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Students With Disabilities Can Succeed!

How the Baltimore City Public Schools Are Transforming Special Education

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The One Year Plus policy of Baltimore City Public Schools described in this Newsletter has the potential to breathe new life into “special education” for students with disabilities. In recent decades, many waves of K-12 education reform—including the No Child Left Behind Act, charter schools, alternative teacher recruitment paths, tougher teacher evaluations, better data to drive instruction, and a stronger research base for “reading by nine”—have produced trickle-down gains for students with disabilities. But special education, despite its lofty ideals, remains not nearly special enough.

That situation could change as a result of One Year Plus, Baltimore’s transformative initiative, implemented systemwide in 2012-2013. One Year Plus raises the bar dramatically for the academic progress that students with disabilities are expected to achieve. Under the policy, students who are not severely cognitively disabled have a right to special education services *that will enable them to meet*

state academic standards.

This Newsletter examines how One Year Plus works and the two foundations on which the policy is built. First, contrary to conventional perceptions, the large majority of students with disabilities have the cognitive ability to achieve state academic standards. Second, under federal and state laws, these students are legally entitled to specially designed instruction and other supportive services that will enable them, notwithstanding their disabilities, to actually achieve the standards. Both of these foundations are misunderstood or ignored by policymakers, parents, advocates, and even the most dedicated educators. A final section of the Newsletter looks at the politics of reform of special education, and how the One Year Plus model can lead to national reform.

Low Expectations and Self-fulfilling Prophecies of Low Academic Achievement

Special education policy is ambitious and daunting, and there are many reasons why it falls far short of living up to its lofty aims. But one reason towers above the others: low expectations. By and large, educators fail to understand and take appropriate action to recognize the wide range of legally recognized disabilities under the federal Individuals with

Disabilities Education Act (IDEA). In particular, educators have not sufficiently distinguished between students with severe cognitive disabilities, who in general are not able to meet the same academic standards as nondisabled peers, and students who are not severely cognitively disabled and are able to meet the standards with the right supports.

The line between them is not easy to draw and generates controversy. What is clear, though, is that the public prominence of the most severe disabilities—like intellectual impairment, severe autism, and multiple disabilities—masks a big surprise: *Students with the most severe disabilities comprise only about 20 percent of all students with disabilities.* The National Center on Educational Outcomes, the leading research organization on accountability for the achievement of students with disabilities, concludes, *“The vast majority of special education students (80-85 percent) can meet the same achievement standards as other students if they are given specially designed instruction, appropriate access, supports, and accommodations, as required by IDEA.”* (italics added)¹ But they don’t receive what they are entitled to, and therefore perform far below their cognitive potential.

Who are the 80 to 85 percent of students with disabilities who

have the cognitive ability to achieve state academic standards if they receive appropriate instruction and other supports? They are generally students with the following disabilities or a combination of them: Specific Learning Disability, ADHD, Speech/Language Impairment, and Emotional Disturbance.



“The large majority of students with disabilities have the cognitive ability to meet state standards.”



Yet, most of these students fail to come close to meeting grade-level standards. Nationally, the number of all students with disabilities scoring at proficiency on state tests is 30 to 40 percent lower than their nondisabled peers. Most revealing, students in the largest category of disabilities—those identified as having a Specific Learning Disability (LD) such as dyslexia—have cognitive abilities that range from low average to above average. Yet, national data show that in high school, at least one-fifth of them are reading at five or more grade levels below their enrolled grade level, and close to half are three or more grades below. Students with an LD are on average 3.4 years behind their enrolled grade level in reading and 3.2 years behind in math. In addition,

students with disabilities drop out at about twice the rate of their nondisabled peers.²

Moreover, the achievement gap is much larger than it looks because the test scores and progress of students with disabilities are misrepresented and inflated. This deception occurs in various ways, some above-board, some not. For example, while students with disabilities are entitled to special assistance known as “accommodations” and “supplementary aids and services,” this assistance often exceeds what is appropriate. To illustrate, it is proper for a student in the ninth grade who is reading at a third-grade level to have ninth-grade textbooks in science and social studies read to her in whole or part as necessary; however, it is not proper or lawful for the school, at the same time, to fail to provide instructional services that will enable her to learn to read independently above the third-grade level. Another example is “social promotion,” which occurs when the great majority of students with disabilities are year after year promoted from one grade to the next despite their inability to meet state standards and earn legitimate passing grades.

