation, being a psychologist. And in a certain sense I’m not able to maximize who I am since the role has changed a great deal. So it is like being a one-man band more or less. And it is very hard to make that switch. First of all, you are managing, next minute you are testing, next minute you are in a situation. It is hard to turn that on and off.

Other psychologists spoke about no longer being able to provide intervention services, lamenting that their jobs are now “all compliance-driven.”

We also found that in practice the expanded role of the psychologist actually extends beyond evaluation into the IEP development phase as well. While in many instances special education teachers write the goals for their students’ IEPs, we observed several other instances in which the psychologist wrote the goals. Even where the teacher

might suggest or provide a draft of goals, the psychologist assumes ultimate responsibility for putting the entire IEP together, sometimes ignoring special education teachers' suggestions altogether. For example, one teacher told us of her dismay and frustration when the psychologist at her school did not take into account goals that she had written for one of her students in making a placement decision. This particular teacher feels frustrated that she cannot participate fully in making decisions about the students with disabilities that she teaches. Even for annual review meetings, which psychologists are not required to attend, we observed cases in which the psychologist was running the meeting and took responsibility for compiling the IEP.

10.3. Despite reports of psychologists feeling overburdened and overwhelmed, there appears to be an adequate number of psychologists.

Since the reorganization and the coincident shifting of IEP team responsibilities, psychologists report being overwhelmed and overworked, with large caseloads. Some school psychologists report conducting an average of 8-10 assessments a month and spending approximately 90% of their time on assessment-related activities. Furthermore, many complained of no longer having time to provide counseling and intervention services.

Nonetheless, our data show that NYC has more than adequate staffing levels of school psychologists and other service providers. For example, for the 2003-2004 school year, the NYC DOE employed 1170 school psychologists, which serve approximately 1200 schools and over 150,000 students with disabilities. This translates to a ratio of students with disabilities to school psychologists of 128:1 and an approximate overall ratio of students to school psychologists of 901:1. This ratio falls within the recommended ratio of overall students to psychologists by the National Association of School Psychologists (NASP) (1000:1) and the New York Association of School Psychologists (NYASP) (800:1). In addition, the ratio of school psychologists per students with disabilities in New York City is lower than in Chicago (236:1), in Los Angeles (151:1), and the national average (223:1).

Although staffing levels appear to be adequate when compared to other large urban school districts and the national average, it is important to note that we did not compare official job descriptions of psychologists across school districts and the responsibilities might vary. Moreover, Regional offices report being understaffed. One Region reported having up to 30 vacancies.

10.4. The roles for personnel other than psychologists in the referral and evaluation process are limited.

An unfortunate side effect of the increased role of the psychologist in the assessment process appears to be a *decreased* role of other key personnel in this process. We found that in practice special education teachers are not very involved in the referral

and evaluation process. According to the August 2003 draft Standard Operating Procedure Manual (SOPM), a complete psycho-educational assessment of a child:

...is accomplished through the systematic gathering of data through a variety of sources and methods including: review of student records and current classroom based assessments, observations of behavior in classroom and testing settings, interviews with the student and school staff regarding the student's functioning, consultation with parents, and the use of tests.

It is important to note that tests are merely one factor in the entire assessment process. While the psychologists are responsible for conducting the tests, there are many other aspects of the assessment process that do not necessarily need to be conducted by the psychologist. However, none of the special education teachers we interviewed in the schools indicated that they played a role in this process. Moreover, examination of the draft SOPM reveals that, while specific roles are defined for the psychologist and social worker with respect to the referral and evaluation process (see pp. 9-10), the manual does not include a clearly defined role for the special education teacher.

Another new position created by the reorganization was the IEP teacher, whose role was to act as the special education teacher representative at initial IEP meetings, as well as provide coverage for other special education teachers who need to attend IEP meetings. However, in our review we found that this position was not always being used in this way. In some schools the IEP teacher acted as another SETSS provider. In others, the IEP teacher helped fill the shoes of the former Special Education Supervisor, overseeing issues related to special education compliance at the school. When necessary, at the schools we visited, the IEP teachers generally filled the role they were supposed to (attending initials, providing coverage), but none indicated that they collaborated with the psychologist on any assessment-related activities for initial referrals.

Another staff member who should play a key role in the referral and evaluation process is the social worker. However we observed that the social worker's main role appears to be conducting social histories for initial evaluations. In fact, other than this specific job, it did not appear that social workers played much of a role in the initial IEP meeting. One social worker told us, "There's not enough interdisciplinary teamwork on a kid, especially a difficult kid" and explained that IEP meetings are "the only time we really get to discuss and make recommendations. Otherwise...it doesn't really go anywhere and you're on your own." In our own observations of IEP meetings, the participation of the social worker was minimal.

Some social workers with whom we spoke expressed the feeling that many of the new case management responsibilities falling on the psychologist could be more effectively performed by the social worker, and that by transferring all of these responsibilities to the psychologists, the DOE is sending the message that social workers

are not as important. Moreover, the fact that there are no longer Supervisors of Social Workers adds to the feeling among social workers that their job is less valued: “We are supposed to be under the school psychologist’s supervisor... But as far as I feel, it’s really nonexistent...we really don’t have anybody we can talk to in terms of cases.”

Prior to the reorganization, the group of individuals responsible for the referral and evaluation process at the school level were called the School-Based Support Team (SBST). The most recent draft of the SOPM does not mention the SBST, yet staff at many of the schools we visited continued to use the term SBST in referring to the core staff who are now involved in the referral and evaluation process—the psychologist, social worker, and family worker. The fact that many staff continue to use old terminology demonstrates the impact of ineffective communication of new policies and procedures and the extent to which the DOE is guided by organizational culture rather than by written policies and procedures (see Chapter II). Meanwhile, in many of the schools we visited, these three staff members appeared to operate as a separate entity from other aspects of special education and school management. In some schools, the principal did not have a sense of or appear to be concerned about the relationship between the psychologist and the rest of the staff. In most cases, it appears that the psychologist does not always operate as an integral part of the school culture. This is especially problematic in schools in which the psychologist is only in the building part-time. For example, in one school we visited, the principal and assistant principal seemed to have minimal contact with the IEP team, and in fact, few people at the school knew the name of the psychologist.

Finally, speech therapists who work in the schools are not permitted to conduct initial speech assessments, because, as one therapist told us, “It’s considered a conflict of interest, building or not building up our caseload.”¹² This practice of conducting speech assessments outside of the school creates a number of problems, one of which is a delay in the evaluation process that may ultimately contribute to a failure to meet timelines. Some speech therapists told us that the entire evaluation process can take between 4 to 5 months, often due to a delay in conducting the speech evaluation:

The cases are open oftentimes and if the parents forget to mention the word speech or if the social worker slash school psychologist forgets to say that they need a speech [eval], the case is open, the date is set, they give them the SETTTS services, the special ed, they give them the OT possibly...but then the speech ... [is] not finished, so they start the child off with their IEP, and they’re like, wait oh we need a speech and

¹² Unlike with speech therapists, we were told that occupational therapists who work in the schools are allowed to conduct initial assessments on children in their building, where appropriate. This inconsistency in policies by service area is confusing, and we do not understand any rationale for allowing school-based occupational therapists to conduct initial assessments but not speech therapists.

language. So now they need to go back, find someone to do it, reopen the case, have them sign for it...I mean it is just all, not efficient.

When a child requires a speech assessment, if a provider is not available through the CSE or a contract agency, the parent is given a list of qualified providers and must then try to find one that is available to do the assessment. However, the Regions reported that agencies often accept contracts but are unable to meet the high volume of referrals and do not complete assessments within the specified timelines: “That can be a nightmarish situation...the contract agency will take it and then they don’t get back to you in the requisite amount of time. And then you contract out to another agency and then it goes on and on.” The time it takes to get an evaluation done can significantly delay the evaluation process; the alternative is to hold an IEP meeting and make a placement or service recommendation without the results of the speech assessment.

Another problem is that the speech therapists who conduct the assessments provide their results and recommendations in a written report and do not necessarily attend the IEP meetings. In one interview, we were told that although the speech therapists at the school are required to attend IEP meetings, “[the speech therapists] are representing reports that we did not write.” In this situation, the therapists who actually conducted the evaluation are unavailable to provide parents and staff appropriate feedback regarding the student. Furthermore, many of the speech therapists who do work in the school and may have had the occasion to observe or screen the child, or speak to some of the child’s teachers, feel unable to question the findings or recommendations of the assessment. The role of the school-based speech and language therapist therefore becomes limited to providing services as recommended by an outside evaluator. Given the fact that during the 2003-2004 school year the DOE employed 2,015 speech therapists, without the DOE’s policy that speech therapists working in schools could not conduct initial speech assessments, there would have been no need for the DOE to contract out these assessments.

10.5. There is a lack of understanding of and support for conducting assessments of English Language Learners.

Nationally, there are not many diagnostic tools available that have any evidence of validity for use with English Language Learners (ELLs). Even the ones that purport to be valid cannot fully account or control for the factors associated with English acquisition and bilingualism. This often leads to “creative” solutions by assessment personnel such as translating tests, protocols, inventories, or forms from English into other languages. This procedure has been proscribed since the 1985 edition of the Standards for Educational and Psychological Testing (American Research Association, American Psychological Association, National Council on Measurement, Chapter 13). We found, however, that the practice of translating standardized assessment materials into other languages is part of the procedures used by assessment personnel in NYC. This is an intractable problem that is nearly 100 years old in the United States and that exists to the

present. Under the medical model, where there is a fundamental reliance on tests, this is a very serious problem. In fact, the medical model orientation in all likelihood contributed significantly to the overrepresentation of Puerto Rican children in special education programs at the time of the original *Jose P.* complaint. Without the medical model of assessment, however, this may well be a manageable challenge.

Current assessment practices, in spite of the DOE's professional resources (*Test Resource Guide, V 5; Practitioner's Guide with Primary Emphasis on Assessing Achievement at Tier 3*), appear to produce reports that do not account for the possible effects of cultural or linguistic differences. Objective or reliable qualitative data on students' English language development or proficiency are usually missing in assessment reports of school psychologists, social workers, or speech clinicians. There is a disjuncture between what the DOE guides recommend and what the assessment professionals are actually doing. For example, the *Test Resource Guide, Volume* and *Creating Bridges to Excellence for English Language Learners, Sections 7 and 9*, both outline procedures for using tests with second language learners in order to contextualize and correctly interpret the test results of bilingual learners. However, in virtually all the psycho-educational test reports of second language learners that were reviewed (N=20), there were no caveats or considerations concerning the possible impact of bilingualism on test scores or on diagnostic decisions. Either the DOE guides have not been widely disseminated through professional development efforts, or they have had no impact on actual practice.

Bilingual personnel are seen as the experts who have a proprietary hold on a unique set of knowledge and that few others need to have this knowledge. Certainly, bilingual assessment personnel report that some supervisory/administrative personnel know very little about the unique needs of English Language Learners who have or who do not have disabilities. According to one Supervisor of Psychologists:

I'm beginning to see that because the principals are responsible for more and more aspects of Special Education, they don't all have... a strong enough sense of the need for strong education in a child's first language, in order to be able to really adequately succeed in English, and academic subjects.

However, the reports of bilingual assessment personnel as well as the interviews held with them suggest that bilingual assessors are badly in need of more extensive professional development on how to conduct bilingual assessments. All of them, for example, show a considerable dearth of knowledge about second language acquisition factors and on the possible impact of these on student learning, underachievement, test scores, and diagnoses. One Supervisor of Psychologists explained:

We make an assumption that bilingual psychologists-- you know-- understand the acquisition of a second language, and they understand all there is that they need to know, because they speak two languages. And that's not really a correct

assumption. And we have, in this organization, spent a fair amount of time looking at the psycho-educational testing, and the new tests that the psychologists didn't use before. And we have not done enough in terms of the English language learners, and what they need.

The most fundamental issue regarding student levels of English proficiencies, or about students' English language development histories, or on students' pedagogical experiences (English-only, dual language, etc.) are often missing from the reports of bilingual assessment personnel. Occasionally, their reports rely on highly questionable indices of language dominance such as asking students in what language they dream, or in what language they speak with their peers. Concomitantly, the available data system on students also does not provide timely or useful information on the students' language proficiencies. Ironically, much of this knowledge base is available in the DOE's Bilingual Education Office.

IV. PLACEMENT

Placement refers to whether students with disabilities are receiving a free appropriate public education (FAPE) in the least restrictive environment (LRE). IDEA defines LRE as the following:

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (20 U.S.C. § 1412(a)(5)(A)(2004)).

FAPE and LRE have been the cornerstones of IDEA since its enactment in 1975. The 1997 and 2004 reauthorizations of IDEA further include the requirement that students with disabilities have access to the general education curriculum – i.e., the same curriculum as that provided to students without disabilities (34 C.F.R. § 300.347(a)(1)(i)). For example, students with disabilities must receive the special education and related services and supplementary aids and services, that will enable them to be involved and progress in the general education curriculum (20 U.S.C. § 1414(d)(1)(A)(i)(IV)).

The following chapter presents our findings with respect to placement for students with disabilities in NYC. Specifically, we found problems associated with the placement process, particularly as it relates to the placement of high school students. In addition, although the DOE has begun to make positive strides in the area of LRE, large numbers of students are still being segregated in separate classes, including most of those who are educated in District 75. Finally, we found that, although there have been some noteworthy efforts to provide staff development, these efforts are insufficient to ensure that students with disabilities are receiving effective access to the general education curriculum.

A. Placement Process

Finding 11: The placement process in NYC emphasizes the notion of placement as the availability of “seats” in special education programs rather than as the services and environment that are appropriate to the individualized needs of the student.

According to the principle of the least restrictive environment, students with disabilities are to be educated, to the extent appropriate, in a setting together with students without disabilities. In addition, IDEA’s current implementing regulations specify: “Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled” (34 C.F.R. §

300.552(c)).¹³ Currently, however, placement determinations in NYC are made on the basis of where there are available “seats” in special education programs. This process reinforces the notion of a medical model of disability by requiring a student to fit into a specific special education placement rather than creating a process by which school staff would be supported to determine whether existing services could be reconfigured or additional services could be provided that would meet the needs of the student. Moreover, this process promotes the idea that special education is a “place” rather than a service, and places priority of such placement over what should be the most important consideration – the general education placement. The placement process at the high school level similarly perpetuates the notion of special education as a place and poses unique challenges to the DOE and to parents seeking placements for their children.

11.1. Placement determinations are made based on the availability of “seats” in special education programs.

The placement process in NYC begins with the IEP Team making a recommendation for the kind of services and setting that would best serve a student’s needs, as required under IDEA (20 U.S.C. § 1414(d)(1)(A)(i)). According to DOE practice, those students for whom the IEP Team recommends Special Education Teacher Support Services (SETSS) or related services are supposed to receive such services automatically at the school the students are currently attending. All other placement determinations that are not found at the school or for which there is no opening at the school, including CTT classes, are to be made by the Special Education Evaluation Program Officers (SEEPs), Regional personnel under the CSE Chair, who have no connection to the school the student currently attends or the school in which the student will be enrolled in the future. This practice, which promotes a process that separates placement decisions from the student’s school, is contrary to the thrust of the reorganization, which is to increase home school accountability. Moreover, such a practice emphasizes the notion of placement as an available “seat” in a separate building rather than as the services and environment that are appropriate to the individualized needs of the student. (See High School Placement section below for a description of this process at the high school level.).

The separation of placement decisions from the school can be seen in the lack of communication between the SEEPs and the personnel who work with the student in his/her current school or who will be working with the student in the new school. Multiple personnel at the Regional and school levels informed us that students and/or parents might come to a school with a placement letter and find that there had been no communication with the school or Region prior to their arrival.

¹³ Current NY SED regulations similarly state: “Placement shall be as close as possible to the student’s home, and unless the student’s individualized education program requires some other arrangement, the student shall be educated in the school he or she would have attended if not disabled” (Part 200.4(d)(4)(ii)(b)).

