Financing Special Education
PROPOSED REFORMS IN NEW YORK CITY

NORM FRUCHTER
THOMAS B. PARRISH
ROBERT BERNE

As recently as 20 years ago, many students with disabilities were excluded from public education and, when included, were often taught in separate, inadequate, and sometimes inhumane settings. But consistent local organizing, persistent use of the courts, and exposure of the sometimes shameful treatment of children with disabilities led to federal action through laws such as Pub. L. 94-142; court intervention through decisions forcing state and city systems to im-

AUTHORS' NOTE: This chapter is based on Focus on Learning: A Report on Reorganizing General and Special Education in New York City, by Fruchter, Berne, Marcus, Alter, and Gottlieb (1995) and a paper that formed an appendix of that report, "Review of Financing Dimensions from Focus on Learning," by Thomas B. Parrish. The authors wish to acknowledge the contributions of Dorothy Siegel, Ross Rubenstein, Diane McGivern, and Carol Ascher.

prove their offerings; and the development of effective district and school-based programs have significantly improved the education of students with special needs. For many, the days of exclusion, callous treatment, and marginal attention are over. In the New York City public schools, for example, almost 13% of the students are classified as disabled and almost 25% of the public school budget is spent on their education.

But for a growing number of critics, this expansion of special education students and costs has triggered warning signals; many charge that special education has become both too costly and too restrictive. Significant expansion of special education registers in many states and districts has focused attention on what is far too often an arbitrary identification system. Failure to define consistent outcome standards for student academic performance in special education placements has generated charges of ineffectiveness in urban, suburban, and rural settings. Throughout the country, the identification, placement, and subsequent educational experience of hundreds of thousands of students labeled as disabled is increasingly being called into question.

A similar focus of reconsideration has spotlighted special education in the New York City schools, long the subject of court monitoring through the landmark Jose P. case first brought in 1979 (see also Zirkel, 1995). As referral rates and costs have risen, stakeholders, providers, and constituents have increasingly questioned whether New York City's special education programs are serving the majority of their students effectively, efficiently, and equitably. There is mounting evidence that the city's special education programs have produced limited outcomes because of these factors:

- Accountability is very limited. There are no useful instructional standards and very little useful data on educational and behavioral outcomes (Board of Education of the City of New York, Office of Information, Reporting and Technology Services, 1997; New York State Education Department, 1997a, 1997b; Office of the Comptroller of the City of New York, 1994).
- Far too many students are placed in separate settings rather than in more appropriate, less restrictive instructional settings defined by state and federal law (Committee on Education and the Law, 1993; U.S. Department of Education, 1989).
Students of color are overrepresented in special education and particularly overrepresented in separate special classes (Austin, Dentzer, & McNutt, 1994; Board of Education of the City of New York, Division of Special Education, 1990).

Many students are placed in special education not because of disability but because general education is not meeting their learning needs (Hornbeck & Lehmann, 1991).

The cost of evaluating, transporting, tracking, reevaluating, mainstreaming, and decertifying students who may not be disabled is siphoning off resources from a resource-starved public education system (Lankford & Wyckoff, 1996).

In response to these pressing problems, the Institute for Education and Social Policy at New York University prepared a report, Focus on Learning: A Report on Reorganizing General and Special Education in New York City (Fruchter, Berne, Marcus, Alter, & Gottlieb, 1995), to help guide the (then) Chancellor Ramon Cortines, who had made the improvement of special education one of his top priorities. This chapter is based on that report and a paper prepared as an appendix to that report by Parrish (1995b); we focus on the report’s specific finance-related issues that have become the core of current special education reform.

First, we review the major elements of reforms proposed in Focus on Learning (Fruchter et al., 1995), particularly the finance implications for elementary and middle schools in New York City. The three main finance recommendations include (a) the creation of an enrichment allocation for each school that merges funds for special and compensatory education, (b) fiscal incentives that encourage schools and school districts to develop appropriate programs in students’ home schools, and (c) changes in state funding to both permit and encourage the approach we recommend. Second, we compare the financing dimensions of the Focus reforms with similar initiatives in other states. Last, we conclude with a review of the current proposals for special education reform in New York State that drew on our recommendations.

