

DOCUMENT RESUME

ED 392 187

EC 304 617

AUTHOR Fruchter, Norm; And Others
TITLE Focus on Learning: A Report on Reorganizing General and Special Education in New York City.
INSTITUTION New York Univ., NY. Inst. for Education and Social Policy.
SPONS AGENCY Grant (W.T.) Foundation, New York; N.Y.
PUB DATE Oct 95
NOTE 143p.
PUB TYPE Reports - Evaluative/Feasibility (142) -- Viewpoints (Opinion/Position Papers, Essays, etc.) (120)

EDRS PRICE MF01/PC06 Plus Postage.
DESCRIPTORS Accountability; *Change Strategies; *Disabilities; Educational Change; Educational Diagnosis; Educational Finance; Educational Policy; Elementary Secondary Education; High Risk Students; High Schools; *Inclusive Schools; Legal Responsibility; Models; Preschool Education; Regular and Special Education Relationship; *School Based Management; School Districts; *School Restructuring; *Special Education; State Aid; State School District Relationship; Student Evaluation; Student Placement; Teamwork; Urban Education

IDENTIFIERS *New York City Board of Education

ABSTRACT

This report is the result of a year-long evaluation of special education in New York City (New York) and presents major recommendations for reorganizing general and special education. It proposes a school-based model with an integrated general/special education system, and use of an enrichment allocation from merged special and general education funds to meet the needs of students with disabilities and students at risk of academic failure. It recommends creation of Instructional Support Teams within schools, formal evaluations of students by a district-level multidisciplinary Committee on Special Education, significant investment in school-based professional development, creation of an independent Accountability and Quality Assurance Office, changes in state funding mechanisms to encourage the placement of students in neighborhood schools, and restoration of funding to general education. The report begins with an executive summary and an introduction. The following six chapters address: (1) why the current system doesn't work; (2) guiding assumptions of the study; (3) major features of the school-based model; (4) implications for high schools; (5) implications for District 75/citywide programs; and (6) implications for preschools. A concluding chapter presents the study's 14 specific recommendations and suggestions for phased-in implementation. Appendices provide: public reaction to the first draft of this report; a legal analysis of the proposed changes by Perry A. Zirkel; and a review of financing dimensions of the proposed changes by Thomas B. Parrish. Contains 15 references. (DB)

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FOCUS ON LEARNING:

A Report on Reorganizing General and Special Education in New York City

October, 1995

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Support for this report was provided by the W. T. Grant Foundation

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Focus on Learning: A Report on Reorganizing General and Special Education in New York City

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Executive Summary

Focus on Learning: A Report on Reorganizing General & Special Education in New York City

As recently as twenty years ago, many students with disabilities were excluded from public education and, when included, were often taught in separate, inadequate, and sometimes inhumane settings. Federal action through laws such as PL 94-142; court intervention through cases such as *Jose P.*; and the development of state and local programs have improved the education of students with special needs. For many, the days of exclusion and mistreatment are over. Almost 13 percent of students in New York City public schools are now classified as disabled and almost 25 percent of the City's public school budget is spent on their education.

But despite this radical change in educational policy and practice, stakeholders, providers and constituents are convinced that the City's special education programs are not serving the majority of their students effectively, efficiently, and equitably. Special education produces limited outcomes because:

1. Accountability is very limited. There are no useful instructional standards and very little useful data on educational and behavioral outcomes.
2. Far too many students are placed in separate settings rather than in more appropriate, less restrictive instructional settings defined by state and federal law.
3. Students of color are over-represented in special education, and particularly over-represented in separate special classes.
4. Many students are placed in special education not because of a disability but because general education is not meeting their learning needs.
5. The cost of evaluating, transporting, tracking, re-evaluating, mainstreaming, and decertifying students who may not be disabled is siphoning off resources from a resource-starved public education system.

We believe that many students assigned to special education do not have the disabilities that special education was created to address, but are placed in special education because general education teachers and their schools don't have the resources, capacity or training to respond effectively to their learning needs. But special education was *not* designed to address the needs that general education fails to meet. Special

education is, ultimately, alternative or enriched *instruction* and support for *students with disabilities*.