Moreover, we found that the process used by the SEEPOs to find “available seats” is inefficient. The SEEPOs determine placements based on information entered into the CAP data system by clerical staff at the schools. Because the clerical personnel at the schools are not always cognizant of the appropriate ways to input data from the IEP into CAP, errors can occur (see Chapter II). In addition, the process is often delayed by the fact that the SEEPOs have to wait to receive the IEPs from the school via the courier service. After the SEEPOs have reviewed the information both in CAP and the student’s IEP, they check for available seats by searching manually in a catalog of open seats in the Region. Placement decisions are then made based on criteria such as age, grade level, and cognitive functioning. According to one SEEPO: “The appropriateness is based on the law, which says it has to be three years chronologically-- at age and grade level-- and it has to be grouped. For example, an MR kid would not necessarily go into a classroom for the learning disabled child.” Such interpretations reinforce the notion of special education as a place.

The problems associated with the placement process may have contributed to the NYC DOE’s non-compliance with placement timelines under SED regulations and *Jose P.* Table 2 shows the very large percentages of students with disabilities who are awaiting placements for longer than 60 days.

Table 2. Percentage of students with disabilities awaiting placement over 60 days,¹⁴ by month and Region: 2003-04 school year

	Sep 04	Oct 04	Nov 04	Dec 04	Jan 05	Feb 05	Mar 05	Apr 05
Region 1	91%	89%	79%	74%	65%	59%	55%	59%
Region 2	90%	86%	77%	66%	63%	61%	52%	48%
Region 3	92%	88%	75%	68%	61%	60%	56%	51%
Region 4	93%	92%	81%	75%	64%	60%	62%	57%
Region 5	87%	86%	76%	64%	59%	51%	46%	48%
Region 6	90%	88%	80%	69%	61%	56%	49%	43%
Region 7	94%	92%	86%	77%	71%	67%	60%	52%
Region 8	90%	87%	74%	63%	58%	59%	58%	52%
Region 9	93%	92%	84%	76%	70%	68%	62%	61%
Region 10	93%	92%	86%	79%	73%	68%	66%	62%
Citywide	92%	90%	81%	72%	65%	61%	57%	54%

As stated earlier in this report, inaccuracies in the CAP data system have resulted in an overstatement of non-compliance in many instances. Nonetheless, the numbers in Table 2 are large enough to generate concern.

Some Regions have recently begun to pilot a computerized data system to assist with the placement process – for example, by locating seats and automatically generating placement letters. Although such a computerized system has the potential to improve some of the inefficiency associated with the current placement process, a computerized

¹⁴ Students classified as “awaiting placement” include those who are awaiting a site offer, those for which there is not yet a parental response, those awaiting authorization, and those who are not yet attending their site.

system does not address the previously discussed problems of an underlying assumption of the medical model of disability, an emphasis on special education as a place, and a disconnection from the student's school.

11.2. The high school placement process poses unique challenges.¹⁵

When applying to high schools, students with disabilities and their families go through the same process as their peers without disabilities - i.e., going to high school fairs, searching through the *Directory of the New York City Public High School*, and applying to the school that most appeals to the student and his/her parents. Students with disabilities who receive SETSS are then treated by ATS as general education students and are placed in the schools as such. For students who are to receive a more restrictive setting, such as a self-contained class or a CTT class, they and their families must determine whether the school has the program designated in the student's IEP. In addition, new, small high schools, during their first two years, are only required to provide services to students who receive SETSS. This process places undue pressure on parents to understand the listings in the *Directory* and match the listings with the special education services their child is supposed to receive. According to one Lead RASE:

One of the things we're struggling with [is] making sure that our students with disabilities understand the high school application process and that their parents help them to make good choices about what schools they can go to or should go to, where their special education services can be delivered.

The *Directory* has only bulleted listings for special education, and these listings do not necessarily match the titles of services students receive. For example, many, but not all, of the high schools list SETSS as a service; however, it is our understanding that all high schools provide SETSS. Another example is that many high schools list both "Team Teaching" and "Inclusionary" for their special education services, and as explained by one top special education staff person, these are more conceptual terms than an explanation of school practices. In fact, our analysis of students' IEPs found no mention of either "Team Teaching" or "Inclusionary."

For Regions, the high school placement process is also difficult. There are two ways high school students enroll in school: (1) through the High School Application Process (HSAPS) and (2) through the Borough Enrollment Center. The Borough Enrollment Center, in consultation with the Region, places students who are: (1) new to the school system or returning or (2) high school students seeking transfers or requesting variances. Regional Enrollment Centers are staffed, until recently, mostly by retired guidance counselors. These staff report to the four Borough Enrollment Directors (BEDs), each responsible for one borough (with the exception of Brooklyn and Staten

¹⁵ The DOE has recently acknowledged certain problems associated with the high school placement process and on December 5, 2004 approved a document entitled *Special Education High School Enrollment Policy Decisions – Draft*. Due to the fact that time is needed to implement change, we recognize that some of these reforms may not be reflected in our assessment and, therefore, in this report.

Island, which are combined). Structurally, the Regional Enrollment Center is under the Office of Students, Enrollment, Planning, and Operations (OSEPO). In the field, we found that staff were confused about the referral process for high school students and the role of the Regional Enrollment Center. As one SEEPO pointed out, “It’s very unclear as to what’s really happening with the high school division at this point.”

One reason for the confusion associated with the high school placement process is the inadequacy of the data being used. There is currently insufficient data concerning the specific programs that are offered in each high school and the availability of seats within each program. As one LIS explained, “We can’t plan for space because we don’t have the right information in time.” Although a database currently exists, interviewees indicated that the system is inadequate. The Enrollment Center staff has limited data on available special education services, and at this time, the only source is the *High School Directory*, which, as mentioned, lists more generalized descriptions of special education services.

In addition to the lack of data, there is a general concern regarding the lack of availability of high school seats for students with disabilities; in fact, according to one Lead RASE, “There was also a concomitant problem going on in that there just aren’t enough seats in New York City high schools [for all students]... [and there are] many, many oversized classes in the high schools. There are children who don’t have a chair to sit in; they’re sitting on the floor.” Similarly, a SEEPO with whom we spoke noted, “It appears that the high schools are overcrowded, so not all the kids that should be in high school have seats.”

Our analysis found that the shortage of seats for students with disabilities at the high school level is reflected in the unequal distribution of students with disabilities across high schools. While some high schools have a large population of students with disabilities, others have a relatively small population of students with disabilities. For example, in reviewing data on the percentage of special education enrollment at high schools across the city, we found that the percentages ranged from 0% to 38.3%. Similarly, one District 75 staff member explained that District 75 high school classes were unequally distributed among Regions “because some Regional Superintendents think it’s more important than others.”

There is also an issue regarding the availability of particular programs for students with disabilities. Until recently, high schools were not mandated to have the more restrictive special education services, including CTT classes, and students were sometimes placed in schools that could not fulfill their IEP placement mandates. For example, a student enrolled in a CTT class in middle school might not have that option available at the high school he/she attends, or the high school might have a CTT class only for English or math. According to one Lead RASE, last year “a lot of children wound up being given a seat in a high school that could not deliver their special education services. That was a really big breakdown.” We were told by a number of interviewees that when CTT or self-contained special education programs are

unavailable, the student might have to receive a change in his/her services to match those provided at the school or the student might have to transfer to a different school that would be able to provide the services. Although the lack of available placements is a concern for students at all grade levels, the issue is particularly problematic for students at the high school level.

The process for students articulating into high school involves principals ranking all students in order to fill the declared seats; students with disabilities are included in this process. Over half of all high school seats are unrestricted and are available for students who are not ranked. One principal described the process as follows:

They've created an admissions system that's supposed to be similar to medical school admissions ... We rank kids, and kids rank us. Half of the kids that we rank in different categories of the bell curve (above average, below average, and on average) get matched to us; and then the computer randomly matches the other half of the kids also along the bell curve... they found last year ... that, shockingly, kids with disabilities got ranked much less often than [other] kids... and then when it came time to match kids who didn't have schools yet, there was a high proportion of kids with disabilities who didn't have schools.

A practice of ranking does not encourage principals to admit students for whom they may not have programs available and opens the door for potential discrimination against certain students. We feel that a system focused on ensuring equity for students with disabilities should have in place a structure for the equitable placement of all students with disabilities.

In addition, new, small high schools, during their first two years, are not required to provide special education services to students who require services other than SETSS. One Lead RASE explained that he/she finds it difficult that certain high schools "can't accommodate students with disabilities at this point in time." One Deputy Superintendent similarly expressed her frustration with this practice: "We're saying – But you're the perfect kind of school where they're not going to fall through the crack, where it is a nurturing environment where you have dedicated teachers. Please take in one class." The policy of not requiring new, small high schools to provide services other than SETSS during the school's initial two years was instituted in order to provide these new schools with adequate time to build their capacity to meet the needs of a more diverse population of students with disabilities. We feel that because such a policy is not grounded in inclusive practices, it actually inhibits the ability of these schools to provide effectively for a range of students with disabilities. Approximately 90% of students with disabilities in SETSS have learning disabilities or speech-language impairments, while relatively few students have other disabilities. The DOE's current policy reflects the false presumption that students with more significant disabilities or low-incidence disabilities will disrupt a school and are exceedingly difficult for a new school to educate.¹⁶

¹⁶ Indeed, research shows that there is no evidence that the inclusion of students with significant disabilities negatively affects the achievement of peers without disabilities (Gruner, 2005).

The practice of allowing new schools to put off educating students deemed in need of more restrictive special education settings, places the burden of providing education for students with disabilities receiving any more than SETSS services on comprehensive high schools – i.e., the schools with the least resources and the most needs. Indeed, we heard from multiple sources that the large comprehensive high schools have to take in the “neediest children” because the small high schools do not provide services for all students with disabilities. One principal explained,

If little schools don’t have to service kids with disabilities, [other big schools will have to take them in]. Just because you’ve closed a big school doesn’t mean you’ve eliminated the kids with disabilities. They have to go somewhere. But right now they’ve never dealt with that, so they’re all of course clustering in big schools.

B. Least Restrictive Environment

Finding 12: Students with disabilities are overly segregated in special education classes and programs, despite the existence of a few promising, yet underutilized, models of inclusive education.

Historically, special education in New York City, as in other school districts, has been perceived as a “place” rather than as a “service,” thereby perpetuating the need for separate special education classrooms. Recently, however, with the development of the new Continuum of Services for Students with Disabilities, the DOE has tried to refocus its efforts to create more inclusive placements for students with disabilities. The continuum calls for the creation of a range of instructional models that are intended to increase the opportunities for students with disabilities to participate in the general education class. Indeed, many of our interview participants reported that they understood that there was a movement towards less restrictive environments: “Our mandate for this year is to try and move from MRE to LRE.”¹⁷ Although one of the goals of the continuum is to recognize “that special education is a service not a place to which students with disabilities are sent,” we found that insufficient support is being provided to the schools to enable them to make the philosophical, organizational, and programmatic changes necessary to realize this goal.

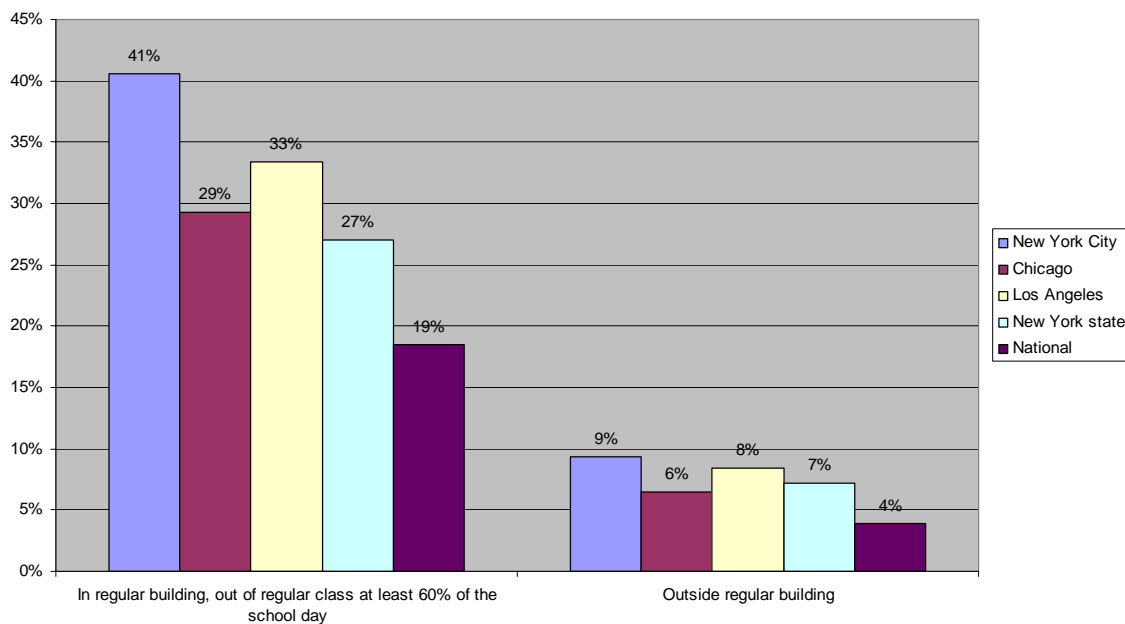
12.1. Inordinate numbers of students with disabilities are being educated in separate, special education classes and schools.

While recent data suggest that the number of elementary and middle school students with disabilities who are being served in their home-zoned schools has increased, in comparison to other large urban school districts, NY state and the nation as

¹⁷ We feel that it is important to note that the term “MRE,” which stands for “more restrictive environment,” is not found in IDEA and, in fact, is contrary to the LRE principle, which requires that every child be placed in the least restrictive environment to the maximum extent appropriate.

a whole, NYC has a greater percentage of students with disabilities who are educated in separate special education classes. For example, Figure 4 shows that 40.61% of students with disabilities in NYC are in regular buildings but spend more than 60% of their time outside of the general education class (i.e., in separate classes), while only 29.06%, 33.38%, 27.01% and 18.53% of students with disabilities in Chicago, Los Angeles, New York state and the nation as a whole, respectively, do so. In addition, 9.4% of students with disabilities are educated outside of the general school in a public or private separate facility, residential, or hospital setting, a larger percentage than Chicago at 6.46%, Los Angeles at 8.42%, New York state at 7.2 %, and the national average of 3.9%.

Figure 4
Percentage of students with disabilities served in substantially separate settings, by setting type, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003



Our analysis found that personnel rarely question placements decided on the basis of disability status. For example, one interviewee explained that students receiving SETSS “are the highest functioning.” Another reported that students with mental retardation should be educated in separate environments: “They’re mentally retarded, they’re only in self-contained.” Similarly, a staff member at a school explained that educating students with mental retardation in her school was not appropriate “because [there’s] a whole school that’s just for the developmentally disabled. Every once in awhile, some get through but they’re not appropriate to be here.” Additionally, one LIS explained that CTT classes were not appropriate for students with SED, and she explained that when students with SED are placed in a CTT class, it is due to “pushback from parents.”

Furthermore, data show that African-American students and most students who

are English Language Learners are less likely than students of other races, and English-speaking students, respectively, to be placed in so-called “LRE” settings (these include related services, SETSS, and CTT). For example, in April 2005, 44% of African-American students with disabilities were in LRE settings compared to 64% of White students. Thirty-seven percent of Spanish-speaking students were in LRE settings compared to 51% of English-speaking students.

12.2. District 75, which provides placements mainly for students with emotional disturbances (ED) and students with significant cognitive and physical disabilities, operates for the most part separately from the rest of the Department.

We found that students with more significant disabilities and those with emotional disturbances are generally not educated in the general education environment; rather, they are the responsibility of District 75 and are regularly educated in separate special education classes and schools. Moreover, we found that District 75 for the most part operates separately from the Central Office and the other Regions. We feel that the current structure leads to abdication of responsibility at the school level for students with ED and significant cognitive/physical disabilities.

