

Recommendations of the Vermont Council of Special Education Administrators

February 17, 2012

Goals

- Retain Vermont’s commitment to inclusive education.
- Improve special education finance system to support:
 - Inclusion;
 - Strategies and programs that prevent school failure and reduce the need for special education;
 - Strategies and programs that improve outcomes for students with disabilities.
- Reduce administrative costs attributable to Vermont’s onerous special education funding reimbursement system.
- Reduce reliance on paraeducators in favor of supports that develop independence in the general education setting.
- Implement funding that supports strategies to prevent school failure and achievement gaps.

Proposed Study

1. Repeal the special education reimbursement formula.
Fund special education services using a block grant formula that considers the total number of children served by the district in total (ADM) with a weighting factor for students with disabilities. The weighting would be different depending on the child’s specific disability.
Maintain funding mechanisms for residential students, state placed students, very high cost students, and continue existing processes for unexpected and unusual cost requests.
2. Require a specific evaluation for the need for 1-to-1 paraeducators that considers:
 - a. The student’s capacity for independence;
 - b. Goals and objectives in the IEP designed to measure independence;
 - c. A “fading plan” designed to gradually reduce adult support;The block grant formula would also reduce economic incentives for school districts to recommend 1-to-1 supports.
3. Require all schools to implement:
 - a. Research or evidence based tiered interventions such as Response to Intervention (RtI) and Positive Behavioral Interventions and Supports (PBIS);
 - b. Universal Design for Learning;
 - c. Differentiated Instruction.
4. Improve training and/or professional development for Principals and other administrators serving as the Local Education Agency (LEA) representative at Individual Education Program (IEP) team meetings.
5. Increase technical assistance from the Department of Education for high cost school districts / supervisory unions.

Based on the goals stated above and objectives articulated in our reference to a proposed study, we are respectfully recommending that the general assembly take action to require the analysis we are seeking.

Special Education Funding in Vermont
A Policy White Paper by the
Vermont Council of Special Education Administrators
February 17, 2012

Introduction

The Vermont Council of Special Education Administrators, which represents our membership of 120 individuals in Vermont, composed this special education funding white paper to assist the Legislature and the Vermont Department of Education in addressing the concerns of our membership with the existing special education funding formula.

The primary focus of the report is the status of the K-12 special education funding system in Vermont, how the state's funding system has evolved over the years, and the identification of the key public policy and funding issues of greatest concern.

Special education students numbered 13,965 or 15.43% of the more than 89,813 students enrolled in Vermont's public schools statewide for FY2011. In FY 2011, the state of Vermont spent \$290,466,556.02. The average cost of serving a student with a disability in Vermont was \$20,799.61. However, our special educators also serve students who are identified as being protected under Section 504 plans and under our Educational Support System on EST plans. An example of this is Rutland City Public Schools. Their special education costs for FY11 was \$8,257,693.28 and the number of students in special education was 317. Their average cost per student in special education was \$26,049.50. They had 101 students protected under Section 504 plans and another 345 identified and on plans through the Educational Support System. Their special education staff provided services to a total of 763 students. If they were to take their total special education budget of \$8,487,011.17 and divide by the number of students their special education staff served (763) the average cost per student on plans would be \$10,822.66. Significantly lower than the \$26,049.50 which is not an accurate accounting of the amount of students they were serving with their special education dollars.

Historical Perspective & Description of Vermont's Special Education Funding System

In the early 1960s, Vermont began to bring students with disabilities into the public schools. They began building and developing their own programs to serve students, to the extent possible, within the public school system. Prior to this time, many students with both mild and moderate disabilities were educated in separate day or residential programs.

In 1968, two bills were introduced and passed within the legislature. The first focused on the development of a comprehensive system of services for students with mild disabilities (those considered to have "Learning Disabilities"). The second bill was a construction bill which allowed for 75% reimbursement for the construction of classrooms designated for use by special education students. The reimbursement was intended to allow and encourage districts to build classrooms to house more significantly impaired students.

