

ANNUAL REPORT CHAPTER 405 OF THE LAWS OF 1999

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THE STATE EDUCATION DEPARTMENT
Office of Vocational and Educational Services for Individuals with Disabilities
Office of Special Education
ALBANY, NY 12234**



Introduction

Within Chapter 405 of the Laws of 1999 are specific provisions that require the State Education Department to identify school districts with high rates of identification of students as students with disabilities, low rates of declassification of students with disabilities, high rates of placement of students with disabilities in separate sites and significant disproportion, based on race and ethnicity, in identification and placement in particular settings of students with disabilities. The Department must then work with the identified school districts to verify such rates, determine underlying causes and, if necessary, may require the development of a corrective action plan to implement policies, practices and procedures to improve results in the identified problem areas.

This report is prepared to comply with Chapter 405 and provides information on technical assistance activities that occurred since the last Chapter 405 report was submitted in December 2004. As required, this includes technical assistance activities that occurred during the 2004-05 school year. Chapter 405 states, “the department shall provide technical assistance to such school districts ...to assist them in developing effective strategies to improve such results including alternative placement models; models for effective preventive services; coordinated use of financial resources; improved evaluation practices and appropriate declassification practices.”

The efforts described herein highlight the ongoing collaboration between the Department’s Offices of Elementary, Middle, Secondary and Continuing Education (EMSC) and Vocational and Educational Services for Individuals with Disabilities (VESID) to provide support and technical assistance to schools with problem areas identified through the Chapter 405 process. Key components of the Department’s approach to disproportionality are the ongoing technical assistance through the Department’s networks and the capacity–building strategies provided through a contract with the Metropolitan Center for Urban Education at New York University.

Previous reports to the Legislature are available on the Department’s website at <http://www.vesid.nysed.gov/specialed/chapter405/home.html>.

Current Status

Chapter 405 of the Laws of 1999 requires the Department to examine special education data from all school districts in relation to a number of key areas, including:

1. high rate of identification of students as students with disabilities;
2. low declassification rate of preschool students with disabilities;
3. low declassification rate of school-age students with disabilities;
4. high rate of placing school-age students with disabilities (ages 6-21) in separate education settings;
5. disproportion, based on race/ethnicity, in the identification of students as students with disabilities, or in the identification of students having a particular disability;
6. disproportion, based on race/ethnicity, in the placement of preschool students with disabilities in separate education settings; and
7. disproportion, based on race/ethnicity, in the placement of students with disabilities in more restrictive settings.

As a result of data analysis and verification done by the Department in May 2005, a total of 430 school districts were assigned a specific level of technical assistance based on the number of issues for which they were identified. The types of technical assistance available are:

- **Targeted Technical Assistance:** The Department assigned extensive technical assistance to nine districts identified in 2005. These school districts had the most number of issues from the list identified above (five or more). All targeted districts have an approved plan in place and continue to receive technical assistance for both the planning process and professional development through the Regional School Support Centers (RSSC) and the Special Education Training and Resource Center (SETRC) networks.
- **Regional Technical Assistance:** Seventy-seven school districts that had four or more Chapter 405 related issues were identified for this type of technical assistance. These districts are required to address resolution of the problem(s) in their Comprehensive System of Personnel Development (CSPD) plan, have the plan reviewed by regional teams convened by the Department, and participate in regional training programs sponsored by the Department or through local sources. A sampling of the types of training provided at the regional level include: prereferral and intervention strategies,

co-teaching models, systematic ways of examining data, reassessing assessment, team building and parent training.

- Self Review: The remaining 344 school districts not identified for targeted technical assistance or regional technical assistance were identified for this type of assistance. Similar to regional technical assistance, the district addresses the resolution of the problem(s) in the CSPD plan and implements the plan with local and regional resources. The attainment of goals associated with the problem area(s) are documented in the annual updates to the CSPD plan with the support of the SETRC representative.

In 2005, the CSPD plan continued to be the vehicle for identified districts to address systemic problems associated with Chapter 405. The development of the CSPD plan is based on a thorough analysis of district and building data to determine needs; identification of specific goals and outcomes in regard to student achievement, district performance and disproportionality; and specification of benchmarks representing appropriate progress toward achieving identified goals.