The reorganization did not significantly change District 75. According to Mayor Bloomberg and Chancellor Klein: “District 75 will continue as a separate Citywide district for children with severe disabilities, instituting organizational changes to provide more coherent and consistent instructional programs.” The one change was the institution of the same organizational structure used in the Regions:

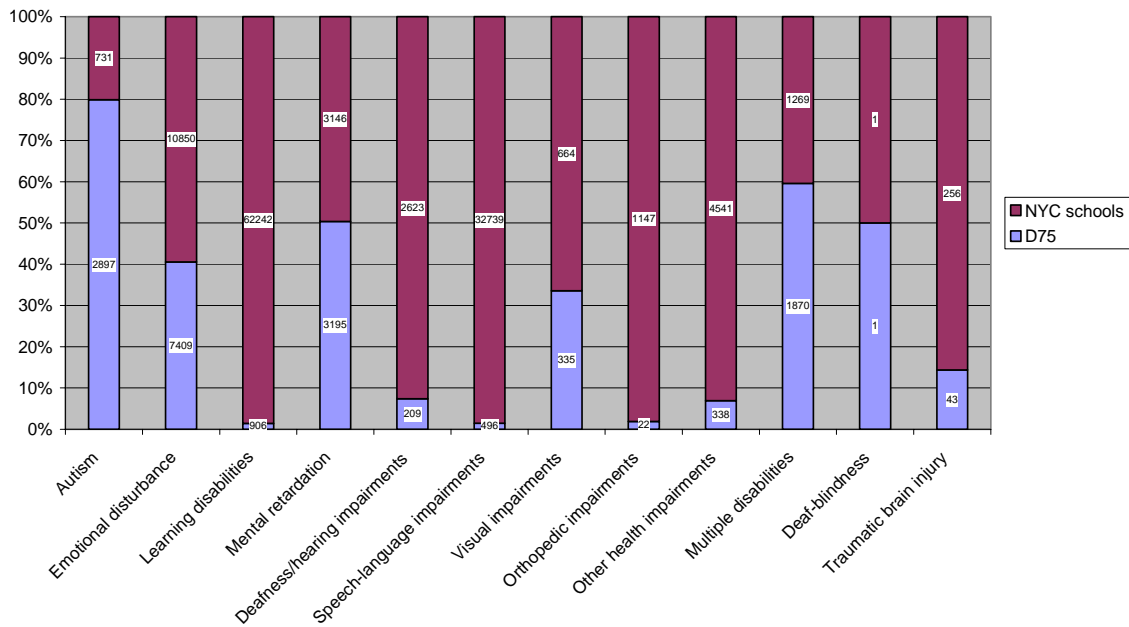
Consistent with the new organizational structure of the City’s public school system, the Department will appoint local instructional supervisors in District 75, each of whom will supervise approximately 12 schools. DOE will centralize operations and administration for the District in one of the school system’s six new operations centers, enabling District 75 educators to focus on instruction and delivery of services. Finally, DOE will centralize and improve space planning for classrooms so that children with severe disabilities will receive their education as close to their homes as possible.

Substantially separate services provided by District 75 are organized into “school organizations,” which are clusters of schools, each with a hub site and satellites. There are 56 school organizations and 360 satellites. District 75 assigns a principal to each school organization, and these principals are responsible for all of the satellites within their school organization. For the most part, District 75 settings are either self-contained buildings or wings of buildings. According to District 75 staff, approximately half of the classes are housed in wings of community schools. Services are also provided in hospital and home settings.

District 75 educates students with more significant disabilities, and in more restrictive settings

As stated in the introduction to this report, close to 13 percent of the students receiving special education services in New York City receive these services from District 75. Figure 5 highlights the fact that students with more significant disabilities are more likely than their peers with less significant disabilities to be educated in District 75. For example, 50% or more of students with autism, mental retardation, and multiple disabilities are educated in District 75. Furthermore, 40% of students with emotional disturbance are educated in District 75, compared to less than 5% of students with learning disabilities.

Figure 5
Number and percentage of students with disabilities ages 6-21 who are educated in New York City schools compared to in District 75, by disability type: 2003



Our data show that school personnel depend on District 75 for students they believe require specialized knowledge and expertise that Regional staff do not possess. A Lead RASE explained that students who attend District 75 programs have a “greater need for either a smaller class, more intense staffing ratio or specific interventions that are related to their disabilities - the more physically challenged, more cognitively challenged who really cannot participate in general education.” Another interviewee noted that staff in the Regions do not feel able to work with these students; they “feel ill-equipped to accommodate [the] youngster.”

Staff from both the Central Office and the Regions explained that placing students classified as ED in Regional schools is difficult. According to one CSE Chair, “It’s always hard to place the emotional disturbance children... They don’t want to take those kinds of kids in.” Placing a student with ED in District 75 is perceived as a relatively common practice. One staff member from District 75 explained that, especially for adolescent students who have a “bad incident [or] a disruption at school,” a placement in District 75 is common: “It’s so simple, it’s scary.”

District 75 is perceived to have a politically strong constituency in the parents of the students they serve. According to one District 75 interviewee, “Parents have found a safety net.” Other personnel noted that, because the typical NYC school does not know how to address the needs of students with significant cognitive and/or emotional needs, District 75 provides the security that such students will be educated. In the words of one Regional Superintendent, District 75 provides parents with “a level of comfort... because there [is] a lack of teacher preparation of our teachers to deal with kids with significant needs.”

Limited communication between District 75 and the Regions

In our evaluation, we found limited communication between District 75 and the Regions. For example, several District 75 personnel with whom we spoke indicated that they are not notified about the dates and times of impartial hearings that pertain to their students. An additional area in which we found a particularly sharp separation between District 75 and the Regions was the placement process. A student initially placed in a District 75 program is referred by a Regional CSE; District 75 personnel are not involved in this decision and are unable to offer their perspective of the appropriateness of any of their services. At the same time, actual placement determinations are made by District 75 placement officers who do not consult with the Regional CSE. To place a student in a District 75 program, a SEEPO explained that he/she sends the case “along to [District 75]. [District 75] in turn has their own placement office; they give us [SEEPOs] the seat, we in turn send out the final notice of recommendation to the parent.” Parents are not able to contact the District 75 placement officer directly but, rather, must go through the Regional CSE. Communication between District 75 and the Regional CSE is further hindered by the fact that the District 75 placement officers are organized by boroughs as opposed to Regions.

Interview participants reported that moving a student out of a District 75 placement to a less restrictive setting is especially problematic and uncommon. Indeed, we did not find evidence of much movement from District 75 to Regional settings. As Table 3 shows, only 4% of all students with disabilities who were enrolled in District 75 in 2003 had moved to a Regional setting by Fall of 2004. Movement varies by disability type, but overall is quite low across the board.

Table 3. Movement of students with disabilities from District 75 to Regional settings, between Fall 2003 and Fall 2004

	Total students enrolled in D75, Fall 2003	Students still in D75, Fall 2004	Students moved to Regional setting, Fall 2004	Students decertified from special education, Fall 2004	Percentage of students who moved from D75 to Regional setting
Autism	3025	3001	20	4	0.66%
Emotional disturbance	6708	6010	523	175	8.01%
Learning disabilities	750	640	79	31	10.99%
Mental retardation	2775	2760	15	0	0.54%
Deafness/hearing impairments	202	185	14	3	7.04%
Speech-language impairments	557	521	29	7	5.27%
Visual impairments	300	298	2	0	0.67%
Orthopedic impairments	19	17	0	2	0.00%
Other health impairments	363	332	24	7	6.74%
Multiple disabilities	1794	1784	10	0	0.56%
Deaf-blindness	1	1	0	0	0.00%
Traumatic brain injury	35	33	2	0	5.71%
All disability types	16529	15582	718	229	4.40%

Another example of a disconnect can be seen in the oversight of students in District 75 who are placed in community schools. While many District 75 programs are housed in community schools, District 75 and the Regions are run as separate entities. Students who are enrolled in District 75 inclusion classes receive their education in a general education classroom in a community school. However, the community school does not have primary responsibility for these students – for example, students’ attendance must be reported to the District 75 principal responsible for the program. Similarly, students enrolled in District 75 inclusion classes in a community school may not receive related services from providers assigned to the community school. Rather, their related services must be provided by the District 75 site with which the class is connected. According to a District 75 interviewee, “The child still is on our register, so ultimately whatever the IEP requires is a District 75 requirement.” The structure of District 75 therefore leads to an abdication of responsibility on the part of principals in

community schools for their students with more significant disabilities. This practice goes against the goal of the reorganization to increase the accountability of principals of community schools and to promote education in the least restrictive environment.

Yet another example of a separation between District 75 and the Regions is seen in the implementation of professional development. District 75 seems to offer staff a good deal of professional development, and the Regions do not appear to take sufficient advantage of these opportunities. Rather, it was reported to us that District 75 professional development is used by Regions as a reaction to a problem, not as a proactive decision. One District 75 staff person explained, “I don’t think we’re used as well as we could be... I think that usually what happens is, a child appears, and then they ask for training, or the school finds itself in a predicament: How do I deal with this youngster? As opposed to being proactive.” One exception was collaboration between one Region and District 75 around professional development based on Positive Behavioral Intervention Strategies (PBIS). According to the Lead RASE of the Region, “This is really exciting stuff for the first time for us to really have joint initiatives with District 75 because they have tremendous expertise and tremendous resources.” The District 75 Superintendent stated, “[In] our Office of Inclusive Services... we do training - not just of our teachers and paras, but teaching the General Ed staff how to adapt instruction to diverse learning styles. And that’s where I hope our legacy will be, providing professional development to general ed and in inclusive practices, and travel training, and assistive tech.”

12.3. There are several models within the new continuum that support the move towards more inclusive special education services; however, these models are both underutilized and perceived as separate “placements.”

As stated earlier in this report, nearly 50% of students with disabilities are educated in a regular classroom and pulled out for no more than 20% of the school day. This statistic might indicate a relatively high rate of “inclusion”; however, it is striking that only 1.34% of students with disabilities in NYC spend 21-60% of their time outside of the general education class. This percentage is exceptionally small when compared to Chicago (25.3%), Los Angeles (12.56%) and the state and national averages of 12.49% and 27.67%, respectively. This would indicate that “inclusion” options in NYC are limited to those in which students spend a large majority of their day in the regular class, and that the most likely alternative to this would be a separate class, not flexible scheduling that involves pullout for periods of the day. This finding highlights our contention that NYC’s special education is bureaucratically driven.

Indeed, in our review, we noted several promising models of inclusion, two of which educate students with disabilities for nearly the entire day in a regular class. These two models are Collaborative Team Teaching (CTT) classes, and the inclusion of District 75 children in general education classes with the support of District 75 staff. A third model, SETSS services, also has the potential to move the NYC Department of Education

towards providing a more inclusive education for students with disabilities and supporting the notion of special education as a service, not a place. While we commend the DOE for this move towards more inclusive educational services, in practice, we found that these models are underutilized and viewed as distinct placement options.

Collaborative Team Teaching

As specified by the new continuum of services, “Collaborative Team Teaching is an integrated service through which students with disabilities are educated with age appropriate peers in the general education classroom... with the full-time support of a special education teacher throughout the day to assist in adapting and modifying instruction.” Each CTT class consists of no more than 40% students with disabilities. Our interviews reveal that most people in the field view CTT classes as a positive development and would like to see more of these classes. According to one Regional CSE Chair, “CTT education is a major thing. CTT is a wonderful model, but they’re just not enough.”

During the current academic year (through March 31, 2005), there were 12,443 students educated in CTT classes. This group of students comprises approximately 8 percent of all students with disabilities in the NYC schools. Table 4 shows that the percentage of students in CTT classes at the intermediate/middle school level (22%) parallels the percentage of students at the intermediate/middle level for NYC as whole (20%). At the same time, however, the percentage of students in CTT classes at the elementary school level (66%) is higher than the percentage of students with disabilities at the elementary level in NYC as a whole (56%). Moreover, the percentage at the high school level (12%) is considerably lower than the percentage of students with disabilities at the high school level in NYC as a whole (24%). These figures indicate that there are more CTT classes at the elementary level and fewer CTT placements at the high school level. A student who is transitioning from intermediate/middle to high school might not be able to receive CTT services in his/her new school.

Table 4. Number and percentage of students with disabilities, overall and in CTT classes, by school level: 2005

School Level	Students with disabilities in NYC		Students with disabilities in CTT classes	
	Number	Percentage	Number	Percentage
Elementary	79,334	56%	8185	66%
Intermediate/Middle	27,754	20%	2781	22%
High	33,561	24%	1477	12%
Total	140,649	100%	12,443	100%

In addition, in our school visits, we found there to be a minimal number of CTT classes in most schools – for example, several elementary and middle schools had only one CTT class and some high schools had CTT classes for only certain subjects or in particular grades. Students for whom the IEP Team recommends a CTT placement, but whose current school does not have an appropriate CTT class, may have to move to a

different school or receive a change in placement: “The child [is] put either in a non-restrictive environment, which [is] out of compliance, or they put them in a self-contained, or in a SETSS situation which [doesn’t] address their needs either.”

Our data show that over 85% of students with disabilities in CTT classes have either learning disabilities or speech-language impairments. Meanwhile, only 3% of students with disabilities in CTT classes have more significant disabilities. Due to the high level of support, however, the collaborative team teaching model could be an effective practice for students with various disabilities, including those with significant disabilities. Research has shown that students with very significant cognitive disabilities can be educated effectively in the general education classroom with appropriate supports (Brown, et al., 1991). Furthermore, general education placement is associated with better outcomes for students with disabilities, across all types (Wagner, 1993).

The placement of students without disabilities in CTT classes is also problematic. We found that because CTT classes are viewed as special education “placements,” some schools have difficulty convincing parents of general education students to agree to have their children participate. In fact, the CTT classes in some schools are being used to support the needs of general education students who are at-risk academically and/or behaviorally. According to several interviewees, the CTT classes in some schools have essentially become “dumping grounds” for general education students who have demonstrated behavioral difficulties. Consequently, some CTT classes have in effect become low-functioning tracked classes.

We also found little evidence of support provided to schools regarding the development and functioning of CTT classes. One principal explained, “Just the way the Region put their class together, it was a total disaster... there wasn’t a lot of thought at all.” Similarly, there appears to be limited guidance provided to the teachers regarding how the class should function and, as a result, the two teachers are left on their own to work out the specific details. Although the DOE has provided some training, we heard from multiple interviewees at both the Regional and school levels that there has not been extensive or consistent professional development for CTT teachers regarding this process. According to one Regional Superintendent: “There has to be training for teachers in terms of how do you collaborate, do team teaching, you just don’t get up there and do it.” Success of the CTT model depends in large part on the ability of the two teachers to work collaboratively, and the limited training and support may be one reason why we found that some schools have difficulty convincing general education teachers to participate in the CTT model.

District 75 Inclusion

Although, as noted earlier, District 75 most often operates as a separate entity from the rest of the Department, District 75 also has an inclusion model that we found to be particularly promising. While limited in use, District 75’s growing inclusion model

provides a means of including students with more significant disabilities in general education classes. At present, according to the District 75 Superintendent, approximately 1800-2000 students are enrolled in this model in roughly 130 sites. As part of this model, District 75 provides a special education teacher in the general education class for part of the day, and often a paraprofessional in the class for the entire day. Additionally, District 75 has “Inclusion Coaches” who provide support for the special education personnel.

Special Education Teacher Support Services (SETSS)

According to the new continuum, Special Education Teacher Support Services (SETSS) provide: “Specially designed and/or supplemental instruction to support the participation of the student with a disability in the general education classroom, [and] consultation to the student's general education teacher.” Students receiving SETSS comprise 28 percent of all students with disabilities in NYC. SETSS consists of two models - what is called “push-in” and “pull-out” services. The push-in model of providing SETSS services appears similar to the CTT model, in that there is a general and special education teacher in the classroom as well as both students with and without disabilities. The SETSS teacher, however, is in the classroom for a shorter period of time and often works only with students with disabilities.