So what should be done? How much of this achievement gap should be closed? Do federal and state laws specify how much academic progress these students should be enabled to achieve, if they receive appropriate services?

The Right to Meet State Academic Standards

Under IDEA, all special education

students must receive Individualized Education Programs (IEPs) that address their needs. IEPs are determined at “team” meetings where the participants are school-based teachers, other service providers—like speech/language pathologists, psychologists, and social workers—and parents. The team can override the parents’ wishes, subject to the parents’ appeal rights, and this frequently happens.

Disagreements are often rooted in the team’s low expectations. Prior to One Year Plus, in IEP meetings in which I represented students, teams often objected strenuously to the idea that students with even mild disabilities had the cognitive capacity to achieve grade-level standards. Typical remarks included: “He’s got a learning disability so you can’t expect that.” Or “you’re forgetting she has a disability.”

Regrettably, this attitude exists nationwide. In testimony before the U.S. Congress, Martha L. Thurlow, director of the National Center on Educational Outcomes, said, “I so often hear educators say something like: ‘How can you expect special education students to perform well on tests? If they could do that, they wouldn’t be in special education.’”³

Yet as earlier noted, the large majority of students with disabilities have the cognitive ability to meet state standards. What’s more—and this is another surprise to most policymakers and educators—these students have a legal right to IEPs that enable them to do just that.

True, educational disabilities and the severity of their impact lie along a continuum, and disability

classifications are not educationally and medically precise. Within each classification, there are countless variables in students' individual mental, psychological, and physical conditions. It is extremely hard to develop standards and practices—e.g., accountability standards (including One Year Plus), high school graduation requirements, and “accommodations” during test taking—that can be applied uniformly to disabled students across the board.

Still, applicable federal and state laws (and the individualized needs of students with disabilities) require that distinctions be drawn and applied. The No Child Left Behind (NCLB) Act provides that all states and school districts must be held accountable for ensuring that *all* students, including students with disabilities, are held to the same academic standards; however, NCLB regulations draw a distinction and allow states to develop alternate achievement standards for students “with the most significant cognitive disabilities.”⁴ Also, there is a vast mix of graduation options across the states that attempt to account for differences in disabilities. Typically, though, students with the most significant cognitive disabilities, who take alternative state tests, are placed on a track to receive a less-demanding certificate of completion rather than a regular diploma upon completion of the 12th grade.

Beyond the NCLB law, there are other legal foundations that support the right of most students with disabilities to IEP services that enable them to meet state standards, including the pending Common Core State Standards adopted by Maryland and most other states. One such foundation is numerous court decisions,

from the Supreme Court on down. Another is IDEA itself. To combat the continuing failure of school systems to raise expectations and performance, the U.S. Congress, in amendments to IDEA in 2004, stated that students with disabilities must receive “specially designed instruction...to ensure access of the child to the general education curriculum, *so that the child can meet the education standards ...that apply to all children.*” (italics added)⁵



“Beyond the NCLB law, there are other legal foundations that support the right of most students with disabilities to IEP services that enable them to meet state standards.”



Another unmistakable indicator of what should be a higher standard for the expected academic progress of students with disabilities is built into the adoption by most states, including Maryland, of requirements for “standards-based IEPs.” As stated by the National Association of State Directors of Special Education, standards-based IEPs generally point toward “goals that designate the necessary learning—the specially designed instruction—that will lead to the student’s attaining the [state] standards...”⁶

Two experts in special education law and civil rights summarized their view of the proper standard: Special education instruction and other services must “*be reasonably calculated to enable the child to achieve passing marks, achieve passing scores on*

high-stakes exams, and advance from grade to grade, eventually meeting state and district graduation requirements.” (italics in original)⁷

Denial of the Right to Meet State Academic Standards

Nationally, however, this legal right to meet state academic standards is ignored. Two reasons have already been noted. One is low expectations. The other is the misrepresentation and inflation of students' actual performance level. On both counts the public and parents are misled, so there is little outcry for corrective action. In addition, there are two other major contributing causes.

