



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
270 BROADWAY
NEW YORK, NEW YORK 10007

H. CARL McCALL
STATE COMPTROLLER

ROSEMARY SCANLON
ASSISTANT DEPUTY COMPTROLLER
FOR THE CITY OF NEW YORK

April 25, 1995

The Honorable Ramon C. Cortines
Chancellor
New York City Board of Education
110 Livingston Street
Brooklyn, New York 11201

Re: Follow-up Review of Audit Report on Meeting
Requisite Time Frames for Evaluating and
Placing Students in Special Education (A-2-93),
Follow-up Report No. A-10-95

Dear Chancellor Cortines:

Pursuant to the State Comptroller's authority as set forth in the State Constitution, the State Finance Law and the General Municipal Law, we have reviewed the extent of actions taken by the New York City Board of Education (the Board), to implement the recommendations contained in our prior audit report issued February 28, 1994.

The Board has moved forward to address most of our previously reported concerns. We are pleased that it is following its commitment to improve the performance and quality of special education services. Nevertheless, more needs to be done to fully implement our previous recommendations.

Five of the eight recommendations have been implemented, and Recommendations 1, 2 and 4 have been partially implemented. We continue to recommend that DSE ensure that Committees on Special Education meet mandated time frames, using the statistics generated by the new computer enhancements mentioned in Recommendation 1. Once Recommendation 1 is fully implemented, DSE can clearly identify those Committees that have high noncompliance rates and will then be able to help them in taking the necessary corrective actions. While we believe that Recommendation 1 is certainly the most critical, the Board should also move forward in implementing Recommendations 2 and 4.

Background

In fiscal year 1994 the Board spent \$1.6 billion on Special Education. The Board's Division of Special Education (DSE) is responsible for providing educational services, in the least restrictive environment, to students who have been determined to have handicapping conditions. Generally, students are referred for special education services by their parents or guardians, teachers or other school personnel. Individual referrals are sent to the Committee on Special Education for the child's district. All 32 community school districts have such a committee. State and Federal regulations require that the evaluation of the student, along with a recommended program, must be completed within 30 school days (work days during the summer) from receipt of the parent's consent for the evaluation. Since a grace period of up to 10 days is granted to gain the consent, the evaluation's completion can therefore take up to 40 days. An additional 30 days is allowed by law for placing the student in the recommended special education program once a recommendation has been made. Throughout the evaluation process there are specified outreach actions that DSE is required to take in order to obtain parental consent.

The first time a Committee receives a referral, it opens a case for the student and inputs data into the data base of the Child Assistance Program (CAP). CAP is the unit, previously under DSE and now under the Office of Student Information Services, which is responsible for maintaining current and historical information about all referred students. One function of this data base is to determine compliance with mandated time frames.

A Federal Court action, known as the Jose P. case (named after a New York City child requiring special education services), was brought against the Board for its alleged failure to evaluate on a timely basis children who were referred for special education services, and to place on a timely basis those who were judged to be in need of such services. The court ruled for the plaintiffs in 1979 and imposed more stringent rules on the City regarding the delivery of special education services. As part of this ruling, the court established itself as a monitor of the Board's compliance with mandated time frames.

The CAP data base is used to prepare summary information and reports to allow monitoring of compliance with the Jose P. decision by interested parties: the Board, the Jose P. plaintiffs, external oversight parties, including the Federal Court, and other State and City offices. On a monthly basis, DSE submits statistics to these parties (the "Jose P. report") regarding the evaluation and placement process.

Our follow-up review was conducted between January and March 1995 based upon the follow-up standards described below for assessing the extent of corrective action taken:

Implemented - auditee agreed with the recommendation and we verified that action had been taken to adopt the recommendation or an alternative approach that achieves the same objective.

Partially Implemented - auditee agreed with the recommendation and we verified that action was in process that would implement the recommendation or the recommendation's objective.

Not Implemented - auditee disagreed with the recommendation or, if it had agreed, there was no evidence of implementation action being taken.

