

# **Financing Special Education in New Jersey**

New Jersey School Boards Association

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## **History of Special Education in New Jersey**

**Establishment.** By an act of the legislature in 1911, New Jersey was the first state to mandate special education classes for the deaf, blind and educationally retarded in the public schools. The mandate was later extended to other handicapping conditions. A State Commission to Study the Problems and Needs of Mentally Deficient Persons issued a report in 1953 recommending substantial expansion of special education opportunities for students who were un-served or under-served. In 1954, in response to that report, the first Beadleston Acts (amended in 1966) and the Grossi Act extended special education for physically handicapped, mentally retarded students, emotionally and socially maladjusted children and provided state aid for those services. These Acts required districts to employ child study teams (psychologists, social workers, learning disability specialists) and to provide appropriate special education programs either alone or in conjunction with other public or private schools.

**The 1963 Commission.** A Commission was established in 1963 to study the effectiveness of the Beadleston and Grossi Acts. It made recommendations toward further implementation of policy, rules and regulations, and funding. Several principles of educational programming for handicapped children governed the Commission's recommendations, summarized as follows:

1. Every child is entitled to instruction and guidance appropriate to his needs as assessed by qualified specialists and prescribed in a comprehensive educational plan.
2. New Jersey has the responsibility to identify, prevent and rehabilitate the adverse effects of learning disabilities.
3. A handicapped child should be offered the most suitable special education services, in light of his needs, instructed by fully qualified teachers who are supervised by people trained and experienced in teaching the handicapped in suitably equipped facilities.
4. The legal, moral, and financial responsibility for assuring that every New Jersey child is receiving appropriate education rests with the State Department of Education to provide leadership and consultation, set standards, approve programs, and enforce the laws and regulations for the local Boards of Education.
5. State aid should cover one half of the total costs of special education.

Legislation in 1966 clarified the responsibility of local districts to identify children who

need special education and consolidated the categories of eligibility according to educational need. It also authorized tuition to private schools, expanded services to children in hospitals and residential programs, expanded the range of programs and services, broadened the responsibility of county child study teams and created a state special education advisory council.

**Early Childhood Education.** In the early seventies, New Jersey began a series of regional resource centers, with federal discretionary monies, to assist districts in starting preschool programs for children ages three and four. Four parent trainers were hired to provide information to parents and teachers regarding preschool special education. Later, a curriculum consultant provided that technical assistance. In 1982, a state law, Chapter 415, mandated special education for children with disabilities from birth through five. Ten consultants provided technical assistance to districts. Later, this help was provided through each of the learning resource centers. The number of preschool handicapped children receiving special education increased from 3,188 in 1983 to 11,928 in 2005. Chapter 415 provided \$8 million to initiate and expand special education programs for preschool handicapped students. State funding increased to \$13 million for many years, after which the program was folded into categorical aid.

In 1982, as the lead agency, the New Jersey State Department of Education collaborated with the State Department of Health to provide early intervention programs (EIP) for infants and toddlers with disabilities up to age three through contracts with public and private agencies. In 1995, the State Department of Health took over as the lead agency. New Jersey now has over 40 EIP centers.

**The Turning Point: New Directions for Special Education.** The 1984 report to the Legislature, known as the Burstein Report after its chairman, Albert Burstein, examined alternative methods of improving special education service delivery in New Jersey. Areas addressed included program options, roles and functions of the child study team, teacher training and special education funding.

The Burstein Report recommended four program categories based on program need and not disability. They were a) general education program with intervention, b) general education program with related services, c) part-time special education program, and d) full-time special education program. The full-time programs would be described according to their basic orientation, including program and instructional characteristics, curriculum considerations, professional services, class size, staff qualifications, environmental adaptations, instructional materials and groupings. The report also recommended a study of additional services needed by people with disabilities older than age 21 and under age three, as well as an expansion of program options for students classified as eligible for day training.

The Burstein Report also recommended that the child study teams be called educational support teams and their roles be expanded to include evaluation and classification, consulting with and providing direct support for general and special education staff and parents, as well as coordinating, developing, reviewing and revising Individual Education Programs (IEP). The report made recommendations for training and development to

increase the knowledge and competencies of the psychological and educational needs of handicapped children, including a practicum for teachers and mandated in-service training for teachers and educational support teams. It called for general education teachers and administrators to facilitate the mainstreaming of students with educational disabilities. The report also recommended that the teacher of the handicapped certification be divided into elementary and secondary levels and a new certification for teachers of children with severe to profound educational needs.

