

Special Education Program

Report of the 1999-2000 San Francisco Civil Grand Jury

SUMMARY

In January 1999, the Special Education Program of the San Francisco Unified School District (SFUSD) was subjected to criticism in a complaint (by Mr. Spadia, an SFUSD teacher) filed with the California Department of Education (CDE). After study, the CDE issued a report, known as the Spadia Report, in which the CDE requested that the SFUSD respond to the complaint with a Corrective Action Plan. In response, the Division of Special Education submitted a Voluntary Corrective Action Plan (VCAP) on October 5, 1999. Under the VCAP, a data system was to be implemented to track timelines for referrals, assessments and the initiation of services and supports specified in the Individual Education Plan (IEP) of Special Education Students.

The Civil Grand Jury (CGJ) found that while the data system has been initiated, the implementation of the other recommended improvements has been delayed because of the shortage of credentialed teachers, lack of training and lack of funding. There has also been limited information made available to the general public regarding the delay in meeting the timelines for the other corrective actions. The CGJ makes several recommendations, including most importantly that SFUSD comply with the timeline requirements.

BACKGROUND

After reviewing records and faculty of several schools, the CDE concluded in the Spadia Report that SFUSD was out of compliance as to four out of five of Mr. Spadia's allegations, as follows:

- Failure to provide qualified staff to instruct children with disabilities;
- Failure to follow assessment procedures;
- Failure to implement the individualized education program;
- Failure to protect the confidentiality of personally identifiable information and to maintain a copy of the education program at the school site.

The CDE determined that the SFUSD was in compliance as to the fifth allegation. The CDE gave the SFUSD until March 5, 1999, to develop and provide a plan of corrective action to resolve the non-compliance in the four areas through identification, assessment and provision of services by qualified staff which would ensure that the SFUSD would develop and maintain a governance structure to support compliance with the pertinent federal and state statutes and regulations.

In early August 1999, the CGJ attempted to obtain a copy of the SFUSD Corrective Action Plan and was advised by a member of the special education staff that a Corrective Action Plan was being negotiated with the CDE. The final negotiated VCAP was issued by the SFUSD on October 5, 1999 (Attachment 1).

METHODOLOGY

The CGJ met with representatives of the Division of Special Education of the SFUSD, the SFUSD Human Resources Department, the Department of Psychological Services, and members of the teachers' union (the United Educators of San Francisco (UESF)). The CGJ also met with principals and special education teachers from elementary,

middle and high schools. While most of the meetings were with advance notice to the Division of Special Education of the SFUSD, we were able also to interview some special education teachers without advance notice.

RESULTS OF INVESTIGATION

Introduction

The CGJ investigated each of the allegations with which the CDE had determined the SFUSD was out of compliance.

1. Qualification of staff to instruct children with disabilities

The CGJ was advised that for many years the SFUSD has been out of compliance with the Special Education regulations, both State and Federal. The district was out of compliance with four of the five allegations in connection to the Spadia Report. Prior to 1999, the Special Education Division had been segregated and isolated, a "mini-district within the district." A Study Management Team, appointed by the prior Superintendent, concluded that the budget, functions and responsibilities of Special Education should be shifted to general education as opposed to its prior isolated and segregated past. Consequently, the responsibility of Special Education in each school is now delegated to the principal.

In accordance with State and Federal law, removal of a child with a disability from the regular education environment should be limited; a student should be in the "least restrictive environment." Resource Specialists are teachers with special credentials who are assigned to bring support services to the disabled child. Currently, these Resource Specialists report to General Education as opposed to Special Education.

Qualifications for a Special Education teacher are that they have a Bachelor's degree, have their credentials and have passed the CBEST (a teacher readiness test). Because it is so difficult to find credentialed teachers in Special Education, the CDE has relaxed the standard and has allowed, statewide, hiring of teachers for special education who have their Bachelor's degree, have passed the CBEST and have at least two years experience in Special Education and who are enrolled and are taking six units toward their credential. These teachers are given an emergency credential and are sometimes also classified as long-term substitutes. SFUSD has started an intern program at San Francisco, Sacramento and Hayward State College and at the University of San Francisco. These students have their Bachelor's degree and have passed the CBEST and are working for their credential. The students are given emergency credentials to teach in the Special Education classes.