Pull-out SETSS services resemble a traditional “resource room,” in which students are pulled-out from a general education class to go to a special education class for part of the day to receive supplemental services and support for the general education class. As stated earlier, our LRE data show that less than 1.5% of students with disabilities spend between 21-60% of their day pulled out of the regular class, indicating that SETSS services are not being provided along a full LRE continuum. In other words, students receiving SETSS are spending either more than 80% or less than 20% of their school day in the general education classroom, with very few students falling in the middle.

Many students pulled out for SETSS receive literacy instruction. In fact, NYC has worked hard to train staff in the Wilson reading program. Although the DOE has made an impressive effort to train large numbers of personnel, it is important to continue this effort. Training teachers who provide pull-out special education services in a literacy program makes a great deal of sense, as a large majority of students who have traditionally received resource services are students with learning disabilities, and the vast majority of students with learning disabilities have reading as their main issue (Lyon, et al., 2001).

All three of the models described here bring special education services to the general education class. However, while there are similarities between these models, they are practiced as distinct placement options. We feel that special education resources might be better utilized and students might be better serviced by practicing these models more fluidly. In other words, when the goal is to provide special education services in the

general education class, a special education teacher and general education teacher can work together to meet the students' needs. Here, special education staff could be used more fluidly to support general education teachers in the instruction of students with disabilities and students without disabilities in the general education class. This will also allow more room for placing students in inclusive settings, and could also alleviate some of the placement issues described earlier by providing more options in schools. Additionally, while providing special education services might not be implemented appropriately in the general education class at all times, SETSS pull-out services can be appropriate, especially when addressing the literacy needs of students with learning disabilities above the third grade.

Finally, we also want to acknowledge that the DOE has recently established a grant program through the Office of School Improvement (OSI) that allows schools in triage to work with Regional staff on the development of plans to help improve the schools' LRE programs (see Chapter II). We found that a number of the schools we visited were in the process of formulating such plans. The OSI grant program has the potential to bring about change in the extent to which schools are able to provide inclusive placement options for their students with disabilities, and we encourage the DOE to move forward with, and expand to the extent feasible, this program.

C. Access to the General Education Curriculum

Finding 13: Although there have been some noteworthy efforts to provide staff development, these efforts are insufficient to ensure that students with disabilities are receiving effective access to the general education curriculum.

The 1997 reauthorization of IDEA introduced the requirement that students with disabilities have access to the general education curriculum – i.e., the same curriculum as that provided to students without disabilities (34 C.F.R. § 300.347(a)(1)(i)). Access to the general education curriculum is closely related to the concept of LRE and reflects the view that the mere placement of students with disabilities in general education classrooms, without appropriate supports and services, including related services, is not sufficient. Recognizing the important relationship between access to the general education curriculum and education in the LRE, the DOE's new continuum of services specifies that one of the major goals of the continuum is to assure that all students with disabilities in NYC have access to the general education curriculum.

In our review of special education in NYC, we found two problems associated with the provision of access to the general education curriculum for students with disabilities. First, although teachers are being told to provide curriculum and instruction that is "parallel to the mainstream," they are receiving limited support from the DOE with respect to *how* to provide meaningful access to the general education curriculum. Second, we found that the provision of related services is often disconnected from the general education curriculum.

13.1. There is limited support for teachers concerning how to provide access to the general education curriculum for students with disabilities.

One of the principles embraced by the reorganization has been equity for students with disabilities in terms of curriculum and instruction. We heard from multiple personnel at the Regional and school levels that teachers are trying to provide curriculum and instruction for students with disabilities that are “parallel to the mainstream.” Despite the DOE’s focus on equity, however, we heard from numerous staff at the schools that general and special education teachers are struggling with *how* to provide meaningful access to the general education curriculum. Particularly in light of the testing requirements under NCLB, teachers in NYC are grappling with the question of how to help students with disabilities who are reading well below grade level progress in the grade level curriculum. The teachers are unsure of whether to teach at the level at which the student is currently functioning or the level at which the student will be tested. For example, one general education teacher reported:

It is sort of hard, sometimes, to modify the curriculum for the students, and then, at the same time, to have them up to par where they should be. Because they’re expected to do the same things as this General Ed student ... Even though their goals on the IEP are lower than the General Ed students, they’re sort of expected to do the same, which is very difficult.

Although the DOE has made some noteworthy efforts to provide staff development, we found little evidence that the DOE is providing teachers with guidance in the areas of differentiated learning and access to the general education curriculum. We heard from multiple interviewees that there is limited professional development in these areas. One special education teacher explained, “I haven’t really received any sort of training on it [differentiated learning]. I would like to.” The majority of the professional development that is provided to special education teachers appears to focus primarily on the Wilson reading program. In addition, as noted in Chapter II, although some ISS’s provide instructional support to special education teachers, others are often pulled to do compliance work.

With respect to general education teachers, the situation appears to be even more problematic. General education teachers with whom we spoke indicated that, for the most part, they do not participate in special education-related training and often have minimal contact with the school’s special education ISS. One general education teacher explained, “You know, a lot of our professional development isn’t geared towards our students with disabilities. Overall, it’s mostly about literacy skills, math skills, but not ... specifically how to gear it towards our special education students.” On occasion, certain principals might organize a building-specific training for staff concerning the instructional needs of diverse learners, but there does not appear to be a comprehensive

and systematic city-wide program of professional development targeted toward general and special education teachers regarding how to provide effective differentiated learning and appropriate curricular accommodations.

Moreover, we found that, with the exception of some teachers in CTT classes, there is little time scheduled for general and special educators to meet in order to discuss, plan and collaborate. When we asked special education teachers to describe their job responsibilities, they spoke about their work with students, and none mentioned supporting the general education teacher, even when prompted. Similarly, teachers told us that general and special education teachers did not have scheduled planning time and that they met before and after school “on our own time.” In fact, many of the CTT teachers with whom we spoke also expressed a desire for greater collaboration, particularly in light of the fact that success of the CTT model depends in large part on the ability of the two teachers to work well together. As one CTT teacher noted, “I would like to have a lot more planning time.” Increased opportunities for a meaningful exchange of ideas would help general education teachers begin to understand how to incorporate diverse learning needs into their instructional planning. In order for the DOE to move its schools forward in the direction espoused by the continuum of more inclusive settings and greater access to the general education curriculum, it is critical for the DOE to provide greater opportunities for collaboration between general and special education staff.

13.2. The provision of related services is often disconnected from the general education curriculum.

An essential part of ensuring access to the general education curriculum for students with disabilities is providing them with related services, such as speech therapy, occupational therapy, and counseling. These related services provide students with disabilities the support necessary to access and benefit from the general education curriculum. In March 2005, there were a reported 86,786 students with disabilities with speech therapy required on their IEP, 73,935 needing counseling, and 33,040 needing occupational therapy. These numbers show that considerably large quantities of related services are being required on children’s IEPs.

In fact, 13,732 and 2731 students with disabilities, respectively, receive speech only, or counseling only.¹⁸ These students receive no other types of special education services, and are categorized by the NYC continuum as “general education with related services.” We found it interesting that many of the principals and other school personnel with whom we spoke did not consider students who fall into this category to be students in special education. Indeed, when we asked principals to tell us how many students with disabilities were in their school, many of them did not initially include these students in their counts. Also, the classrooms in which “related services only” students are taught are

¹⁸ These data are updated as of May 31, 2005.

not considered inclusion classrooms, even though the teacher is faced with a wide diversity of needs in one classroom:

It's interesting, my class isn't considered inclusion, yet I have seven students that are considered having special needs, but I'm a general education teacher. But I'm not an inclusion classroom. So I find that interesting.

Not only does this reflect a lack of understanding of the role of related services; it reflects a lack of understanding of inclusive education and serves to segregate further those students who receive SETSS or who are placed in special classes from the school community. Inclusive education should refer to *any* situation in which a student with a disability who has received special education or related services is spending *some* portion of his/her school day in the regular classroom, alongside their peers without disabilities.

In our review, we observed a disconnect between related services and the general education curriculum. For example, students are often pulled out of their classroom for large chunks of the school day to receive their related services, which adds to the challenges that teachers face in ensuring that their students with disabilities learn important standards-based content. Exacerbating this problem is the fact that we found little collaboration between teachers and related service providers on implementation of the curriculum. In fact, most of the service providers we spoke with do not attend the professional development sessions offered by their school because they are attending professional development sessions run by their supervisors at the Regional level. Moreover, as noted in Chapter II, principals do not have full authority over the related services personnel in their buildings. This fragmented supervisory line for related service providers presents further evidence of the disconnect between related service and the general education curriculum.

Furthermore, it appears that offering related services is a quick solution to a learning challenge that cannot be readily addressed in the general education classroom. In several of our interviews, personnel at various levels expressed the opinion that many children with disabilities were being over-served. According to one interviewee,

The enormity of related services that are afforded to youngsters...seem to be overshadowing the instructional program that children receive...the truth is, I think we've lost sight of why related services are recommended, and I think there are tremendous amounts of pressure that are being placed on all personnel to increase the number of related services.

Unfortunately, students who leave the classroom for long periods of time to receive related services are being done a disservice if those services are not connected in a meaningful way to the general education curriculum.

The high quantity of related service provision contributes to a greater number of students identified as eligible for special education, especially considering that many of these students are receiving related services only. Consequently, many schools have high levels of related service staff.

Speech

During the 2003-2004 school year, the NYC DOE employed or contracted with 2,015 speech and language therapists. This number is almost twice the number of school psychologists in NYC (1170). The ratio of students with disabilities to speech therapists is 75 to 1, a ratio that is much lower than in Chicago (168:1), Los Angeles (700:1), the state (114:1), and the nation (157:1). The NYC DOE clearly has a high level of speech staff, which may have been the result of the emphasis in the *Jose P.* litigation on the provision of related services.

The high number of speech therapists coincides with what is clearly a high demand for speech services. Students who are classified with speech-language impairments make up the second largest group of students with disabilities in NYC. 33,235 students with disabilities ages 6-21 were classified with speech-language impairments in 2003, making up 24% of all students with disabilities in NYC. This percentage is much higher than in Chicago and Los Angeles, where only 8.9% and 8.1%, respectively, of students with disabilities are classified as speech-language impaired. This percentage is also higher than averages in New York state (17.7%) and the nation (18.7%). Even when isolating students ages 12-17, those who typically no longer need speech services, the percentage of students with speech-language impairments remains much higher in New York City (12%) than in Chicago (1.7%), Los Angeles (1.6%), the state (7.5%), and the nation (5%).

The high demand for speech therapists could be due to their very broad range of job responsibilities. For example, in addition to working with students on issues related to language, articulation, and expression, many of the speech therapists with whom we spoke described working with their students on reading skills—both decoding and comprehension. In many of the schools we visited, the services that speech therapists provided overlapped with services provided by SETSS teachers.

Occupational Therapy

The ratio of students with disabilities to occupational therapists is 131:1, compared to 573:1 for Chicago, 610:1 for Los Angeles, 179:1 for the state and 472:1 for the nation. In our school visits, we noted that occupational therapists were providing services to a large number of students with high incidence disabilities such as specific learning disabilities. For example, in one school, large numbers of these students worked with the occupational therapists to improve their handwriting, which may or may not be appropriate for supporting the student to receive access to the general education

curriculum. Indeed, the occupational therapist expressed the opinion that children were being unnecessarily referred for occupational therapy to address problems that could easily be taken care of by the general education teachers. In fact, in an effort to cut down on the number of OT referrals, this same therapist had recently conducted a schoolwide staff development session to help teachers learn about strategies to improve their children's handwriting.

V. DUE PROCESS

A fundamental tenet of IDEA is that parents be afforded certain procedural protections, including the right to request an impartial due process hearing for complaints relating to matters of identification, evaluation, educational placement or the provision of free appropriate public education (FAPE) (20 U.S.C. § 1415(b)(6)(A)(2004)). Consequently, the ability of a school district to manage its due process system effectively is a critical component of the overall management of special education in the school district as a whole. The following Chapter presents our findings with respect to the DOE’s management of due process.

Finding 14: While the DOE has recently begun to implement positive changes in the area of due process, an effective system is still not in place to manage and ultimately reduce the large number of impartial due process hearings.

In our review of special education practices and procedures in NYC, we found significant problems associated with the DOE’s management of due process. At the same time, however, we also found that the DOE has recently begun to implement a number of positive changes in this area. We encourage the DOE to continue to move forward in the direction of improving and strengthening its due process system. Our specific findings related to due process are as follows:

14.1. The DOE receives a disproportionately large number of due process hearing requests.

Over the past few years, the number of hearing requests in NYC has been steadily increasing. During the 2003-2004 school year, the DOE received 4053 requests for impartial hearings, a 3.8% increase over the previous school year (see Table 5). Moreover, this number is considerably higher than that of other large urban school districts. For example, in 2003-2004, NYC had 137,930 students with disabilities – almost 2 times as many as Los Angeles and 2.5 times as many as Chicago (see Table A-1 in Appendix A). At the same time, however, NYC received 3.5 times as many hearing requests as Los Angeles and 26.7 times as many hearing requests as Chicago (see Table 5).

Table 5. Number of due process filings, by school year, for New York City, Chicago, and Los Angeles

	SY 2000-01	SY 2001-02	SY 2002-03	SY 2003-04
New York City	3348	3581	3905	4053
Chicago	139	126	134	152
Los Angeles	934	1048	1067	1153

The large number of impartial hearing requests received by NYC places a burden on the DOE’s resources in terms of finances and personnel, thereby detracting from the ability of the DOE to manage and monitor the provision of special education services

effectively. Recently, however, the DOE won a major federal court case that held that the DOE was not required to provide tuition reimbursement to the parent of a student who had not previously received special education services in the NYC public schools (*Board. of Educ. v. Tom F.*, 01 Civ. No. 01-6845 (GBD), 2005 U.S. Dist. LEXIS 49). Although the large number of hearings will still constitute a financial burden for the DOE, this case has the potential to ease the strain associated with similar tuition reimbursement cases in the future.

14.2. The clinicians who represent the DOE at impartial hearings have large caseloads and feel unprepared in their roles.

Unlike most other major urban school districts, the NYC DOE does not use attorneys to prepare for and represent the DOE at impartial due process hearings. Rather, the DOE allows each Region (and formerly each District) to structure its own management system for due process. Because there are no written guidelines or set procedure mandated by the Central Office, the infrastructure for managing impartial hearings varies to a certain extent from Region to Region. In most Regions, a team of three to five clinicians, including psychologists, social workers, and former special education teachers, are responsible for preparing for cases and representing the DOE at impartial hearings. Some Regions also have a “Carter Team” to deal exclusively with tuition reimbursement cases (“Carter cases”).¹⁹ The Impartial Hearing Teams and Carter Teams are usually supervised by the CSE Chair or a Supervisor of Psychologists. The fact that the DOE has “clinicians” preparing for and representing the DOE at due process hearings again reflects the reliance on a medical model of disability.

Although the exact number of hearing requests received varies by Region, in all of the Regions we visited, working on impartial hearings took up a significant portion of the clinicians’ time. One CSE Chair described the situation as follows: “We have a tremendous amount of impartial hearings... We’re getting 40 a week of impartial hearings. So, you know, that takes away a lot of the time of my in-house clinicians because I’ve basically had to... assign five people to just handle impartial hearings.” Because of the excessive number of requests, the clinicians feel overwhelmed by their large caseloads – for example, one clinician had an “impossible” workload of two to three cases a day, 10 to 12 a week. Such a large caseload does not leave much time for preparation for hearings. Moreover, we heard from multiple interviewees that the clinicians must also perform all of the administrative work associated with preparation for the hearings. Another CSE Chair noted, “My impartial designees do everything [with respect to preparation for impartial] because we don’t have enough clerical staff for them to just give them something to Xerox for somebody else.”