Our report recommends major structural changes to respond more effectively to students experiencing academic or behavioral problems, both those in general education and those in special education, and particularly those classified as mildly or moderately disabled whose instruction is the responsibility of the 32 community school districts and the Division of High Schools. We also recommend some smaller changes in the citywide programs (District 75) serving students with severe disabilities. Improving general education's capacity to meet the needs of a much broader range of students requires a major shift in how our entire school system operates. We need structural changes to create new school practices that help school staffs respond very differently to the rich diversity of children's learning styles and learning needs. Such new practices have been developed in a small number of New York City's schools; our recommendations encourage the development of new practices in *all* the City's public schools.

We propose a school-based model that restructures schools and classrooms, deploys personnel in new ways, reconceptualizes instruction and assessment, and changes how funds are allocated. The overall goal is to improve teaching and learning. The critical unit is the school, and the personnel critical to making our model work are school staff. Implementing our model would transform our dual system, with instruction separated from evaluation and special education students separated from general education students, into a far more integrated system that better serves the learning needs of all students.

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

To help schools meet student learning need, we recommend the creation of an Instructional Support Team (IST). The IST should be composed primarily of classroom

expanding the capacity of general education to meet the needs of many students now placed in special education programs for the mildly and moderately disabled can shift significant resources from evaluation, placement, transportation and tracking to classroom instruction and support. But we cannot expand general education's capacity, by merging funds for mildly and moderately disabled students, while simultaneously reducing its capacity through budget cuts. Therefore we believe that, to effectively implement the structural changes we recommend, we must begin to restore funding to schools whose instructional and support capacities have been severely reduced by the last five years of budget cutting.

OUR RECOMMENDATIONS call for profound changes in how our schools are organized, and how teaching and learning is currently conducted. We believe that the scale of change our recommendations define will lead to improved educational outcomes, more effective use of resources, and more equitable treatment for all our students.

1. Work to change state funding formulas that currently provide incentives to place students in special education, and in inappropriately restrictive settings. Special education funding allocated to community school districts and high schools for students with mild and moderate disabilities should be census-based -- that is, based on the percentage of those students in the total school population. For the 1-2% of students with severe disabilities, state high excess cost aid formulas should be based on state reimbursement for actual costs.
2. Negotiate a state waiver with a provision to maintain, for at least five years, the level of support for special education currently derived from both state aid formulas and regularly calculated annual increases. Negotiate with both state and city sources for a significant additional allocation for the massive professional development necessary to effectively implement the subsequent recommendations.
3. Require community school districts and high school superintendencies to merge special education resources for mildly and moderately disabled students with supplementary general education resources to create a single enrichment allocation for each school. This allocation would include all federal and state compensatory and preventive funding, as well as the resources generated by special education programs for students with mild and moderate disabilities. Such funding should be used, within the context of broad guidelines, to serve the needs of all students with mild and moderate disabilities, as well as the needs of all students at risk of school failure.

school's support services for students and staff. Other former SBST members will become part of CSE teams at the community school district or high school superintendency level.

10. Empower District 75 to help community school districts develop effective programs for students with severe disabilities, thereby creating choices of District 75 or local district programs for parents. Give the Division of High Schools administrative responsibility for all SIE IV, V, VI, VII and VIII programs for high school-age students. Create a new superintendency *within* the Division of High Schools to oversee these programs and to help insure that all students with disabilities entering high school choose, or are placed in, the most appropriate programs and receive appropriate post-school transition services.
11. Create significant fiscal incentives to educate children in their home schools, both to reduce the inappropriate referral of children to special education, and to provide a broader range of placement options for children with mild and moderate disabilities and children with low-incidence or severe disabilities.
12. Establish an Accountability and Quality Assurance Office to assess the effectiveness of instructional strategies and practices for students with disabilities; provide information to help districts and schools improve educational outcomes, particularly for their most precarious students; identify schools and districts whose practices consistently fail to meet the educational needs of low-achieving students and students with disabilities, and refer those schools and districts to the Chancellor for corrective action; report regularly to the *Jose P.* plaintiffs and the public; and recruit and provide training, supervision and support for Parent Advocacy Teams in all districts.
13. Change current arrangements for educating pre-school children with disabilities by: assigning community school districts the responsibility and the resources to evaluate and place 3- to 5-year-old children with disabilities; working to get state funding for expanded programs for three and four year-olds such as Superstart Plus, to provide sufficient seats for those pre-school children with disabilities who can benefit from such an environment; and allowing placement in approved private pre-schools only when public options don't exist or are inappropriate.
14. Develop a comprehensive evaluation design to assess the effectiveness of these structural changes by focusing on a variety of outcomes, especially outcomes of students with disabilities or at risk of school failure. The evaluation should be initiated when implementation begins.

