

Special Education Funding and Service Delivery
Testimony to the Education Committee of the Vermont Senate by

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Some Background Informing my Testimony

- Former special education teacher and special education school administrator
- Consulted in schools across Vermont since 1988
- Served on the seven-member *Special Education Program and Fiscal Review Panel*, appointed by the Vermont State Board of Education to study special education programs, costs and outcomes (1998 - 2004)
- Director of UVM's Project EVOLVE Plus (2006- present); working with schools and organizations nationally and internationally, including approximately 70 Vermont schools, to improve special education service delivery and practices
- Member of the Governor-appointed *Vermont Special Education Advisory Council* (2006 - 2014)
- Conducted numerous peer-reviewed and published research studies on special education issues in Vermont and published extensively on various aspects of inclusive education for students with disabilities in regular schools and classes, including personnel utilization (e.g., special education teachers, teachers, paraprofessionals)
- *Based on these and other related experiences I am testifying as a private citizen, not representing any of the organizations with which I am, or have been, affiliated.*

Before we begin our discussion...

- The issues associated with appropriately educating students with disabilities under the IDEA (Individuals with Disabilities Education Act) are more numerous and complex than we can cover in our short visit today. There is no single action, or quick-fix response, that will substantially solve the existing problems. I have been asked to share information about special education service delivery and specifically related to paraprofessionals (a small subset of important issues).
- I was anticipating the opportunity to offer my perspective on the UMass (Donahue Institute) study on Special Education Paraprofessionals in Vermont Public Schools, funded by the State of Vermont Legislative Joint Fiscal Office, but your committee has informed me that the report is not expected to be available until late March 2015.
- I would also like to acknowledge the partnership between the Vermont AOE (Agency of Education), a set of Vermont Supervisory Unions, and the SWIFT (Schoolwide Integrated Framework for Transformation) Center at the University of Kansas funded by the US Department of Education, Office of Special Education Programs. This is a constructive initiative rooted in current promising and best practices. It holds the potential to benefit many more schools in Vermont to improve educational opportunities and outcomes for students with disabilities. I mention SWIFT because my testimony overlaps some aspects of the work being pursued by SWIFT.

Selected/Persistent Concerns Associated with Vermont Special Education

1. **Funding Special Education:** Vermont currently has a system of funding special education that: (a) many schools find unnecessarily burdensome and time consuming; (b) discourages and interferes with innovation in service delivery and practice for fear of financial penalties; (c) inadvertently incentivizes identification of students as disabled and financially disadvantages schools that do a good job appropriately keeping certain students from entering the special education system, (d) may encourage escalating "gamesmanship" between schools and the state (e.g., Schools: How can we maximize our reimbursement? State: What new rules and procedures can we put in place to keep the reimbursement down or from being misused?); (e) includes components that drive practices in ways that are the opposite of the promising and evidence-based practice (e.g., grouping students with and without disabilities in natural proportions; flexible use of personnel to meet student needs); and (f) expends substantial amounts of "hidden costs" in personnel time (e.g., special educators, special education administrators, state personnel auditing allowable/reimbursable expenses) that could be saved and/or spent on supporting students.

2. **Equitable Access to Inclusive Schooling Opportunities:** Across Vermont there seems to be differential application of the LRE (least restrictive environment) provisions of the IDEA. Recent VT AOE data reported regular class placement of students with disabilities in Districts/Supervisory Unions ranging from as low as 48% to over 90% (with a wider range when considering individual schools). There also seems to be misunderstanding about the LRE implementation in Vermont schools (e.g., regular classes with appropriate supports are the default; students with disabilities do not have to function at or near grade level for the regular class to be the LRE). Whether a student has equitable civil/educational rights to attend regular classes (with appropriate supports) should not depend on where a family lives. Even in schools and classrooms where students are counted as being placed in general education classrooms 80% of the day or more (the highest federal reporting category), we have students who experience what is termed "micro-exclusion"; they are physically in the classroom but spend a substantial amount of time separated within the classroom, such as at the back of the classroom doing separate work with a paraprofessional rather than being fully part of the life of the classroom.

3. **Equitable Access to Educational Supports and Services from Highly Qualified Personnel:** In general there tends to be an inverse relationship between intensity of special education need and access to highly qualified teachers and special educators. If a student has a relatively mild or high-incidence disability he or she is likely to have more access to licensed teachers and special educators. Students with more intensive needs tend to get an increasing percentage of instruction from paraprofessionals. Our sample of data suggests that Vermont students with disabilities who receive full-time one-to-one paraprofessional support get approximately 40% of their instruction from paraprofessionals. Some students with disabilities are receiving 80% or more of their instruction from paraprofessionals, who are typically undertrained and under supervised. This would not be acceptable for students without disabilities and is similarly unacceptable for students with disabilities.