¹⁹ The term “Carter” comes from the 1993 U.S. Supreme Court case in which the Court held that school districts could be required to reimburse parents who unilaterally place their child in a non-approved private school if it were shown that the school district had not provided an appropriate education under IDEA and that the private school placement was otherwise appropriate (*Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7 (1993)).

We further found that because the clinicians do not have a legal background, they often feel inadequate about the knowledge and skills necessary to prepare for a case and represent the DOE at due process hearings. For example, clinicians do not have the knowledge of statutory and regulatory requirements as well as relevant case law. In addition, they lack experience with collecting evidence, questioning witnesses, and arguing cases. According to one clinician, “I had to go to a hearing on compensatory education. What is that?” Moreover, the clinicians with whom we spoke indicated that they feel threatened by the adversarial nature of impartial hearings and outmatched by the parents’ attorneys. One interviewee noted that there is a sense of “David vs. Goliath,” while another explained that educators and lawyers speak different languages: “The laws are more black and white, and when you’re in education and clinical fields, there’s a little bit more gray area in terms of how you talk and what you say and how you come to a decision.” At the same time, although the clinicians have limited knowledge of the legal requirements associated with special education and administrative proceedings, we found that many of them have received little to no training from the DOE with respect to legal issues. It is therefore not surprising that we heard it is difficult to find clinicians who are willing to take on this responsibility.

14.3. There is limited involvement of school-based staff in the impartial hearing process.

In other school districts, disputes between parents and schools are often resolved at the local level before rising to a formal hearing. In contrast, in NYC, we found that local personnel are rarely involved in due process. We heard from several interviewees that principals are not always notified about hearings pertaining to the students in their school. In particular, some of the personnel in District 75 reported that they are rarely informed about the dates and times of the hearings for their students. Moreover, some of the clinicians with whom we spoke indicated that they sometimes have difficulty contacting school staff. According to one clinician, “We’re happy if we can get someone on the phone.” Thus, the DOE representatives at impartial hearings have usually not met the child involved and have not had the opportunity to discuss the issues with school staff who are familiar with the child.

Moreover, in most cases that proceed to hearing, the DOE is at fault for a technical violation – for example, the absence of a required member at an IEP meeting. Consequently, the DOE loses the majority of hearings. According to one interviewee, “[The violations are often] based upon errors in the IEP, or errors committed by the committee by not having a parent representative there ... we seem to lose 99% percent of all our impartial hearings.” Recognizing that in many cases there are technical violations, the Office of Legal Services (OLS) has authorized the director of the Central Liaison Office of Impartial Hearings (CLOIH) to settle cases in which the DOE is clearly at fault. We feel that such a mechanism to screen out minor procedural violations from more substantive issues should be strengthened. In addition, an attempt should be made to resolve more of these minor procedural issues at the school level before they rise to a

formal hearing.

14.4. Mediation services are underutilized.

Recent changes in the 2004 reauthorization of IDEA have emphasized the important role that mediation services can play in resolving disputes between parents and school districts. Specifically, IDEA 2004 requires that school districts establish and implement procedures for the use of mediation services and that all mediation sessions produce legally binding agreements (20 U.S.C. §§ 1415(e)(1), (2)(F)(2004)). Moreover, the 2004 reauthorization requires the use of “resolution sessions” – i.e., within 15 days of receipt of a parental complaint, the school district must convene a meeting with the parents and relevant IEP Team member(s), in which an attempt is made to resolve the complaint (unless the parents and school district agree in writing to waive this meeting or use mediation) (*Id.* § 1415(f)(B)(i)). If the complaint is not resolved within 30 days, the due process hearing can occur (*Id.* § 1415(f)(1)(B)(ii)).

Although mediation in NYC is supposed to be handled by the Regional CSEs, we found virtually no use of mediation in the Regions we visited. In fact, the clinicians with whom we spoke had little knowledge of the mediation process. The New York State Special Education Parent’s Guide specifies that mediation should be carried out by a qualified mediator from a state Community Dispute Resolution Center (CDRC); however, we were told that employing the services of a CDRC is very time consuming. If the Regions use mediation at all, they tend to engage in informal techniques on their own. We further found that there has been no outreach to parents or Regional staff regarding the benefits of mediation. Consequently, there appears to be a belief on the part of parents that the only way to obtain the services they need for their child is to move forward with a formal due process hearing. We hope that the changes in IDEA 2004 regarding mediation will serve as a catalyst to promote the use of mediation services in NYC.

14.5. The process for ensuring the implementation of hearing orders is not effective.

In the past, there has not been an accountability structure in place to ensure the timely implementation of hearing orders. According to one interviewee, “I think that [follow up on implementation of hearing orders] has been a missing piece. When cases got resolved, I don’t know what happened in terms of how they moved forward.”

OSEI has recently required that each Region designate an individual to serve as a liaison responsible for ensuring the implementation of impartial hearing orders. The designation of an implementation liaison should help the Regions improve the enforcement of hearing orders. It appears, however, that this initiative has been met with mixed success. Some Regions have found the policy to be very helpful. For example, one CSE Chair explained that the Region’s implementation liaison was very effective: “If it’s a placement piece, she makes sure the placement officer knows about it. If it’s

something at the school, she will send it to the school. And if it is a payment piece, she sends it to the office who would pay the bills.” Personnel from other Regions, however, expressed concern that it is difficult for one individual to follow up on all of the hearing decisions that come down for a particular Region. It is also important to note that if the DOE were able to reduce its inordinate number of impartial due process hearing requests – for example, through improved compliance under *Jose P.* and the use of formal and informal mediation techniques – the likelihood that the DOE would be able to implement its impartial hearing orders would greatly increase.

14.6. The DOE is in the process of developing a centralized data management system for the filing of hearing requests and implementation of hearing orders.

For many years, all of the Central departments involved in the impartial hearing process – the Office of Legal Services (OLS), the Impartial Hearing Office (IHO), the Central Liaison Office of Impartial Hearings (CLOIH), and the Bureau of Contract Appeals (BCA) – have maintained separate databases, not connected to one another. As a result, there has been limited communication between these departments. This lack of coordination prevents the effective oversight and monitoring of hearing orders and thwarts the effective management of due process.

At the time our of data collection, the DOE was in the process of developing a centralized web-based data tracking system for the filing of hearing requests and implementation of hearing orders. This system should help streamline the management of due process in NYC and facilitate communication among the above offices. Moreover, some of the individual departments involved in due process (IHO and BCA) are currently transforming their own data systems to manage due process more effectively. We applaud the DOE in its efforts to improve upon the data management systems associated with due process and encourage the DOE to move forward with these changes.

14.7. The Office of Legal Services and Office of Special Education Initiatives have begun to implement additional changes to help address some of the problems associated with the impartial hearing process.

OLS and OSEI have also recently begun to implement a number of other changes to help address some of the problems associated with due process. For example, OLS is planning to hire additional field attorneys (10 total) so that there will be one attorney to interface with each Region and to assist the clinicians. To date, seven of the ten positions have been filled. In addition, OSEI has recently hired an individual to help with compliance issues and serve as a liaison to OLS. Moreover, OLS is also making plans to provide additional training to personnel in the field regarding legal issues. It is important for the DOE to work on improving its management of due process in conjunction with other efforts to build its capacity to serve students with disabilities more effectively. Again, we applaud the DOE in its current reform efforts and hope that the DOE will

continue to address the shortcomings associated with its due process system in the future.

VI. RECOMMENDATIONS

A. Policies and Procedures

Policy and Procedural Manual

Recommendation 1: The DOE should take action to finalize and disseminate its policy and procedural manual as soon as practicable after promulgation of IDEA 2004 regulations and state regulations.

The provision of appropriate educational services for students with disabilities is driven by important legal protections that are designed to ensure access to an appropriate education within a framework of due process protections. Further, these legal protections must be adapted to the educational policies of the school district. As such, the referral, evaluation and placement processes must be clearly communicated to all staff and parents through well-articulated policies and procedures. This need is even greater in a large system where inconsistent administration can create educational inequities and inefficiencies.

As noted in the report, although the DOE has been in the process of developing its Standard Operating and Procedures Manual (SOPM) for several years, the lack of a comprehensive, clearly articulated policy and procedural manual has created much confusion and inefficiency in the schools. Therefore, we feel that the DOE must make it a priority to finalize and disseminate this manual to all staff at the Central, Regional and school levels (including each school's Parent Coordinator). Moreover, the manual should be posted on the DOE's website. We further recommend that the DOE provide professional development along with dissemination of the manual to support its implementation.

Personnel at all levels, as well as parents, should be able to find answers to specific questions by referring to the SOPM. The SOPM should therefore be written in a direct and straightforward manner that maximizes its usefulness and readability. To this end, we recommend that the DOE carefully review its current draft SOPM in order to ensure that only key information is incorporated into the final version and that unnecessary forms are not included. We also recommend that the DOE consolidate critical aspects of its multiple policy manuals (e.g., the *IEP Manual* and *Continuum of Services*) into the final SOPM.

Pre-referral

Recommendation 2: The DOE should have a consistent and stream-lined approach for general education interventions and supports that are provided to children experiencing challenges with reading and behavior.

An example of how the lack of standard policies and procedures has impacted the delivery of special education services is in the area of pre-referral. The pre-referral process in NYC, while having made great strides, can more effectively meet the needs of students experiencing difficulties if it becomes more consistent and stream-lined across all NYC schools. By developing a consistent approach to be used in all schools, the DOE will enable teaching staff to become well-versed in pre-referral interventions and acquire the depth of knowledge that would allow them to provide services to students in a more effective manner. Such an approach will ensure that students will not be inappropriately referred to special education while, at the same time, will provide earlier assistance to students who ultimately may require special education services.

In order to have a consistent and effective approach to pre-referral, we further recommend that the DOE consolidate the PPT and AIS processes into one pre-referral process. Within this model of pre-referral services, the DOE should ensure that interventions focus on two areas – reading and behavior – as students experiencing difficulties in these areas are those most likely to be referred for special education services. While the DOE has made significant improvements with respect to addressing issues of literacy, the DOE should take further steps to ensure that the intervention services used are integrated into the Balanced Literacy program.

In addition to literacy, an effort must be made to focus on issues of behavior. Unlike the area of literacy to which considerable attention is currently being paid, we found insufficient support for students with challenging behaviors and the inconsistent use of positive behavioral supports in the schools. The failure to address these issues is undoubtedly one factor contributing to the heavy reliance that the DOE has on District 75 and out-of-district private school placements for students with emotional disturbances.

Referral and Evaluation

Recommendation 3: The DOE should clarify and expand, as necessary, the roles of staff other than the psychologist in the referral and evaluation processes.

In order to ensure the multi-disciplinary nature of the referral and evaluation processes, we recommend that the DOE take steps to clarify roles for appropriate staff in these processes. Specifically, the DOE should provide additional clarification to schools concerning the ways in which special education teachers can support these processes (e.g., conducting classroom observations, providing curriculum based assessments). It should be emphasized that we do not recommend that the DOE re-initiate the position of

Education Evaluator. However, we feel that the DOE should encourage special education teachers to conduct educational assessments and should provide appropriate training for special education teachers to do so. This change will help move the evaluation process away from the medical model by situating it within the context of the classroom. Furthermore, given the reorganization's emphasis on school-based accountability for students with disabilities, we recommend that building-based speech therapists be allowed to conduct evaluations of students in their buildings.

We also recommend that the DOE empower principals to choose one individual to be designated as the case manager. This individual may or may not be the school psychologist but should be the person whom the principal considers most appropriate for the role of case manager. The case manager should also serve as the Department's representative on the IEP Team (20 U.S.C. § 1414(d)(1)(B)(iv)). The Department's representative is an important role in that this person must be able to commit resources for the school and the Department. Moreover, this role will take on even greater significance in light of the new provisions under IDEA 2004 regarding the use of informal resolution sessions prior to due process hearings (*Id.* § 1415(f)(1)(B)). (See Recommendation 11.)

Recommendation 4: The DOE should move away from decontextualized, diagnostic assessment procedures based on the medical model and move towards an instructionally-relevant methodology for the evaluation of English Language Learners for special education services.

Although the DOE has taken important steps to improve its special education assessment procedures for English Language Learners (ELLs), our review of a sample of psycho-educational evaluation reports found that assessment personnel in NYC are not following any recognizable set of guidelines for conducting assessments with ELLs. As a starting point for improving assessments, we recommend that the DOE undertake a random, representative study of assessment reports in NYC to understand current practices and to see how assessment personnel control for the intervening impacts of cultural and linguistic differences. The belief system that assumes that it is possible to differentiate between a disability and language acquisition factors based on current psychometric technology should be substituted, (consistent with the previous recommendation), by one that examines these issues in the context of effective classrooms and interventions.

For a school district as diverse as New York, there has to be better monitoring of the current assessment practices and better training about assessments that are grounded on early screenings, behavioral observations of learning contexts and problems, and explicit, direct interventions (Donovan & Cross, 2002) rather than on tests that purport to be culture-free or valid for Spanish speakers in U.S. schools. The DOE should establish clear policies with respect to the assessment of ELLs as to what is acceptable and not acceptable (e.g., idiosyncratic procedures, translating tests). Measures of English

language development should be a critical starting point in all questions related to the educational needs of ELLs. In addition, non-verbal measures of intelligence should be abandoned as they often lack predictive power and some empirical data suggest that they may be hypersensitive to non-English language backgrounds in terms of predictive validity. The DOE should also ensure that accommodations during all types of testing are made available to ELLs. These practices would preclude, except in rare and exceptional cases involving low incidence language groups, the need to use interpreters in the assessment process. Further, these practices may lead to the use of teaching personnel in the assessment process who are knowledgeable about the pedagogical and curricular needs of ELLs.

We also recommend that the DOE operationalize in writing the roles and responsibilities of bilingual assessment personnel. In addition, the DOE should renew its efforts to recruit bilingual personnel in special education who are knowledgeable about the interactions among bilingual factors, learning, instruction, and testing. Moreover, the bilingual department should incorporate examination of the special educational needs of ELLs into its regular, evaluative visits to schools and follow-up letters.

B. Educational Issues

Access to the General Education Curriculum

Recommendation 5: The DOE should engage in staff development and collaborative models that focus on how to provide effective access to the general education curriculum for students with disabilities.

One of the major goals of the NYC reorganization was to improve the quality of instruction for students with disabilities. Yet, as is the case with many school districts, we heard consistently across schools that teachers are struggling with how to provide effective access to the general education curriculum. We recommend that the DOE expand upon its current staff development efforts by focusing to a greater extent on training that addresses areas such as curricular accommodations and differentiated learning. All teaching staff – general educators and special educators, including related services providers – should participate in ongoing and extensive professional development that focuses on how to provide effective access to the general education curriculum for students with disabilities.

In addition, the DOE should provide regular opportunities for collaboration and the sharing of ideas between general and special education staff that capitalize on the strengths of both groups. By working together, general and special education teachers will benefit from the expertise that each brings to the table. While general education teachers may have more knowledge in the content areas, special education personnel are generally more experienced in the use of learning strategies for students with disabilities. Both areas are important aspects of the provision of access to the general education

curriculum for students with disabilities.

Placement and LRE

Recommendation 6: Every school should be required to develop and/or enhance a fluid and flexible service delivery system to serve, at a minimum, all students with high-incidence disabilities and, as appropriate on a case-by-case basis, students with low-incidence disabilities.

In accordance with IDEA’s LRE principle, students with disabilities should be educated, to the maximum extent appropriate, in classrooms together with students without disabilities (20 U.S.C. § 1412(a)(5)(A)(2004)). In addition, unless their IEP requires otherwise, students with disabilities should be educated in the school they would attend if they were not disabled (34 C.F.R. § 300.552(c)). Integration is associated with better educational results for students with disabilities (Wagner, 1993). Moreover, integration of students with disabilities should be an important aspect of the education of all children. Indeed, the goal of societal integration is impeded if children without disabilities grow up without the benefits of knowing their peers with disabilities.