APPENDIX A

Public Reaction to *Focus on Learning*

Focus on Learning was issued as a Draft Report on May 19, 1995. The New York University team developed the report as a framework for reorganizing both general and special education in New York City public schools, but recognized that many of its recommendations were controversial and needed further exploration. Therefore, the Draft Report ended with an invitation "to all the city's constituencies to begin a dialogue that will result in clear directions for system-wide improvement."

Formats for public response were organized by the Board of Education, which held two sets of hearings on the report in each of the boroughs in June, 1995; more than 300 individuals gave oral or written testimony. In addition to these public hearings, the Chancellor, the Board of Education, and members of the NYU team received more than 50 written responses from individuals and advocacy groups during the 1995 summer months.

The chart on the following page shows the testimony given by various constituencies. When witnesses identified themselves as both a parent and a teacher, or as a parent of both special and general education students, they were classified twice. In fact, most of the 28 parents who identified themselves as having children in general education programs also had children in special education.

In addition to these oral and written testimonies, more than 90 parents and teachers from the Queens School for Career Development PTA sent signed form letters to the Queens Regional Office of the Committee on Special Education, asking that the present system be left intact. Finally, the Fund for New York City Public Education organized the following constituency-based focus groups from June - October, 1995: principals of community school district schools, District 75 principals, community school district superintendents, New Vision Schools staff, parents of students in district special education programs, parents of students in District 75, United Federation of Teachers representatives, and members of the Council of Supervisors and Administrators. The Fund's summary of its findings from these focus groups will be issued after the groups are concluded.

Despite the multiple hearings and other forums available for reactions and discussion, some parents and educators of special education students expressed alarm that *Focus on Learning* was not a draft but "a final report." Some witnesses also believed that the City's fiscal needs were driving what they saw as a rushed

true sense of accomplishment." Similarly, a specialist in treating children with attention deficit disorders pointed out that these children "do not need special education services. What they need is a smaller classroom where the teacher can give them more individualized attention." Moreover, "removing these children from special education," she said, "would save thousands of dollars per child."

Two District 75 professionals, in a joint statement, reported that, although they had been prepared to fight for their jobs, they had been surprised to discover in *Focus on Learning* "a comprehensive plan" for all children to be educated in their community school. "If implemented in the spirit it was developed, this plan offers us the opportunity to change the direction and substance of education in this city and we can't wait to be part of that process." The key question for them was whether *all* educators would be able to change their attitudes and behaviors towards special needs children.

While the Council of Supervisors and Administrators supported a school-based model, they argued that a prerequisite was a *district-wide* plan that would make decisions about sending students out of the district, distributing special education students within the district, and allocating personnel, technology and fiscal resources.

However, even among those who believe that the current system turns special and regular education into adversaries, there were many reservations about the Draft Report's effort to develop a unified system, or what some witnesses referred to as inclusion. A social studies teacher in a general education school, for example, described the difficulty he had teaching a class which contained Regents, non-Regents, and special education students. "The honor student is bored. . . . The special education students can't keep up."

A number of witnesses, including parents and educators, also were fearful that a unified system would not serve disabled children well, particularly in a period when regular schools suffer from severe funding cuts. A resource room teacher explained how she worked with five students at a time, but, because of budget cuts, was being threatened with ten students every 42 minutes. A psychologist predicted that with budget cuts, class size would increase, and since "research shows crowding leads to aggression...we will pay a high price in maladjustment and crime." Another psychologist noted that in his school many of the regular students weren't doing well. "What good would it serve to infuse special ed students into already overwhelmed regular ed classrooms?" A witness summed up this line of concern: given the chronic underfunding of education for New York City's school children, "it isn't difficult to figure out that

principals and community school districts will try to use the special education monies turned over to them to make up funding shortfalls for general education."