Interrelated Points and Data

Placement

- a. Vermont has long been considered a national leader including students with disabilities in general education classes under the FAPE (Free Appropriate Public Education) and LRE (Least Restrictive Environment) provisions of the (IDEA Individual with Disabilities Education Act). Vermont's national standing has dropped from the #1 state for including students with disabilities (a place it held for decades) to #4 (we have been ranked lower in recent years). Vermont has experienced approximately a 16 percentage-point drop in regular class placement over the past 25 years (as large as a 20 point drop between 1992-2007). We are currently about 10 percentage points above the national average.

- b. It is important for legislators, who are understandably concerned about budgetary issues, to be aware that under both Vermont and federal law, schools have the responsibility to ensure a free appropriate public education in the least restrictive environment for all students with disabilities who are deemed eligible for special education services. Under these laws the default starting point for placement consideration each year is the general education classroom in the school the student would attend if not disabled, with appropriate supplemental supports and aides to ensure access and participation in an appropriately individualized educational program. *Students cannot be purposely grouped together for financial, convenience, or other reasons that violate their rights under the IDEA.*

Paraprofessionals

- c. Many dedicated and skilled paraprofessionals are understandably valued members of school communities. Data suggest that teachers value the presence of paraprofessionals and that paraprofessionals can have a positive impact on instructional achievement under highly prescribed conditions (e.g., providing supplemental rather than primary instruction, being highly trained and closely supervised). Unfortunately, such situations are atypical. The bulk of the existing data suggest instruction from paraprofessionals is not linked to improved student achievement, because for the most part they are not teachers and do not engage in the same quality of instructional practices as teachers and special educators. It is widely acknowledged that schools should not put paraprofessionals in positions that ask them to make curricular or instructional decisions -- yet the data suggest that many paraprofessionals do so independently given the routine lack of supervision. In Vermont, on average a special education paraprofessional can expect about 2% of a special educator's time for supervision.

- d. Vermont has consistently been among the highest users of special education paraprofessionals per special education teacher in the US. I suggest that we have had a long (and ultimately unhelpful) history of building our special education supports and services by simply adding paraprofessionals. When adjusted for changes in enrollment, the use of special education paraprofessionals has more than doubled during the same time period when our rates of regular class placements were declining by nearly 20 percentage points.

- e. Our studies indicate that nearly half of all Vermont special education paraprofessionals are assigned 1:1 to an individual student. There is a growing body of national and international research suggesting that the use of paraprofessionals, especially those in close proximity or used extensively (e.g., 1:1s) can result in a host of unintended detrimental effects (e.g., separation from classmates, interference with peer interactions, interference with teacher engagement, unnecessary dependence, stigmatization, lack of personal control).

Service Delivery

- f. Substantial variability exists across Vermont on a wide variety of service delivery variables. For example, across a sample of nearly 70 Vermont schools we have identified the ratio of special educators in FTE (full time equivalents) to total school enrollment, ranging from 1:38 to 1:166. This variable is called, "*special educator school density*" and our research suggests that it is an important indicator of special education health in a school. It is correlated with: (a) the percentage of students identified as disabled, (b) special education teacher self-efficacy ratings, and (c) absence rates of special educators.
- g. Our project's research has identified an average ratio of one special education teacher to over three special education paraprofessionals. This ratio of approximately 1:3 is slightly different than the average of approximately 1:2 reported in State data sources; we believe this is accounted for by definitional differences. Many schools hire contracted paraprofessionals from local human service agencies with varying titles that may or may not be counted as "paraprofessionals", but by job activities are paraprofessionals. In our sample, we have identified a few schools with nearly equal numbers of special education teachers and special education paraprofessionals (approximately 1:1) and those with as many as eight times more special education paraprofessionals than special education teachers (ratio of 1:8).
- h. Considering all of the specialized instruction provided by special education teachers and special education paraprofessionals, approximately 75% of it is delivered by special education paraprofessionals. This occurs because there are so many more special education paraprofessionals than special education teachers and they tend to spend a greater percentage of their time in instruction than do special education teachers.
- i. Even in cases where special educator caseloads appear to be desirable, even low, in many of these cases these special educators are spread across a wide range and number of grade levels, teachers, and curricular content areas -- so the caseload numbers alone do not tell the whole story.
- j. The absence of proactive models of inclusive special education service delivery leaves many school schools in a reactive posture. So when a perceived stress on the system occurs (e.g., a new student with a disability arrives who has intensive support needs) a common response has been to hire more paraprofessionals to relieve pressure on the system. This has delayed attention to root problems in how general and special education operate and are funded. We are developing cost-neutral model exemplars.

