

# IMPROVING PRESCHOOL SPECIAL EDUCATION IN NEW YORK STATE

## Conclusions and Recommendations from the Temporary Task Force on Preschool Special Education

A Report to the Governor, the Temporary President of the Senate, the Speaker of the Assembly,  
the Minority Leaders of the Senate and Assembly, the Director of the Budget, and the Board of Regents

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# I. Executive Summary

New York State (NYS) has held a distinguished record of providing high-quality preschool special education services, the breadth and depth of which rank among the best in the nation. Yet, the dramatic growth in services over the past 18 years<sup>1</sup> has come at a price: New York State's expenditure for preschool special education is rising at an unsustainable rate and is among the highest of any state. Previous reviews of the system offered recommendations and while some reforms were enacted, others were deferred due to both programmatic and fiscal considerations. Clearly, a re-examination of the system was in order, one that would identify strategies for improving the quality of service delivery in a fiscally responsible manner. With this goal in mind, as proposed in the Governor's Executive Budget, the 2007-2008 NYS Enacted Budget established a Temporary Task Force on Preschool Special Education to recommend improvements.

Members of the Task Force were selected and appointed by Governor Spitzer to represent a broad group of key stakeholders from across the state. They were charged

- to study and evaluate the relationship between preschool special education and other early childhood programs and to make recommendations on the approaches to improve transitions and enhance delivery in the least restrictive environment,
- to study the current tuition rate-setting methodology for preschool special education programs and services and to make recommendations for improvement, and
- to conduct a comparative study of systems of delivery in New York and other states and to make recommendations for inclusion of best practices from other states that will promote the cost-effective delivery of appropriate programs and services in compliance with the federal Individuals with Disabilities Education Act (IDEA).

The first full Task Force meeting was held in June 2007; a report on the Task Force conclusions and recommendations was required by November 15, 2007. In order to meet this deadline, Task Force members set a rigorous timeline that included:

- reviewing numerous national and state documents and resources,
- obtaining feedback from their constituents,
- helping to conduct *Regional Round Table Sessions* throughout the state to broaden their understanding of the challenges and benefits of New York's current services for preschoolers with disabilities, and
- attending monthly meetings of both the full Task Force and the work groups.

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<sup>1</sup> As cited in the *Report on Progress in Implementing Reform of Preschool Special Education (1999)*, the number of preschool children receiving special education services grew from ~18,000 in 1989 to ~56,000 in 1996. As reported by the System to Track and Account for Children (STAC) this number has continued to increase so that in 2005-2006, approximately 80,000 preschoolers received special education services.

Drawn from all regions of the state, the Task Force members represented important constituencies—private and public service providers and state agency, county, and school district representatives—who both administer and advocate for high-quality preschool special education services. Collectively, the expertise within the Task Force and associated work groups spanned administration, policy and planning, and fiscal and programmatic knowledge relative to the preschool special education system.

Although none of the Task Force members were selected expressly to represent the interests of family members of preschool students with disabilities, two of the Task Force's members had experience with the system as parents. At its first meeting, the Task Force agreed to supplement this representation by conducting broader outreach. The Task Force's outreach efforts included a series of statewide regional round table sessions and follow-up surveys given to a diverse and broad group of stakeholders—parents and families, service providers, county representatives, and school districts. In addition, the *New York State Education Department's Survey of Other States* and follow-up survey informed the Task Force's understanding of other systems and approaches employed in preschool special education to gain insight into best practices.

This report presents the recommendations of the Task Force, drawn from thoughtful review of the processes and relevant facts surrounding the issues. An initial collection of well over 100 issues was examined in the work groups<sup>2</sup>. These issues were condensed into a final set of nine recommendations by the Task Force, reflecting a desire to produce a report and recommendations that would effectively meet the needs of policymakers. The criteria used to select the final set of recommendations were

- ensuring that the Task Force had met its charge;
- consideration of proposals that had greatest positive impact on children;
- consideration of proposals that were fiscally responsible;
- consideration of the viability of proposals that might require statutory and/or policy change; and
- consideration of the length of time and level of resources proposals would take to implement.

Two sets of recommendations emerged — *Primary* and *Secondary*. Primary recommendations were those that were deemed to have highest priority; secondary recommendations were also considered to be important but were of lesser priority. Recommendations grouped within each set were considered to have the same degree of importance.

## Primary Recommendations

- **Recommendation:** Enhance the knowledge and skills of Committee on Preschool Special Education (CPSE) members, program providers, and parents to facilitate transition from Early Intervention (EI) to preschool, and to increase meaningful participation and ensure consistency in decision making regarding preschool eligibility and service options.
- **Recommendation:** Encourage development of Universal Prekindergarten (UPK) for three- and four-year-olds across New York State to increase the availability of integrated settings and promote earlier connections between preschoolers with disabilities and their school districts.

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<sup>2</sup> Additional information about the issues considered by the workgroups can be found in meeting minutes and attachments available at the Task Force website: <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

- **Recommendation:** Focus the preschool decision making and service delivery processes with school districts since they have the federal and state responsibility for ensuring the provision of special education services. This will facilitate accountability and oversight of the preschool system by school districts and the transition between preschool and school age.
- **Recommendation:** Establish a new rate-setting methodology, using principles already being practiced by other service systems in New York State, to promote greater predictability and improved timeliness.

## Secondary Recommendations

- **Recommendation:** Ensure that the continuum of preschool services includes the flexibility needed to meet individual students' needs in a cost-effective manner and is applied consistently across districts and programs, including access to educationally necessary July and August services for students transitioning from Early Intervention or newly entering the preschool delivery system.
- **Recommendation:** Increase opportunities for children with disabilities to be served in any early childhood setting by promoting consistent learning standards, improving pre-service and in-service of early childhood service providers, and encouraging collaborative relationships between 4410 and other early childhood service providers.
- **Recommendation:** Enable continuity of provider services from Early Intervention to Preschool Special Education system where appropriate to children's needs.
- **Recommendation:** Reduce the high costs for transportation within the preschool system and avoid costs exceeding maximum allowable reimbursement rates.
- **Recommendation:** Improve mechanisms for tracking progress and child outcomes across Early Intervention and preschool systems in order to increase comparability between Early Intervention and preschool measures, predict future system needs, evaluate impact of early intervention and preschool services on future performance, and provide system oversight, especially with regard to timeliness of referral, eligibility determinations, and service delivery.

Within this report, each of these recommendations is accompanied by a rationale that includes a discussion of the historical context and the relevant facts that were considered by the Task Force. Many of the issues reviewed by this group have appeared before other task force/state agency groups in the past. Though efforts for reform have been implemented, substantial opportunities for improvement remain. The recommendations of this Task Force represent broad-based initiatives to enhance the quality of preschool educational services throughout the state, while increasing efficiencies in administration, fiscal management, and program delivery.

Despite the wide spectrum of stakeholders they represented, members of the Task Force achieved remarkable consensus on complex and far-reaching issues—a strong testament to their focus on the needs of children and families balanced with practical considerations. Throughout the process, members kept sight of the statutory, fiscal, and regulatory implications of their proposals—consequences that must be studied if meaningful change

is to occur. As a result, the Task Force recognizes that certain recommendations require further study and refinement in order to be implemented effectively.

It is the hope of the Task Force that the recommendations proposed herein will play a prominent role in shaping New York State's policies to improve the preschool education of children with disabilities.

## II. Task Force Members

### Co-Chairs

- Rebecca Cort  
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- Kim Fine  
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### Members

- William Combes  
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Commission on Quality Care and  
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- Susan Constantino  
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Capital District Beginnings
- Michael Grossfeld  
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All About Kids
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Director, Bureau of Early Intervention  
New York State Department of Health
- Mark Jasinski  
Director, Early Childhood Programs  
Ithaca City School District
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## Staff to the Task Force

- Rebecca Kennard  
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# III. Introduction

New York State has held a distinguished record of providing high-quality preschool special education services, the breadth and depth of which rank among the best in the nation. New York differs from other states in a variety of ways ranging from the broad parameters governing the eligibility of children as preschoolers with disabilities to the sources of payment for services. Demands on the system have grown dramatically over the past 18 years. As a result, New York's per pupil expenditure for preschool special education is rising at a rate that may begin to impact service quality and availability. Clearly, a re-examination of the system was in order, one that would identify strategies for improving the delivery of appropriate and high-quality services in a fiscally responsible manner. With this goal in mind, the enacted 2007-2008 New York State budget established a Temporary Task Force on Preschool Special Education to recommend improvements. This report presents the recommendations of the Task Force, drawn from their thoughtful review of the processes and relevant facts surrounding the issues.

## A Brief History of Preschool Special Education in New York State

New York State's history of providing services for children with disabilities predated mandates in federal law currently known as the Individuals with Disabilities Education Act (IDEA). Prior to IDEA, parents were required to petition the Family Court and the county of residence to receive services pursuant to Section 236 of the Family Court Act. At that time, the county paid for the services and the State reimbursed 50% of the costs.