As students began being educated in their home schools, local districts noted an increase in their costs for providing these services and the need to hire staff. The legislature took note and in 1971, passed S98. This bill provided for 75% reimbursement of the personnel needed to provide 'mainstream services' to students with disabilities. S98 created incentives for districts to hire staff without consideration of the needs of their students. Districts, in essence, could hire any number of staff and receive the 75% reimbursement. In addition, there was no cap placed on the state's ability to pay for students in residential programs. So, while many students were "coming home", many were still placed outside of the district. S98 also created incentives for districts to develop regional programs which were referred to as Commissioner Designated Programs. The dichotomy of programming continued: students with mild disabilities were served within the mainstream setting, though often in a special class, while students with more intensive needs were often placed in residential programs.

The 1980's brought significant change to both the funding of special education and programming and services to students with mild, moderate and severe disabilities. From 1982 - 1987, it was becoming more apparent that the appropriations from S98 had failed to keep up with the rising costs related to special education. During this time, state funding was withdrawn for mainstream aides, special educators and transportation, thereby increasing the cost at the local level. In addition, funding that was received at the local level for special education was based on the school districts relationship with the Department of Education. Those that had an "in" typically received a larger share of the funds. It was becoming clear that the funding formula not only lacked predictability, but local districts were paying significantly higher costs associated with the provision of special education.

Between 1986 and 1987, the state was forced to reduce funding to districts three times in two years. Governor Madeline Kunin created a special commission to look at the funding of special education. The Commission found there was lack of predictability, flexibility and equity of the current funding system. The Commission proposed to create a system of equity among districts, to create a plan for catastrophic costs, to create a system that had shared responsibility between state and local for a continuum of services, to have the Least Restrictive Environment be supported by the funding, to make the placement be neutral regarding the receiving of funds and to phase this plan in over time. The goals of the new funding formulas would include: predictability, flexibility, based on actual costs, to maintain caseloads, and to be non-discriminatory for rural districts.

In 1988 the legislature passed Act 235. Act 235 established a 3-part funding system with equal shares between state and local school districts. It also instituted a mainstream block grant based on the district's count of special education children. It also created reimbursement for students who had extraordinary costs and reimbursed districts for the remainder of their costs which was referred to as intensive reimbursement.

In 1989 the Department of Education gave districts the ability to create Collaborative Programs between school districts. These were self contained classrooms run by a single district; however had other districts sharing in the costs.

In 1990 the legislature passed Act 230. Act 230 instituted a block grant based on ADM of a school district versus the special education student count. The focus was on remedial and compensatory to increase the capacity of regular education to meet a variety of diverse needs. There was money set aside by the Department of Education for professional development. There was no longer any incentive financially to identify students for special education. Each school building was to develop a comprehensive system of services to meet the needs of all students. The plan was when a student began to struggle they would be referred to an Instructional Support Team in the school where a plan would be created to assist them in overcoming their struggle.

In 1993 there was a change to Act 230 to allow special educators to work with students identified for special education, protected under Section 504 or referred to the Instructional Support Team under Act 230. The state also no longer funded commissioner designated programs which forced school districts to shut those programs down and integrate all students with disabilities into the general education classrooms. The goal of Act 230 was to lower special education costs and initially there was a dip in our costs, however, over time the costs began to increase once again.

There were some changes made to the funding formula in an attempt to lower the costs of special education. Initially, under Act 230, the extraordinary reimbursement gave districts that spent over \$12,000, 90% reimbursement. This amount was changed to \$50,000. Also there was greater scrutiny through the Department of Education audit process of the way special educators spent their time during their work day. In 2010, the special education rules changed to include co-teaching. Prior to 2010, Vermont was the only state who did not see co-teaching as an allowable special education cost. Core staff was no longer in existence; however, there was another rule to replace it called the "20% rule". This rule allowed special educators and paraeducators to provide instruction to students who are identified in special education, protected under Section 504 or being served under an Educational Support Plan. However, the ongoing scrutiny continued from the Department of Education with tighter restrictions on how special educators and paraeducators spend their time in schools on a daily basis.