A Proposal for Reform

Focus (Fruchter et al., 1995) concluded that major structural changes are needed to respond more effectively to students experiencing academic or behavioral problems, both in general education and in special education, and particularly those classified as mildly or moderately disabled. We need structural changes to create new school practices that help school staffs respond very differently to the rich diversity of children’s learning styles and learning needs. Such new practices have been developed in a small number of New York City’s schools; our recommendations encourage the development of new practices in all the City’s public schools.

The Ingredients of Reform

We propose a school-based model that restructures schools and classrooms, deploys personnel in new ways, reconceptualizes instruction and assessment, and changes how funds are allocated. Implementing our model would transform our dual system, which currently separates instruction from evaluation and special education students from general education students, into a far more integrated system that better serves the learning needs of all students.

The school-based model invites each school to assess the needs of its more precarious students and to create, with an enrichment allocation consisting of merged special and general education funds, the classroom structure and school organization that best meets all its students’ needs. The primary purpose of the enrichment allocation is to ensure that classroom teachers have adequate instructional and nonacademic supports to meet the needs of students with disabilities or students at risk of academic failure. The special education funds to be merged are only those allocated to community school districts (and high schools) for programs for students with mild and moderate disabilities. The general education funds to be merged include compensatory education resources and other supports. We believe that if teaching and learning in general education were significantly restructured, using the enrichment allocation, most students’ learning needs could be met without referral to special education and placement in separate settings.

The first step in this reconfiguration is to merge the school-based resources now split into special education and general education allocation streams. General education resources are allocated by
formulas driven primarily by student numbers. But special education resources are driven by placements along the continuum of special education services. That is, the amount of funding a student draws is based on his or her special education placement or assignment. In New York State, these placements form a continuum that begins with services provided in the least restrictive setting, the general education classroom. Services can include related services, such as speech and counseling, consultant teachers, or resource rooms. The next, more restrictive level includes special or self-contained classes within a general education setting for all or part of the school day. More restrictive placements involve separate classes within a program cluster or within a school composed solely of self-contained classes. The most restrictive settings involve residential placements or home or hospital placements.

In New York State, unfortunately, funding supports more restrictive placements; the more self-contained and isolated the placement, the more funds that placement generates. In New York City, there are relatively few placements in the general education classroom, the least restrictive level of the continuum. The City's school system places a much higher percentage of children with mild and moderate disabilities in self-contained classes than other school systems, both in New York State and across the nation (Committee on Education and the Law, 1993; U.S. Department of Education, 1989).

Focus (Fruchter et al., 1995) recommends merging the total amount of funding available at the school site, both those funds that support the continuum of special education placements for students with mild and moderate disabilities and those funds allocated for compensatory education and other supplemental supports, for flexible instructional use in meeting all students' needs, with appropriate safeguards to preserve the intent of special education funds.

Allowing special education monies to be blended with other funding streams is consistent with the national reform movement. An example of blended funding has been established under Title I of the Elementary and Secondary Education Act. Schools at which at least 50% of the students are designated as living in poverty are allowed to blend funds from a variety of federal sources to make schoolwide changes for the benefit of all students. In addition, as a part of the reauthorizing legislation for the federal Individuals with Disabilities Education Act (IDEA), federal special education dollars can now be included under the funds to be blended in schoolwide projects. The potential benefits of such blending for special education students are described in a statement issued by the National Association of State Special Education Directors, "Combining funds provided under IDEA and the Elementary and Secondary Education Act's Title I, while maintaining IDEA's procedural safeguards . . . could permit special educators to better participate in the reform process" ("NASDSE," 1994, pp. 3-4).