We recommend that all schools be able to meet the needs of all students with high-incidence disabilities, including students with learning disabilities, speech-language impairments, mild to moderate emotional disturbances, mild to moderate mental retardation, and attention deficit disorders (ADD)/attention deficit hyperactivity disorders (ADHD) (classified as “other health impairments” under IDEA). For students with high-incidence disabilities, the LRE would most often be the general education classroom. Therefore, in order to achieve this goal, schools must have the flexibility to develop a continuum of special education services that encompasses a range of inclusive options to meet the individualized needs of their students with disabilities. We feel that the models of inclusive education the DOE currently uses – CTT, District 75 Inclusion, and SETSS – should be expanded and made more fluid and less distinct. Special education staff should also be used more fluidly to support general education teachers in the instruction of students with disabilities and students without disabilities in the general education classroom. Our recommendation calls for a move away from the notion of a classroom “placement” towards a configuration of special education services that allows for flexibility and fluidity to meet the individual needs of their students in the least restrictive environment possible.

Further, we recommend that, on a case-by-case basis, students with low-incidence disabilities, such as deafness, blindness, autism, and significant mental retardation, are also educated in the schools and classrooms they would attend if they did not have a disability. This should not be interpreted to mean that every school would have the capacity to serve every child with a disability. Some children may be more appropriately served in other sites. However, the DOE currently serves a number of students with low incidence disabilities in their home schools, and every school should be able to serve

many of these students. (See Recommendation 10.)

Recommendation 7: The DOE should expand the availability of service options for students with disabilities at the high school level.

Consistent with Recommendation 6, we recommend that the DOE carefully evaluate its high school admissions process in order to ensure that there is a more equitable distribution of students with disabilities across high schools. In addition, the DOE should be requiring new small high schools to develop a system capable of meeting the needs of students with high incidence disabilities. All high schools should provide more flexible special education services that capitalize on what has worked for students in the lower grades, such as the team-teaching model in CTT classes. Moreover, in order to assist high schools in meeting this goal, we feel that the DOE should provide high schools with greater support from Regional special education staff.

C. Management

Infrastructure

Recommendation 8: The DOE should fine-tune the Chancellor’s reorganization by having a unified structure at the Regional level.

A major finding of this evaluation is that the Chancellor’s reorganization of special education services is moving NYC in the right direction, laying the foundation for improving instruction while providing more focused resources toward bringing the city into compliance with state and federal special education law. A major positive feature of this structure is the separation of “compliance monitoring” (RASE role) from program improvement (ISS role). However, one of the most consistent findings across Regions and schools is a confusion about roles. Further, there is no one person at the Regional level whose sole responsibility is oversight of special education. Ultimately, compliance efforts and educational improvement efforts should be united as the purpose of legal compliance is to promote appropriate educational programming. We recommend that this reorganized structure be fine-tuned in the following ways:

First, the role of Lead RASE should be upgraded and be made responsible for the oversight of all special education efforts in the Region. This position should report directly to the Regional Superintendent.

Second, the CSE Chair in the Region should report to the newly defined Lead RASE. Further, the Regional CSE’s role should continue to evolve toward being involved only in the placement of children who cannot be served at their home school consistent with Recommendations 6 and 7. The CSE should also serve as an important source of data regarding programmatic needs that should be addressed in the schools and Region to help ensure that children are served appropriately in the least restrictive environment.

Third, the RASEs should be flexibly deployed by the Lead RASE depending upon the performance of schools as it relates to the performance indicators established by OSI. (See Recommendation 12). The level of compliance with special education law varies widely from school to school. Some schools are at high levels of compliance, while others are struggling to meet their obligations under the law. Therefore, the DOE should focus its compliance oversight resources, primarily the RASEs, on the schools most in need of assistance and intervention.

Finally, we recommend that a new position be established in each Region that will oversee and coordinate the work of the ISS's. This position should also report to the Lead RASE. This position will be primarily responsible for program development on the Regional level and ensuring that all schools in the Region are developing appropriate options for students consistent with Recommendations 6, 7 and 10. This position will not, however, have supervisory responsibility for the ISS's. Again, we believe a strength of the reorganization is the fact that the ISS reports to the LIS and is therefore part of the system's overall improvement efforts.

Recommendation 9: OSEI should redefine its role as predominantly leadership and management and develop the capacity to do internal evaluations and oversee major initiatives for program development.

OSEI has done an admirable job in shepherding the reorganization. As can be expected, this has required that OSEI assume significant administrative responsibility that ultimately should be transitioned to the Regions. However, as the report has noted, OSEI currently is inordinately consumed in administrative activities that should be handled at lower levels within the schools or Regions.

In order to move the special education program forward, OSEI should focus more fully on its intended role, as primarily concentrating on leadership, management, and evaluation. Special education is a very large component of the New York City's schools that requires strong direction and skillful management based on the best available data. OSEI should be reorganized to serve these functions. Central to this change will be the development of program evaluation capacity that can inform management decisions consistent with the recommendations contained in this report.

Recommendation 10: District 75, over the next five years, should transition from a separate Region to become a support system for low incidence disabilities, with the goal of serving all students with low incidence disabilities on a Regional level.

District 75 has served the needs of students with more significant disabilities in NYC and has promoted important innovations in addressing the educational needs of these students. Further, District 75 enjoys significant support from many parents of students with multiple disabilities who feel strongly that their children are well-served.

These children's programs should not be disrupted.

However, the downside of having a separate administrative entity to serve some students with disabilities is that students in District 75 tend to be served in segregated programs away from their home schools in a manner that may be inconsistent with IDEA. Further, the many students served by District 75 have emotional disabilities that are common and, by in large, should be served in home schools or Regionally-based programs.

In looking to the future, the school system should move toward each Region having the capability of serving the vast majority of its students with disabilities, including most of those with low incidence disabilities. Each Region is larger than most medium to large cities and, therefore, there are sufficient numbers of students in each to have a full continuum of services. Toward that end, over the next five years District 75 should transition its role to one that is Region-based to support the development of such programs with relatively few programs run on a city-wide basis.

Due Process

Recommendation 11: The DOE should continue in the directions currently being taken to address the problems associated with its due process system and should develop a proactive plan to reduce its large number of hearings.

The DOE has begun to make important strides with respect to the management of its due process system, and we encourage the Department to move forward with these changes. Specifically, the DOE should continue to hire additional attorneys, (7 of 10 are currently deployed), to work closely with the Regions. We feel that these attorneys, rather than clinicians, should ultimately be the ones preparing for and representing the DOE at impartial hearings that involve substantive violations. The DOE should also ensure that all individuals involved in the preparation of hearings receive adequate training. In addition, the DOE's current mechanism by which the director of the Central Liaison Office of Impartial Hearings (CLOIH) is authorized to screen out minor procedural violations for settlement should also be continued. The DOE should likewise continue to improve upon and strengthen its process for ensuring the timely implementation of hearing orders. In particular, the DOE should continue to promote the development of a centralized data tracking system for the filing of hearing requests and implementation of hearing orders. These data should be reviewed and monitored on an ongoing basis in order to measure progress.

Moreover, we recommend that the DOE develop a proactive plan to reduce its large number of due process hearings. Such a plan should involve active promotion of mediation and informal resolution sessions, as required under IDEA 2004 (20 U.S.C. §§ 1415(e), (f)(1)(B)). Extensive outreach should be provided to parents regarding the benefits of mediation and informal dispute resolution – for example, through the schools'

Parent Coordinators, mailings to parents, parent trainings, and postings on the DOE's website. School-based and Regional staff should also receive training in the use of informal dispute resolution techniques. We further feel that the DOE should seek to promote the involvement of school-based staff in cases that ultimately proceed to hearing; all negotiations between parents and the school system should include individuals knowledgeable about the child.

Data

Recommendation 12: The DOE should use the indicators that were developed by OSI to drive the sharing and analysis of data at all levels of special education management, including management within the context of *Jose P.*

The recent establishment of the Office of School Improvement (OSI) included the development of a series of benchmarks to aid in the assessment of progress that NYC schools are making towards improved results for students with disabilities. We consider these indicators and benchmarks to be a positive development that has great potential to improve the management of special education in NYC. We recommend that the DOE take steps to ensure that these indicators become more deeply embedded in special education, particularly with respect to the *Jose P.* litigation.

For example, we recommend that these benchmarks be published widely and be made known to all staff. Progress towards achieving these benchmarks should be measured and reported on publicly on a regular basis. All staff should be using these benchmarks as goals that drive their everyday work. In addition, we recommend that these benchmarks be used as standards upon which reporting to the *Jose P.* plaintiffs' attorneys and the court be based. Therefore, monthly data reports submitted to the plaintiffs' attorneys should not only include raw numbers, but also analysis that is framed within these benchmarks. We believe that a common set of data-based indicators to measure and judge improvement can help tremendously in ensuring that NYC makes satisfactory progress towards achieving goals that are relevant to all parties.

Recommendation 13: The DOE should take immediate and proactive steps to continue its progress in developing a live interactive data system that is IEP-based.

As mentioned earlier, we commend the DOE in its efforts to develop a comprehensive, live, interactive data system. Such a system will enable staff at all levels to access and use accurate, real-time data to drive decision-making. An integral component of this system should be an online IEP, so that all relevant information about students with disabilities in NYC is housed in one place, and so users can access the system and analyze data both on an individual student-by-student basis, as well as across specific groups of students and schools. We recommend that the DOE implement this system in an expedited manner.

One of the ultimate goals in developing this system should be for providers to be able to enter data into the system themselves, and we commend the DOE for moving in this direction by proceeding with the implementation of the new system. We also urge that the DOE be proactive in coordinating comprehensive trainings on the new system that target all staff. The training should begin before parts of the data system are deployed and continue on an ongoing basis.

In the interim, the DOE should take steps to ensure that students with disabilities are served appropriately despite the inaccuracies in the data system. Principals should be responsible and held accountable for monitoring the accuracy of data on students in their buildings. Ongoing training should be provided to data entry staff in order to limit errors. In addition, the DOE should ensure that all principals and data entry personnel have working computers with access to CAP. Moreover, regular audits should be conducted on select samples of schools in order to verify the data's accuracy.

Independent Data Verification Entity

Recommendation 14: An independent entity should be identified for the sole purpose of verifying the accuracy of data with respect to the *Jose P.* litigation.

As our evaluation has found, the lack of reliable data has greatly hindered the efforts of the DOE to come into compliance with special education law. Major disputes have occurred between the DOE and the *Jose P.* plaintiffs' attorneys concerning the accuracy of data. In order to monitor the accuracy of data within the context of the *Jose P.* litigation, we feel that an independent entity should be identified whose sole responsibility will be to verify the accuracy of data with respect to the DOE's benchmarks of performance for compliance within the context of *Jose P.* (See Recommendation 12). The independent entity could be a research firm or government agency that would be impartial and be required to use scientifically valid means such as sampling for determining compliance levels. The entity should also meet periodically with the parties to review progress and share information.

It should be noted that ultimately the goal should be for the DOE to have the capacity to generate its own accurate data in accordance with Recommendation 13. However, this capacity will take several years to develop; in the interim, the need for accurate data is imperative for all parties. A model that should be considered is the one that was used in the *Chanda Smith* litigation in Los Angeles, whereby the L.A. Unified School District (LAUSD) contracted with a research firm to determine the level at which services were being provided in accordance with students' IEPs. This function was transitioned to the LAUSD's own program evaluation entity as the LAUSD improved its ability to provide accurate data.

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Appendix A

Comparative Data Tables²⁰

²⁰ All comparative data should be interpreted with caution. Although efforts were made to ensure comparability to the greatest extent possible, not all data were collected at the exact same time, nor in the exact same way. For example, definitions of disability type, personnel category, and methods for determining a student's age during a given school year vary by district. These tables are intended to provide some context for understanding select statistics related to special education in NYC. They should not be interpreted in isolation, but rather in conjunction with other evidence and information, as we have done throughout this report.

Table A-1. Number of students with disabilities receiving special education services, by age and disability type, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003-2004 school year

	New York City		Chicago		Los Angeles		New York State		National	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Ages 6-21										
Autism	3,628	2.63%	1,347	2.45%	3,057	3.98%	9,486	2.45%	140,920	2.34%
Emotional disturbance	18,259	13.24%	5,730	10.41%	4,056	5.28%	41,391	10.69%	483,805	8.02%
Learning disabilities	63,148	45.78%	32,927	59.81%	50,840	66.24%	182,995	47.28%	2,858,260	47.38%
Mental retardation	6,341	4.60%	7,765	14.11%	4,380	5.71%	14,721	3.80%	581,706	9.64%
Deafness/hearing impairments	2,832	2.05%	613	1.11%	1,393	1.81%	5,275	1.36%	71,903	1.19%
Speech-language impairments	33,235	24.10%	4,919	8.94%	6,191	8.07%	68,614	17.73%	1,127,551	18.69%
Visual impairments	999	0.72%	225	0.41%	365	0.48%	1,792	0.46%	25,814	0.43%
Orthopedic impairments	1,169	0.85%	531	0.96%	1,806	2.35%	2,632	0.68%	68,188	1.13%
Other health impairments	4,879	3.54%	717	1.30%	3,872	5.04%	37,118	9.59%	452,045	7.49%
Multiple disabilities	3,139	2.28%	N/A	N/A	632	0.82%	21,622	5.59%	132,333	2.19%
Deaf-blindness	2	0.001%	N/A	N/A	2	0.003%	17	0.004%	1,670	0.028%
Traumatic brain injury	299	0.22%	276	0.50%	158	0.21%	1,414	0.37%	22,534	0.37%
All disabilities	137,930	100.00%	55,050	100.00%	76,752	100.00%	387,077	100.00%	6,032,622	100.00%
Ages 6-11										
Autism	2,202	3.59%	798	3.70%	2,164	6.03%	6,003	3.69%	85,919	3.11%
Emotional disturbance	7,068	11.51%	1,827	8.47%	1,008	2.81%	12,838	7.89%	143,300	5.18%
Learning disabilities	18,035	29.37%	10,740	49.81%	21,035	58.61%	54,554	33.55%	968,221	35.03%
Mental retardation	1,974	3.21%	2,714	12.59%	1,799	5.01%	4,319	2.66%	194,438	7.03%
Deafness/hearing impairments	1,146	1.87%	304	1.41%	694	1.93%	2,219	1.36%	32,411	1.17%
Speech-language impairments	24,781	40.36%	4,391	20.36%	5,586	15.57%	52,937	32.55%	972,962	35.20%
Visual impairments	417	0.68%	101	0.47%	193	0.54%	811	0.50%	11,721	0.42%
Orthopedic impairments	693	1.13%	230	1.07%	921	2.57%	1,536	0.94%	33,039	1.20%
Other health impairments	3,496	5.69%	367	1.70%	2,199	6.13%	17,454	10.73%	194,301	7.03%
Multiple disabilities	1,484	2.42%	N/A	N/A	228	0.64%	9,509	5.85%	53,387	1.93%
Deaf-blindness	0	0.000%	N/A	N/A	2	0.006%	5	0.003%	688	0.025%
Traumatic brain injury	107	0.17%	90	0.42%	59	0.16%	425	0.26%	8,014	0.29%
All disabilities	61,403	100.00%	21,562	100.00%	35,888	100.00%	162,610	100.00%	2,764,322	100.00%
Ages 12-17										
Autism	1,121	1.66%	440	1.47%	768	2.04%	2,924	1.45%	46,976	1.59%
Emotional disturbance	10,265	15.16%	3,506	11.74%	2,617	6.97%	26,240	13.01%	312,048	10.53%
Learning disabilities	40,077	59.18%	20,217	67.71%	28,301	75.35%	116,313	57.67%	1,744,254	58.86%
Mental retardation	3,063	4.52%	4,092	13.70%	1,867	4.97%	7,656	3.80%	316,732	10.69%
Deafness/hearing impairments	1,449	2.14%	268	0.90%	626	1.67%	2,659	1.32%	34,862	1.18%
Speech-language impairments	8,137	12.02%	510	1.71%	596	1.59%	15,116	7.50%	149,384	5.04%
Visual impairments	466	0.69%	108	0.36%	154	0.41%	818	0.41%	12,189	0.41%
Orthopedic impairments	437	0.65%	231	0.77%	693	1.85%	987	0.49%	30,197	1.02%
Other health impairments	1,307	1.93%	325	1.09%	1,591	4.24%	18,617	9.23%	242,073	8.17%
Multiple disabilities	1,235	1.82%	N/A	N/A	266	0.71%	9,520	4.72%	61,521	2.08%
Deaf-blindness	2	0.003%	N/A	N/A	0	0.000%	10	0.005%	765	0.026%
Traumatic brain injury	164	0.24%	162	0.54%	80	0.21%	817	0.41%	12,327	0.42%
All disabilities	67,723	100.00%	29,859	100.00%	37,559	100.00%	201,677	100.00%	2,963,328	100.00%

SOURCE: New York City data come from the 03-04 PD-1/4. New York State and National data come from the Annual Report on the Implementation of IDEA. Chicago and Los Angeles data come from internal sources in those school districts.