Follow-up Observations, by Recommendation

The Division of Special Education should:

- 1. Calculate, for internal purposes, compliance rates based on the actual disposition of referrals, and pursue the use of such rates in the Jose P. report.**

Status - Partially Implemented

Agency Action - The Board agreed to implement this recommendation and indicated that it is pursuing the use of such rates, but further work is necessary. DSE, working with the Child Assistance Program unit, has made some progress towards the implementation of this recommendation. This progress includes the design and development of reporting enhancements to the current computer program that will, when fully implemented, calculate rates based upon actual disposition of referrals. At the time of our follow-up review, CAP officials informed us that they completed tests of the new enhancements. The information to be generated by these new computer enhancements will provide the Board with a clearer picture of its compliance with mandated time frames, and a more accurate interpretation of the performance of the School District Committees on Special Education regarding compliance.

It is disappointing that this recommendation has still not been fully implemented over one year after our report was issued. We urge that this recommendation be fully implemented as soon as possible.

- 2. Ensure that the mandated time frames are complied with and use the statistics generated by implementation of Recommendation 1 to identify those Committees that have high noncompliance rates, and assist them in taking the necessary corrective actions.**

Status - Partially Implemented

Agency Action - While statistics generated from the implementation of Recommendation 1 have not been used, DSE has been using other data to identify Committees that have high noncompliance rates. DSE has established guidelines for improved caseload management by Committees to achieve timely evaluation and placement of students who are referred for special education. These guidelines include improved case tracking and the use of projections to anticipate caseload.

Despite these efforts, the data provided by DSE suggests that the aggregate compliance rate for assessment has not improved and may actually have worsened. For example, the October 1994 compliance rate was only 87 percent compared to 94 percent for October 1991 and October 1992 in our original audit period. The Board agreed to use the new statistics generated from recommendation 1 to improve compliance rates.

- 3. Enhance its case monitoring, particularly of cases that were closed, by documenting all outreach efforts in the CAP data base.**

Status - Implemented

Agency Action - A review of recently closed cases revealed that DSE is documenting all outreach efforts in the CAP data base.

- 4. Periodically analyze the variances among the Committees regarding cases closed and recommendations for placement in special education settings. Determine the reasons for any variances.**

Status - Partially Implemented

Agency Action - Although the Board's Office of Educational Research (OER) has designed and developed a new computer program to analyze the variances among the Committees regarding closed cases and recommendations for placement in special education settings, only preliminary analysis has begun. DSE requested this of OER in May 1994.

At the time of our follow-up review, representatives from OER noted that progress had been made to the point that a data file, needed to prepare the analysis, has been created. Nevertheless, it is disappointing that the Board has not concluded its analysis.

- 5. Require Committees to start the compliance clock on the day a referral is received by a Committee and to enter that date into the CAP data base.**

Status - Implemented

Agency Action - On January 13, 1995, shortly after we announced our intention to perform a follow-up review, DSE Officials issued a memo to Committee Chairpersons and High School District Managers directing them to start the compliance clock on the day a referral is received by a Committee. It is now required that the date of referral be entered into the CAP data base. To provide assurance that all referrals will be considered complete, as defined by State regulations, DSE has set up a tracking system for incomplete referrals. If the referral is considered incomplete, a form, "Return of Incomplete Referral," must be completed by the Committee and logged in a "Monthly Log of Incomplete Referrals."

6. Test the accuracy of information about referrals entered into CAP, and provide training to CAP room staff where necessary.

Status - Implemented

Agency Action - The Board's Office of Monitoring and School Improvement (OMSI) now receives from CAP the report called "Listing Of Initial Referral." OMSI employees then visit schools and test the accuracy of information entered into the CAP data base against actual records. Inaccuracies are identified and used to train office managers and data entry personnel.

7. Require Committees to keep a record of all incomplete referrals returned to schools for additional information.

Status - Implemented

Agency Action - DSE Officials now require Committees to keep a record of all incomplete referrals returned to schools for additional information. This requires that entries be made into a "Monthly Log of Incomplete Referrals" and that a new form, titled "Return of Incomplete Referral," be filled out.

8. Provide training in filling out referral forms to school personnel when needed.

Status - Implemented

Agency Action - The Board has included referral training on its agendas at meetings of Principals, DSE staff, routine "Payday" meetings, workshops, etc.

We are grateful for the assistance of the staff of the New York City Board of Education for the courtesies and cooperation extended to our auditors during this follow-up review. We would appreciate your response, indicating any action planned or taken to address the unresolved matters discussed in this report.

Sincerely,

Rosemary Scanlon

cc: James Coney, Auditor General
Donald McCabe, N.Y.C. Office of Management and Budget