There were also a number of comments concerning the risk of making significant changes, without any experience of the benefits of a school-based model. A mother of three public school students, one in a District 75 school, asked: "What is the school-based model? Who has seen it? Who runs it? Has it generated data? Has it been successful in any schools?" Another mother suggested that the first step in any special education reorganization should be to fix the MIS programs, "which have failed miserably in both educational and social outcomes, despite the fact that they are already under district control."

Parents, educators, and special education students also criticized the plan for what they saw as its naive assumption that "basic attitudinal changes will take place" toward children with disabilities on the part of practitioners throughout the public school system. In the words of a teacher at the Bronx Center for Multiply Handicapped Children, "this method of reforming special education is like planning a wedding to which the bride (general education) was not invited." A special education teacher in an elementary school also talked about how she constantly fought with her principal to keep as many children as possible in regular classes. "The principal has said publicly that my philosophy is inconsistent with that of the school." A student who had been transferred from the Hungerford School, which serves children with severe physical disabilities, to a general education school, made the point about the two divided worlds more sharply: "When I got there they always talked about me in front of me as if I were dead. But I am not."

2. ESTABLISHING A SYSTEM OF CLASSROOM-BASED INFORMAL ASSESSMENTS OF STUDENTS IN THE SCHOOLS AND FORMAL ASSESSMENTS ONLY AT THE DISTRICT LEVEL.

The school-based model involved several recommendations regarding assessments. First, the Draft Report recommended informal assessments of all students at risk of academic failure. To best organize learning settings to meet student's educational and developmental needs, these assessments should be conducted in the schools and must be instructionally-based.

This recommendation generated a number of complaints about the existing assessment system. A District 29 social worker argued that the current system contains endless redundant evaluations to change an IEP, and doesn't provide for

A parent was uneasy about how well the top-down lecturing format generally offered by the Board of Education's professional development units would serve this extensive retraining. Another worried,

"I don't know where you get the training for these teachers, these thousands and thousands of teachers out there who don't have the qualifications or the experience . . . to deal with your children. I don't know how my daughter's educational and transition plan would be implemented with people who don't have the experience, who don't know her, who are . . . walking in cold."

To stress the enormity of the training effort required, a number of parents, educators and students also emphasized the severity of many children's disabilities. Several readers of *Focus on Learning* believed the Draft Report didn't take seriously the severity of students' disabling conditions. A counselor in a school where students often arrive in wheelchairs and on stretchers, said, "I was particularly sensitive to the shock I often saw on the face of job applicants, and the need for me to help them see beyond the handicap to the child beneath the bandages." And a Hungerford School student with cerebral palsy, who communicates through a pointer on his head that activates a computer lapboard, feared the impression he would make: "We are defenseless because our bodies are not able to defend us, but our brains work. So many times able-bodied people think when our bodies do not work our brain does not work."

Fourth, the Report recommended that SBSTs be dissolved, and that the former SBST members become either school support staff or members of district level CSEs.

Because of the Draft Report's lack of clarity, as well as its substance, this recommendation drew objections from a number of administrators and current SBST members, as well as quite specific opposition from the United Federation of Teachers. The most frequent criticism concerned the perception that *Focus on Learning* meant to place the SBSTs under the principal, rather than to make former SBST members responsible to the principal as part of school support staffs. Thus many witnesses mistakenly perceived that SBSTs would be under pressure to meet the needs of the school rather than the individual student.

A number of clinicians and other professional staff noted that, "once a specialist is accountable to the principal he or she cannot always act in accord with his or her best professional knowledge." A psychologist said: "Having the school principal as the supervisor also significantly reduces the SBST's ability to effectively advocate

2) that its reports to the Chancellor and the public would not be timely enough; 3) that its recommendations to the Chancellor would not have any teeth, since the Office itself has no power; and 4) since the Office is to be responsible for all students, not just those with disabilities, it would be a questionable advocate for the latter. This witness also argued that any reorganization plan for special education should include the creation of an independent entity "with the authority equal to that of a district or high school superintendent," to ensure that the needs of students with disabilities are met.

The Parent Information and Advocacy teams received some comment, both from individual parents and from advocacy groups. Advocates for Children contended that, for Parent Information and Advocacy Teams to fulfill their role, "They should be trained and provided technical assistance by independent, non-profit organizations." A parent also argued that students with disabilities need advocates, not mediators. And another parent asked:

"If Parent Information and Advocacy Teams are established in each district and high school superintendency, who will be the members? . . . hand picked parents . . . hand picked staff . . . people who prefer integrated programs . . . people who prefer self-contained programs? To whom will these Teams report and what will they report? And, if there are problems found, who has the power to impose change: the superintendent . . . a school board . . . Central Board?"