Ongoing Technical Assistance

VESID continued to provide technical assistance to address Chapter 405 problem areas through the SETRC network, RSSCs, the Special Education Quality Assurance (SEQA) Review Process, a contract with New York University (NYU) Metropolitan Center for Urban Education and the technical assistance projects described below.

Contract with New York University

In order to increase capacity for addressing disproportionality, the Department awarded a contract to the NYU Metropolitan Center for Urban Education in 2004. The Center continued efforts in 2005 to work with selected school districts to reduce disproportionality.

Six districts received technical assistance in the 2004-05 school year. There is one district in each of the following regions: New York City, Hudson Valley, Capital District, Long Island, Central New York and Western New York. In addition to working with these six school districts, NYU developed and delivered professional development on a regional basis for VESID, EMSC and other Department funded networks (e.g., RSSC, SETRC, Bilingual Education Technical Assistance Centers). The objectives of the contract with New York University are to:

- provide technical assistance to the six identified school districts and to use the work in these districts to provide practical experience for the regional network staff addressing disproportionality;
- develop professional development programs and related material to build the capacity of State and regional network staff in assisting school districts in the identification of root causes, development of action plans, use of scientifically based research strategies and implementation of strategies specific to the disproportionality issues being addressed; and
- ensure there is a method for determining the effectiveness of the professional development efforts in building capacity and supporting systemic change with the six identified school districts and regional networks.

NYU delivered the required six trainings to each of the six school districts and six regional networks in 2005 focusing on various topics related to using data to identify and analyze the issues surrounding disproportionality. Additionally, NYU conducted a two-day Summer Institute to bring all the partners together to share experiences to date. Each team and school district developed a planning document for use during the 2005-06 school year.

Special Education Training and Resource Center Network

SETRC is a professional development network funded by VESID through the Individuals with Disabilities Education Act (IDEA) discretionary funds and composed of

42 projects statewide that provide technical assistance to personnel working with preschool and school age children with disabilities. The SETRC model is one of systems change, in which SETRC Professional Development Specialists' (PDSs) efforts are directed primarily to high-need, low-resource districts/buildings in need of improvement. Within that group of districts, each SETRC project further targets a limited number of districts or buildings for intensive support, including coaching and ongoing analysis of the root causes of district issues, identifying solutions, and implementation and evaluation of effect. State-targeted 405 districts/buildings automatically become SETRC-targeted districts/buildings, and the disproportionality issues for which they were targeted are subjected to root cause analysis and problem solving, with the final product being an improvement plan which includes goals, objectives, and activities that address those issues. SETRC PDSs work closely with RSSC Special Education Specialists and VESID SEQA Regional Associates in supporting districts/buildings through this process.

Within the SETRC network are two subnetworks comprising Regional Training PDSs and Bilingual PDSs. There are 10 regional centers and two regional bilingual centers. Regional PDSs, working in each RSSC region, continued to support districts by providing professional development regarding laws and regulations relating to identification, placement, and service provision. This information is critical to help districts address disproportionality. During the 2004-05 school year, Bilingual PDSs, working in each of the Big Five City districts, one in the Long Island region and one in the Upstate region, continued to provide both compliance-related and instructionally-related professional development for districts. Bilingual PDSs are instrumental in assisting districts to understand the differences between the identification of students as English language learners and as students with disabilities. They also continue to help districts identify evaluators with appropriate certificate extensions for evaluating children who are non-native English speakers. In addition, they continue to provide districts with professional development on instructional and behavioral strategies for English language learners with disabilities, and on culturally competent interaction with students and families. Bilingual PDSs continue to provide a natural link for collaboration among special education resources and general education resources such as the Bilingual Education Technical Assistance Center (BETAC).

Regional School Support Center Network

The RSSC Network was established through a collaborative effort of VESID and EMSC to coordinate efforts and resources across a variety of initiatives to improve educational results in low performing districts. The RSSCs are one of several coordinated initiatives to "Close the Gap" in educational performance through delivery of sustained school support services. From 2000 - 2005, RSSCs were funded through five sources (IDEA Part B, Title I, Goals 2000, Comprehensive School Reform Act, and Effective Schools) with the objective to organize and coordinate efforts represented by those programs on behalf of schools and districts in need of improvement. The RSSCs were designed specifically to provide intensive onsite technical assistance, in partnership with SETRC, to Targeted Chapter 405 districts. RSSCs also are

responsible for collaborating with SETRC on strategies to address Regional Chapter 405 districts.