Under the Focus (Fruchter et al., 1995) plan, these merged funds, along with other personnel and financial resources, would comprise an enrichment allocation that each school would use to create a more effective teaching and learning environment for all students, particularly for students with disabilities and students at risk of academic failure. Such restructuring would lead to a system in which each school shapes its instructional environment to best meet all its students' needs, combining resources, including special education funds, that do not follow individual students but meet their needs through a variety of school-based instructional responses.

How Would This Work?

Consider an elementary school that contains 750 students under the current system. Approximately 10% of the school, or 75 students, are categorized as mildly and moderately disabled and they are distributed across four self-contained classes and two resource room pull-out classes. Computing only the cost of teachers and program paraprofessionals and using average teacher salaries, these 75 special education students would generate $320,000 in personnel resources. If the cost of a student in general education is $1,429, then the enrichment allocation is the $320,000 less the $107,000, or $213,000.

The school would receive its formula-driven general education allocation for all its students. But the special education allocation, the $320,000 that would have funded the specific self-contained classes and resource room services, would be provided as a lump sum
allocation. If the school, in shaping its instructional plan, decided that the best way to meet the needs of its students with disabilities was to reproduce the pattern of self-contained classes and resource rooms, the school would use all of its allocation to recreate its previous special education configuration. But the school could also choose to use its allocation for different patterns of classroom organization and staff deployment (Mathis, 1996).

All of the school’s supplementary allocations, including federal and state compensatory education funds, would be combined with the allocation generated by the special education funding stream to create a comprehensive enrichment allocation focused on the needs of all the school’s most precarious students. Thus, funding would continue to address the needs of students with mild and moderate disabilities, but rather than reflexively creating instructional settings outside regular classrooms, funds could be used to enrich mainstream classrooms and to improve the educational environment of all students. The enrichment resources could be used to create flexible groupings, multiage settings, smaller classes for children with particular needs, cooperative learning groups, peer-age and cross-age tutoring, a range of strategies that offer support for classroom teachers and provide small-group or individualized instruction (including the consultant teacher model), counseling assistance for particular behavioral needs, and assistance with speech and language problems.

To ensure that the educational needs of students with disabilities and all other at-risk students are not dismissed, the enrichment allocations would come with a set of stipulations for how they could be used at the school site. One stipulation, for example, would require each school to assess all those students that teachers or parents perceive as potential candidates for future academic or behavioral difficulty, within the context of the school’s standards, educational approach, and instructional plan. The current formal assessment process, by comparison, reaches only selected students and involves steps and procedures that may not be appropriate for all children.

To carry out our recommendations effectively, schools, community school districts, and the entire New York City School District need guarantees that their funding will not be decreased because they are meeting their students’ needs more successfully by integrating funding and instructional strategies. Therefore, a 5-year waiver that maintains both baseline funding and annual increases (for enrollment increases and inflation) is an essential part of our recommendations. Because particular conditions, such as an increase in student mobility or a sudden influx of immigrants, can sometimes produce an intensification of disability, we recommend that the City School District and the community school districts maintain an emergency reserve fund for allocation to specific schools experiencing legitimate, sharp increases in student need.

To help every school meet student learning needs, we recommend the creation of an instructional support team (IST) in each school. The IST should be composed primarily of classroom and cluster teachers supplemented by supervisors, guidance counselors, clinicians and psychologists working in the school as support staff, as well as related service providers, such as speech teachers and counselors. The IST’s prime purpose is to provide informal, rapid-response intervention to help classroom teachers resolve particular instructional or behavioral problems. The IST’s priority is to help the classroom teacher develop and implement strategies that reduce or resolve students’ learning or behavioral difficulties.

To ensure that ISTs concentrate on helping schools meet their students’ learning needs, ISTs will have no power to formally evaluate students or to classify them as disabled. ISTs can refer students to a community district-level multidisciplinary committee on special education (CSE) for formal evaluation, once they decide the school has exhausted its instructional and support efforts. But if district-level CSE evaluation results in student placement in a different school, the referring school will face a fiscal disincentive—it will lose (from its enrichment allocation) the amount of money it costs to educate that student in a new instructional setting, which may well be higher than the cost of educating the student in the home school.