The first is educators' lack of knowledge of research-based best practices for identification and treatment of disabilities, especially in reading. Teachers have learned little in teachers' colleges or on the job about the effectiveness of various programs, including interventions for struggling readers. This is a violation of the IDEA mandate that special education services should be “based on peer-reviewed research to the extent practicable.”⁸ It is beyond the scope of this Newsletter to review such research, but in summary, while there is no exact proof of best instructional practices, a lot more is known about them than is applied in special education. As a result, IEP teams do not realize that more and better researched IEP services could enable students to achieve much higher levels of performance.

Second, an outgrowth of the other factors, is the tendency of educators to “blame the victim.” In hundreds of meetings with IEP teams, I have rarely heard a student's low performance attributed to insufficient instruction. Rather, teams blame the student's inherent disability and/or

lack of home support.

This is particularly evident in the failure to properly identify and instruct the large number of students whom I describe as “invisible dyslexics.”⁹ Starting in the crucial early grades, teachers tend to associate difficulties in reading with family poverty and IQ, rather than with learning delays and phonological processing problems associated with dyslexia. Consequently, dyslexia is too often not properly diagnosed or treated.

Another excuse frequently put forth by IEP teams is that special education students are unmotivated. “We do our best,” team members say, “but Johnny or Tyesha just doesn’t want to learn or just won’t try hard enough.” This mindset, of course, overlooks many alternative explanations for what teachers misdiagnose as the students’ “fault.” Abundant literature ties so-called lack of motivation to students’ “fear of failure” or “learned helplessness” caused by their lack of academic success. As one expert observes, “struggling readers may begin to internalize their lack of reading ability and develop learned helplessness They may become unmotivated as learners and fall into what [preeminent reading expert Joseph K. Torgesen] calls a ‘devastating downward spiral.’”¹⁰

Dr. Galen Alessi, a professor of psychology at Western Michigan University, surveyed 50 school psychologists who reported evaluating, on average, about 120 students during the year covered by the survey. When asked how many reports concluded that the child’s learning problems were mainly due to curriculum, the answer was “usually none.” When asked in how many reports the referring problem was due primarily to

inappropriate teaching practices, the answer also was “none.” Further, Dr. Alessi asked the school psychologists how many of their reports “concluded that child factors were primarily responsible for the referred problem. The answer was 100 percent.” The surveyed psychologists admitted “that informal school policy (or ‘school culture’) dictates that conclusions be limited to child and family factors.”¹¹



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The results from Dr. Alessi’s survey are a devastating indictment of the tendency in special education to blame the victim, while ignoring systemic weaknesses in instruction. Obviously, individual teachers, psychologists, and other providers of special education services care deeply about their students and do not see it that way. But they themselves are victims, like children and parents, of the pervasive culture of low expectations and lack of knowledge of research-based best instructional practices.

Baltimore’s One Year Plus Policy and Implementation Challenges

Practice varies from state to state, from school district to school district, and from school to school. But in general, school systems across the country apply a low, minimalist

standard to how much progress students with disabilities should be expected to achieve under federal and state laws. This standard is typically expressed in terms of “some benefit” that is “meaningful.” However, these terms are obviously vague, and school systems have seized upon them to minimize their responsibilities.

