

Inclusive Education in Maryland: A Blueprint for Change

**A REPORT ON LEAST RESTRICTIVE ENVIRONMENTS (LRE)
FOR STUDENTS WITH DEVELOPMENTAL DISABILITIES
RECEIVING SPECIAL EDUCATION SERVICES IN MARYLAND**

Presented By

**The Special Education Leadership Project,
A project of the Maryland Developmental Disabilities Council**

In Partnership With

**The Arc of Maryland, Inc., Maryland Coalition for Inclusive Education,
Maryland Disability Law Center, Mid-Atlantic Chapter of TASH**

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WHO WE ARE

This report was developed under the auspices of the *Special Education Leadership Project*, a project of the Maryland Developmental Disabilities Council and its partners. The Special Education Leadership Project is a 3-year systems change project to provide information, support, training, and technical assistance to parents, families, community leaders and educators, to develop and strengthen local special education citizen advisory committees (SECACs). The goal of the project is to impact the design, funding, implementation and evaluation of special education services at both local and state levels.

The **Maryland Developmental Disabilities Council** is a federally-funded organization that advocates for public policy and supportive practices and opportunities that promote the full inclusion of all people with developmental disabilities in community life.

The Arc of Maryland, Inc. advocates for people with cognitive, intellectual, and developmental disabilities and their families. The Arc is devoted to promoting and improving services and supports for people with developmental disabilities. The Arc works to include all children and adults with cognitive and developmental disabilities in every community.

The **Maryland Coalition for Inclusive Education (MCIE)** is a non-profit organization dedicated to the inclusion of students with disabilities in their neighborhood schools. MCIE has a vision of a society where neighborhood schools welcome all students, engage them in learning, and form the foundation for inclusive communities. We envision that in neighborhood schools, students with disabilities will benefit from meaningful instruction, have friends, and be full members of their school communities. The mission of MCIE is to be the catalyst for meaningful and successful participation of all students in their neighborhood schools.

The **Maryland Disability Law Center (MDLC)** is a private, non-profit organization staffed by attorneys and paralegals. MDLC is the Protection and Advocacy organization for Maryland under the federal Developmental Disabilities Bill of Rights and Assistance Act. MDLC's mission is to ensure that people with disabilities are accorded the full rights and entitlements afforded to them by state and federal law.

The **Mid-Atlantic Chapter of TASH** is an organization of members concerned with human dignity, civil rights, education, and independence for all individuals with disabilities. TASH is an international civil rights organization for, and of, people with mental retardation, autism, cerebral palsy, physical disabilities and other conditions that make full inclusion a challenge.

INTRODUCTION

Two federal laws necessitate a new look at the inclusion of students with disabilities in our schools—that is, the opportunity for these students to be educated in general education classrooms with their nondisabled peers.

First, the **Individuals with Disabilities Education Act (IDEA)**, the current version of federal legislation requiring a free and appropriate public education for all school age children who have disabilities that impact their education. Since 1975, this legislation has mandated that these students be educated in the least restrictive environment (LRE) with any necessary supplementary aids and services. The 1997 reauthorization of this legislation additionally required that these students have access to the general education curriculum. Research has shown definitive educational advantages are derived from the placement of students with disabilities in general education classrooms.

Second, the **No Child Left Behind Act (NCLB) of 2001** now makes our schools accountable for improved educational outcomes for all students. While IDEA requires free and appropriate education, it sets no outcome goals. The NCLB specifically mandates testing and disaggregation of test results to show Adequate Yearly Progress (AYP) for students with disabilities, economically disadvantaged students, students from major racial and ethnic groups, and students with limited English proficiency. Only 0.5% of students in a state or local education agency may be given alternative tests and 95% of the students in each subgroup must take the State's academic assessment for a school to make AYP. Furthermore, the NCLB also requires that *all students have access to teachers with qualifications in core academic subjects* (Final Regulations, NCLB, 2002).

Currently, our school systems are struggling with the task of interpreting and conforming to the new NCLB Act. Maryland has already been having difficulty with the requirements of IDEA, especially in the matter of educating students in the least restrictive environment. The U.S. Department of Education has noted for years that Maryland schools place more than half of their students with disabilities in segregated special education classrooms. For students with developmental disabilities, fewer than 20% participate in the general education classroom. Out of the 50 States, Puerto Rico, and the District of Columbia, Maryland places 4th highest for its placement of students with disabilities in nonpublic separate special education schools.