In 1989, legislative changes were enacted as §4410 of the State Education Law to put New York State in compliance with Part B of the Individuals with Disabilities Education Act (IDEA). As a result, local education agencies became responsible for services to preschool students with disabilities (ages three and four). The system established at that time remains in use today. Students are referred to their local school districts through their district's Committee on Preschool Special Education (CPSE). In accordance with State statute, parents maintain the right to select an evaluator from a list of state-approved evaluators. If, based on the evaluation, the CPSE determines that a child is eligible for special education services, an Individualized Education Program (IEP) is developed that defines the appropriate mix of services for the child. Preschool students with disabilities may receive related services only (RSO), services of the Special Education Itinerant Teacher (SEIT), or be placed in a special class program for either half or full day, including integrated programs with students without disabilities when appropriate. New York State's system allows for the provision of related services and SEIT within general education preschool and/or day-care environments as well as in the child's home.

The New York State Education Department (NYSED) maintains a list of approved programs and oversees an application and approval process. Once a program is approved, the New York State Education Department promulgates a rate for that program. Preschool students who need a special class or receive Special Education Itinerant Teacher services must be served by programs approved by NYSED. Most approved preschool special education programs in New York are operated by private providers rather than public school districts or BOCES

(Board of Cooperative Educational Services). This system is a result of New York's pre-IDEA service provision mechanisms when preschool special education services were recommended through the Family Court system. Each county sets the reimbursement rate and develops a list of qualified providers whom the districts may select to provide services to students recommended to receive related services only or related service in conjunction with Special Education Itinerant Teacher (SEIT) Services. The most frequently recommended related services include speech, occupational therapy, physical therapy, and counseling.

To date, approximately 80,400 students with disabilities are served at a per pupil expenditure of \$12,004<sup>3</sup>. Counties pay the initial cost of preschool special education, including transportation for preschool students with disabilities, and receive reimbursement from the State at a rate of 59.5% on a lag basis. At the time of the 1989 law change, counties secured from the State a commitment to increase its share of costs to 75% but the State reverted to a 50% share as part of the Deficit Reduction Act of 1990. A subsequent effort to increase the State share and decrease the county share resulted in the current 59.5%-40.5% split, when the State's fiscal situation again delayed its intent to incur more of the costs.

## Charge to the Task Force

In compliance with Section 59 of the Laws of 2007 (see Appendix A), the Task Force was charged as follows:

- (1) study and evaluate the relationship between preschool special education and other early childhood programs, including but not limited to the early intervention program, the universal pre-kindergarten program and other publicly-funded pre-kindergarten programs, and make recommendations on the approaches to improve transition from the early intervention system to preschool special education, and from preschool special education to school-age special education and on ways to enhance delivery of special education programs and services to children attending universal pre-kindergarten programs or other publicly-funded pre-kindergarten programs in the least restrictive environment;
- (2) study the current tuition rate-setting methodology for preschool special education programs and services and make recommendations for improvement;
- (3) conduct a comparative study of systems of delivery of preschool special education programs and services in New York and other states, including their methods of financing preschool special education, and make recommendations for inclusion of best practices from other states which shall include states with comparable need and services that will promote the cost-effective delivery of appropriate programs and services to preschool students with disabilities in compliance with the federal individuals with disabilities act; and
- (4) report on or before November 15, 2007 to the Governor, the Temporary President of the Senate, the Speaker of the Assembly, the Minority Leaders of the Senate and Assembly, the Director of the Budget, and the Board of Regents on the Task Force's conclusions and recommendations.

## Statement of Purpose and Principles

To help guide its deliberations, the Task Force adopted the following Statement of Purpose and Principles:

New York provides a broad range of services to help prepare children for success in school. The numbers of children identified as needing services has been growing, as have the associated costs. This creates a risk to

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<sup>3</sup> Figures provided by NYS System to Track and Account for Children (STAC) are updated through an ongoing process; therefore, these figures may vary over time. Expenditures for transportation represent approximately 15% of the total costs for preschool special education.

the State's ability to sustain service levels and quality for the long term. It is the purpose of the Task Force on Preschool Special Education to recognize New York's strengths and challenges and offer recommendations to policy makers for an improved service system that advances the following principles:

- Children and their families should experience transitions that are as seamless as possible.
- Families must be partners in decision making.
- Children should be served in the most appropriate setting and, while some will require care in a specialized environment, all child care settings should be equipped to help children with disabilities succeed.
- Regulation must be reasonable and as consistent as possible across settings and oversight agencies, and rates must support quality and encourage efficiency.
- Payers and decision makers must share a goal of ensuring that students receive the appropriate services that meet the child's needs and are delivered in a cost-effective manner.
- All available resources and funding must be employed to benefit the child.
- There should be as much consistency as possible in decision making across the State.
- The State must be able to measure outcomes for the children who participate in preschool special education services, including their success in school.

## Task Force Process and Procedures

Details of the processes employed by the Task Force to arrive at the recommendations described in this report can be found in Appendix C. These processes included the establishment of three workgroups (see Appendix B), aligned with the charge to the Task Force, each of which included Task Force members, representatives from additional appropriate state agencies, and other experts who were invited to share relevant information. In summary, members went through an extensive deliberative process that started with offering broad suggestions for improving the system and that were then refined into a concise set of recommendations that met criteria for inclusion in a resulting report of manageable size and scope.

## Outreach Efforts

The Task Force implemented multiple strategies to obtain input from a diverse and broad group of stakeholders—parents and families, service providers, county representatives, and school districts. These efforts included a series of *Regional Round Table Sessions* throughout the State (see Appendix D); follow-up surveys from the regional forum events<sup>4</sup>; additional surveying efforts by Task Force members with their own constituents; and the *New York State Education Department's Survey of Other States* (see Appendix E)<sup>5</sup> with follow-up case studies in five selected states conducted by NYSED<sup>6</sup>. Results from all of these activities were shared at the regularly scheduled full Task Force meetings.

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<sup>4</sup> Results from the regional roundtable surveys can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

<sup>5</sup> The NYSED was assisted by both the National Association of State Directors of Special Education (NASDSE) and the Northeast and the Islands Regional Educational Laboratory (REL Northeast and Islands) in administering and analyzing data from both the survey and follow-up interviews with other states.

<sup>6</sup> The follow-up case studies of selected states can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

The purpose of the regional round table events was to solicit additional input from stakeholders to gain a more complete understanding of the challenges and benefits of New York’s current services for preschoolers with disabilities. Each event was hosted by one or more Task Force members who helped identify venues and mailing lists for potential participants. The Task Force was especially interested in assuring the representation of family members at the round table events. Each event began with an introduction and then small discussion groups of like stakeholders were formed. Discussion was facilitated by a member of the Task Force and each stakeholder group was asked to consider the following questions based on their experience with the preschool special education system: “What works?”; “What could work better?”; and “What should be overhauled?” To help gain additional insight, the Task Force invited people who attended the regional round table sessions to complete a survey. Overall, these efforts<sup>7</sup> resulted in input from over

- 100 families,
- 250 service providers, and
- 200 decision makers (county, school district and preschool education administrators).

The purpose of the *Survey of Other States* was to obtain financial and programmatic information regarding preschool special education in other states. Twenty-five states participated in the online data collection activity. Five states were selected from the list of respondent states for more in-depth questioning about their practices in seven key areas:

- funding and services
- 0-5 seamless transition
- 3-21 seamless transition
- standards and oversight systems
- progress tracking and professional development
- continuum of services and criteria for recommendations
- innovations in service delivery

Both the information gained from the regional forums within NYS, and the survey and follow-up efforts with other states, were useful tools for the Task Force in addressing its original charge. Using feedback from multiple stakeholders, relevant facts and information from internal and external resources, and the deliberative processes as described above, the Task Force arrived at the following set of recommendations to improve Preschool Special Education in New York State.

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<sup>7</sup> Additional information can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

## IV. Primary Recommendations

Primary recommendations were those that received highest priority by members of the Task Force. Each recommendation in this category was accorded the same degree of importance.

*Recommendation: Enhance the knowledge and skills of Committee on Preschool Special Education (CPSE) members, program providers and parents to facilitate transition from Early Intervention (EI) to preschool and to increase meaningful participation and ensure consistency in decision making regarding eligibility and preschool service options.*

### Rationale:

Early Intervention (0-2 year olds) and Preschool Special Education (3-4 year olds) are by definition diverse systems as a result of lengthy and complex federal and state laws and regulations. To ensure they function properly to meet the needs of children and families requires that many different individuals representing a broad range of constituencies (e.g., state agencies, school districts, counties, private providers, BOCES, institutions of higher education, advocacy organizations, parents, etc.) have in-depth knowledge and expertise that must be updated constantly to reflect ever-changing circumstances and requirements.

Stakeholder round table sessions conducted by the Task Force identified the need for increased availability of informational materials and training opportunities at both the state and local levels. This need reflects both the complexity of the issues and varying degrees of knowledge among staff within the Early Intervention and Preschool systems, as well as unfamiliarity with the systems as new families begin to secure services for their children. Issues cited included a lack of consistency across districts and counties in the application of eligibility criteria and program recommendations. In addition, many individuals transitioning from Early Intervention to Preschool cited the loss of a designated service coordinator, and others expressed the need for more support and advocacy. The Task Force recognized the limited nature of existing resources such as the Early Childhood Direction Centers (ECDCs) and Parent Centers. Without adequate and consistent support and information, resulting confusion and misunderstanding on the part of some families may lead to reduced involvement of families in the preschool education process.