Appropriate Education

A number of federal laws have addressed the concepts of an appropriate education, Least Restrictive Environment and inclusion. The Individuals with Disabilities Education Act (IDEA) requires schools to provide students with disabilities a free, appropriate public education. The Act states that "to the maximum extent appropriate" students with disabilities "are educated with students who do not have a disability" and that "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 education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." Section 504 of the Rehabilitation Act of 1973 states that "no otherwise qualified" individual with a disability "shall solely by reason of his [disability], be excluded from participation in any program or activity receiving Federal financial assistance". Finally, the Americans with Disabilities Act of 1990 (ADA) states that it is illegal for a qualified individual with a disability, by reason of the disability, to be excluded from participation in or denied the benefits of services, programs, or activities of a public entity, which includes public schools.

We view inclusion as a value, a set of humanistic beliefs that have been encoded in IDEA and other federal laws. These laws clearly reflect that students with disabilities should be valued members of our school society. Inclusion does not necessarily reflect a place where special education is provided. Instead, a way of life and a way of thinking about the future of ALL of our children. By providing children with opportunities to have meaningful relationships and experiences within their school environment, we are enabling them to reach their fullest potential as adults. The VCSEA believes that this shift toward more inclusive opportunities can only happen if the special education funding formula allows for more flexibility for how quickly and efficiently the needed supports can be provided when a student shows signs of struggle. Although inclusive placements take different forms, certain critical outcomes of belonging, participating, and forming positive social relationships reflect success of inclusive placements for children with disabilities. These could be characterized as sociological outcomes for inclusion, in that they refer to social processes existing in classroom contexts. For many children with disabilities in inclusive settings, engagement (Brown, Odom, Li, & Zercher, 1999), social acceptance, (Odom, Zercher, Li, Marquart, & Sandall, 2006), and friendships (Buysse, Goldman, & Skinner, 2002) are realistic and meaningful outcomes. Individualized Education Program (IEP) goals for children with disabilities are also “psychological” in nature, in that they focus on the acquisition of developmental, academic, or social skills (e.g., improvement of communication, cognitive, gross motor, self-help skills).

Students with disabilities in Vermont need to be making progress toward meeting the Vermont Grade Level Expectations and, in the future, the Common Core. To do so, they must be educated alongside their non-disabled peers in general education contexts. There are tremendous academic benefits for students with disabilities learning alongside their non-disabled peers. They gain the benefits of receiving their primary instruction from content area teachers and their supplemental instruction from the special educator. The most recent research and practice has repeatedly shown that efficiencies occur through early intervention within the least restrictive setting appropriate. (VSA, 2010; Bursuck & Smallwood, 2009; Harn, Linan-Thompson, & Roberts, 2008). Additionally, research supports the inclusive support model in impacting other areas of the school day. Students in inclusive classrooms earn higher grades, achieve higher or comparable standardized test scores, commit no more behavioral infractions, and attend more days of school (Rea, McLaughlin, Walther-Thomas, 2002). In Vermont, we are seeing success with our efforts to include students with disabilities in general education contexts for 80% or more of the school day. The state of Vermont’s December, 2010 Child Count data identifies 73.82% of the students with disabilities participating in instruction alongside their peers without disabilities for 80% or more of the school day, compared to the national average of 57% (USDOE, 2010). This places Vermont in the upper tier of states providing inclusive environments for their students with disabilities. In some schools across Vermont, the implementation of a Response to Intervention model of support for all students (RTI) has drastically reduced the numbers of special education referrals while providing proactive and research-based interventions for any student experiencing struggles or delays related to academic, behavioral, or social/emotional issues that interfere with learning. One Vermont school of note, utilizing a Response to Intervention process for years, has not had one special education referral yet this school year. Response to Intervention (RTI) models are one of the

most common initiatives being implemented today to address concerns about all students having equitable access to general education. IDEA and the No Child Left Behind (NCLB) Act of 2001 both support closing achievement gaps, underscoring importance of high quality, scientifically-based instruction and interventions, and holding schools accountable for the progress of all students in meeting grade level standards (Klotz, 2007).