One hundred percent of RSSC resources are directed to building capacity and improving education performance in schools and districts identified based on the System of Accountability for Student Success (SASS); and to improving the performance of students with disabilities in school districts prioritized based on State Performance Plan Indicators.

During the 2004-05 school year, each Center's comprehensive set of services continued to be directed to the identification and/or diagnosis of root causes of conditions inhibiting improved student performance, and the development of appropriate interventions through comprehensive planning, coordination of network resources, technical assistance and professional development.

IDEA State Improvement Grant (SIG)

In the last few years, VESID has provided two-year professional development grants to high-need low-resource districts identified as experiencing difficulty in attaining success on several of the VESID Key Performance Indicators, including disproportionality in identification and placement of students with disabilities. Two districts from each Joint Management Team area, an additional five districts on Long Island, seven Community School Districts in NYC, and the Big Four city districts (Yonkers, Buffalo, Rochester and Syracuse) were funded. Districts awarded these grants were required to convene a group of stakeholders to conduct a root cause analysis of the problem areas, prioritize issues, (coached by SETRC and/or RSSC specialists), develop goals and objectives, and plan professional development interventions. Districts were also required to partner with a parent organization and an Institution of Higher Education (IHE) in planning and implementation. Disproportionality issues have been addressed either directly or indirectly in many of the plans developed by districts.

In 2001, New York State (NYS) was awarded an IDEA SIG. VESID used the grant funds to establish three regional SIG Teams (Upstate, Downstate/Long Island, and NYC). The Upstate and Downstate/Long Island SIG Teams each consist of four specialists with expertise in areas associated with key root causes contributing to poor performance for students with disabilities. (NYC has chosen to provide the same service with existing personnel through the United Federation of Teachers Teacher Center). One member of each Team has expertise in bilingual education and cultural competency. These individuals, in collaboration with the SETRC and RSSC personnel from the districts' regions, have worked with SIG districts and other targeted, unfunded districts, to address issues that have resulted in disproportionality.

In 2002, NYS was awarded a SIG Supplemental Grant. One of the goals of this supplement addresses disproportionality, with special emphasis on cultural issues. In

the 2004-05 school year, the Department funded one RSSC staff with expertise in disproportionality to conduct the following activities:

- develop a presentation on research-based instructional and management strategies that have been proven to result in improvement in disproportionality;
- identify areas of concern in which little research exists and, working with districts and buildings, SETRCs, RSSCs, and IHEs, provide support to test the outcomes of promising but unevaluated strategies;
- contact the individuals named by field technical assistance network personnel as having interest and expertise in multicultural issues, discuss with them their interest in becoming part of a resource network, and identify a core group who can provide capacity and act as a “brain trust” in multicultural disproportionality issues; and
- work with the NYU Metro Center staff, including acting as a liaison between them and other members of the field technical assistance networks when necessary.

Partnership Agreements/Performance Plans

The Department has entered into special agreements with six school districts in order to close the achievement gap for all students in those districts. Partnership Agreements have been developed with the city school districts of Buffalo, Rochester, Syracuse, and Yonkers. Performance Plans have been developed with the Wyandanch Union Free School District, Roosevelt Union Free School District, and Hempstead Union Free School District. These special agreements provide a framework for the type of collaboration and support the Department and its funded networks intend to provide to the districts. The agreements represent, or are a reflection of, prioritized needs and goals included in each district’s strategic plan. Included in those plans are Chapter 405 issues for which the districts have been cited. Operational plans have been developed by the collective providers of services (SETRC, RSSC, BETAC, etc.) to identify, implement, and evaluate specific activities designed to achieve the outcomes specified in the agreements. These plans are updated quarterly.