### Strategies:

- Develop training curricula for Early Intervention and Preschool state and local administrators and providers on the use of evaluation tools; eligibility determinations; appropriate service levels; treatment modalities; state and federal requirements; and preschool learning standards.
  - Require initial training for newly appointed Committee on Preschool Special Education chairpersons.

- Require evaluators, Committee on Preschool Special Education teams, and providers to complete mandatory training to increase continuity and consistency in eligibility decisions and in recommendations for services.
- Develop a plan for dissemination and staff development across public and private general education and special education pre-K providers, when the pre-K standards currently being developed by NYSED are completed.<sup>8</sup>
- Update and widely disseminate the NYSED “Parent Handbook” as well as information on other resources such as the Early Childhood Direction Centers to support families’ understanding of their children’s needs and increase their involvement in the decision making and service delivery process<sup>9</sup>.
- Update the NYSED booklet “Determining Eligibility” to ensure clear and concise guidelines for interpretation of evaluation results and eligibility standards, including standards for discontinuing services, based on statute and NYSED regulations.
- Identify and strengthen existing resources in the preschool system to fulfill the functions currently assumed by Early Intervention service coordinators, e.g., Early Childhood Direction Centers, Committee on Preschool Special Education chairs, providers, Office of Mental Retardation and Developmental Disabilities (OMRDD), Medicaid service coordinators, and parent centers.
- Strengthen the Early Childhood Direction Centers network to better support parents by training staff and ensuring the availability of regulatory and statutory information.

## Implementation Issues:

- Substantial staff and technology resources are required for ongoing updating of guidance documents and for development and delivery of professional development to parents and professionals. Realistic timeframes must be set for completion of curricula development and delivery of training.
- Any mandated training must be available on an ongoing basis given the rate of turnover of Committee on Preschool Special Education and other staff to prevent delays in appointment of Committee on Preschool Special Education members and to ensure sufficient availability of qualified staff. Web-based technologies should be acquired and used to facilitate continuous availability of current information.

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<sup>8</sup> Pre-K standards are expected to be completed in December 2007.

<sup>9</sup> Revisions to the NYSED “Parent Handbook” will be completed by September 2008.

*Recommendation: Encourage development of Universal Prekindergarten (UPK) for three and four-year-olds across New York State to increase the availability of integrated settings and promote earlier connections between preschoolers with disabilities and their school districts.*

## Rationale:

In 2001-02, NYSED initiated a longitudinal study of preschool children with disabilities that followed a stratified sample of three- and four-year-olds in 27 school districts across the State through 3rd grade. The study demonstrated that, by grade 3, developmental progress of children receiving preschool special education services exceeded that of the comparison group who did not receive special education as preschoolers. Further, it found that more highly integrated preschool special education programs and services were associated with higher levels of development.

The findings of the study informed the Task Force's recommendations that are intended to increase the availability of integrated settings for three- and four-year-olds with disabilities. This recommendation recognizes that the State's current commitment to expand Universal Prekindergarten (UPK) presents a funding and programmatic vehicle to increase integration opportunities for preschool children with disabilities.

Currently, the primary purpose of the UPK Program is to provide four-year-old children in New York State with an opportunity to access high-quality prekindergarten programs that prepare them for future school success by developing strong foundational skills in early literacy and numeracy. The program awards grants to school districts and includes a requirement that a minimum of 10% of UPK funds must be used in collaboration with eligible agencies. However, many school districts use a far greater percentage of their funding for collaborations. In fact, over 50% of UPK funds are used in collaboration with community-based programs statewide. This provision provides an inducement to school districts to form partnerships with Head Start, child care, and 4410 programs to provide UPK in the most appropriate setting for meeting the needs of children with disabilities and their families. It has also led to some partnerships being formed between 4410 providers and other programs providing UPK.

Changes enacted as part of the expansion of UPK in 2007 eliminated the targeted pre-K program that had served three-year-olds, and shifted the UPK emphasis to enrolling four-year-olds. Accordingly, this recommendation includes a strategy to allow districts that operate or contract for UPK collaborations for special classes in an integrated setting to use UPK funds to support full-day programming and three-year-olds in the UPK portion of these integrated special classes.

Another strategy to advance this recommendation calls for an amendment to the current law requiring school districts to establish a process to select eligible children to receive UPK services on a random basis when there are more eligible children than can be served in a given school year. Revising the random selection requirement would enable districts to ensure that UPK programs include preschool children with disabilities.

The UPK program creates opportunities for preschoolers with disabilities to become associated with their school district at an earlier age. This will allow them to develop relationships with both peers and professionals who will continue to assist them throughout their education. Earlier relationships with peers and professionals within the school district also will facilitate successful transitions to school-age programs.

## Strategies:

- Allow districts which operate or contract with community providers to run integrated special class 4410 programs to use UPK funds to support full-day programs and three-year-olds in the UPK portion of these integrated special classes.
- Allow districts that are approved 4410 providers and previously operated targeted Pre-K Programs the ability to accept and fund three-year-olds in their UPK classes, to reduce the number of transitions for children and families.
- Promote the use of UPK funds by school districts to form partnerships with child care, Head Start, and 4410 programs to serve children with disabilities in the least restrictive environment and the setting that is most able to meet the needs of children and their families.
- Amend Section 3602-e of Education Law requiring that school districts must establish a process to select eligible children to receive UPK services on a random basis when there are more eligible children than can be served in a given school year to permit targeted enrollment of preschool students with disabilities when recommended by the Committee on Preschool Special Education.

## Implementation Issues:

- There will be operational cost increases for UPK programs that integrate disabled and nondisabled students.
- Current UPK funding is designed to increase the enrollment of 4-year-old students, and until that goal is satisfactorily met, there might be resistance to including 3-year-old students.
- Thresholds for involvement of 4-year-old students would need to be determined before a district would be eligible to enroll 3-year-old students.
- If UPK incentives for integrated classes are approved, the maximum enrollment of students with disabilities would need to be determined to ensure an appropriate proportion of non-disabled students.
- Eligibility criteria for UPK/integrated class programs need to be developed and applied by Committees on Preschool Special Education to prevent misuse of this option for students eligible for less intensive services.

*Recommendation: Focus the preschool decision making and service delivery processes with school districts since they have the federal and state responsibility for ensuring the provision of special education services. This will facilitate accountability and oversight of the preschool system by school districts and the transition between preschool and school age.*

## Rationale:

New York State's system of preschool special education was established before a structure for the provision of services was mandated by the federal government in response to the Individuals with Disabilities Education Act (IDEA). Prior to IDEA, parents were required to petition the Family Court and the county of residence to receive services pursuant to Section 236 of the Family Court Act which directed that services for preschool children with disabilities "shall be a charge upon the county or the city of New York" where the child resides. At that time, the county paid for the services and the State reimbursed 50% of the costs.

In 1989, legislation passed shifting the process away from Family Court as a result of the federal Department of Education's Office of Special Education Programs determining that NYS was out of compliance with the Individuals with Disabilities Education Act (IDEA). In order to be in compliance the school districts are required to be the determiners of eligibility and are responsible for ensuring the provision of required services, as is required for school age students with disabilities.

By giving school districts responsibility for decision making, but maintaining county involvement through representation on the Committee on Preschool Special Education, the legislation provided for the State to pick up a larger share of the costs of preschool special education. Due to State budget concerns, the plan to increase the State share to 75% was eliminated as part of the 1990 Deficit Reduction Act and county/State fiscal responsibility remained 50/50. The counties continued to request a decrease in their fiscal obligation for the program, and in 1994-1995 the State committed to a phased-in contribution of 69.5% over a two-year budget cycle. The 1995-96 Enacted Budget provided for a 59.5% State share of the costs, which remains the State's share today. Counties pay for services in the first instance and receive reimbursement from the State for all but their 40.5% share. According to the Task Force survey, New York is one of only three states with a county contribution.

Costs of the program, borne by the county and the State have more than doubled since 1994. While the State has responsibility for setting rates for programs, and the county determines rates for related services, neither has corresponding responsibility for decision making about services.

Eligibility for preschool special education services and the needs of a child are determined after an evaluation performed by an evaluation team selected by the child's family from a list of approved evaluation sites designated by the NYSED. Decisions about the contents of each child's Individualized Education Program (IEP), to address his or her identified needs, are made by a team including parents, professionals and representatives of both the school district and the county in which the child resides. This Committee on Preschool Special Education (CPSE) team is chaired by the representative of the school district. Once services have been initiated for a child, the county pays providers, in the first instance, and then files for reimbursement by the State.

The Task Force concluded that the system would benefit from better alignment between funding and decision making. It supported capping county expenses and phasing out county administrative involvement but agreed further study was necessary to identify the best alternative.

Should school districts' responsibilities increase as a result of this recommendation, the preschool system would be more akin to the school-age special education system. The Task Force saw potential benefits of greater involvement between the preschool student with a disability and the school district at this earlier age. Accordingly, one of the strategies associated with this recommendation would increase school district involvement in working with families to select an evaluator. This recommendation also has relevance with regard to another Task Force recommendation to create opportunities for children with disabilities to be served in UPK settings operated or contracted for by the school districts; funding for UPK is provided by the State to school districts.