The Vermont Council of Special Education Administrators believes that it is necessary to broaden the commitment and responsibility for providing appropriate educational opportunities for all children. Children with disabilities must be regarded as general education students first. State funding formulas should complement, support, and expand on the ESEA provisions that address the education of *all* children and not be viewed in isolation or as the sole legislative provision supporting children with disabilities.

The Issues with the Current Special Education Funding System

The first issue that exists with the current special education funding system is the amount of time it takes to meet the requirements of the Department of Education audit system for allowable special education costs. Special education staff are required to document their day for a two or three week time period over the course of the school year. The staff documentation must be in alignment with the plans for students identified for special education, Section 504 or the educational support system to the exact minute. The Department of Education has given the field a 64 page document outlining the rules for completing the time studies. The supervisory union must follow the documentation process two to three times a year as described below:

1. Each staff person records throughout their day everything they do minute by minute, or they submit their typical schedule for the week.
2. They then need to review the student plans (IEP, Section 504 or EST) with whom they worked to determine if their time on the time study or weekly schedule was allowable special education costs or not.
3. They calculate on a sheet the amount of allowable special education costs to hand to their administrator.
4. The administrator needs to review the time study and the student plans to be sure the calculation was accurate.
5. The administrator needs to submit to the business office how much time was non-allowable cost to adjust the expenditure report that goes to the state.

This process can take numerous hours given the complexity of the student plans and matching the amount on a staff person's time study to determine if the time is allowable or not. Additionally, we are dealing with students and schools. It is extremely rare that there is a "typical day" in a school. There are student issues that arise throughout a day that need to be dealt with that are not taken into account that could have a negative impact on the time study the staff person completed. An example of this would be a student with behavioral issues that may need immediate attention and may not be in special education. They may be, however on an EST plan but at this time there is no behavior intervention plan for this student; therefore, a staff person was not able to follow their "typical schedule". Another example may be a student may use more case management one week versus another week, per their plan, due to extenuating

circumstances. These two examples demonstrate how a district would lose their reimbursement because the “typical schedule” may not match what was written in a student’s plan. While every effort is made to calculate and plan each minute of a student’s school day, when we are working with children, it is imperative we have the flexibility for unexpected situations to occur without the district having to be financially penalized for not “following the students plan” down to the minute. We are not aware of any other service industry where individuals need to document every minute of their daily schedule to get reimbursement of funding. Even in the medical profession for Medicaid it is not as cumbersome as this system of time study. This system of accounting for reimbursement of special education money in Vermont has taken time away from students receiving much needed direct services to enable them to meet the Vermont State Standards. It has also taken away from administrators who need to do program planning and development to create systems that address the needs of all of our students. The second issue is there are changes that need to occur in regular education to address the underlying issues that place many of our students in special education. When there are students who struggle academically and/or emotionally in many of our schools there is a referral made to special education. There is professional development that needs to occur in four areas: Response to Intervention, Positive Behavioral Intervention and Supports, Differentiated Instruction and Co-teaching. For Response to Intervention there is a need to address those students who begin to struggle with their academics. This would begin intervention early prior to waiting to see if a student is going to fail before intervention takes place. For Positive Behavioral Intervention and Supports there is a need to create a culture in our schools of common behavioral expectations, language, and supports in each area of the school that focuses on positive interactions and reinforcement for students and staff who demonstrate positive interactions and behavior. For Differentiated Instruction there is a need for all staff to learn how to differentiate their instruction to be able to teach a diverse student population in their classrooms. For co-teaching we need to continue professional development so special educators are working side by side in classrooms with regular educators effectively addressing the needs of all students. This will ultimately close the achievement gap because we will have the expertise of regular educators and special educators working together undertaking prevention and early intervention work to assist students in reaching the standards.

There will always be eligible students who need more than the four methods mentioned above will be able to serve. The number of students who are truly eligible for special education on average should range between 5% and 8% of our total population. Through the intervention systems mentioned above for all students we should be able to eliminate much of the evaluation, identification and paperwork that goes along with special education and spend our time and resources providing direct services to students who struggle and need the early intervention to succeed in meeting the Vermont State Standards. A more flexible system of special education funding will enable us to be able to do just that.