The Burstein Report recommended that state aid cover special education costs that exceed those for regular education (excess costs). It also recommended incorporating child study team (or educational support team) costs within special education costs, adjusting aid for regional cost differences, and current-year funding of state aid – that is, basing monthly state aid payments on services delivered during the same year. The study also recommended that the state pay a higher share of the costs incurred for students in residential placements. These recommendations were designed to reduce a perceived “bounty” system that, the study panel believed, caused an over-classification of students as eligible for special education. They felt that program-based funding would shift the focus to services and away from the disability category.

**Plan to Revise Special Education.** The State Department of Education responded to the Burstein Report in 1986 with a plan to revise special education (P2R). The department proposed that a school resource committee be established in to assist students with educational difficulties within regular education, thereby reducing the number of students classified as handicapped. The plan proposed three special education categories a) eligible for related services, b) eligible for part-time education, and c) eligible for full-time education. Evaluation requirements would be reduced for those with less need for services. Child study teams would also provide services to general education students. In-service and pre-service programs would be increased for general and special educators. The proposed current-year funding system would provide dedicated funds for special education.

The P2R proposal was piloted in 13 districts and its evaluation was submitted to the public for comment. The legislative proposals to implement P2R were not passed; however, elements of the plan were implemented through regulation. Student Assistance Committees (formerly, school resource committees) were first mandated and then made optional. Districts had committees mandated for so many different purposes that they resisted the imposition of yet another one. An in-class resource center option was added as another means of integrating students with educational disabilities into general education classes. As the regulations changed in response to federal mandates, elements of P2R were incorporated. The 13 pilot districts were allowed to continue their project until the special education regulations were revised under the sunset provision.

**Growth in Special Education.** In 1905, the first classes for the mentally retarded were started in Newark and Trenton. In 1910 and 1911, classes for the blind were started in Newark and Jersey City. By 1953, 8,799 children were taught by 726 teachers in special classes or through individual instruction. There was a child study supervisor and one staff member in the State Department of Education assigned to special education. The number

of special classes doubled from 1953 to 1957 and doubled again by 1966. By 1963, the number of children in special education was 22,907 with 1,416 teachers, 35 psychologists, 14 county child study supervisors and five members of the State Department of Education. Today in 2007, there are over 233,000 students with educational disabilities receiving special education in a wide variety of settings with over 18,000 teachers and 15,000 aides, 1,500 psychologists, 1,700 social workers and 1,500 learning disability teacher-consultants, 19 county child study supervisors and about 75 professional staff in the Office of Special Education Programs and four Learning Resource Centers.

Programming in special education was first conceived as only taking place in separate special education classes. With the Beadleston Law of 1966, this philosophy changed to include a full continuum of services from regular class to residential placement. At the NJ-DOE, Boyd Nelson and later Dan Ringelheim promoted the growth of special education for the handicapped. Ringelheim chaired the National Advisory Committee on Special Education in the early 1970s and brought New Jersey's special education regulations with him to Washington. There, they served as a model for the first federal legislation, P.L. 94-142, the Education for All Handicapped Children Act, later versions of which have been named the Individuals with Disabilities Education Act). New Jersey increased the proportion of students with disabilities in regular class or resource rooms from 27 percent in 1986 to 42 percent in 2005 with another 30 percent in general education between 40 and 80 percent of the time. Similarly, the proportion of students in full-time in-district special classes decreased from 34 percent down to 18 percent. Clearly, more students with disabilities are being included in regular classes today than at any time in the past.

### **Financing of Special Education**

The 1911 laws provided partial support for each special class teacher, amounting to \$500 in 1940. After 1918, districts received from the state half the "excess costs" of special education as compared with costs of regular education. In 1946, the state funding for regular education attempted to equalize districts' relative abilities to support schools from property taxes. In that structure, a special education class of 12 students was equated with a regular class of 25. Fifty percent of the child study team costs were also reimbursed. In 1952, total categorical aid for special education was \$300,000.

From 1954 to 1966, a foundation formula of \$200 per average daily enrollment was funded to support special education. In addition, categorical aid was increased to \$2,000 per special class, half the tuition beyond the foundation formula and half the cost of individual or home instruction. A proportionate share of equalization and minimum aid was to be counted for special education. In 1959, the state provided half the cost of new programs for emotionally and socially maladjusted students. From 1955 to 1966, the categorical aid increased from \$1.2 million to \$7 million, or about 25% of the cost of special education.

From 1967-1975, a state sales tax increased state support for education so that the foundation aid increased from \$200 to \$400 per students and minimum aid support

increased from \$50 to \$75 per student. State aid for special education was set at 50% of costs, payable two years after expenditures. Aid for special education increased from \$18 million in 1967 (categorical aid \$10 million plus \$8 million in equalization or minimum aid) to \$87 million in 1975 (categorical aid \$63 million plus \$24 million in equalization or minimum aid). This brought the state support for special education from 41 % of costs in 1967 to 56% in 1974.