At the same time, it is recognized that a rapid or complete shift in current county costs to school districts is not viable and could not be absorbed into school district budgets. This issue is particularly acute in dependent school districts whose budgets rely on funding from the city in which they are located.

Strategies associated with this recommendation call for leveraging all available resources. That means employing the expertise of the network of 4410 providers that has developed with significant public investment. It also means accessing health insurance, as appropriate and consistent with FAPE<sup>10</sup>, when preschool special education services provided to help children with disabilities succeed in education are also essential to their health and well being.

## Strategies:

- Revise the state aid formula so that county costs are capped and future additional costs are the responsibility of the State and/or school district and, when the county contribution is limited, transition the administrative functions now carried out by the counties and their associated costs to an appropriate party, including phasing out the counties' intermediary roles as contractor and payer in the preschool rate-setting process as well as the counties' membership on the Committee for Preschool Special Education by 2013. In determining the appropriate party to assume administrative functions, consideration must be given to cost effectiveness and excess administrative burden on providers should be avoided.
- Increase school district responsibility for conducting or contracting for Committee on Preschool Special Education evaluations using evaluators with expertise with young children and helping parents in the selection process, while maintaining parental rights to secure an independent evaluation.
- Continue to access expertise of private 4410 providers through contracts with districts.
- Manage public State and local costs for preschool services by maximizing other sources of payment and leveraging resources of other systems.

## Implementation Issues:

- This restructuring of funding and responsibilities would require legislative action. Additionally, statutory and regulatory changes would be needed to revise Committee on Preschool Special Education membership.

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<sup>10</sup> Free and Appropriate Public Education (FAPE) is required pursuant to IDEA.

- There are several fiscal issues to implementing this recommendation, some of which already affect counties: A revised state aid formula will be necessary, and if inadequate, might result in increased local taxes creating a backlash against special education. A new rate-setting methodology would have to support higher costs for publicly provided services. Once district budgets are approved by voters, it might be a hardship for districts to assume unexpected costs that might occur mid-year and then wait for reimbursement. Also, delays in payment to 4410 providers might require school districts to pay upfront for costs that exceed their approved budgets. Depending on future administrative structure, costs may actually be greater with the shift in the locus of responsibility.
- Some large city school districts are dependent on their city government for tax levy funds. These school districts have no ability to increase tax levy funds from year-to-year to raise funds to support the cost of preschool services.
- The federal government has proposed changes that restrict states' use of Medicaid funding for special education. Federal statute may need to be revised to preserve the current level of federal financial participation.
- Sufficient lead time must be provided to districts to allow for advance planning and budget development.
- All parties (state, counties, districts, and providers) must be involved in the five-year transition planning process.

*Recommendation: Establish a new rate-setting methodology, using principles already being practiced by other service systems in New York State to promote greater predictability and improved timeliness. A new methodology would include:*

- *Creating allowable cost parameters in clearly defined areas such as direct classroom expenses, support services, clinical services, non-personnel expenses, administration, and property.*
- *Allowing greater flexibility by replacing the current non-direct care cost limit with separate administrative and property-related parameters.*
- *Promoting recruitment and retention of educational staff by recognizing regional salary differences.*
- *Developing a mechanism to accommodate fluctuations in enrollment while maintaining required efficiencies.*
- *Eliminating the reconciliation rate process, which would become unnecessary under the revised methodology, to reduce redundancy, promote timeliness, and improve planning.*
- *Reducing the volume and improving the timeliness of waiver requests through the creation of a streamlining process which would include the application of surpluses in other NYSED preschool special education programs.*
- *Modifying the Special Education Itinerant Teacher (SEIT) system to create efficiencies, and establishing incentives for group as well as bilingual SEIT services.*
- *Ensuring the availability of 1:1 aides and 1:1 nurses by adjusting rates to reflect the appropriate cost of providing these services.*

## Rationale:

The current rate-setting methodology for Preschool Special Education programs evolved from a process used in the 1980's to develop tuition rates for school-age children. Although refinements have been made, the core methodology uses historical costs and enrollment data from a base year to establish a rate two years subsequent. (For example, reimbursement for the 2007-08 year is based on data from 2005-06.) Each year, NYSED recommends and Division of the Budget (DOB) approves modifications to the rate-setting methodology which may include growth factors or other adjustments to base year rates. Base year costs are also subject to a reconciliation process to reflect actual expenses and enrollment. Thus, a revised reconciliation rate is often also generated.

The mechanism available to address requests for reimbursement beyond the typical rate methodology is a waiver process. Such waiver requests are individually reviewed and approved by NYSED and DOB.

The current methodology also employs cost screens to limit overall year-to-year rate growth as well as the distribution of expenses between non-direct costs (administration and property) and direct services to students. For example, a non-direct care cost screen limits administrative and property-related expenses to 30% of total costs. This is intended to ensure that at least 70% of reimbursable expenses are directed at student services.

In reviewing the current methodology, the Task Force identified timeliness and adequacy of rates for certain services and geographic cost differentials as key concerns. Building on principles used by other State agencies such as the Office of Children and Family Services (OCFS) and the Office of Mental Retardation and Developmental Disabilities (OMRDD), these recommendations support streamlining procedures by reducing review and approval points and developing clear cost parameters in specific service categories. The implementation of streamlining and cost parameters also assume continued cost effectiveness to promote high quality programs.

These recommendations retain essential cost efficiency principles in the current methodology but make important changes to allow provider agencies greater flexibility to operate their programs, deploy staff efficiently to meet students' needs, and reduce the frequency for time-consuming rate appeals. This includes investing in salary enhancements to promote recruitment and retention of teachers and other vital personnel up to the DOB approved parameter levels.

Recognizing regional differences for salaries, non-personnel expenses, and property-related costs are important to sustain a fair and equitable service system. These recommendations support the development of cost parameters that appropriately reflect geographic differences due to market conditions and other factors.

The application of a separate property parameter (similar to one used by OMRDD) would allow such costs to be approved based on fair market or other indicators. This methodology would provide relief to agencies operating in higher cost real estate regions, whose necessary and appropriate property costs may be unrealistically limited under the current system.

Elimination of the rate reconciliation process can be achieved once the revised methodology is in place. The objective would be to eliminate an entire cycle of re-billing and to streamline the process by allowing payers and providers to know that rate reimbursement will remain as approved unless rate enhancements due to health and safety or compliance issues are required. Further, providers operating efficiently may be able to retain generated surpluses, which would be applied to waiver requests. Others managing inefficiently with expenses above cost parameters would not receive additional reimbursement. Better planning is anticipated from greater predictability of rate reimbursement and upfront knowledge of cost parameters.

For the Special Education Itinerant Teacher (SEIT) program, the enrollment basis of reimbursement will be maintained but billing rules will be revised to assure cost effectiveness of the program. Providers will be encouraged to continue offering these services because greater uniformity of rates within geographic regions will be recognized.

## Strategies:

These recommendations identify key components of a new rate-setting methodology. However, specific details will require careful analysis of appropriate data and development of specific formulas and calculations.

- As the details of the revised rate methodology are developed, NYSED and DOB should establish an advisory group including key stakeholders such as provider organizations, counties, and school districts and actively consult with the group to gauge implications of reforms. The group would consider the eight core components of the methodology described in the recommendation as well as the issues noted below.

- Cost parameters may be developed to represent maximum reimbursement levels in different service categories. These levels may reflect market indicators, programmatically approved levels by NYSED, student IEP requirements, or other factors. Flexibility and interchange between direct service parameters may be considered. A separate administrative cost parameter may be developed based on the size or number of programs. DOB would maintain approval authority over the enactment and annual reapproval of methodology components as required by Education Law.
- Enrollment-related aspects of the methodology may be based on a percentage of approved capacity. Vacancy factor calculations should recognize reasonable and necessary fluctuations in enrollment for the types and sizes of programs.
- Although the reconciliation rate process is recommended for elimination, it is important to note that actual expense and revenue data must continue to be submitted timely by service providers and must be reviewed expeditiously by state agencies. This is an essential element of accountability and financial audits, and is also a key factor in decision making regarding waiver requests.
- A key aspect of streamlining is the approval process for waiver requests. With DOB-approved cost parameters and program criteria as guiding benchmarks, it is possible that many requests may be reviewed and approved by NYSED in the first instance, with post-audit and certification by DOB. This would promote timeliness and not detract from accountability.
- Although Special Education Itinerant Teacher (SEIT) rates will continue to be paid on an enrollment basis, billing rules will be revised to incorporate clear direction regarding reimbursement for student and staff absences and make-up sessions. This will help ensure that reimbursement is tied more closely to services actually delivered. Additionally, the SEIT rate methodology will be amended to include group SEIT rates to encourage the provision of such services in groups. Finally, the regionalization of SEIT rates should be considered where there are documented geographic differences in cost.