For an example of how this disincentive would work, consider our previously cited elementary school with 75 mild and moderately disabled students and $320,000 in resources as calculated earlier. If a student is referred to a different school where the student’s needs would be more effectively met and the annual cost of that program is $6,429, ($5,000 more than the cost of educating the student in general education in the original school), the $5,000 and the $1,429 general education allocation would be deducted from the original school and
added to the enrichment allocation in the new school. Incremental transportation costs would also be charged to the sending school.

Formal evaluations would be conducted only by the community district-level CSE teams. For students found to have mild or moderate disabilities, the CSE would recommend placements within the community school district's boundaries or face significant fiscal disincentives similar to those imposed on schools whose students are referred to the district for evaluation and subsequently placed in other district schools. Parents would maintain their right to request a formal evaluation, at any time, without consulting the IST or the school.

Making the school-based model work requires extensive professional development to help teachers recognize and address the needs of students with disabilities; provide opportunities to develop and try out new teaching skills, substantive knowledge, communication skills, and decision-making capacities; and help staff develop the capacity to evaluate how well their school serves its students. Therefore, we recommend significant new investment in school-based professional development.

Once responsibility for decision making, professional development, and instructional planning is lodged at the school site, the issue of educational accountability becomes even more critical. The history of New York City schools' treatment of students with disabilities suggests that we cannot simply give local schools the resources and discretion to reconfigure their instructional organization and assume they will effectively respond to all students' learning needs. Therefore, we recommend the creation of an independent accountability and quality assurance office (AQAO), which would evaluate district and school efforts to phase in the school-based model and review the resulting outcomes for students at risk of school failure and students with disabilities. The AQAO would report to the chancellor and the public about school, district, and systemic instruction and learning outcomes.

The AQAO would also recruit, establish, train, supervise, and support district-level parent advocacy teams in every community school district. These parent advocacy teams would be responsible for ensuring that parents are informed about their due process rights, would provide an informal appeal mechanism for parents or school staff convinced that students' needs were not being adequately met, would help parents access the mediation resources provided by the New York State Education Department, and would function as an early warning system to the AQAO about problematic school or district performance. Teams would include parents, members of public interest or advocacy groups, and professionals outside the school system; all members would be appropriately compensated for their services.

We also recommend major changes in state funding mechanisms because (a) state allocations currently provide significant incentives for school districts to place students in special education and (b) also encourage more restrictive placements in self-contained settings. Current New York State funding formulas encourage the overreferral and overplacement of students into special education because the resources they provide to meet varieties of student need in general education classrooms are far too limited. Funding mechanisms that make placement in special education the major source of additional help promote referral and classification of students as disabled when what many of those students need is more support in general education rather than extraction from it.

New York State funding formulas also create incentives to place students in more restrictive settings because the state's formulas are based on the types of special services students receive and on the amount of time students receive those services. Moreover, the ancillary and indirect costs associated with referral to, assessment by, and placements in special education—evaluation, transportation, supervision, and tracking—increase the cost of each inappropriate referral and placement by thousands of dollars per year per student. These costs rise even more steeply as placements become more restrictive.

It is sometimes argued that such placement-driven systems only generate fiscal incentives when their revenues exceed the cost of the placement required to qualify for them. However, federal and state laws require that special education students receive services appropriate to their needs wherever they are served. Thus, there is no reason to believe that serving students with special needs in a general education classroom with proper levels of support will be any less costly than serving these students in more restrictive special classrooms. When the cost of these alternative settings is the same but the accompanying revenues are much higher for the more restrictive
Financing Special Education

Instituted, when implementation begins, to assess the effectiveness of the structural changes we recommend.