6. RESTRUCTURING DISTRICT 75 TO ENHANCE ITS ROLE AS A RESOURCE TO THE DISTRICTS AND HIGH SCHOOLS.

The Draft Report recommended supporting District 75 to help community school districts develop effective programs for students with severe disabilities, thereby creating choices for parents of student placement in District 75 or local schools.

Of all the Draft Report's recommendations, this one generated the most angry and frightened responses, because many witnesses were committed to preserving District 75 and assumed that the real agenda of *Focus on Learning* was not choice, as the recommendation stated, but rather elimination of District 75 schools and programs. A great deal of anguished testimony advocated maintaining the security and protection that children with disabilities were perceived as receiving in District 75 schools and programs. Acknowledging the legal mandate to place all children with disabilities in the "least restrictive environment," these witnesses argued that District 75 programs provided such environments, and that students with severe disabilities should not have to attend regular schools.

Several District 75 witnesses also took issue with what they perceived as the Draft Report's assumption that students with disabilities were "stuck" or "isolated" in schools composed solely of students with disabilities, and that these students wanted to be in schools with "normal" children. In the words of an angry parent, "My son . . . likes to be around other children who are mentally retarded, and other children who are autistic, and other children who have cerebral palsy." A Career Development Center teacher made the point in another way: "Students with disabilities can be the most amicable people in the world. They may be ready for 'interaction with their high school peers,' but the regular education system is not even close to being ready for them."

A number of witnesses, including teachers, parents, students, and alumni from Junior High School 47 for the Deaf, spoke or signed against dispersing deaf students to local schools. These witnesses described the isolation, loneliness, and shame — all generated by an inability to communicate — which deaf people experience in a hearing world. By contrast, they extolled the sanctuary offered at the School for the Deaf: its ability to work with students with many cultural backgrounds and a wide variety of gifts and secondary disabilities, its provision of a common culture and language — American Sign Language — and its strength in giving its students lifelong friendships and a sense of community. As a teacher, herself deaf, pointed out, at JHS 47 deafness is "depathologized," and signing is seen as the face-to-face language of a linguistic minority. Another teacher summed up the overwhelming view by signing: "it's impossible to put deaf children in a hearing school. There is just no point to it."

Parents, educators and students from other District 75 schools described their settings as filled with staff who work tirelessly, far beyond the regular school day. Many argued that children do get "a good education," or at least the education they need, in District 75 schools. A common plea among professional staff in District 75 was that the NYU team visit schools and see how well they were functioning. Many special education parents expressed satisfaction with the instructional services at both District 75 schools and in the community school districts. As one witness put it, "The low scores in District 75 are not the fault of the schools, but a reflection of the severely troubled students that these schools serve."

Perceiving the Draft Report, along with impending budget cuts, as threatening all District 75 schools, several witnesses suggested comparisons with the closing of psychiatric hospitals, which turned mentally ill people into New York's homeless, because the promised community supports were rarely provided. Advocacy groups, social workers, teachers and psychologists also testified that, just as the regular schools have

suffered increasingly from the social problems affecting our society, the problems of the special education population have grown more serious in recent years. Therefore they argued that this was the worst of all times to bring emotionally and physically fragile students into the general education schools.

Witnesses used words like isolation, misunderstanding, ridicule, humiliation, and prejudice to describe the world that awaited special education students in large and overcrowded general education schools, where many far stronger students are disengaged and alienated. As the Parents' Coalition to Save District 75 put it, "Our innocent children, thrust into the noxious world of the regular education high school, will lose pieces of their dignity, self-respect and safety, as well as part of their funding and services."

The critical issue for parents and teachers alike was that services in schools geared to general education would not prove adequate for students with severe disabilities. Witnesses feared the loss of simple but critical facilities like barrier-free environments, also feared dangerously high teacher-student ratios, and worried about their vulnerability to violence and physical abuse. Concerns were particularly acute among parents whose children suffered from low-incidence disabilities, because they feared districts would choose not to provide for them because of the greater expense involved.