According to the U.S. Department of Education explanatory materials, NCLB provides funding for curricula and teaching methods that *research has shown to be effective in improving student performance*. Research shows overwhelmingly that students with disabilities achieve better outcomes in academic, social, and behavioral measures in inclusive classrooms than in segregated settings. Increasing numbers of parents, advocates, and educators know that, with appropriate supports and well-prepared teachers, the vast majority of students with disabilities can and do succeed in the inclusive general education classroom.

This report, therefore, examines the systemic barriers to inclusive education in Maryland and proposes recommendations for achieving greater integration of children with disabilities into general education classes in Maryland public schools. Our objective is that Maryland shall conform to federal legal requirements respecting the civil rights and education of students with disabilities and that our schools provide better opportunities for these students to reach their potential.

HISTORY

Three decades ago, children with disabilities were completely excluded from public schools. In 1973, Maryland passed a law requiring the education of children ages birth through 21 with educational disabilities. The following year, the Maryland Association for Retarded Citizens (now The Arc of Maryland) challenged the law's implementation, which was to be phased in over a number of years. Before the Baltimore County Circuit Court, The Arc prevailed in its arguments that the law should be implemented immediately, and Maryland became one of the first states mandated to provide educational services for children with disabilities. One year later, the passage of the Education for All Handicapped Children Act (now IDEA) by Congress opened school doors to all children and provided federal funding to support the education of children with disabilities.

The State's education of children with disabilities before the passage of the Education for All Handicapped Children Act made Maryland a leader in special education; however, today we pay a hefty price for that leadership. Maryland moved quickly forward by building special schools and programs throughout the State to provide special education services. The result is that today, Maryland is one of the most segregated states in the nation for students with disabilities.

While passage of IDEA and state laws have resulted in schoolhouse doors being opened to students with disabilities, a great deal of work remains to be done to ensure that the civil rights of students with disabilities are protected and that these students have meaningful access to the general education curriculum with their nondisabled peers.

WHAT IDEA SAYS ABOUT INCLUSION

The Individuals with Disabilities Education Act (IDEA), the primary federal law governing education of students with disabilities, requires the provision of a free, appropriate public education in the least restrictive environment in which a student's needs can be met. The IDEA contains a presumption that students will be educated in the schools they would attend if not disabled. Additionally, students may not be removed from the general education classroom unless their individualized education programs (IEPs) cannot be implemented satisfactorily, even with the use of supplementary aids and services. The IDEA further requires the provision of programmatic supports and modifications that will enable staff to meet the needs of students with disabilities in the general education classroom. *Longstanding U.S. Department of Education policy makes clear that students may not be placed in more restrictive settings based on administrative convenience or configuration of the service delivery model.*

Additionally, the IDEA requires that students with disabilities participate in general education curricula and assessment activities with supplementary aids and services and specially designed instruction, as appropriate. Not only must the IEP contain a statement of how the child's disability affects participation in the general curriculum, but it also must explain why any student will not participate in the general education classroom or nonacademic and extracurricular activities. The Committee Report accompanying the 1997 amendments explained the intent behind the changes: "The new emphasis on participation in the general education curriculum...is intended to produce attention to the accommodations and adjustments necessary for disabled children to access the general education curriculum and the special services which may be necessary for appropriate participation in particular areas of the curriculum..." (U.S. Senate, 1997, p. 17).

This principle was echoed in the law's preamble, which states: "Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by...providing appropriate special education and related services and aids and supports in the regular classroom to such children...." Further, Congressional findings stated that the implementation of IDEA

“has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.”

The No Child Left Behind Act (NCLB) supports the intent of IDEA—that if high expectations, opportunities and supports are in place, all students can learn and be successful.