Last, we argue that continuing to impose budget cuts on general education inevitably results in forcing more students into special education. We believe that expanding the capacity of general education to meet the needs of many students now placed in special education programs for the mildly and moderately disabled can shift significant resources from evaluation, placement, transportation, and tracking to classroom instruction and support. But we cannot expand general education’s capacity by merging funds for mildly and moderately disabled students while simultaneously reducing its capacity through budget cuts. Therefore, we believe that, to effectively implement the structural changes we recommend, we must begin to restore funding to New York City schools whose instructional and support capacities have been severely reduced by the budget cutting of the mid-1990s.

A National Context: Issues and Examples

This section places our recommendations in a national context, because this form of comprehensive special education reform is not unique to New York City. School districts, states, and the federal system of special education governance and provision have undergone similar review and in many instances resulted in comparable recommendations.

What is causing this reconsideration of current special education policy across the United States as well as in other developed nations around the world? Based on surveys of special education officials in 50 states (Center for Special Education Finance, 1997) and several dozen presentations and conferences at the state, federal, and international levels over the past several years, this reconsideration seems to be driven by several key factors: questions about funding system incentives and the most appropriate placements for students with disabilities, the costs of those services, and the need for increased decision making and flexibility in the use of funds at the local level.
The issue of most appropriate placement has become contentious because of the emergence of a movement for special education inclusion. The essence of the inclusion claim is that students with disabilities should be granted full rights to be educated with their nondisabled peers. The strongest inclusion advocates argue that all means all, meaning that all students with disabilities should be educated in integrated placements with a diverse mix of other students. Others simply point to the LRE provisions that have been in place since the passage of the federal special education law in 1978. These issues are not unique to the United States, as evidenced by an international conference held in Washington, DC, in which at least a dozen developed countries described their inclusionary goals and progress toward meeting them.

Increasing lawsuits and compliance review findings related to unwarranted segregation in the placement of many special education students have led to a number of questions about how the cost of these placements compare to the provision of less restrictive services. They have also led to the realization that state and federal funding provisions often contain fiscal incentives for increasing the number of students identified for special education and sometimes contain fiscal incentives for attributing more severe disabling conditions to students, or for placing them in more restrictive settings (Parrish, 1995a).

The perception, and sometimes the reality, of increasing special education identification rates and costs raises questions about the degrees of entitlement received by special education students, as compared to all other students, and fuels perceptions that separate services for many discrete categories of students is costly, inefficient, and often not in the best interest of students.

Simultaneously, with increased pressure on schools to be accountable, to have high expectations, and to be able to show results, the general standard of acceptable performance is being raised in school systems throughout the country. As these standards rise, so does the percentage of students unable to meet them and consequently the number of students who are considered in need of some form of special help. All these issues lead to questions of how finite educational resources can best be used to meet the educational needs of all students.

Because the federal government, states, and school districts all allocate funds for special education students to the jurisdictions below them, a common set of issues is confronted at all three levels. Exactly what kinds of program policies should be fostered at these lower levels of jurisdiction, and what kinds of fiscal policies should be created to support them? In addition to issues related to fiscal incentives and disincentives, there are also more traditional sets of school finance criteria to contend with, which relate primarily to the fairness and sufficiency of funds.9

What changes in governmental policy have come about in response to these issues? Starting at the federal level, several important policy changes relevant to the New York recommendations are contained in new fiscal provisions of the reauthorized IDEA. The first allows increased flexibility in the use of federal special education funds. Whereas previously these funds could be used only for the direct and exclusive benefit of special education students, changes under the reauthorization allow non-special education students to also derive incidental benefit from their use. Under the new rules, it is permissible for a federally funded special educator to teach a mixed reading class that included a special education student, who was the primary beneficiary of this special instruction, even though general education students also receive incidental benefit from the instruction. This is a smaller but analogous step to the blended funding and service provisions that the Focus (Fruchter et al., 1995) report recommended.