The practice is for students with disabilities to receive IEP “goals” that call, at best, for 12 months of academic growth in basic skills like reading and mathematics over the 12-month period of the IEP. For example, an IEP might provide that Johnny, who is reading at a 2.5 grade level, will progress to a 3.5 grade level. But often IEP goals do not provide any numerical specification. Goals sometimes simply say that Johnny will progress or improve but do not say by how much. Moreover, the goals are viewed as “aspirations,” not “expectations,” so when students fail to attain the goals, no alarm goes off, and there are no consequences. Students with disabilities fall further and further behind, and little—if anything—is done to review and revise instructional services.

The One Year Plus policy addresses these problems.

- IEPs for students who are on a diploma track (i.e., not severely cognitively disabled) should contain goals for at least 12 months (one year) of academic progress over the 12 months covered by the IEP.
- When there is a large gap between the student’s enrolled grade level and actual level of performance (e.g., a sixth-grade student reading at a third-grade level, a gap of three years), the goals should ordinarily express the expectation of 12 months of progress *plus* a reasonable reduction in the gap (e.g.,

15 to 18 months of progress).

- IEP services must be *reasonably calculated* to enable the student to achieve the goals. IEPs are not a guarantee that the goals will be met. Students differ and IEPs must be individualized. But IEP services should reflect research and professional judgment that the goals will be achieved if the student's circumstances—including the nature of the disability and attendance—do not change significantly, and the IEP is effectively implemented.

For example, Johnny has a Specific Learning Disability such as dyslexia and is reading at a second-grade level though enrolled in the fifth grade—a common gap nationwide. Under the One Year Plus policy, his IEP might call for goals and services that would enable him to achieve 15 or 18 months of progress in reading over one school year. The gap would be reduced and Johnny would move closer to meeting state standards for reading.

Two limitations on the scope of the policy are noteworthy. First, students with disabilities are not entitled to services that maximize their potential. State standards that these students should be expected to meet represent a floor, not a ceiling, for academic proficiency. Federal, state, and local policies should address how to maximize the potential of all students, disabled as well as nondisabled, but federal and state laws do not go that far.

Second, the One Year Plus policy does not mean that the needs of severely cognitively disabled students—those who are not directly covered by the policy—are being sufficiently addressed. Still, the policy establishes a framework for raising

their academic and functional performance levels, and this task is equally urgent.

Notwithstanding these limitations, One Year Plus is a bold leap forward. And national experts who have reviewed the policy believe in its transformational potential. For example, Rachel Quenemoen, a project director at the National Center on Educational Outcomes, says it should be “highlighted nationally as a promising path.” And Donald Deshler, director of the Center on Research on Learning at the University of Kansas, states, “Our research shows that the students under the policy can meet the One Year Plus expectation.”



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Still, there are formidable implementation challenges. One is whether sufficient resources—for example, more classroom coaching for teachers, and staff for intensive tutoring and other interventions—are available to provide the additional quantity and quality of instructional and related services that will be required. The One Year Plus policy states unequivocally that in determining services under the IEP, teams must be guided by the needs of the student and not be bound by the current resources of the school. That’s what IDEA requires, but can budget-strapped

schools pull this off?

It’s too soon to tell. Baltimore administrators believe that the impact of instructional initiatives across general and special education—selection of instructional programs, training, better use of data, closer alignment of instruction with state standards (including the Common Core), and more push for the use of instructional best practices—will be relatively low cost and high payoff. Whether this is enough, and whether extra funds will be needed to pay for more intensive instructional interventions, will be determined as IEPs and outcomes are monitored and evaluated.

The availability of resources is just one of many lessons to be learned. The big test for the Baltimore school system, however, is whether it can do what public school bureaucracies generally do not: match the zeal for innovation with sustained attention to and capacity for effective implementation.

Implementation of the One Year Plus policy is especially formidable because it is such a far-reaching departure from conventional thinking and practice. Still there are grounds for hope. Baltimore recognizes the research and development (R&D) process necessary to produce sustainable improvement over many years. An infrastructure to manage that process is in place. It includes staff training, monitoring, evaluation, and an advisory panel of advocates and school officials that meets regularly to frame concerns and search for solutions to implementation issues as they arise. Further, a parent brochure outlining One Year Plus must be provided and explained to parents at all IEP meetings.