Table A-2(a). Number and percentage of students with disabilities receiving special education services in different educational environments, by age group, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003-2004 school year

	New York City		Chicago		Los Angeles		New York State		National	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
All Disabilities ages 6-21										
<i>In Regular Buildings</i>										
20% or less outside regular class	67,106	48.65%	20,453	37.15%	38,987	45.63%	206,160	53.26%	2,973,866	49.87%
21% to 60% outside regular class	1,855	1.34%	14,962	27.18%	10,733	12.56%	48,327	12.49%	1,650,026	27.67%
More than 60% outside regular class	56,017	40.61%	16,080	29.21%	28,523	33.38%	104,560	27.01%	1,104,868	18.53%
<i>In Separate Settings</i>										
Special Public Day School	6,411	4.65%	1,577	2.86%	3,197	3.74%	11,456	2.96%	102,078	1.71%
Special Private Day School	4,743	3.44%	1,887	3.43%	3,889	4.55%	9,564	2.47%	65,883	1.10%
Public Residential Facility	59	0.04%	N/A	N/A	N/A	N/A	1,500	0.39%	17,290	0.29%
Private Residential Facility	658	0.48%	91	0.17%	N/A	N/A	3,604	0.93%	22,273	0.37%
Home or Hospital Environment	1,081	0.78%	N/A	N/A	112	0.13%	1,906	0.49%	26,845	0.45%
Total	137,930	100%	55,050	100%	85,441	100%	387,077	100%	5,963,129	100%
All Disabilities ages 6-11										
<i>In Regular Buildings</i>										
20% or less outside regular class	33,013	53.76%	8,883	41.20%	--	--	93,013	57.20%	1,643,930	60.28%
21% to 60% outside regular class	976	1.59%	5,056	23.45%	--	--	16,197	9.96%	606,423	22.24%
More than 60% outside regular class	23,588	38.42%	6,966	32.31%	--	--	45,255	27.83%	418,274	15.34%
<i>In Separate Settings</i>										
Special Public Day School	1,322	2.15%	379	1.76%	--	--	3,038	1.87%	27,643	1.01%
Special Private Day School	1,940	3.16%	273	1.27%	--	--	3,729	2.29%	19,150	0.70%
Public Residential Facility	5	0.01%	N/A	N/A	--	--	244	0.15%	2,679	0.10%
Private Residential Facility	95	0.15%	5	0.02%	--	--	527	0.32%	3,095	0.11%
Home or Hospital Environment	464	0.76%	N/A	N/A	--	--	607	0.37%	6,106	0.22%
Total	61,403	100%	21,562	100%	--	--	162,610	100%	2,727,300	100%
All Disabilities ages 12-17										
<i>In Regular Buildings</i>										
20% or less outside regular class	31,176	46.03%	10,220	34.23%	--	--	104,317	51.72%	1,227,942	41.84%
21% to 60% outside regular class	678	1.00%	8,990	30.11%	--	--	28,844	14.30%	964,813	32.88%
More than 60% outside regular class	28,786	42.51%	8,666	29.02%	--	--	52,484	26.02%	603,279	20.56%
<i>In Separate Settings</i>										
Special Public Day School	3,699	5.46%	690	2.31%	--	--	6,391	3.17%	55,179	1.88%
Special Private Day School	2,365	3.49%	1,215	4.07%	--	--	4,864	2.41%	38,931	1.33%
Public Residential Facility	48	0.07%	N/A	N/A	--	--	1,067	0.53%	11,174	0.38%
Private Residential Facility	389	0.57%	78	0.26%	--	--	2,580	1.28%	16,131	0.55%
Home or Hospital Environment	582	0.86%	N/A	N/A	--	--	1,130	0.56%	17,340	0.59%
Total	67,723	100%	29,859	100%	--	--	201,677	100%	2,934,789	100%

-- Data unavailable.

NOTE: Data from Los Angeles include all children with disabilities, from ages 0-21. LRE data disaggregated by age were unavailable.

SOURCE: New York City data come from the 03-04 PD-1/4. New York State and National data come from the Annual Report on the Implementation of IDEA. Chicago and Los Angeles data come from internal sources in those school districts.

Table A-2(b). Number and percentage of students with disabilities ages 6-21 receiving special education services in different educational environments, by disability type, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003-2004 school year

	New York City		Chicago		Los Angeles		New York State		National	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Autism										
<i>In Regular Buildings</i>										
20% or less outside regular class	394	10.86%	202	15.00%	1,491	35.31%	2,058	21.70%	37,650	26.78%
21% to 60% outside regular class	7	0.19%	150	11.14%	361	8.55%	782	8.24%	24,906	17.72%
More than 60% outside regular class	1,922	52.98%	753	55.90%	1,497	35.45%	4,162	43.88%	61,684	43.88%
<i>In Separate Settings</i>										
Special Public Day School	681	18.77%	79	5.86%	532	12.60%	1,115	11.75%	7,933	5.64%
Special Private Day School	510	14.06%	162	12.03%	342	8.10%	1,094	11.53%	6,443	4.58%
Public Residential Facility	1	0.03%	N/A	N/A	N/A	N/A	6	0.06%	157	0.11%
Private Residential Facility	105	2.89%	1	0.07%	N/A	N/A	241	2.54%	1,297	0.92%
Home or Hospital Environment	8	0.22%	N/A	N/A	0	0.00%	28	0.30%	503	0.36%
Total	3,628	100%	1,347	100%	4,223	100%	9,486	100%	140,573	100%
Emotional Disturbance										
<i>In Regular Buildings</i>										
20% or less outside regular class	3,192	17.48%	1,032	18.01%	673	16.39%	9,453	22.84%	146,212	30.30%
21% to 60% outside regular class	241	1.32%	942	16.44%	220	5.36%	3,494	8.44%	108,836	22.55%
More than 60% outside regular class	10,035	54.96%	1,924	33.58%	1,084	26.40%	17,290	41.77%	145,934	30.24%
<i>In Separate Settings</i>										
Special Public Day School	2,335	12.79%	430	7.50%	40	0.97%	3,739	9.03%	31,659	6.56%
Special Private Day School	1,147	6.28%	1,322	23.07%	2,089	50.88%	2,535	6.12%	26,120	5.41%
Public Residential Facility	49	0.27%	N/A	N/A	N/A	N/A	1,206	2.91%	5,474	1.13%
Private Residential Facility	362	1.98%	80	1.40%	N/A	N/A	2,483	6.00%	12,390	2.57%
Home or Hospital Environment	898	4.92%	N/A	N/A	0	0.00%	1,191	2.88%	5,972	1.24%
Total	18,259	100%	5,730	100%	4,106	100%	41,391	100%	482,597	100%
Learning Disabilities										
<i>In Regular Buildings</i>										
20% or less outside regular class	37,563	59.48%	13,084	39.74%	24,251	45.65%	116,589	63.71%	1,373,104	48.75%
21% to 60% outside regular class	685	1.08%	12,122	36.81%	8,567	16.13%	26,415	14.43%	1,051,029	37.32%
More than 60% outside regular class	23,495	37.21%	7,648	23.23%	19,042	35.85%	37,742	20.62%	365,737	12.99%
<i>In Separate Settings</i>										
Special Public Day School	316	0.50%	21	0.06%	174	0.33%	667	0.36%	8,259	0.29%
Special Private Day School	1,016	1.61%	48	0.15%	1,075	2.02%	1,276	0.70%	7,868	0.28%
Public Residential Facility	8	0.01%	N/A	N/A	N/A	N/A	28	0.02%	2,212	0.08%
Private Residential Facility	8	0.01%	4	0.01%	N/A	N/A	51	0.03%	2,942	0.10%
Home or Hospital Environment	57	0.09%	N/A	N/A	11	0.02%	227	0.12%	5,210	0.18%
Total	63,148	100%	32,927	100%	53,120	100%	182,995	100%	2,816,361	100%
Mental Retardation										
<i>In Regular Buildings</i>										
20% or less outside regular class	319	5.03%	277	3.57%	497	10.17%	1,150	7.81%	66,436	11.64%
21% to 60% outside regular class	65	1.03%	1,218	15.69%	111	2.27%	1,886	12.81%	172,541	30.24%
More than 60% outside regular class	3,926	61.91%	5,006	64.47%	2,964	60.64%	8,824	59.94%	295,709	51.82%
<i>In Separate Settings</i>										
Special Public Day School	1,756	27.69%	922	11.87%	1,214	24.84%	2,173	14.76%	24,882	4.36%
Special Private Day School	230	3.63%	337	4.34%	95	1.94%	539	3.66%	5,455	0.96%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	40	0.27%	1,346	0.24%
Private Residential Facility	30	0.47%	5	0.06%	N/A	N/A	75	0.51%	1,656	0.29%
Home or Hospital Environment	15	0.24%	N/A	N/A	7	0.14%	34	0.23%	2,618	0.46%
Total	6,341	100%	7,765	100%	4,888	100%	14,721	100%	570,643	100%
Deafness/Hearing Impairment										
<i>In Regular Buildings</i>										
20% or less outside regular class	1,247	44.03%	177	28.87%	690	41.95%	2,563	48.59%	31,967	44.91%
21% to 60% outside regular class	18	0.64%	121	19.74%	192	11.67%	389	7.37%	13,617	19.13%
More than 60% outside regular class	988	34.89%	311	50.73%	480	29.18%	1,343	25.46%	15,818	22.22%
<i>In Separate Settings</i>										
Special Public Day School	78	2.75%	2	0.33%	263	15.99%	159	3.01%	3,154	4.43%
Special Private Day School	479	16.91%	1	0.16%	18	1.09%	710	13.46%	1,779	2.50%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	54	1.02%	4,402	6.18%
Private Residential Facility	20	0.71%	1	0.16%	N/A	N/A	51	0.97%	314	0.44%
Home or Hospital Environment	2	0.07%	N/A	N/A	2	0.12%	6	0.11%	137	0.19%
Total	2,832	100%	613	100%	1,645	100%	5,275	100%	71,188	100%
Speech/language impairments										
<i>In Regular Buildings</i>										
20% or less outside regular class	19,950	60.03%	4,865	98.90%	8,446	87.32%	44,574	64.96%	985,990	88.15%
21% to 60% outside regular class	697	2.10%	39	0.79%	339	3.50%	6,172	9.00%	75,880	6.78%
More than 60% outside regular class	11,912	35.84%	13	0.26%	792	8.19%	17,041	24.84%	51,978	4.65%
<i>In Separate Settings</i>										
Special Public Day School	135	0.41%	2	0.04%	71	0.73%	222	0.32%	1,251	0.11%
Special Private Day School	524	1.58%	0	0.00%	22	0.23%	577	0.84%	2,374	0.21%
Public Residential Facility	1	0.00%	N/A	N/A	N/A	N/A	1	0.00%	200	0.02%
Private Residential Facility	7	0.02%	0	0.00%	N/A	N/A	11	0.02%	225	0.02%
Home or Hospital Environment	9	0.03%	N/A	N/A	2	0.02%	16	0.02%	645	0.06%
Total	33,235	100%	4,919	100%	9,672	100%	68,614	100%	1,118,543	100%
Visual impairments										
<i>In Regular Buildings</i>										
20% or less outside regular class	249	24.92%	150	66.67%	259	47.44%	811	45.26%	13,804	54.57%
21% to 60% outside regular class	6	0.60%	40	17.78%	41	7.51%	123	6.86%	4,273	16.89%
More than 60% outside regular class	385	38.54%	32	14.22%	67	12.27%	479	26.73%	3,961	15.66%
<i>In Separate Settings</i>										
Special Public Day School	169	16.92%	1	0.44%	159	29.12%	173	9.65%	999	3.95%
Special Private Day School	170	17.02%	2	0.89%	13	2.38%	179	9.99%	504	1.99%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	3	0.17%	1,369	5.41%
Private Residential Facility	16	1.60%	0	0.00%	N/A	N/A	19	1.06%	230	0.91%
Home or Hospital Environment	4	0.40%	N/A	N/A	7	1.28%	5	0.28%	154	0.61%
Total	999	100%	225	100%	546	100%	1,792	100%	25,294	100%

Table A-2(b) (continued). Number and percentage of students with disabilities ages 6-21 receiving special education services in different educational environments, by disability type, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003-2004 school year