## Implementation Issues:

- While these recommendations are a clear improvement on the current rate-setting methodology, the impact on individual programs remains uncertain – there will be programs whose reimbursement will be enhanced while others will not. Although the recommendations promote less complexity, more timeliness, and greater predictability, the lack of assured upfront funding especially regarding teachers' salaries may be viewed as a key shortcoming. Many programs, especially those run by smaller providers, may feel they do not have the internal capital to invest in recruitment and retention efforts such as salary enhancements.
- The adoption of a new methodology will require regulatory change, and a re-write of NYSED's computer program. Accordingly, it may be time-consuming with much state agency and stakeholder attention to the formulas and calculation details. Provider training and familiarity with new reimbursement rules will be essential. Transitioning reimbursement from the current system to a new one with minimal disruption to ongoing programs must be the cornerstone of any implementation plan.
- As with any new initiative, the development of cost indicators must remain current. Implementation timeframes may sometimes be lengthy, but they should not outgrow the applicability of cost parameters. The parameters must also be updated routinely as they are in the other state systems to maintain relevance and integrity.
- Depending on the details of the revised rate-setting methodology, the cost of services may increase.

## V. Secondary Recommendations

Secondary recommendations received strong support and were also considered to be important but of a lesser priority than those in the previous category. Each recommendation in this group was accorded the same degree of importance.

*Recommendation: Ensure that the continuum of preschool services includes the flexibility needed to meet individual students' needs in a cost-effective manner and is applied consistently across districts and programs, including access to educationally necessary July and August services for students transitioning from Early Intervention or newly entering the preschool delivery system.*

### Rationale:

The continuum of services for preschool students with disabilities has been in place for many years while the population of preschool students with disabilities has grown dramatically in a changing context relative to the availability of general education preschool programs. In addition, the characteristics and needs of identified preschool students with disabilities are different, especially with the substantial increase in students falling within the autism spectrum. The growing population of students has resulted in a substantial growth in costs and in the need to examine those aspects of the allowable continuum that may prevent the flexibility needed to match program recommendations to student needs in the most cost-effective manner.

The growing demand for services has also resulted in insufficient availability of services in certain areas, including rural communities, and the possible need for new service models. One issue is the mandate of minimum levels of service in some areas (e.g., Special Education Itinerant Services (SEIT) and speech as a related service). In these cases, the Committee on Preschool Special Education may be required to recommend two sessions of service per week even if they believe that less service would be appropriate. Another identified concern is the lack of an option for recommending only indirect related services (i.e., services provided to the student's general education teacher to facilitate more appropriate instruction to students with disabilities during the entire school day as compared to services provided directly to the preschool student for only a few periods per week). Indirect or less intensive services could also increase the caseload capacity of the related service or Special Education Itinerant Teacher provider in underserved areas by allowing the service to be delivered less frequently and/or outside of the school day.

In addition, Special Education Itinerant Teacher services are being used in some instances to provide extensive levels (sometime over 40 hours per week) of one-to-one instruction to students with severe autism. This level and type of service was never anticipated when Special Education Itinerant Teacher services were initiated and its use in this way may reflect the lack of appropriate alternatives available to students with very intensive needs. New program models may be needed to address this growing population of students within the severe end of the autism spectrum.

Finally, many stakeholders reported concerns with the requirements for preschool students with disabilities to be eligible to receive services during July and August. Unless these students exhibit very severe disabilities requiring very intensive services, there must be some evidence that 12-month services are needed to prevent substantial regression. In most instances, meeting this standard would require that there was some evidence of substantial regression in the past when services were not provided on a continuous basis. However, many preschool students with disabilities are receiving services for the first time and thus cannot demonstrate previous regression. Given the importance of intervention during early developmental periods, the requirements for 12-month services for preschool students with disabilities may need to be revised to ensure continuity of service provision for students who are likely to regress significantly if services are terminated during July and August.

## Strategies:

- Evaluate the current provision of Special Education Itinerant Teacher services, including a review of any available research, to determine whether the program has met its original intent, if modifications are required, and the role of service coordination with other programs is working. Develop guidelines related to the appropriate and inappropriate use of Special Education Itinerant Teacher services, including consideration of
  - Permitting greater flexibility in the allocation of Special Education Itinerant Teacher units (such as annually, quarterly, or monthly rather than weekly).
  - Setting a maximum limit on daily hours of Special Education Itinerant Teacher services.
- Revise regulations to eliminate minimum levels of related services and allow indirect related services in conjunction with direct related services and as stand-alone services if the student receives special class services or general education classroom instruction.
- Review the expanding needs of preschool students with autism, especially those requiring intensive behavioral interventions, and develop program models that will provide the appropriate amount and intensity of service in a cost-effective manner.
- Explore options for expanding service models in rural areas, including possible use of distance learning for indirect service provision.
- Revise eligibility criteria for 12-month services to include an alternative to the currently mandated regression standard for students entering or remaining in the preschool system where baseline information is not available.

## Implementation Issues:

- Guidelines must be developed to ensure the appropriate use of group and indirect services.
- Evidence-based research should be investigated to develop new program models and then capacity must be developed to serve the growing numbers of preschool students with autism.
- Additional program capacity will be needed for July and August services and some costs will increase with an expanded eligibility standard for 12-month services.
- Revisions to program models and the continuum of service will require approval of statutory and/or regulatory amendments.

*Recommendation: Increase opportunities for children with disabilities to be served in any early childhood setting by promoting consistent learning standards, improving pre-service and in-service of early childhood service providers, and encouraging collaborative relationships between 4410 and other early childhood services providers.*

## Rationale:

This recommendation addresses a number of current needs. Promoting greater alignment of learning standards, enhancing training of providers, and collaboration between them will give children with disabilities opportunities to be served in a wider array of early childhood settings<sup>11</sup>. By doing so, preschool children with disabilities will be better prepared for full integration into general education settings. Furthermore, children with the most severe developmental disabilities will have access to curriculum reflecting high expectations. This will maximize the possibilities for future integration with non-disabled peers.

An equally important outcome will be the increased capacity of early childhood centers to serve students with special needs throughout the day, not just when IEP-directed services are being provided. By improving training and professional development for individual service providers, they will find their areas of expertise better integrated and will perform better in team settings because they will have fuller knowledge and respect of each others' strengths. This in turn has the potential to greatly improve interdisciplinary cooperation which ultimately benefits the child.

## Strategies:

The strategies for this recommendation fall into three categories: (1) Learning Standards; (2) Pre-service and In-service Training; and (3) Collaboration.

### *Learning Standards*

- Ensure that general education pre-K learning standards, when adopted by the Board of Regents<sup>12</sup>, are disseminated to and implemented in all preschool special education instructional programs (including the provision of Special Education Itinerant Teacher services) and are shared with general education collaborating programs, including those not required to implement the standards.
- Develop alternative learning standards that are aligned with the general education preschool learning standards for programs serving students with severe developmental disabilities.

### *Pre-service and In-Service Training*

- Incorporate evidence-based research and early learning standards into undergraduate and graduate early childhood education programs so that there is a focus on (1) effective instructional strategies for preschoolers with disabilities; and (2) working successfully with interdisciplinary teams. Expand opportunities for a portion of the 175 continuing education hours for certified teachers to include credit-bearing and continuing education online courses for all early childhood educators on best practices and instructional strategies for working with children with disabilities in integrated settings.

<sup>11</sup> Other early childhood settings include but are not limited to Head Start, UPK, and nursery schools.

<sup>12</sup> Pre-K learning standards are expected to be completed in December 2007.

### *Collaboration*

- Provide special education teachers and related therapists with ongoing education focused on the provision of services in least restrictive environments, including best practices for working with classroom teachers.
- Improve coordination of policies and regulations implemented by DOH, NYSED, OCFS and the Council on Children and Families.

### **Implementation Issues:**

- Resources will be needed to develop alternative learning standards.
- Regulatory or statutory revisions may be needed if learning standards are to be mandated for specific programs.
- Additional resources might be needed if staff across many preschool educational systems are to be trained on learning standards.
- New initial education requirements would require a revision of curriculum and degree requirements at some colleges and universities; this needs to be balanced with increasing requirements for liberal arts education.

*Recommendation: Enable continuity of provider services from Early Intervention to the Preschool Special Education System where appropriate to children's needs.*

## Rationale:

Currently, due to differences between the approved provider populations in the two systems, some children have to change providers when they transition from Early Intervention (EI) to Preschool Special Education. Unfortunately, this may create an added barrier to families' smooth transitions to Preschool Special Education. Children served by an occupational therapist, speech therapist, or special education teacher, then need to develop relationships with new therapists and teachers in Preschool Special Education.

There are several reasons that providers choose not to participate in both systems. For example, the service settings are different. In Early Intervention, most services are provided in children's homes or community-based settings. In Preschool, most services are provided in a classroom setting. The reimbursement methodologies are different; Early Intervention uses a fee for service reimbursement, and Preschool is tuition-based. For related services, there may be a difference in the reimbursement rates which are set by the State for Early Intervention and those set by counties for Preschool Special Education. Generally speaking, reimbursement rates for related services are higher in Early Intervention which may serve as a financial disincentive to some providers to continue with children they serve in Early Intervention who are transitioning to Preschool. Some providers merely prefer serving infants and toddlers in Early Intervention rather than the three and four-year-olds served in Preschool Special Education or vice versa. Finally, there also are some differences in the requirements for the approval and monitoring of providers in the two systems.