Staff training has been extensive and will be ongoing. It began with summer workshops in 2012 for all special education teachers including a

“One Year Plus Best Practice Guide,” which spells out the basic policy components. Other essential members of IEP teams—such as psychologists, social workers, and speech/language pathologists—have also received training. And throughout the 2012-2013 school year, there were monthly training sessions for IEP team coordinators from each school in which implementation concerns and questions were highlighted and discussed.

As crucial as training is, it is no substitute for assessing the fidelity and effectiveness of implementation. Accordingly, Baltimore has pioneered what might be called substantive (compared to the usual procedural) compliance monitoring. In the current first stage, a monitoring team—composed of special education and instructional experts—reviews a sample of 20 IEPs each month, focused on students in the elementary grades who are on a diploma track.

The results so far show that IEP teams are improving their understanding and development of One Year Plus goals. Implementation has been slower, however, in team determinations of appropriate services. IEPs are not supposed to pass muster if the monitors merely find that the IEP teams filled out the form showing the determination of services. Monitors must look further and determine whether in fact, based on research and professional judgment, the services seem truly calculated to enable the student to meet the goals.

The bottom line, of course, is whether students actually achieve their goals and progress as they should toward academic success. To that end, the Baltimore outcomes evaluation so far is a simple construct: to measure the actual academic growth from year

to year. The work in progress on this is to assure reliable apples-to-apples data measures. Student data from sophisticated literacy assessments are being incorporated into present levels of performance on the IEP, and used in the determination of goals and to measure periodic and year-to-year progress.



“The monthly monitoring indicates that most students are achieving One Year Plus goals.”



Encouraging Signs of Success

A significant sample of IEPs with year-to-year comparable data probably will not be available until mid-to-late 2014. But in the meantime, evidence is encouraging. The monthly monitoring, while not scientifically reliable, indicates that most students are achieving One Year Plus goals, and most of the remaining students are achieving about one year’s progress. Anecdotal reports from advocates, including my own personal experience, are also promising. Over the past three years, 40 percent of the 30 students I represented achieved their One Year Plus IEP goals and another 30 to 40 percent made significantly more progress than they had been making previously.

It is very difficult to pinpoint the exact reasons why academic outcomes appear to have risen significantly. No doubt the Hawthorne effect—higher expectations and monitoring—is playing a part in changing teachers’ behaviors. So, too, have the professional development of staff, systemwide steps to improve core

instruction, and more research-based and intense intervention services. More will be known as future evaluations and further implementation experience unfold.

The Politics of Special Education Reform

What will it take for the One Year Plus policy to become a national model and for school systems across the country to raise the academic outcomes of students with disabilities? As outlined in this Newsletter, there are many mountains of resistance to be conquered: educators’ low expectations and misunderstanding of the legal right of students with disabilities to achieve state standards, teachers’ lack of knowledge of effective interventions, and false representation and inflation of student progress.

What’s more, there is another huge obstacle to overcome: the political powerlessness of families of students with disabilities.¹² Students from lower economic families are more likely to be found eligible for special education services than students from middle class-and-up families. Political factors impede reform of all aspects of K-12 public education, especially the struggle for equal educational opportunity. But the disadvantages caused by poverty and minority status are compounded for students who have educational disabilities as well.

The lack of enforcement of IDEA is proof. Low-income families are generally unable to take advantage of the provisions of IDEA intended to empower families to enforce the law. On paper, parental engagement and enforcement rights appear strong. Parents are supposed to receive extensive information and participate fully as members of IEP teams. They can file complaints and try to trigger investigations by local,

state, and federal officials. And they can appeal team decisions through administrative hearings and lawsuits. Yet, only relatively affluent parents have the practical means to employ these safeguards.