Cautions and Potential Actions

Cautions

- Past (and some current) change efforts have been too simplistic or narrow in scope (e.g., better training for paraprofessionals; reducing the numbers of paraprofessionals without simultaneously putting more effective alternatives in place). Such efforts have been insufficient because they did not address the root problems. Research suggests that Vermont's extensive use of paraprofessionals is a symptom of dysfunction in the general and special education service delivery, therefore it will not be adequately solved by simply taking actions that focus primarily or exclusively on paraprofessionals.
- While providing better training for paraprofessionals is important, care must be taken to ensure that it does not lead to what is referred to as the "training trap". This is when schools provide relatively modest training to paraprofessionals and then expect them to function like teachers or special educators. Any training must be situated within appropriate roles of paraprofessionals (e.g., supplemental instruction planned and monitored by qualified educators).
- Similarly, simply reducing the number of paraprofessionals is not the answer -- it will likely be trading one problem for two new ones, unless more sound alternatives are put in place. The focus of Project EVOLVE Plus at UVM has been on developing cost-neutral alternatives to overreliance on paraprofessionals and designing exemplars of service delivery models based on Vermont school data. Several years ago, using federal grant funds, we developed and field-tested a school-based planning process; this tool is available for free and can be downloaded from our project web site.

Potential Actions

1. Ask the AOE to undertake reform of the special education funding approach that formally involves relevant stakeholders and is informed by available research. I recognize this has already begun in various ways. A potential antidote to our current funding system is to start with educational mission first and develop a fiscal approach that supports and incentivizes desirable practices and the necessary flexibility to innovate. Currently it seems to many Vermont educators, myself included, that for far too long the fiscal dog has been wagging the programmatic tail -- this has made it more difficult for special education administrators and special educators to do their jobs.
2. Consider shifting away from a reimbursement model to a hybrid model that is primarily a block grant to schools based on total enrollment **with some adjustments for important issues (e.g., poverty, English Language Learners) and that includes provisions that protect small schools from extraordinary cost scenarios.** To establish an appropriate base for block funding will **require important discussions and decisions about base parameters which we have never done**, such as establishing expected percent of students with some sort of special need (e.g., 25%+ VT student on IEP, 504, Educational Support Team plans). In situations where schools are serving all students, what minimum base supports should be available in a school based on total enrollment? How many special educators and paraprofessionals? What MTSS (Multi-tiered System of Supports) supports (e.g., literacy specialists; behavior

specialists) should be available in schools, based on total enrollment, to ensure an equitable floor of opportunity and supports? Historically, we have maintained school quality standards for regular education (e.g., class size), but never established special education quality standards within the context of general education. Such determinations would need to be made for a block grant with a hybrid component to be effective.

Any adjustments to the funding approach should give schools maximum flexibility, so long as they remain accountable for meeting state and federal regulations. Such an approach should not disadvantage schools that do a good preventative job by keeping students out of special education because the availability of personnel resources would be based on total enrollment, rather than how many students they identify as disabled.

As the following excerpt from a letter to Rebecca Holcombe (Secretary, Agency of Education) from the Vermont Special Education Advisory Council (dated November 27, 2013) stated:

"Any approach to special education funding in Vermont should: (a) be simplified, (b) reduce the paperwork and reporting time burden on schools, (c) provide increased flexibility for public schools to use State-appropriated funds within a planned approach that ensures accountability for student outcomes, (d) encourage innovation, (e) be consistent with evidence-based and promising practices, (f) provide funding predictability for schools, and (g) provide mechanisms that allow for ongoing innovations as practices in the field change."

3. Ask the AOE to undertake professional development or support initiatives for school administrators, teachers, special educators, families, and others addressing the LRE (Least Restrictive Environment) provisions of IDEA to ensure better equity across Vermont in terms of appropriately supported access to regular class placements for students with the full range of disabilities.
4. Ask the AOE to extend their professional development or support initiatives to encourage more inclusive special education service delivery systems that are integrated within regular education (consistent with their existing SWIFT initiative).
5. Ask the AOE, in cooperation with their federal counterparts at the US Department of Education, to work with Vermont schools and appropriate organizations (e.g., Vermont Council of Special Education Administrators; Vermont Family Network) to develop acceptable ways to write/document supports and services in IEPs that meet federal requirements, but allow for flexibility and innovation. The current way teams are required to narrowly write these parts of the IEP are part of the problem schools face in more fully including students with disabilities and innovating.