Aligning provider approval policies, where possible, and reimbursement rates for similar services between the two systems may lessen the likelihood that providers will only want to work in one system or the other. This recommendation has the potential to enhance provider capacity in both systems and, more importantly for children and families, to increase continuity of providers among children transitioning to Preschool Special Education.

## Strategies:

- The consistency of reimbursement rates for similar services should be improved between the two programs.
- Where possible the approval processes for providers should be coordinated between the two programs.
- Finally, the initial Early Intervention team responsible for writing the Individualized Family Services Plan (IFSP) should be encouraged to consider providers who offer both Early Intervention and preschool services in order to meet the long-term needs of the child, particularly for children entering the system after their 2<sup>nd</sup> birthday.

## Implementation Issues:

- Improving consistency of approval and reimbursement will require changes in regulation.
- Aligning reimbursement rates may increase the cost of some services.

- Some changes can be made administratively by state agencies through policies and practice.
- Committees on Preschool Special Education must consider the developmental differences between children ages 0-2 and ages 3-4. In some cases it would not be appropriate to maintain continuity of provider.

*Recommendation: Reduce the high costs for transportation within the preschool system and avoid costs exceeding maximum allowable reimbursement rates.*

## Rationale:

The costs for transporting preschool students to and from recommended services exceeded \$140 million during the 2005-2006 school year<sup>13</sup>. This represents approximately 15 - 20% of the total preschool special education costs in New York State. In addition, many counties exceed the maximum allowable rate in their county for per pupil transportation costs resulting in a significant reduction in eligibility for state aid and an increased fiscal burden on the county.

Input from stakeholders revealed that many parents are not asked whether they are able to transport their children or are not offered reimbursement for expenses that they might incur although these costs could be significantly less than the current costs for publicly arranged transportation. In addition, many young children with disabilities travel long distances on bus routes and travel time could be reduced if the parent provided direct transportation.

## Strategies:

- Maximize the use of parents' capacity to transport their children including providing support for parents when it is cost-effective and the parents are able to do so.
- Fund a study of transportation delivery systems across counties/districts to determine whether there are possible efficiencies, including collaborations among counties and districts.
- Fund a study of transportation funding formulas, especially the impact of regional and demographic factors, to identify a mechanism for fair reimbursement rates including the possible use of transportation aid similar to that provided for school-age students.
- Conduct an audit of the appropriateness of current transportation costs and expenditures.

## Implementation Issues:

- Funding for the study is needed and identification of the appropriate agency to conduct the study is required. The Department of Transportation has an interagency work group on providing transportation for people needing education and human services which might provide assistance in developing strategies to reduce transportation costs for preschool special education.
- Guidelines need to be developed that would describe the types of incentives that could be provided to parents and criteria for recommendation, possibly based on regional considerations, to ensure cost-effectiveness.

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<sup>13</sup> An analysis of transportation costs can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

*Recommendation: Improve mechanisms for tracking progress and child outcomes across Early Intervention and preschool systems in order to increase comparability between Early Intervention and preschool measures, predict future system needs, evaluate impact of early intervention and preschool services on future performance, and provide system oversight, especially with regard to timeliness of referral, eligibility determinations, and service delivery.*

## Rationale:

At present, there is disparity between the tools and criteria used to measure progress and outcomes, both within Early Intervention and preschool, as well as across both systems. Moving to a more uniform set of assessment measures would greatly enhance the reliability and validity of collected data.

Making information electronically available should expedite the referral process. Districts would be able to better predict and plan for preschool caseloads. Another outcome is that it would facilitate the reporting of federally required outcome data. It would also give the State and school districts a tool to systematically collect data related to compliance issues and programs. Finally, rates of progress could be compared across Early Intervention and preschool, and long-term data could be evaluated for trends relative to different levels of service provision.

Both NYSED and the Department of Health (DOH) acknowledge the importance of a data tracking system. There are ongoing discussions between and within both agencies relative to this issue.

## Strategies:

- To the extent allowed by law, link data systems between Early Intervention and preschool, including extending NYSED's unique identification tracking system to include children in Early Intervention.
- Examine the current effectiveness of using the child outcomes summary form to measure the federally-required child and family outcome indicators for children receiving early intervention services and preschool special education services.
- Explore other potential assessment instruments used by other states to measure student outcomes, including possible web-based systems.
- Determine whether there are additional child and family outcomes important to measure in NYS to determine the impact of Early Intervention and preschool special education.
- Encourage Committee on Preschool Special Education members' use of outcome data and assessment results to help evaluate program quality and to impact IEP recommendations.

## Implementation Issues:

- Resources will be needed to conduct the recommended assessment instrument review process.
- Software systems at state and local levels must be aligned.
- Resources will be needed to install and train staff on data collection and assessment systems.



## VI. Conclusions

New York State has been at the national forefront in providing an array of rich and diverse preschool special education services. The system predates the Individuals with Disabilities Act (IDEA) and has since been responsive to the numerous changes required by federal and state policy.

In the past 18 years, the demand for preschool special education services and the associated costs have been growing at a rate that creates a risk for the continued ability to provide the variety and quality services preschoolers with disabilities deserve. Increased and changing needs require a renewed effort to ensure that the system is meeting its intended goal: to help children with disabilities get a successful start at education. The 2007-08 Enacted Budget directed a fresh look at the system, one that would identify strategies for improving the delivery of appropriate and high-quality services. The members of the Task Force on Preschool Special Education identified a broad range of potential improvements to the system.

The recommendations of the Task Force, arrived at after thoughtful deliberation, represent promising ideas to improve administration, management, and program delivery, while enhancing the quality of preschool educational services throughout the state. The suggested changes and strategies will positively impact the professional development of caregivers, consistency and continuity in educational program delivery from early intervention through the school-age years, the availability of educational opportunities for young children with disabilities to be integrated with nondisabled peers, and program accountability.

Despite the wide spectrum of stakeholders they represented, members of the Task Force achieved remarkable consensus on complex and far-reaching issues—a strong testament to their focus on the needs of children and families balanced with practical and resource considerations. At all times, the members' goal was to improve the services available to preschoolers with disabilities, while acknowledging that their recommendations should be fiscally responsible.

The Task Force recognized that the statutory, fiscal, and regulatory implications of their recommendations will need further evaluation. Numerous issues remain to be studied from the multiple perspectives of policy makers.

It is the hope of the Task Force that the recommendations proposed herein will play a prominent role in shaping New York State's policies to improve the preschool education of children with disabilities.



# Glossary of Terms

**4410 provider** An approved preschool special education program. Refers to Section 4410 of the NYS Education Law.

**Administrative cost parameter** A component of a rate-setting methodology that limits the level of administrative-related expenditures, such as management and supervision, audit and legal expenses, etc., in the calculation of a reimbursement rate. (See also **Allowable cost parameter**.)

**Allowable cost parameter** A component of a rate-setting methodology that serves as a control measure to limit the level of a particular expenditure type in the calculation of a reimbursement rate.

**BOCES** Board of Cooperative Educational Services. Intermediary educational units at the level of counties in New York State. BOCES serve school districts by providing them with services such as career and technical education, special education, distance learning, G.E.D., and adult learning.

**CBO** Community-based Organization. Organization designed to serve the needs of a particular community.

**CPSE** Committee on Preschool Special Education. A multi-disciplinary team which includes the parent(s), school district personnel, other service providers. Convened by the school district, the CPSE meets to determine the appropriate services for a 3- or 4-year old with disabilities. CPSE administrative staff are school district employees. See also **CSE**.

**CSE** Committee on Special Education. Convened by the school district, the CSE is a multi-disciplinary team which includes the parent(s), school district personnel and other service providers. The CSE meets to determine the appropriate services for a school-age child (age 5-21) with disabilities. (Some school districts also have Subcommittees on Special Education (sometimes called the SubCSE). In New York City the Subcommittee is sometimes called the School Based Support Team.)<sup>14</sup>

**ECDC** Early Childhood Direction Center. The network of Early Childhood Direction Centers (ECDCs), administered by the New York State Education Department, is a resource for professionals and parents of children with disabilities, birth through five years of age. ECDCs provide information about programs and services available in the community and referral assistance in accessing these services.<sup>15</sup>

**EI** Early Intervention. Administered by the NYS Department of Health, these are special education programs designed to serve infants and toddlers with disabilities between birth and two years of age.

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<sup>14</sup> NYS Regents, Special Education in New York State for Children Ages 3-21: A Parent's Guide, May 2002.

<sup>15</sup> Ibid.

**IDEA** Individuals with Disabilities Education Act. Originally enacted by Congress in 1975 to make sure that children with disabilities had the opportunity to receive a free appropriate public education. The most recent amendments were passed by Congress in December 2004, with final regulations published in August 2006. Parts B and C of IDEA govern Pre-K and EI, respectively.

**IEP** Individualized Education Program. Mandated by IDEA, it is a written document which describes the current levels of performance and education plan for a student with disabilities. Updated at least annually it details desired outcomes for the student, the service provider(s) and the frequency, duration, and location of the recommended services.

**IFSP** Individualized Family Services Plan. Mandated by IDEA, an IFSP is a written plan for a family whose child receives Early Intervention services. It details desired outcomes for family and child, the service provider(s) and the frequency, duration, and location of the recommended services.