The CGJ was advised that the hiring of Special Education teachers, as well as all teachers and paraprofessionals, is difficult in San Francisco, not only because of the low salary which is paid but also because other counties of the Bay Area offer various economic incentives for longevity in Special Education. Lack of bi-lingual teachers presents a special problem. A number of factors contribute to the low salary which SFUSD teachers receive. Some of the contributory causes are:

- San Francisco is both a City and a County. There is no additional county budget for teachers, texts, educational materials or classroom supplies.

- The Child Development Program encroaches on the SFUSD General Fund in the amount of \$2 to \$4 Million even though "early identification" saves money in the long run.
- The Special Education budget is \$18 to \$23 Million. State funding for Special Education teachers is based on estimates and on statewide averages of special education identification. Consequently, San Francisco is penalized since it has a particularly high number of special education students.
- SFUSD hired 100 additional teachers when the school day was extended for a 7th period. However, the SFUSD was not reimbursed by the state for the costs of the extra period.
- SFUSD contracts with consultants. The excessive cost of the consultants encroaches on the General Fund in the amount of \$35 Million.
- Proposition 13 has resulted in the underfunding of education and other human services.
- The number of children enrolling in San Francisco schools is static compared to the increasing enrollment in other Bay Area counties.
- The unions representing the faculty and classified workers in the SFUSD seek to improve the salary and benefits of their constituents through the collective bargaining process in a district that receives moderate increases in funding and has a reputation for excessive administrative costs and fiscal mismanagement. Consequently, faculty salaries have improved little in recent years.
- The salary schedules of the SFUSD, especially step increases, are not competitive with those of other Bay Area districts.

The CGJ was advised that there is a problem obtaining substitute teachers with special education credentials, as well as a problem with general education teachers who have not been trained to have Resource Specialists come into their classrooms to work with the Special Education students.

Recruiting for teachers for the fall of 1999 was started in November 1998 by attending conferences in the Bay Area where one might find special education teachers. In January of each year the Research Department projects the total enrollment for the SFUSD for the coming year. They then project this information in order to obtain an approximation of the total enrollment at the various school sites. The budget officers review this information in order to determine the total number of teachers needed in the various areas such as math or special education. According to the SFUSD Department of Human Resources, this information should be forwarded to the Personnel Office by February or March. The Department of Human Resources then posts the jobs at its office, Bay Area schools and the SFUSD. The CGJ was advised that there is usually a delay by the principals in advising the Department of Human Resources as to the number of teacher vacancies for the next school year. The SFUSD administration has committed that they will resolve this problem.

The Special Education teachers lose classroom time since they must fill out a lengthy Independent Education Plan (IEP) for each Special Education student. The IEP is between 15 and 17 pages in length. While part of the plan can be done by the teachers at home, much of the work must be done during school hours since the student's file cannot be taken from the school. Many of the experienced Special Education teachers

must also lose time from their classroom in order to obtain training on the constantly changing Federal and State regulations for Special Education. This also results from loss of classroom time. There are itinerant special education teachers who teach at several schools where there aren't sufficient students to qualify for a full-time special education teacher. Since this leaves these schools without a special education teacher for periods of times, problems that may arise are handled by off-site program consultants.

There are approximately 400 substitute teachers needed each day to substitute for the 4600 teachers hired by the SFUSD. Lost time for teachers takes into consideration time for training, conferences and illness. No consideration is given for vacation time. There are approximately 1000 substitute teachers available in the pool. Many of these teachers have no experience in special education. When a special education student is absent from class, that teacher may well be replaced by a substitute teacher who has no experience with special education students. The CGJ was advised that a request has recently been made for 20 teachers to obtain special education training with the understanding that they would be willing to substitute for special education teachers.

In addition to the fact the SFUSD has a shortage of teachers because of the low salary, there is a problem as to the qualification of the teachers. Through the teachers' union, UESF, there is a Peer Assistance Review (PAR) which should be in place next fall which will review performance and qualification. Newly hired teachers will have to be reviewed by PAR after a trial period of teaching.