	New York City		Chicago		Los Angeles		New York State		National	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Orthopedic impairments										
<i>In Regular Buildings</i>										
20% or less outside regular class	797	68.18%	167	31.45%	536	24.23%	1,787	67.90%	31,664	46.72%
21% to 60% outside regular class	23	1.97%	85	16.01%	148	6.69%	214	8.13%	14,174	20.91%
More than 60% outside regular class	248	21.21%	198	37.29%	387	17.50%	455	17.29%	17,747	26.19%
<i>In Separate Settings</i>										
Special Public Day School	6	0.51%	79	14.88%	1,063	48.06%	34	1.29%	2,426	3.58%
Special Private Day School	93	7.96%	2	0.38%	13	0.59%	136	5.17%	475	0.70%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	3	0.11%	91	0.13%
Private Residential Facility	1	0.09%	0	0.00%	N/A	N/A	1	0.04%	88	0.13%
Home or Hospital Environment	1	0.09%	N/A	N/A	65	2.94%	2	0.08%	1,107	1.63%
Total	1,169	100%	531	100%	2,212	100%	2,632	100%	67,772	100%
Other health impairments										
<i>In Regular Buildings</i>										
20% or less outside regular class	3,060	62.72%	423	59.00%	2,007	48.48%	23,567	63.49%	229,374	51.07%
21% to 60% outside regular class	87	1.78%	162	22.59%	764	18.45%	5,529	14.90%	136,830	30.47%
More than 60% outside regular class	1,467	30.07%	111	15.48%	1,060	25.60%	6,829	18.40%	67,288	14.98%
<i>In Separate Settings</i>										
Special Public Day School	80	1.64%	17	2.37%	64	1.55%	603	1.62%	3,660	0.81%
Special Private Day School	142	2.91%	4	0.56%	222	5.36%	371	1.00%	3,297	0.73%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	8	0.02%	526	0.12%
Private Residential Facility	6	0.12%	0	0.00%	N/A	N/A	71	0.19%	999	0.22%
Home or Hospital Environment	37	0.76%	N/A	N/A	23	0.56%	140	0.38%	7,119	1.59%
Total	4,879	100%	717	100%	4,140	100%	37,118	100%	449,093	100%
Multiple disabilities										
<i>In Regular Buildings</i>										
20% or less outside regular class	232	7.39%	N/A	N/A	97	13.57%	2,995	13.85%	15,857	12.08%
21% to 60% outside regular class	20	0.64%	N/A	N/A	9	1.26%	3,103	14.35%	22,512	17.16%
More than 60% outside regular class	1,491	47.50%	N/A	N/A	105	14.69%	9,922	45.89%	60,113	45.81%
<i>In Separate Settings</i>										
Special Public Day School	836	26.63%	N/A	N/A	420	58.74%	2,523	11.67%	16,714	12.74%
Special Private Day School	416	13.25%	N/A	N/A	81	11.33%	2,109	9.75%	9,979	7.60%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	144	0.67%	1,281	0.98%
Private Residential Facility	96	3.06%	N/A	N/A	N/A	N/A	583	2.70%	1,897	1.45%
Home or Hospital Environment	48	1.53%	N/A	N/A	3	0.42%	243	1.12%	2,872	2.19%
Total	3,139	100%	N/A	N/A	715	100%	21,622	100%	131,225	100%
Deaf-blindness										
<i>In Regular Buildings</i>										
20% or less outside regular class	0	0.00%	N/A	N/A	9	81.82%	3	17.65%	355	22.15%
21% to 60% outside regular class	0	0.00%	N/A	N/A	0	0.00%	1	5.88%	223	13.91%
More than 60% outside regular class	0	0.00%	N/A	N/A	0	0.00%	4	23.53%	538	33.56%
<i>In Separate Settings</i>										
Special Public Day School	1	50.00%	N/A	N/A	1	9.09%	3	17.65%	138	8.61%
Special Private Day School	1	50.00%	N/A	N/A	1	9.09%	4	23.53%	128	7.99%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	1	5.88%	131	8.17%
Private Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	1	5.88%	67	4.18%
Home or Hospital Environment	0	0.00%	N/A	N/A	0	0.00%	0	0.00%	23	1.43%
Total	2	100%	N/A	N/A	11	100%	17	100%	1,603	100%
Traumatic brain injury										
<i>In Regular Buildings</i>										
20% or less outside regular class	103	34.45%	76	27.54%	31	19.02%	610	43.14%	7,761	34.56%
21% to 60% outside regular class	6	2.01%	83	30.07%	17	10.43%	219	15.49%	6,720	29.92%
More than 60% outside regular class	148	49.50%	84	30.43%	81	49.69%	469	33.17%	6,095	27.14%
<i>In Separate Settings</i>										
Special Public Day School	18	6.02%	24	8.70%	20	12.27%	45	3.18%	598	2.66%
Special Private Day School	15	5.02%	9	3.26%	13	7.98%	34	2.40%	739	3.29%
Public Residential Facility	0	0.00%	N/A	N/A	N/A	N/A	6	0.42%	57	0.25%
Private Residential Facility	7	2.34%	0	0.00%	N/A	N/A	17	1.20%	150	0.67%
Home or Hospital Environment	2	0.67%	N/A	N/A	1	0.61%	14	0.99%	339	1.51%
Total	299	100%	276	100%	163	100%	1,414	100%	22,459	100%

NOTE: Data from Los Angeles include all children with disabilities, from ages 0-21. LRE data disaggregated by age were unavailable.

SOURCE: New York City data come from the 03-04 PD-1/4. New York State and National data come from the Annual Report on the Implementation of IDEA. Chicago and Los Angeles data come from internal sources in those district

Table A-3. Number of personnel employed to serve students with disabilities ages 3-21 and ratio of students to personnel, by type of personnel, for New York City, Chicago, Los Angeles, New York state, and the nation: 2003-2004 school year

Personnel type	New York City		Chicago		Los Angeles		New York State		National	
	Number	# students per	Number	# students per	Number	# students per	Number	# students per	Number	# students per
Special education teacher	11,810	12.73	4,141	13.83	4,971	17.19	38,568	11.42	402,144	16.39
Teacher aide	12,516	12.01	2,387	24.00	7,490	11.41	22,818	19.31	363,447	18.14
School psychologist	1,170	128.48	240	238.68	566	150.96	4,423	99.60	29,567	222.98
Social worker	1,440	104.39	357	160.46	38	2248.45	3,504	125.72	18,168	362.88
Counselor	2,604	57.73	463	123.72	1,089	78.46	2,077	212.09	16,058	410.56
Speech-language therapist	2,015	74.60	339	168.98	122	700.34	3,873	113.74	41,886	157.40
Physical therapist	625	240.51	37	1548.22	24	3560.04	1,364	322.96	6,873	959.23
Occupational therapist	1,151	130.60	101	567.17	140	610.29	2,457	179.29	13,962	472.19
Supervisors/Administrators	1121	134.09	372	153.99	--	--	3161	139.36	18693	352.69

-- Data unavailable.

NOTE: Data from New York City, Chicago, and Los Angeles are for the 2003-2004 school year; however, data from New York state and the nation are from 2002-2003.

SOURCE: New York City data come from the 03-04 PD-6. New York State and National data come from the Annual Report on the Implementation of IDEA. Chicago and Los Angeles data come from internal sources in those districts.

Appendix B
Description of NYC Special Education Organizational
Structure Following the Reorganization

Table B-1: NYC DOE’s description of roles and responsibilities for regional, central office, and school staff following the reorganization

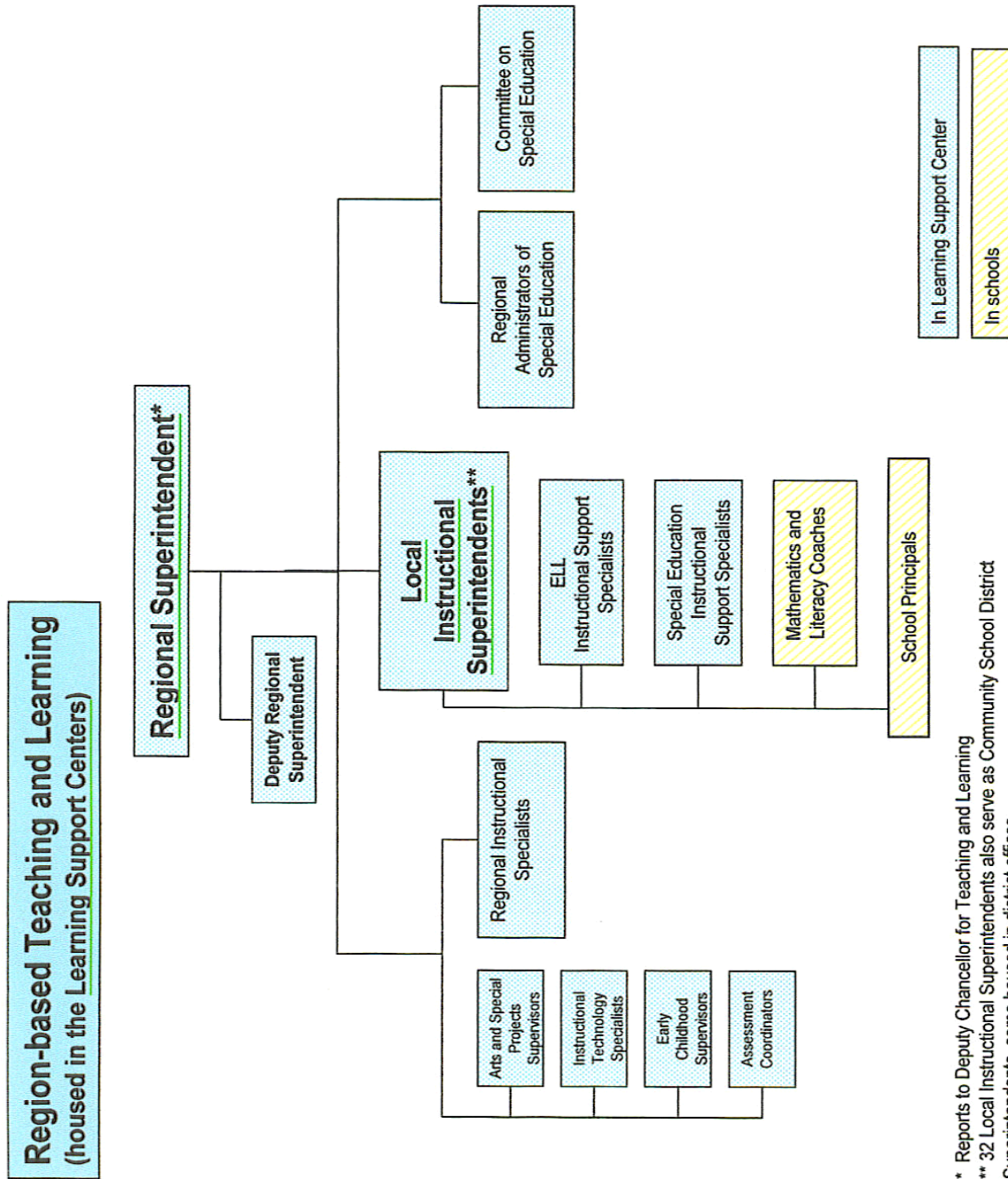
Position Title	Roles and Responsibilities
<i>Regional Staff</i>	
Regional Superintendent	<ul style="list-style-type: none"> • One per Region (10 total) • Function as the senior instructional management team for the school system • Report directly to the Deputy Chancellor for Teaching and Learning <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Organization of the DOE</i>. Retrieved from http://www.nycboe.net/Administration/Organization+of+the+DOE/default.htm).
Local Instructional Superintendent (LIS)	<ul style="list-style-type: none"> • 10-12 per Region • Each has supervisory responsibility for a network of about 10 to 12 schools and principals • Provide schools in their networks with instructional leadership and support principals and their teachers in implementing the new instructional approach and improving the quality of teaching and learning in their schools • Report to the Regional Superintendent <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Organization of the DOE</i>. Retrieved from http://www.nycboe.net/Administration/Organization+of+the+DOE/default.htm).
Regional Administrator of Special Education (RASE)	<ul style="list-style-type: none"> • Five per Region (50 total) • Each responsible for 20-24 schools • One Lead RASE per Region • Collaboration with schools to meet instructional needs of students with disabilities; ensure compliance with applicable mandates; monitor program implementation • Primary responsibility to work with principals to ensure delivery of mandated services • Help oversee the process for children receiving related services such as speech and certain therapies • Report to the Regional Superintendent • Support provided by: Lead RASE and bi-monthly meetings with OSEI <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Delivery of Special Education Services: Management Structure and Implementation Overview</i> (Powerpoint Presentation, April 29, 2005); NYC DOE, <i>Special Education Reforms: Frequently Asked Questions</i>. Retrieved from http://www.nycboe.net/Parents/Essentials/Special+Education/FAQs.htm).

Committee on Special Education (CSE) Chairperson	<ul style="list-style-type: none"> • One per Region (10 total) • Oversee and coordinate the conduct of multi-disciplinary special education assessments • Maintain data for compliance with Federal and State law regarding referral, evaluation and placement of students suspected of, or identified as having a disability • Collaborate with the Regional Superintendent, RASEs, and Learning Support Staff to ensure timely implementation of programs and services and to create management plans to effectively deliver special education evaluations and placements • Report to the Regional Superintendent <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Delivery of Special Education Services: Management Structure and Implementation Overview</i> (Powerpoint Presentation, April 29, 2005)).
Special Education Instructional Support Specialist (ISS)	<ul style="list-style-type: none"> • 20 per Region (200 total) • Trained in Orton-Gillingham based reading programs, the Urban Schools Attuned Program and other instructional strategies • Each assigned to five or six schools; responsible for supporting classroom teachers and principals in the improvement of instruction for students with special needs in their schools • Strategy development for instructional improvements • Curriculum modification and adaptation • Design and implement staff development • Report to LIS • Liaison with RASEs, CSE and Chairpersons • Support provided by LIS <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Special Education Reforms: Frequently Asked Questions</i>. Retrieved from http://www.nycboe.net/Parents/Essentials/Special+Education/FAQs.htm; NYC DOE, <i>Delivery of Special Education Services: Management Structure and Implementation Overview</i> (Powerpoint Presentation, April 29, 2005)).
<i>Central Office Staff</i>	
Office of School Improvement – School Improvement Teams	<ul style="list-style-type: none"> • 12 School Improvement Teams (approximately 35 team members total) • Each team comprised of three high level administrators, including: special education instructional and clinical program specialists as well as individuals who have bilingual/ESL and secondary level expertise • Ongoing executive-level consultation to schools: to help schools build capacity in moving toward established benchmarks and create and implement improvement plans as part of schools increased accountability for outcomes for students with disabilities • Four core indicators: academic achievement; access; intervention and prevention development; parent satisfaction <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Delivery of Special Education Services: Management Structure and Implementation Overview</i> (Powerpoint Presentation (April 29, 2005)).
<i>School Staff</i>	

Principal	<ul style="list-style-type: none"> • Overall responsibility for ensuring that students with disabilities are provided with their recommended services • Responsible for ensuring that special education evaluations/reevaluations, annual reviews and mandated three year reevaluations are completed appropriately and in compliance with Federal and State laws and regulations • Accountability for improving education and achievement of students with disabilities • Supervision of IEP team • Ensuring availability of records/files, and adequate space for assessment, counseling and conferences • Support provided by ISS, RASE, CSE, Leadership Academy • Evaluation of staff • Report directly to the LIS assigned to lead their network <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Draft Standard Operating Procedure Manual</i> (August, 2003), 10; NYC DOE, <i>Delivery of Special Education Services: Management Structure and Implementation Overview</i> (Powerpoint Presentation, April 29, 2005); NYC DOE, <i>Organization of the DOE</i>. Retrieved from http://www.nycboe.net/Administration/Organization+of+the+DOE/default.htm).
Psychologist	<ul style="list-style-type: none"> • Primarily responsible for managing the assessment intervention process for students in the evaluation and placement process (conducting psycho-educational and other assessments as required, participating in IEP meetings, etc.) • Play a vital role in a school's prevention/intervention efforts • May serve as members of the school's Pupil Personnel Team and provide direct services to general education and special education students <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Draft Standard Operating Procedure Manual</i> (August, 2003), 9-10).
Social Worker	<ul style="list-style-type: none"> • Responsible for conducting social histories and other assessments (e.g. classroom observations, etc.) as necessary for students in the evaluation and placement process • Play a vital role in a school's prevention/intervention efforts • May serve as members of the school's prevention/intervention teams • Provide direct services to general and special education students • Provide consultation and support to parents <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Draft Standard Operating Procedure Manual</i> (August, 2003), 10).

IEP Teacher	<ul style="list-style-type: none"> • Prepare for and participate in IEP meetings of students initially referred to special education • Cover classes of other special education teachers who must attend IEP meetings of their students for requested triennial re-evaluations • If no IEP or coverage work is required on a given day, may perform prevention and intervention services or other instructional tasks at direction of principal • During remaining instructional periods, provide Special Education Teacher Support Services (SETSS), or teach in a Collaborative Team Teaching or a self-contained class part-time <ul style="list-style-type: none"> ▪ (Source: <i>School Allocation Memorandum No. 12, FY06: Special Education IEP Teacher Allocation</i>. From Bruce E. Feig (CFO, NYC DOE) to Instructional Leadership Division (ILD) Superintendents, Regional Operating Center (ROC) Directors, and School Principals (May 11, 2005). Retrieved from http://www.nycenet.edu/offices/d_chanc_oper/budget/dbor/allocatio/memo/fy05-06/datafiles/sam12.pdf).
Clerical Worker	<ul style="list-style-type: none"> • One assigned to each school psychologist • Enter appropriate data into computerized tracking system <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Draft Standard Operating Procedure Manual</i> (August, 2003), 52).
Parent Coordinator	<ul style="list-style-type: none"> • One per school • Available to resolve issues for parents of all children in the school, including parents of children with disabilities <ul style="list-style-type: none"> ▪ (Source: NYC DOE, <i>Special Education Reforms: Frequently Asked Questions</i>. Retrieved from http://www.nycboe.net/Parents/Essentials/Special+Education/FAQs.htm).

Figure B-1: NYC DOE Organizational Chart



* Reports to Deputy Chancellor for Teaching and Learning

** 32 Local Instructional Superintendents also serve as Community School District Superintendents, some housed in district offices