In 1975, the Public School Education Act increased the equalization and minimum aid by about 50% and set special education categorical aid as a proportion of the net current expense budget. This resulted in an increase in state support for special education from \$87 million in 1976 to \$107 million in 1977, or 60% of estimated expenditures.

In 1996, funding shifted from categorical aid by program to tiers defined by disability. Additional aid for extraordinary circumstances was added as well. Funding for speech-language services was built into the general education aid because it was such a common service that special funding was thought to be unnecessary. However, since expenditures were increasing faster than state funding, by 2007 the percentage of expenditures covered by the state had dropped to 34%; federal aid stood at approximately 9%.

**Legislative Task Force Report.** In 1995 and 1996, great attention was paid to state aid for special education. A Legislative Task Force on special education recommended more support for students with educational disabilities within regular education, reduction of some of the evaluation and assessment requirements for determining eligibility for special education, a shift from disability categories to a single category, “eligible for special education,” a reduction in the classification rates, a need for funding for related services, an increase in less restrictive placements, a need to provide preschool special education in community-based settings, a funding system that reflected costs in various settings, and an extraordinary cost fund.

**The Comprehensive Education Improvement Act.** In 1996, the Comprehensive Education Improvement Act (CEIFA) established four tiers of special education funding according to the number of students having specified classifications: a) Tier I - speech and related services, b) Tier II –Perceptually Impaired, Neurologically Impaired, Educable Mentally Retarded, Preschool handicapped, students with disabilities in shared-time vocational schools, c) Tier III – Trainable Mentally Retarded, Emotionally Disturbed, Multiply Handicapped, Auditorily Handicapped, Orthopedically Handicapped, Communications Handicapped, and Socially Maladjusted, d) Tier IV - students receiving intensive services, (Autistic, Chronically Ill, Eligible for Day Training, Visually Handicapped, Multiply Handicapped) in private schools, educational services commissions or jointure commissions and students in special services school districts. In addition, CEIFA established a fund to provide aid for the extraordinary costs of individual education programs (over \$40,000). A 2002 state law enhanced the extraordinary cost aid program. In 2005, state categorical aid for special education was about \$985 million and federal aid was \$293 million. Special Education expenditures in 2005 exceeded \$3.3 billion.

**Federal Monitoring (2001).** In 1999, New Jersey was cited by the US Office of Special

Education and Rehabilitative Services (OSERS) for inadequacies under Part C (early intervention under the Department of Health and Human Services - DHHS) and Part B under the Department of Education – Office of Special Education Programs. Under Part B, OSERS found that New Jersey had a failure in general supervision (ineffective system of monitoring and standards); inadequate ensuring of placements in the least restrictive environment, a failure to identify noncompliance with the free appropriate public education (FAPE) requirements regarding extended school year and counseling; and failure to ensure provision of transition services. As a result, New Jersey developed a corrective action plan, completely revised the monitoring and enforcement system, organizational structure and supervision of staff, and developed a model IEP. In a self-monitoring exercise, New Jersey identified areas of improvement that included monitoring, personnel shortages and training, statewide assessments, appropriate evaluations in native languages, limited access to the general curriculum, transition issues from early intervention to school programs, and a lack of information for parents limiting their involvement in decision-making. As a result, the follow-up visit found that progress had been made in all areas. Suggestions for improved results included:

1. Provide a continuum of options for preschool-aged children;
2. Increase participation of IEP team members in IEP decision-making;
3. Contract for speech therapy;
4. Provide more opportunities for use of in-class support and team teaching;
5. Improve transition from early intervention to district special education programs; and
6. Provide technical assistance, information and training for parents, students, education professionals and OSEP personnel.

**Individuals with Disabilities Education Improvement Act (IDEIA 2004).** The federal special education law was reauthorized in 2004 as the IDEIA. Although key provisions of the IDEIA took effect in July of 2005, regulations were not immediately promulgated. One change prohibited districts from requiring that students be on medication as a condition of receiving services. The timelines for completing evaluations and IEPs were modified to account for transfers or parental refusal. IEPs included benchmarks and progress toward annual goals. Some content and process requirements were modified to reduce paperwork. Procedural safeguards were modified to include a settlement conference and other constraints were reduced. Notice of parental rights was limited to once a year or on request. Discipline requirements were re-defined. States were required to change their regulations to accommodate the requirements of IDEIA, and New Jersey did so in 2006.

**Recent Initiatives.** In 2007, the State provided \$9 million to 28 districts to help improve and expand in-school programs for the disabled as part of the Corzine administration's push to bring more special education students back to their local districts. In 2008, \$15 million was awarded for building and expanding autism programs in district. The monies will go toward teacher training, technology and other tools for expanding in-district programs.