Quality Assurance Review Process

Since 1994-95, VESID’s SEQA Unit has made fundamental conceptual and procedural changes in the manner in which school districts and preschool special education programs are monitored. The monitoring has been transformed into a data-driven and collaborative process of quality assurance. The issues identified through Chapter 405 are included in the review process. The Quality Assurance Review process involves collaborative efforts with school district staff, parents, VESID and SETRC staff working together utilizing review protocols that focus on specific areas of need. This approach is referred to as Focused Reviews. Nationally, both the federal Office of Special Education Programs (OSEP) and many other state education agencies have begun to move toward a focused monitoring process. As a result of the Focused Review

process, the team identifies any areas of noncompliance and the required corrective actions, as well as areas requiring strategies to improve program quality and effectiveness.

During the 2004-05 school year, the school district protocols developed and piloted earlier were further refined and utilized in every region of the State. The Least Restrictive Environment (LRE) protocol is designed to address high separate site placement rates by a school district. The Achievement protocol addresses low achievement by students with disabilities, and the Student Exiting/Transition protocol is designed to address successful preparation of students with disabilities for post-secondary life. The Quality Assurance Focused Review process also includes a parent forum designed to solicit feedback on parents' perceptions of special education within their district. The culminating activity of a Focused Review is the identification of corrective actions and improvement strategies that address the identified compliance and programmatic issues impacting student outcomes in the focus area. In addition, the district must set benchmarks to reflect efforts made by the district, over a specified period of time, to resolve the identified issues that will result in improved outcomes for students with disabilities. Each Focused Review, regardless of its focus, involves three phases, typically spread across three years. This is to ensure that the Focused Review team stays involved long enough to oversee the implementation strategies and evaluate their success.

During the 2004-05 school year, a focused review protocol was newly developed and is currently in use with the Board of Cooperative Educational Services (BOCES) special education programs. For the 2004-05 school year, approximately 112 Focused Reviews were conducted. In addition, a special monitoring effort in New York City resulted in an additional 126 public school reviews. There were also 95 reviews of nondistrict programs including Chapter 405 targeted districts, charter schools, preschools, BOCES, State agency schools, approved private schools, Title I, School Under Registration Review (SURR) team and Joint Regional Targeted districts.

New York City

The New York City Department of Education (NYCDOE) is taking significant steps in examining school districts' Chapter 405 disproportionality data and analyzing root causes of identified issues.

In addition, discretionary funds are allocated through the federal SIG and the NYC SETRC to support a collaboration between different divisions of the NYCDOE for the purpose of addressing disproportionate representation of minority groups referred and recommended for special education services. The District Comprehensive Educational Plan (DCEP) document was amended, requiring superintendents to review data and propose interventions to address disproportionality. The linkages established with VESID, EMSC, SETRC, RSSC and the NYU Metro Center for Urban Education are assisting districts in identifying and implementing effective strategies.

Ongoing Capacity Building

The Department has continued to actively develop internal capacity within EMSC and VESID to provide technical assistance to school districts in addressing problem areas identified in Chapter 405 of the Laws of 1999. The Department has worked closely with multiple federal partners to ensure access to the most current and innovative approaches to address the issues of classification, separate site placement and disproportionality.

Assistance from National Associations and the Federal Government

During the 2004-05 school year, Department staff continued to meet regularly with a variety of partners including OSEP, United States Department of Education (USDOE), OSEP-funded technical assistance centers, the National Association of State Directors of Special Education (NASDSE) and the Northeast Regional Resource Center (NERRC) to receive technical assistance. NERRC is a federally funded technical assistance center that provides support to state education agencies to improve their systems of early intervention, special education, outcomes for students with disabilities and transition services through the development and implementation of policies, programs and practices to enhance educational results for children and youth with disabilities.

OSEP has modified its biennial performance report requirements to an annual reporting requirement. This report requests states to provide goals and objectives established for students with disabilities, a description of data trends, and strategies the state will use to improve results in identified areas based on the state's needs assessment. This report also requires states to provide statewide data on disproportionality, based on race/ethnicity in identification and placement of students with disabilities. This report was submitted to the USDOE on April 1, 2005.