2. Failure to follow assessment procedures

The SFUSD is responsible for providing qualified staff to conduct individual evaluations of students. Regular staff may refer students for evaluation as to the need for special education to a Student Success Team (SST). A request by a parent for special education for a child bypasses the SST process and starts the timeline for special education immediately. The CDE had expressed concern that parents were not being advised as to their right to request special education for their child. However, SFUSD now has a contract with a consultant to act as an ombudsperson. Letters to parents advising them as to availability of special education are being sent in English at the present and will soon be sent in Chinese as well as Spanish. Plans are in the making for a course for both parents and paraprofessionals so that the need for special education can be established in the child's early years. The purpose of the course is to change the present system of waiting until a child fails.

A psychological examination must be done on each child who is a candidate for special education. The CDE was concerned

that many IEPs were being delayed for lack of a psychological examination. At the present time the positions for psychologists are filled; 34 to 36 full-time slots are filled with 40.5 psychologists, some of whom are part-time (this includes 3 Spanish-speaking, 4 Chinese, 1 Russian, 1 Vietnamese and 2 Hindi). The Oakland Unified School District has a higher ratio of psychologists to teachers than does the SFUSD. A request has been made to increase the number of psychologists to 38. At the time of the Spadia report, there were 2000 backlogs for psychological examinations. Presently, there are 500 students waiting for psychological examinations. The backlog is the result of either lack of parental consent or lack of psychologists. Presently, there is no way to obtain data as to the cause of the delay. There is an initial examination followed by a triennial examination. Many parents are reluctant to have their children put into special education classes or to have a psychological evaluation.

There is a problem in hiring qualified psychologists because of the low salary as compared to other Bay Area counties. There is also a problem of maintaining a qualified staff because political pressure was previously applied in the hiring of psychologists. However, the CGJ received no complaints from those interviewed as to delay in services by the Program for Psychological Services.

3. Failure to implement the Independent Education Plan

The SFUSD has established six new associate superintendent positions. One is for 75 elementary schools, two for 17 high schools, one for pre-kindergarten and one for student support. In addition, Resource Specialists assigned to the various schools report to General Education, not Special Education. The responsibility for Special Education in each school is the responsibility of the principal. Previously, Special Education acted as a separate district as opposed to being part of the general education system. Except for one school, all of those interviewed reported an improvement in the delivery of special education to the students. Those principals were in agreement

that contact with the Special Education Department was much more available and helpful.

The Special Education Department has established a computerized data-tracking system for monitoring the progression of the delivery of services to those students for whom a request has been made for special education. Monthly reports are sent to the principals which reflect whether they are in compliance with the timelines. Again, most of those interviewed were of the opinion that this was a great help in complying with the timelines. While most of the schools were out of complete compliance because of staff shortage, the staff were of the opinion that there was an improvement in their ability to monitor compliance.

In accordance with the VCAP, the assistant superintendent, associate superintendents and principals are to be routinely informed through the data tracking system of the status of compliance and are given the responsibility of monitoring compliance. The data and reports generated from this data were to be reported quarterly to the SFUSD Superintendent and Governing Board with appropriate action to be taken as specified in the VCAP. Such reports, if they do exist, have not been made available to the teachers, the principals and the general public.

4. Failure to protect confidentiality

Letters have been sent by the Psychology Department of the SFUSD to the principals as well as to special education teachers concerning confidentiality of the files. The special education files are kept in locked cabinets in the classrooms. No member of the staff is allowed to take the files away from the school. Instructions have been sent out to all the principals, noting that the file for the special education student must be kept at the school with that child. At the present time, however, no procedure has been initiated to allow the Department of Psychological Services to monitor the files in order to be sure that they are not being removed from the locked cabinets by unauthorized persons or that they are kept at the school at all times.

5. Lack of funding for classroom teaching tools

On visiting many of the Special Ed classes, a significant number of teaching tools were visible all around the rooms. The CGJ was advised that while some of the tools may be provided by funds from parent functions, many of the teachers use their own money to provide the classrooms with the necessary teaching tools. SFUSD does not provide teachers with funds to purchase the necessary teaching tools. While this is not an issue discussed in the Spadia Report, it nevertheless is an issue of concern.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion (1)

The SFUSD has a disproportionately higher percentage of students identified as qualifying for Special Education than the estimates for which the State of California provides funding.