Recommendations for Changes in the Current Funding and Programmatic Special Education System

1. Build on the current Block Grant system for funding special education, using both ADM and the creation of a weighted Child Count system.

Providing a “flat grant” based on the count of all students in a district, rather than on the number of special education students takes away any perceived incentive to over-identify students for special education. In addition, this type of funding system lends itself to the flexibility needed for early intervening services to prevent students from becoming identified for Special Education. However, the range and needs of special education eligible students vary significantly based on the identified disability, therefore, considerations based on disability categories should be implemented to prevent significant disparities when providing services to students in different disability categories. Example: a student on the Autism Spectrum often requires more services than a student identified with a Specific Learning Disability. A straight Block Grant without additional consideration of disability category would not account for the differences in cost based on disability categories. In addition, add and/or maintain the following components to ensure equity across districts and/or SUs. :

- A. Use a separate funding process for residential students
 - B. Continue the current process for state placed students.
 - C. Continue the current process for Extraordinary Cost students in excess of \$50,000.
 - D. Continue the current process for unexpected and unusual cost requests.
2. Require a specific team process to determine the need for para educator services which includes:
- A. An Independence Matrix showing where the students needs individual supports
 - B. Goals and objectives in the IEP designed to measure the student’s independence
 - C. A Fading Plan designed to fade support while increasing the student’s independence
 - D. Require a reporting process to the DOE to document the need for paraeducators.
 - E. With a block grant to provide us the flexibility to use paraeducators how and when we need them there would be a decrease in paraeducators. Fading plans would be more viable

3. Increase implementation of co-teaching.

Co-teaching is two or more licensed teachers -- generally a general education teacher and a special education teacher -- sharing responsibility for teaching all of the students assigned to a classroom. It involves the equal distribution of responsibility among teachers for planning, instruction, and evaluation for a classroom of students. Co-teaching is an option for providing differentiated and special instruction in an inclusive educational setting.. The primary objective of co-teaching is to maximize all students growth and achievement in a community of diverse learners.

4. Require all schools to implement Positive Behavioral Intervention and Supports, Differentiated Instruction and Response to Intervention.

A. What is Positive Behavioral Intervention and Supports?

Vermont Positive Behavior Interventions and Supports is a State-wide effort designed to help school teams form a proactive, school-wide, systems approach to improving social and academic competence for all students.

B. What is Differentiated Instruction?

Differentiated Instruction means tailoring instruction to meet individual needs. Whether

differentiating content, process, products, or the learning environment, it includes the use of ongoing assessment and flexible grouping making this a highly successful approach to instruction.

C. What is Response to Intervention/Instruction (RTI)?

RTI is a tiered process of instruction that allows schools to identify struggling students early and provide appropriate instructional interventions. Early intervention means more chances for success and less need for special education services.

5. Require a specific process/protocol for all service decisions at an IEP meeting, with required training annually of all individuals serving in the role of the Local Education Agency (LEA) at team meetings.

All individuals serving in the role as Local Education Agency representatives should have knowledge of State and Federal Special Education laws and regulations, with annual updates. All special education staff, including the LEA should have specific training in the areas of: IEP Decision Making, Least Restrictive Environment and Collaboration and Problem Solving.

6. The VT D.O.E. will give high priority to auditing high cost districts or those with unusual increases in cost, identifying drivers and providing technical assistance for systematic change.

The VT D.O.E. should annually identify high cost districts, focusing auditing and technical assistance on identifying factors and providing training and technical assistance to promote systematic change.

Closing

There has been a long-standing felt need to control special education spending. Along with the spending concerns is the effort to decrease the number of students with disabilities.

We need to enhance regular education's ability to provide for all students and create a learning environment where there is no need for a student to be “special” because all kids get what they need to succeed.

Years of tinkering and looking for accountability have not changed the paradigm of the “us (general education) versus them(special education)” education formats. We need to look for a way to fund “universal education”.

We believe that changes in the special education funding and accountability system will lead to all students receiving the most appropriate education Vermont can provide, tailored to their individual needs.

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