**LRE** Least Restrictive Environment. LRE means that placement of students with disabilities in special classes, separate schools or other removal from the regular educational environment occurs only when the nature or severity of the disability is such that, even with the use of supplementary aids and services, education cannot be satisfactorily achieved.<sup>16</sup>

**Non-direct care cost parameter** The limit on the reimbursable non-direct care costs before application of revenues and the total cost screen. (See also **Allowable cost parameter**.)

**Property parameter** A component of a rate-setting methodology that limits the level of property-related expenditures such as rent, building depreciation and mortgage interest in the calculation of a reimbursement rate. (See also **Allowable cost parameter**.)

**Reconciliation rate** A tuition rate that has been calculated using actual program and financial data with applicable reimbursement methodology applied.

**Regression standard** The standard applied by the Committee on Special Education (CSE) to determine whether a student requires extended school year services (services during July and August) in order to prevent substantial regression, i.e., substantial loss of skill(s) or knowledge. Substantial regression has occurred when the period of review required to recoup the prior skill or knowledge level is beyond the typical period of 20 to 40 school days (eight weeks or more).

**Related Services** Related services means developmental, corrective, and other supportive services, as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students.

**SEIT** Special Education Itinerant Teacher. A certified special education teacher who provides services at an approved pre-kindergarten or head start program; the student's home; a hospital; a State facility; or child care

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<sup>16</sup> Ibid.

location. May provide direct services to an individual student or group of students, or indirect services to a child's teacher to assist with meeting the child's needs.

**STAC** System to Track and Account for Children. [The NYS] data system which contains student-specific information about students with disabilities.

**Total cost screen** A control measure within the reimbursement methodology that controls fluctuations in tuition rates from year to year. The two components of the total cost screen are the hold harmless component and the rate growth component.

**UPK** Universal Prekindergarten. An elementary school program for four-year-olds.



# Appendices

- A. Full Text of Legislation
- B. Work Group Membership
- C. Task Force Process and Procedures
- D. Regional Round Table Sessions Schedule and Summary of Notes
- E. A Summary of New York State Education Department's Survey of Other States
- F. References



Appendix A  
Full Text of Legislation

**Chapter 57 of the Laws of 2007 (S. 2107--C/A. 4307—C)  
Enacted Article VII Bill**

The entire text to the Enacted Article VII bill, section 59. appears below.

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

24 § 59. Temporary task force on preschool special education. a. There  
25 is hereby established a temporary task force on preschool special educa-  
26 tion consisting of the following members:

27 (1) the commissioner of education or his or her designated represen-  
28 tative;

29 (2) the commissioner of health or his or her designated represen-  
30 tative;

31 (3) the chief executive officer of the council on children and fami-  
32 lies, the commission on quality of care and advocacy for persons with  
33 disabilities, and the office of mental retardation and developmental  
34 disabilities, or their designated representatives;

35 (4) the director of the budget or his or her designated represen-  
36 tative;

37 (5) three representatives of school districts appointed by the gover-  
38 nor in consultation with the board of regents;

39 (6) three representatives of counties appointed by the governor  
40 including at least two from candidates nominated by a statewide organ-  
41 ization representing counties; and

42 (7) three representatives of approved preschool special education  
43 providers, appointed by the governor.

44 b. The task force shall be chaired by the commissioner of education or  
45 his or her designated representative. The members of the task force may  
46 elect such other officers as they may deem necessary.

47 c. To effectuate the purposes of this section, any department, divi-  
48 sion, board, bureau, commission or agency of the state or of any poli-  
49 tical subdivision thereof shall, at the request of the chair, provide to  
50 the task force such facilities, assistance and data as will enable the  
51 task force properly to carry out its powers and duties and those of the  
52 chairs.

53 d. Members of the task force shall receive no compensation for their  
54 services as members.

55 e. The task force shall:

- 1 (1) study and evaluate the relationship between preschool special  
2 education and other early childhood programs, including but not limited  
3 to the early intervention program, the universal prekindergarten program  
4 and other publicly-funded prekindergarten programs, and make recommenda-  
5 tions on approaches to improve transition from the early intervention  
6 system to preschool special education and from preschool special educa-  
7 tion to school-age special education and on ways to enhance delivery of  
8 special education programs and services to children attending universal  
9 prekindergarten programs or other publicly-funded prekindergarten  
10 programs in the least restrictive environment;
- 11 (2) study the current tuition rate-setting methodology for preschool  
12 special education programs and services and make recommendations for  
13 improvement;
- 14 (3) conduct a comparative study of the systems of delivery of  
15 preschool special education programs and services in New York and other  
16 states, including their methods of financing preschool special educa-  
17 tion, and make recommendation for inclusion of the best practices from  
18 other states which shall include other states with comparable need and  
19 service levels and for changes in New York's system of delivery of such  
20 programs and services that will promote the cost-effective delivery of  
21 appropriate programs and services to preschool students with disabili-  
22 ties in compliance with the federal individuals with disabilities educa-  
23 tion act;
- 24 (4) report on or before November 15, 2007 to the governor, the tempo-  
25 rary president of the senate, the speaker of the assembly, the minority  
26 leaders of the senate and assembly, the director of the budget and the  
27 board of regents on the task force's conclusions and recommendations  
28 under paragraphs 1, 2 and 3 of this subdivision.

## Appendix B

### Work Group Membership

**Transition/LRE:** Kim Fine (chair)  
Roxanne Wright (facilitator)  
Juliet Carhart (recorder, DOB)  
William Combes  
Michael Dedee  
Robert Frawley  
Mary Garrett  
Bradley Hutton  
Christine Vogelsang  
Cindy Gallagher (NYSED)  
Anne Campbell (workgroup support, DOB)

**Rate-Setting:** Eddie Lee (chair)  
Alan Stern (facilitator)  
Jessica Janeski (recorder, OMRDD)  
Susan Constantino  
Mary Garrett  
Michael Grossfeld  
Mark Jasinski  
Sally McKay  
Patsy Yang  
Tom Hamel (NYSED)  
Nelly Odondi (DOB)

**Delivery Systems:** Rebecca Cort (chair)  
Donna Meixner (facilitator)  
Susan Constantino  
Mary Curtis  
Robert Frawley  
Michael Grossfeld  
Mark Jasinski  
Donna Noyes (DOH)  
Lisa Timoney (DOB)



## Appendix C

### Task Force Process and Procedures

#### Structure

At the first meeting of the Task Force in June 2007, the first order of business was to describe the charge to the Task Force, to discuss operational procedures, and to set a monthly meeting schedule that included time and location for all future Task Force meetings. The Task Force was designated as the decision-making body for the final Task Force product—that being a set of recommendations for improvements to the NYS Preschool Special Education service system.

Three work groups (see Appendix B) were formed as a means of distributing the work and in order to comply with the legislative charge to the Task Force. These work groups were designated as follows.

- Transition and Least Restrictive Environment (LRE) work group—to study and evaluate the relationship between preschool special education and other early childhood programs and to make recommendations on the approaches to improve transitions and enhance delivery in the least restrictive environment.
- Rate-setting work group—to study the current tuition rate-setting methodology for preschool special education programs and services and to make recommendations for improvement.
- Delivery Systems work group—to conduct a comparative study of systems of delivery in New York and other states and to make recommendations for inclusion of best practices from other states that will promote the cost-effective delivery of appropriate programs and services in compliance with the federal Individuals with Disabilities Education Act (IDEA).

Many Task Force members, at their request, served on more than one work group, or designated a representative to participate on their behalf. Drawn from all regions of the state, they represented important constituencies—private and public service providers, state agency, county, and district administrators. Additionally, representatives from state agencies, who were not members of the Task Force, and other experts were also invited to the three work groups to broaden each team’s perspective and strengthen their efforts in reviewing information, seeking additional resources and relevant facts, and bringing forth important, synthesized information at the full Task Force meetings. Collectively, the expertise within the Task Force and work groups spanned administration, policy and planning, fiscal, and programmatic knowledge relative to the preschool special education system.

From the beginning, Task Force members were encouraged, by the co-chairpersons, to think outside the boundaries of the current system and to generate ideas that were not limited by existing models, rules, or regulations. Each Task Force member was reminded that they represented an important constituency and that part of their role was to seek input from those they represented so that the broad spectrum and diverse opinions of their constituents were brought to the deliberation process.

## Meetings

Facilitators and recorders were contracted by NYSED-VESID for the monthly Task Force meetings. Work group minutes were recorded by state agency staff or the externally contracted recorder. Minutes for both the Task Force and work group meetings were prepared and circulated to the full group of participants in a timely manner. Final copies of those minutes were also posted to a website<sup>17</sup> developed specifically for the Preschool Special Education Task Force.

The Task Force work schedule proposed at the initial meeting was followed closely and therefore, by the end of the September meeting, the Task Force was able to identify a set of recommendations for inclusion in the early draft of the report. Though the issues, relevant facts, and resources differed across the work groups, the filtering process for reviewing and proposing recommendations was very similar for each group and included the following processes<sup>18</sup> and deliberative steps.