Recommendation (1)

- A. The SFUSD should carry out research identifying other large urban districts which are similarly underfunded for Special Education staffing and resources.
- B. The SFUSD should carry out research identifying other large urban districts similarly underfunded for Special Education to develop common strategies in order to lobby the California Department of Education and the state legislature for changes of the Special Education Formula so that funding is done based on the actual enrollment rather than rigid estimated levels.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (2)

The SFUSD General Fund pays for some pre-school programs which can lead to early identification of a child's Special Education needs.

Recommendation (2)

Since early intervention can provide better education for a child with special needs and potentially save resources over time by avoiding multiple remedial interventions, the SFUSD should consider lobbying both the California Department of Education and the state legislature to directly fund pre-school programs which can lead to early identification of a child's special education needs. As an example, a pilot project could be funded.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (3)

Special Education teachers must spend a significant time outside the required classroom instruction and lesson plan preparation in order to complete the lengthy IEPs. The SFUSD pays numerous consultants an excessive amount of money.

Recommendation (3)

The SFUSD should reduce the number of consultants. These funds should then be re-allocated to pay Special Education teachers for the additional work necessary.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (4)

The failure of the SFUSD to provide regionally competitive salaries for Special Education teachers and psychologists is contributing to the non-compliance with State and Federal regulations.

Recommendation (4)

There must be an increase in the salary of both teachers and psychologists. The SFUSD must allocate sufficient funding for the salaries of both teachers and psychologists. Special action by the SFUSD is needed in order to budget for Special Education teachers based on the number of Special Education students in San Francisco schools as opposed to estimates based on a statewide average.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (5)

The failure of the SFUSD to provide substitute teachers who have adequate special education training contributes to the non-compliance with state and federal regulations.

Recommendation (5)

Priority must be given to the hiring of substitute teachers with full Special Education credentials rather than emergency credentials. A bonus or some other means of incentive should be instituted for substitute teachers who enroll in courses toward their Special Education credential.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (6)

The failure of the SFUSD to provide bonuses or differential pay to the Special Education teachers or extra pay for the extra work involved in completing each IEP contributes to the difficulties in hiring qualified Special Education teachers.

Recommendation (6)

There should be a bonus or some other means of incentive for teachers to stay with the SFUSD.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (7)

Additional work is required by the school principals for the monitoring and updating of the IEP evaluations. The principals need administrative support staff allocated to them for the additional time needed.

Recommendation (7)

The SFUSD should fund additional administrative support staff for the principals.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (8)

The VCAP data system fails to keep track of the reason for the delay of psychological assessments as to whether the cause is the lack of required parental signature or delay in scheduling the psychological examination.

Recommendation (8)

The Corrective Action data system must include the tracking of delays in psychological testing as well as other timelines. The data gathered must reflect whether the delay is due to lack of parental consent or delay in scheduling the psychological examination.

Required Response

Superintendent of SFUSD

Conclusion (9)

Teachers are paying for some classroom teaching materials and supplies out of their own pocket..

Recommendation (9)

The highest priority must be given to budgeting for essential teaching materials and supplies. It is inexcusable that teachers must pay for these necessities out of their own pocket.

Required Response

The Board of Education
Superintendent of SFUSD

Conclusion (10)

Information and reports generated from the data-tracking system are not being made available to principals, teachers, families or to the general public.

Recommendation (10)

The VCAP data system must be programmed so that there is a quarterly compilation of all the data, with names redacted. This information should be made available to the public.

Required Response

Superintendent of SFUSD

Conclusion (11)

There is an inadequate system to monitor of the files of Special Education students to ensure privacy.

Recommendation (11)

The Corrective Action data system must include adequate monitoring of the schools in order to ensure privacy of the files of Special Education students. The public should be made aware of the process by which privacy is ensured.

Required Response

Superintendent of SFUSD

ATTACHMENT 1

SAN FRANCISCO UNIFIED SCHOOL DISTRICT
VOLUNTARY CORRECTIVE ACTION PLAN