State Improvement Grant (SIG) Activities: Ethnic Disproportionality and Capacity Building

New York's Supplemental SIG includes a component that is intended to improve overall State capacity to address ethnic disproportionality. The grant supports the identification of in-state expertise to facilitate and develop a standing workgroup on ethnic disproportionality. This workgroup will become the core of a technical assistance effort in the State to provide indepth skills for utilization at the local district level. It is anticipated that the workgroup will expand as the State gains important experience dealing with ethnic disproportionality through district planning and professional development activities.

IHEs with teacher education programs who are members of the Task Force for Quality Inclusive Schooling supported by the VESID funded New York Higher Education Support Center (HESC) for Systems Change at Syracuse University are involved in this

strategy. Faculty at a number of institutions with interest in this area have applied for financial support from the HESC to conduct research, develop materials for culturally responsive teacher preparation, work with multiple stakeholder learning communities and share their experiences through conference participation and professional publications.

Staff have been assigned, schools have been targeted, with funds allocated, in support of this initiative since the Spring of 2005 and through two subsequent school years.

Next Steps

The Department will continue to support the Chapter 405 workgroup in collaboration with RSSCs, SETRCs, and Quality Assurance regional staff to provide capacity-building opportunities, and regional/local technical assistance. In addition, the Department's recommendations and next steps regarding Chapter 405 are to:

- Continue to advocate for legislation to amend Chapter 405 of the Laws of 1999 to delete the requirements of Chapter 405. New Federal State Performance Plan (SPP) reporting and activity requirements make Chapter 405 unnecessary and duplicative. IDEA section 616(a) requires States to monitor school districts using quantifiable indicators in three priority areas, one of which is disproportionate representation of racial and ethnic groups in special education and related services to the extent the representation is the result of inappropriate identification. States are required to prepare SPP and set targets for a period of six years on each of twenty indicators, two of which are related to disproportionality issues that are also addressed in Chapter 405.
- Investigate and, if appropriate, begin development of school district self-review protocol focused on the priority areas of the SPP. NYS will revise its definition of "significant disproportion" to identify school districts with lower relative risk ratios and weighted relative risk ratios. The State will report annually in the Annual Performance Report, the number of school districts whose policies, practices, and procedures are reviewed and how many are found to result in inappropriate identification.
- Provide training to targeted school districts on how to modify the school improvement plans so the plans result in analysis of data, identification of root causes, development of measurable goals and objectives and development of an implementation and evaluation plan to ensure that the Chapter 405 problem areas are addressed.
- Provide guidance through the bilingual SETRC network to school districts on the effects of cultural and language differences on student assessment,

- appropriate interpretation of results and the identification of appropriate instructional interventions.
- Continue the Technical Assistance Center contract with NYU Metro Center to reduce disproportionality. Regional training programs will continue to be delivered to VESID and EMSC staff and funded networks (RSSC, SETRC, BETAC). Technical assistance will continue to be provided to six identified school districts across the State. Additional new efforts of this contract will focus on developing a best practices publication and website outlining the scientifically-based research strategies used to address disproportionality in the six identified districts. Training modules and other related materials will be developed and made available for broad distribution. A data repository tool will be developed to allow all schools, regardless of their participation in the contract, a method to use their data to assess their progress in reducing disproportionality.
 - Continue review by VESID's NYC SEQA Office of the ten Regional District Comprehensive Educational Plans (RDCEP) to ensure each Plan examines Chapter 405 disproportionality data, examines root causes for problems identified, and develops strategies to address problem areas. In addition, one NYC Instructional Division will continue to work collaboratively with the NYU Metro Center for Urban Education and the regional teams which have been established to examine Chapter 405 disproportionality data and to identify root causes of identified issues, and develop strategies to address problem areas
 - Continue to monitor the implementation of the regional five-year Special Education Space Requirement Plans, with a particular focus on those regions, which were awarded IDEA discretionary funds to help their districts reduce their reliance on separate site placements for students with disabilities.
 - Continue to work closely with EMSC to carry out the special Partnership Agreements with Buffalo CSD, Rochester CSD, Syracuse CSD, Yonkers CSD, Roosevelt UFSD, and Wyandanch UFSD. Chapter 405 issues will continue to be a focus of Department resources, as well as the other prioritized needs and goals contained in the agreements.