1. Each work group developed and evaluated a list of issues they deemed most important to be addressed by their group. They obtained additional relevant information as needed from internal and external sources/experts from the field<sup>19</sup>.
2. Working from the list of issues, broad categories of recommendations were identified. The group then began to formulate specific recommendations, action steps/strategies, pros, cons and implementation issues.
3. The work group then refined their recommendations by (a) removing redundancies, and (b) regrouping related recommendations.
4. Those members who felt strongly about a specific recommendation were able to discuss their perspectives and in some cases volunteered to take on the responsibility for developing/crafting language on behalf of the work group. The revised language was then incorporated in the full Task Force review process.

Through a consensus process, the Task Force members pared down a list of nearly 30 recommendations to a set of nine. The criteria used to select the final set of recommendations included: (a) ensuring that the Task Force had met its charge; (b) consideration of proposals that had greatest positive impact on children; (c) consideration of proposals that were fiscally responsible; (d) consideration of the viability of proposals that might require statutory and/or policy change; and (e) consideration of the length of time and level of resources proposals would take to implement.

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<sup>17</sup> Minutes and additional Preschool Task Force information can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

<sup>18</sup> Work group meetings occurred at least once between each monthly Task Force meeting. All of the work groups used electronic communication and phone conferencing/video-conferencing as additional communication supports to their collaborative work.

<sup>19</sup> Other sources of information used by the work groups can be found at <http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

## Appendix D

### Regional Round Table Sessions – Schedule and Location

Date	Time	Location	Host/Task Force Representatives
August 3	10-12:30	<b>New York City</b> 45-18 Court Square, 2 <sup>nd</sup> Floor Long Island City, NY 11101	<b>Sally McKay</b> Becky Cort Michael Grossfeld
August 6	10-12:30	<b>Syracuse</b> Roberts School 715 Glenwood Avenue Syracuse, NY 13207	<b>Christine Volgelsang</b> Mary Garrett Mike Dedee Bill Combes
August 7	1-3:30	<b>Buffalo</b> Ramada Amherst Hotel & Conference Center 2402 North Forest Road Amherst, NY 14226 Phone: 716-636-7500	<b>Susan Constantino</b> Mike Dedee Bob Frawley Bill Combes
August 8	10-12:30	<b>Rochester</b> Monroe Community Hospital 435 East Henrietta Road Rochester, NY 14620 Directions: 585-760-6555	<b>Mike Dedee</b> Susan Constantino Bill Combes
August 9	10-12:30	<b>Long Island</b> Nassau Community College One Education Drive Garden City, NY 11530 Building CCR MultiPurpose Room, 1 <sup>st</sup> Floor Directions: <a href="http://www.ncc.edu">www.ncc.edu</a>	<b>Mary Curtis</b> Michael Grossfeld Bob Frawley
August 13	1-3:30	<b>Albany</b> Colonie Elks Lodge 11 Elks Lane Latham, NY 12110	<b>Mary Garrett</b> Susan Constantino Kim Fine

## Summary of Notes from Regional Round Table Sessions

The following is a summary of findings drawn from the responses of participants at the regional round table sessions across the State.

**1. There needs to be one unified, seamless system, with a single point of entry to improve coordination of services.**

- There should be one coordinating agency, e.g., SED, DOH, OMRDD, OCFS.
- There should be one service coordinator.
- EI and Preschool should be combined into one system.
- EI services should continue into Preschool, and both systems need to have a better idea what services the other provides.
- Under one system, CPSE and CSE meetings can be more appropriately scheduled.
- Writing and implementing the IEP should be better coordinated.
- There should be one billing system.
- There should be one 0-21 system.
- There should be one set of regulations.

**2. Parent advocacy, training, and support need to be more widespread.**

- Parents need to receive information in a more timely way. This can be provided in the form of fact sheets, help lines, and a central website.
- Information should filter down from the federal government to the states, and in turn to districts, parents, as well as to pediatricians.
- Parents need training in how to be more proactive.
- Parents and families need more home-based support.
- Parent advocacy system needs overhaul.

**3. There needs to be more consistency across counties, districts, and providers.**

Consistency is needed in the following areas:

- the transition process (from EI to Preschool) and within each step in the system
- services offered to children and families
- training for providers, advocates, CPSE's, and parents
- the evaluation process, especially in the use of holistic approaches
- participation in CPSE meetings-parents, county representatives, EI providers
- pay and benefit rates among providers, and between EI and Preschool
- standards for service
- amount of money each locality receives
- timelines for receipt of services
- how to address absenteeism

**4. There needs to be more flexibility in the service delivery system.**

Flexibility is need in the following areas:

- choices for parents in the availability of service providers
- service locations (may need more than one in a region)
- services, programs and methods offered
- determination of the rate of progression
- opportunities for integration, especially UPK

5. **Locking enrollment to age or a child's birthday may not be appropriate.**
  - Children need summer services.
  - An evaluation in March may not be accurate in September.
6. **Underserved area needs should be addressed.**
  - There is need for more access to services in rural areas.
  - Social workers should be utilized more.
  - More bilingual services are needed in urban areas.
  - Resources, such as the ECDCs need to reach a great proportion of stakeholders.
7. **The fiscal burden should be shared but central coordination is necessary.**
  - Medicaid and Medicare
  - Private insurance
  - The state
  - Counties (opinions are very mixed from location to location and even within locations about how much to involve the counties, but all agree that if the counties do pay, they should have a say in where the money goes)
8. **Reimbursement should be provided in a timely and consistent fashion.**
  - CPSE meeting time needs to be reimbursed.
9. **Additional funding is needed.**
  - FBA funding needed
10. **There needs to be more follow up with children transitioning out of special education programs.**
11. **Transportation continues to be a big issue.**
12. **Agencies need to keep a surplus in order to deal creatively with unforeseen expenses.**
13. **There should be a state-to-state comparison study of what works and doesn't work.**
14. **Colleges, universities, and the state need to better promote programs for special education providers.**



## Appendix E

### A Summary of New York State Education Department's Online Survey of Other States

- This online survey was part of the Governor's Task Force on Preschool Special Education Finance and was sent out to all states, which received 25 replies including New York.
- The survey consisted of 28 questions that ranged from who completed the survey to how much each state spent on preschool special education.

#### Demographic Information

- The classification rate of preschool children (3- and 4-year-olds) averaged 6.2% among the 25 respondents. **New York's classification rate was 12.4%.**
- The nationwide classification rate of **school age children** was 13.7% in 2003-04<sup>20</sup>. 15 out of 25 states in the survey had classification rates half or less than the nationwide average of **school age children**, which implies that many states programs were serving only some of the children that could and will be served when they become school age.

#### Financial Information

- 11 states were able to account for how much they spent on preschool special education and the average per-pupil expenditure was **\$6,117** excluding New York. **New York's average per-pupil expenditures was \$10,212 and was the most expensive on a per-pupil basis.**
- 15 states reported where their sources of revenue for this program originated. Of those 15 states, 10 had the majority of, or all of their total revenue originate from their states. **New York's preschool programs received 59.5% of their funds from state sources.**

#### Individual State Program Delivery: Models

- 12 out of 25 states **including New York**, have universal pre-kindergarten and indicate that they have an integrated preschool program.
- 15 states **including New York** indicated that they have early childhood standards, 5 of these 15 do not operate a universal pre-kindergarten program.
- 5 of 8 states responding did not include services to students requiring related services only as part of their preschool continuum.

#### Service Delivery: Entity

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<sup>20</sup> Data taken from the National Center for Education Statistics (NCES).

- 23 states indicated that their LEAs provided all or nearly all of the services/instruction for preschool special education.
- **New York's system of having private providers for preschool education is unique and without precedent when compared to the other 24 states which responded to our survey.**

### **Transitions: Early Intervention to Preschool and Preschool to School age**

- Only 11 states **including New York**, provided any data regarding transitions from one program to another.
- Due to a lack of available data, it is difficult to draw conclusions as to how states are managing their transitions from Early Intervention to Preschool and Preschool to School-age programs.

## Appendix F References

Meeting Minutes of the Temporary Task Force on Preschool Special Education.

<http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

NYSED Preschool Special Education Transportation Data

<http://www.vesid.nysed.gov/specialed/preschool/taskforce/home.html>

Minutes from the NYS Regional Round Table Sessions held by the Temporary Task Force on Preschool Special Education.

New York City <http://www.vesid.nysed.gov/specialed/preschool/taskforce/nycnotes.htm>

Syracuse <http://www.vesid.nysed.gov/specialed/preschool/taskforce/syracusenotes.htm>

Buffalo <http://www.vesid.nysed.gov/specialed/preschool/taskforce/buffalonotes.htm>

Rochester <http://www.vesid.nysed.gov/specialed/preschool/taskforce/rochestnotes.htm>

Long Island <http://www.vesid.nysed.gov/specialed/preschool/taskforce/LInotes.htm>

Albany <http://www.vesid.nysed.gov/specialed/preschool/taskforce/albanynotes.htm>

NYS DOH and VESID – NYSED, Joint Memorandum on the Transition of Children from Early Intervention to Preschool Special Education.

<http://www.vesid.nysed.gov/specialed/publications/preschool/transitionguide/cover.html>

NYSED Report on Progress in Implementing Reform of Preschool Special Education (1996)

<http://www.vesid.nysed.gov/specialed/publications/preschool/psch99.htm>



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