Informational and Research Sources

<http://www.uvm.edu/~cdci/evolveplus/?Page=resources.html>

<http://www.uvm.edu/~cdci/?Page=parasupport/chrono.html>

<http://www.swiftschools.org/>

Clarifications Added Following my Testimony to the House Education Committee

It is challenging to communicate a complex set of interrelated issues based on decades of research and study in less than an hour; this requires making some generalizations (that are acknowledged as such) and being selective about what is presented. Under such circumstances it is probably not surprising that some people respond with concern about generalizations and incomplete information, especially if some secondhand reports include inaccurate information (which was the case following my testimony on 1/29/15). Here are three key clarifications based on my earlier testimony.

- **Disability Terminology:** The IDEA (Individuals with Disabilities Education Act) uses explicit terminology when referring to students who are receiving special education. In order to qualify as eligible for special education services (i.e., specially designed instruction) under the IDEA, a student must have a disability in one of 13 categories (e.g., learning disabilities, intellectual disabilities, emotional disturbance, autism, multiple disabilities) and must be in need of special education in order to access a free and appropriate public education. The term "Learning Disabilities" is a specific category within special education and does not include all students with some sort of disability-related special need. Some students with identified disabilities do not require special education, but may require some accommodations that can be addressed using something called a "504 Plan". Still others have some kind of nonstandard educational need (e.g., difficulty in academic performance or social behavior) that is not based on a disability, but requires additional support. A school's Educational Support System may address this third group of students. More recent variations may be referred to as MTSS (Multi-Tiered System of Supports).
- **Valuing Paraprofessionals:** As I previously testified, paraprofessionals are valued members of school communities and I personally value their work. In fact, my colleagues and I conducted one of the only research studies on respect and appreciation of paraprofessionals. As I stated to the House Education Committee members, none of my comments should be misconstrued as "anti-paraprofessional". I shared my perspective that the paraprofessional challenges we face are symptoms of root challenges in how the general and special education systems operate. Paraprofessionals should not be blamed for our predicament. I used the analogy that paraprofessionals were like an analgesic; they provide temporary relief but do not address the underlying cause of the challenges. One can value the work and dedication of our paraprofessionals, as I do, while acknowledging that many do not have teaching credentials and should not be used interchangeably as if they were teachers or special educators. Regardless of whether a school employs paraprofessionals who have a high school education, a college degree, or are licensed teachers, models that rely heavily on paraprofessionals represent what has been called the "paraprofessional conundrum"; whichever way you look at it there is a potential problem.
- **Cost- Neutral Models:** Our research, technical assistance, and suggested alternatives recognize the financial constraints of schools and communities. The models we have been exploring have been cost-neutral and in some cases we have documented cost savings, although the educational mission of schools is always our priority. We have been careful to identify alternatives that we hope will be better for students, help school personnel in their work, and use public funds responsibly.

- **LRE (Least Restrictive Environment)** excerpts from the Federal Code of Regulations:

“... to the maximum extent appropriate, children with disabilities ... are educated with children who are nondisabled” (CFR 300.114).

“... special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplemental aids and services cannot be achieved satisfactorily” (CFR 300.114).

[The IDEA] ... presumes that the first placement option considered for each child with a disability is the regular classroom in the school that the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a child with a disability can be placed outside of the regular educational environment, the full range of supplementary aids and services that could be provided to facilitate the child’s placement in the regular classroom setting must be considered. (CFR 2006, p. 46588)

- **The federal position in *Girty vs. Valley Grove* (USCA 3rd C, 2002)
US Dept. of Education & US Justice Dept. (Civil Rights Division) Amicus Curiae**

In part, the government's stance, which was ultimately affirmed by the U.S. Court of Appeals (3rd Circuit), stated:

The district court correctly held that the placement in a LSS (Life Skills Support) classroom that Valley Grove proposed would not educate Spike in the least restrictive environment, as required by the IDEA, properly analyzing the case pursuant to the IDEA and this Court’s precedent. Contrary to the decision of the Appeals Panel, and Valley Grove’s argument, *the IDEA does not require that Spike be able to perform at or near the grade level of non-disabled students before placement in the regular class can be considered the LRE for him* [italics added]. Congress expressed a strong preference in favor of educating children with disabilities in an inclusive manner and an integrated environment and requires States accepting IDEA funds to educate children with disabilities in the least restrictive environment (i.e., with their nondisabled peers in the regular classroom) to the maximum extent appropriate. States and school districts are not asked to determine whether LRE is an appropriate policy but rather to determine how a child can be educated in the LRE. Thus, school districts must determine how a child can be educated in the regular class with the use of supplementary aids and services. Valley Grove did not even attempt to make the necessary determination of how Spike could be educated in the LRE. Indeed, Valley Grove argues instead that, directly contrary to IDEA regulations, Spike must be removed from his age appropriate regular classroom solely because his educational level is below that of the class (U.S. Justice Department, 2002; pp.13-14).