To begin with, almost all parents, poor or not, lack the knowledge and know-how to challenge the technical evaluations, instructional services, and progress reports presented by educators at IEP meetings. Moreover, teachers and other team members tend not to like it when their professional judgment is questioned. Sometimes they become defensive or hostile when parents dispute the team's assertions. A parent's best chance to get over these hurdles is with the assistance of an attorney, but legal representation is expensive and almost never available free of charge, even for the lowest-income families.

For upper-income parents, the story is different. The attorneys they hire, usually assisted by pricey private educational experts, often put school systems on the defensive. Litigation by parents frequently makes media headlines. Often, the publicity involves students with disabilities who receive nonpublic placements—that is, expensive private schooling paid for with public funds—after parents, through their attorneys, contend that the school system cannot meet the students' needs in the public schools. Of course, the shortcomings of special education cross economic class boundaries. Many of the students who benefit from parental and legal firepower are clearly deserving. But some are not, at considerable detriment to the reform movement. An article in the satirical publication *The Onion* was headlined, "Parents of Nasal Learners Demand Odor-Based

Curriculum." It spoofed overreaching, implicitly wealthy parents, but had a whiff of truth in it.

The negative fallout from the unequal exercise of parental rights under IDEA takes many forms. The most damaging consequence is inequality of educational opportunity itself: The rich get richer and the poor get poorer in special education services. In addition, when affluent parents can wangle individual remedies, they have less incentive to participate, much less play a leadership role, in political efforts to lobby local administrators and school boards for systemic change.



“What will it take for the One Year Plus policy to become a national model and for school systems across the country to raise the academic outcomes of students with disabilities?”



Federal and state regulators and legislators are spared political pressure. Another big reason why low standards and low performance persist is because regulatory enforcement of IDEA, beyond technical compliance with procedural safeguards, is extremely weak. Federal and state departments of education have done little if anything to monitor the quality of IEPs and academic outcomes—or to address the adequacy of funding for necessary services.

The inaction at the federal level is particularly damaging. The history of K-12 education in the U.S. shows that bold reform leadership is more

likely to come from political leaders than an education establishment that is defensive and resists accountability. Among the political players, the White House and Congress are more likely than state officeholders to spark reform. Current U.S. Department of Education (USED) secretary Arne Duncan, arguably the most proactive and effective person to hold that office, would seem a natural to champion raising the standard for the academic success of students with disabilities, and that has begun to happen. The USED Office of Special Education has undertaken a “Results-Driven Accountability” initiative and “is currently rethinking its accountability system in order to shift the balance from a system focused primarily on compliance to one that puts more emphasis on results.”¹³ At a recent meeting to discuss the One Year Plus policy, acting assistant secretary Michael H. Yudin indicated that One Year Plus should be disseminated as a “best practices” approach toward such results-driven accountability.

USED almost certainly has the authority to issue regulations that could incorporate the basic components of One Year Plus. Moreover, future reauthorizations of NCLB and IDEA offer opportunities to require clearer accountability for academic outcomes.

States could step up, too. A recent class action lawsuit in California could get the ball rolling. Parents charged the California Department of Education with failing to monitor and enforce IDEA (and associated state laws), including a lack of “focus on improving educational results for all children with disabilities....” The Department moved to dismiss the suit, but the U.S. District Court held that the parents' allegations, if proven true, state a sufficient cause of action.¹⁴

The case has a long way to go, but it may bring to light the regulatory inaction that has made a mockery of substantive enforcement of IDEA.

On other fronts, national special education advocacy groups could agitate for more awareness and action, but so far they have not. They are slow to act in part because their activities sometimes divide along disability lines, and the groups compete for scarce political attention and resources. Also, largely missing in action are national foundations and think tanks that often lead the national charge for education reform. They have neglected special education in general and academic reform under IDEA in particular.

Hopefully, Baltimore's One Year Plus policy will fill the void and be a catalyst and model for reform in special education. By whatever means, policy reform at national, state, and local levels is imperative. The great majority of students with disabilities are being shortchanged of their legal and moral right to an education that will more truly level the playing field. Baltimore schools are facing up to this imperative. Educators and public officials nationwide should be doing no less.

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