A few criticisms by professional staff and advocacy groups targeted the quality of education provided in District 75 schools and programs. Some educators saw District 75 as a place of rundown schools and discouraged teachers. A District 75 high school counselor reported:

"Many of my high school students complain that their school is not a 'real high school' and that they will never have the chance of obtaining a 'real' high school diploma. They say that with a special ed diploma they will never find a decent and good job and will always be treated differently. . . . I myself have observed the decaying state in which District 75 high schools work; it is pitiful indeed. The programs offered to these kids are limited, the staff don't give a damn many times, so the children lose interest in school. . . . I support you 100% on your plan of integrating District 75 programs."

Another educator worried that, by contrast with regular schools, in District 75 and the Division of Special Education, many of the individuals selected for top administrative posts had never served as principals of special education schools.

The Queens Chapter of the Autism Society of America (ASA) testified that the Draft Report's criticisms of District 75 were well-founded: that "there is no curriculum

Queens School for Career Development begged the NYU Team: "Do not return these students to the high schools where they have met failure in the past!"

7. ENHANCING THE RIGHTS AND CHOICES AVAILABLE TO PARENTS OF ALL STUDENTS AT RISK OF SCHOOL FAILURE AND STUDENTS WITH DISABILITIES.

The Draft Report recommended that an Accountability and Quality Assurance Office be established to take responsibility for recruiting, establishing, training, supervising, and supporting Parent Information and Advocacy Teams in all the community school districts and high school superintendencies, as well as in District 75. The Teams "would be responsible for disseminating information about parents' rights to formal assessment at the district level." In addition, the teams would serve as "an early warning system to the central Accountability and Quality Assurance Office about problematic school or district performance." Trained in mediation, conflict resolution and other negotiating skills, the Teams would also "provide an informal appeal mechanism for parents or school staffs" and they would have "the power to counsel parents involved in unresolvable disputes to seek impartial hearings."

The Draft Report also assured that parents would maintain "their right to request a formal review, at any time, without consulting the IST, if they so choose."

Since many parents apparently only received the Report's Executive Preview, they seemed unaware of the details concerning parents' rights developed in the Draft Report. Some also came to the hearings expecting to have their questions about the role of parents answered by representatives of the NYU team; and the lack of such an opportunity was seen by some as an indication that things would not be better under the NYU plan.

A parent reported that her son had been pushed out by one regular program after another, until he — and she — had ended up in a SIE VII program. Each subsequent encounter gave her little information, and no choice. Several other parents worried about district financial disincentives working against parent voice or choice:

As it is now, parents have very little input as to what choices they have in placement. How would that change later when the CSE will be under even further pressure to refer the child first to the district schools in order to maintain the funds in the district?

Another parent wondered whether, "the only choice [for the parent] would be whether or not to proceed to a costly hearing." Expressing a similar concern, still another pointed out that parents may need a much clearer picture of their rights if the new system doesn't work.

Several parents, as well as the Parents' Coalition to Save District 75, argued that District 75 parents would lose the power of their voice in the community school districts, where they would be a small minority, and their wishes might conflict with those of most parents. Similarly, a mother of a student in a district program argued:

Parents must be allowed to be a whole unit. Local PTA's will not welcome or embrace us into their organization. In my experience, local PTAs, workshops, presentations and meetings never include the special education entity within the school! We are as invisible to them as are our MIS children.

Finally, several parents argued that, if the NYU team really wanted to give parents more of a voice, they should have begun by consulting them about this Draft Report.

8. CHANGING THE PRESENT SYSTEM FOR EDUCATING PRE-SCHOOL CHILDREN WITH DISABILITIES.

The Draft Report recommended that the current arrangement for educating pre-school children be changed in three ways: 1) community school districts should be assigned responsibility to evaluate and place 3- to 5-year-old children with disabilities; 2) state funding should be expanded for Superstart programs such as Superstart Plus, to provide sufficient seats for all pre-school children with disabilities in the least restrictive environment; and 3) placement should be allowed in approved private pre-schools only when public options don't exist or are inappropriate.

While these recommendations received relatively little comment, those who did respond were generally critical of the current system of providing services for preschoolers with disabilities. Advocates for Children, Inc. pointed out that it is currently involved in a lawsuit, *Ray M.*, because 95 percent of preschoolers with disabilities are served in segregated settings, and 75-80% are served by the same agency that performed their evaluation.