A second provision added through the reauthorization is that federal special education funds will eventually no longer be allocated solely on the basis of the number of special education students in a state but rather also on the state’s overall school-age population. Similar to the Focus (Fruchter et al., 1995) recommendations, the purpose is to remove the fiscal incentive for increased special education identification and to no longer take money away from states who are reducing their special education count. Also included is a hold-harmless provision that does not allow any state to fall below its current level of funding.

To a large extent, the federal government took its cue from several key reform states. Many states have been reviewing their funding formulas to see if they contained fiscal incentives for more restrictive placements. Some of this scrutiny has come as the result of complaints from local school officials that they were losing state funds as they moved to more inclusive placements for their special education
students, even though per-student costs had risen or stayed approximately the same.

Another new provision under IDEA, which is in accordance with the *Focus* (Fruchter et al., 1995) recommendations, could affect special education fiscal policy in New York. The reauthorized IDEA required states to demonstrate that if the state special education funding formula distributes assistance to localities based on the type of setting in which a child is served, as in New York, policies and procedures must be in place to ensure that these funding provisions do not result in placements that violate the requirement that children with disabilities be served in the LRE. If such policies are not in place, the state must provide the U.S. Secretary of Education with evidence that it will revise the funding mechanism to ensure that it does not result in restrictive placements.

How and why were fiscal incentives for more restrictive student placements included in state formulas in the first place? One reason is that these allocations were initially developed to relate funding to program cost. Although the principle of linking funding to program cost makes sense, in practice, because the most restrictive placements tend to be the highest costing, many state special education funding formulas inadvertently have created funding incentives for more restrictive placements. Because such formulas were generally designed around a set menu of alternative placement options, general classroom placements with supports for students with disabilities were often excluded from the menu. Thus, in many instances, no funding provisions were in place for fully integrated placements for students with disabilities. Because separate funding provisions for placing students with disabilities in private placements are also sometimes more generous than public school options, they too can create fiscal incentives for more restrictive or isolated placements. For a fuller discussion on removing fiscal incentives for restrictive placements, see Parrish (1995a).

State funding provisions to remove fiscal incentives for certain types of placement are described as *placement neutral*. Other states have taken a step beyond the removal of incentives for certain types of placements to the removal of incentives for further special education identification. The IDEA reauthorization provision described earlier (i.e., to change the basis of special education funding from the number of students identified for special education to the total school-age population of a state) is an example of this type of funding approach.

These funding approaches have come to be called census-based approaches. Their underlying rationale is that variation in the number of students identified for special education is not necessarily a good indication of variation in the true need for these services and that basing funding on the number of special education students in a state, or a district, creates a fiscal incentive for further identification. The degree of impact from such an incentive is not clear. However, conversely, states that have tried to reduce their special education identification rates by serving some special needs students outside of special education have expressed concerns about the fiscal disincentives associated with these policies.

States that have adopted census-based funding approaches include Pennsylvania, Massachusetts, California, and Montana. Vermont has a three-tiered formula, of which this type of census basis is an important component. Similar reform proposals have been developed and are currently being considered in Illinois. But such reforms are clearly not without controversy. One example is the argument by some that census-based systems are unfair precisely because they can allocate equal amounts of special education aid to two districts of the same size, even though one may identify 12% of its population for special education, whereas the other district identifies only 6%.

A related approach to allowing for previously recognized cost variations (based on the number of students identified and perhaps on the type of service received) is to simply freeze district (or school) funding at some current base level. On a statewide basis, this approach was adopted by Massachusetts prior to their new census-based formula and is currently in effect in Utah. At the same time that the cost adjustments in place at the time of the freeze are recognized, districts (or schools) get locked in at this fixed level of reimbursement regardless of the future decisions they make about the identification of students for special education or where they are placed. This approach has the advantage of removing incentives for continuing identification and allows a great deal of flexibility in how special education students are labeled and served, as this funding is no longer tied to specific students, types of placement, or categories of disability.

The *Focus* (Fruchter et al., 1995) recommendation to establish a base amount of revenues for each school and then to hold schools harmless