WHY INCLUSIVE EDUCATION? – THE RESEARCH BASIS

“In general, students with disabilities in inclusive settings have shown improvement in standardized tests, acquired social and communication skills previously undeveloped, shown increased interaction with peers, achieved more and higher-quality IEP goals, and are better prepared for post-school experiences. There is also evidence that inclusive settings can expand a student's personal interests and knowledge of the world, which is excellent preparation for adulthood. The positive effects of inclusive education on classmates without disabilities have been well documented. Both research and anecdotal data have shown that typical learners have demonstrated a greater acceptance and valuing of individual differences, enhanced self-esteem, a genuine capacity for friendship, and the acquisition of new skills. Low-achieving students also benefited from the review, practice, clarity, and feedback provided to students with disabilities. When inclusive education is implemented appropriately, all students benefit.”

(From Inclusive Education: Practical Implementation of the Least Restrictive Environment by Power-deFur and Orelove. Aspen Publishers, Inc., 200 Orchard Ridge Drive, Suite 200, Gaithersburg, MD 20878)

Preschool Children with Disabilities

Research strongly indicates that young children with disabilities make positive gains in inclusive preschool environments. No study that has assessed social outcomes for children in integrated versus segregated settings has found segregated settings to be superior; in fact, children maintain and use newly learned skills in inclusive settings more than they do in segregated settings. Typically developing children have shown only positive developmental and attitudinal outcomes from inclusive preschool experiences. Inclusion can benefit all children with disabilities; there is no evidence that only children with particular types of disabilities or a particular degree of impairment can be successful (Strain, 1999).

Students with Mild Disabilities

Studies have found that students with mild disabilities who have been included in general education classrooms make better gains than those in pullout programs or control schools. Fishbaugh & Gum (1994) found that students with mild disabilities progressed toward IEP goals in all but one or two cases, and several students realized phenomenal two- to three-year gains during the course of a school year. Achievement test data demonstrated consistent academic gains made by general education students. Deno, Maruyama, Espin, and Cohen (1990) studied efforts to modify general education classrooms in ways that enhance inclusive opportunities for students with mild disabilities. Student achievement comparisons in reading revealed that both low-achieving students and those with mild disabilities did better in integrated programs. Jenkins, Jewell, Leicester, O'Connor, Jenkins, and Troutner (1994) studied reading achievement and found that students in the inclusive school “demonstrated significantly superior gains on several scales, including reading vocabulary, total reading, and language, with a marginally significant effect on reading comprehension.”

Students with Moderate or Severe Disabilities

For students with more moderate or severe disabilities, studies have demonstrated that participation in general education environments results in both academic increases and behavioral and social progress. Cole and Meyer (1991) studied intellectual and social functioning and student-environment interaction for

students in 43 different classrooms from 14 schools. In the functional domain of social competence, children from integrated sites progressed, improving their ability to manage their own behavior in social situations, provide negative feedback to others, etc. Conversely, children from segregated sites generally regressed in social competence. Hunt, Farron-Davis, Beckstead, Curtis, and Goetz (1994) conducted a comprehensive effort to evaluate different program placements for students with severe disabilities; their work revealed the superiority of regular class placements over special education classes because students in regular class placements had higher quality IEPs, and because they had more social interaction with their peers. Results of the study, the authors write, "suggest that there are important differences in the quality and curricular content of written educational programs for children with disabilities who are full-time members of general education classrooms; and there are significant differences in the levels of student engagement in school activities, the type of activities in which they are engaged, the type and level of participation in integrated school environments, and the degree to which they initiate and engage in social interactions with peers and adults."

Students Without Disabilities

The fear that inclusion may result in a "watered down" curriculum for students without disabilities, or that less time will be devoted to learning, is not supported by the research. None of the studies examining outcomes for students without disabilities has found any negative impact for students who are not identified as having disabilities. Fishbaugh and Gum (1994) found that achievement test data demonstrated consistent academic gains by general education students in inclusive classrooms. Hollowood, Salisbury, Rainforth, and Palombaro (1995) found that the quantity and level of time spent on instruction for students without disabilities was not adversely affected by the presence in class of students with severe disabilities. In a study of cooperative learning groups (Hunt, Staub, Alwell, & Goetz, 1994), the achievement levels of students without disabilities who facilitated interactions of their peers with severe disabilities were not negatively affected. Standardized test and report card measures used to determine impact revealed no negative academic or behavioral effects on classmates who were educated in classes with students with disabilities in an elementary school of 640 in rural Minnesota (Sharpe, York, & Knight, 1994).

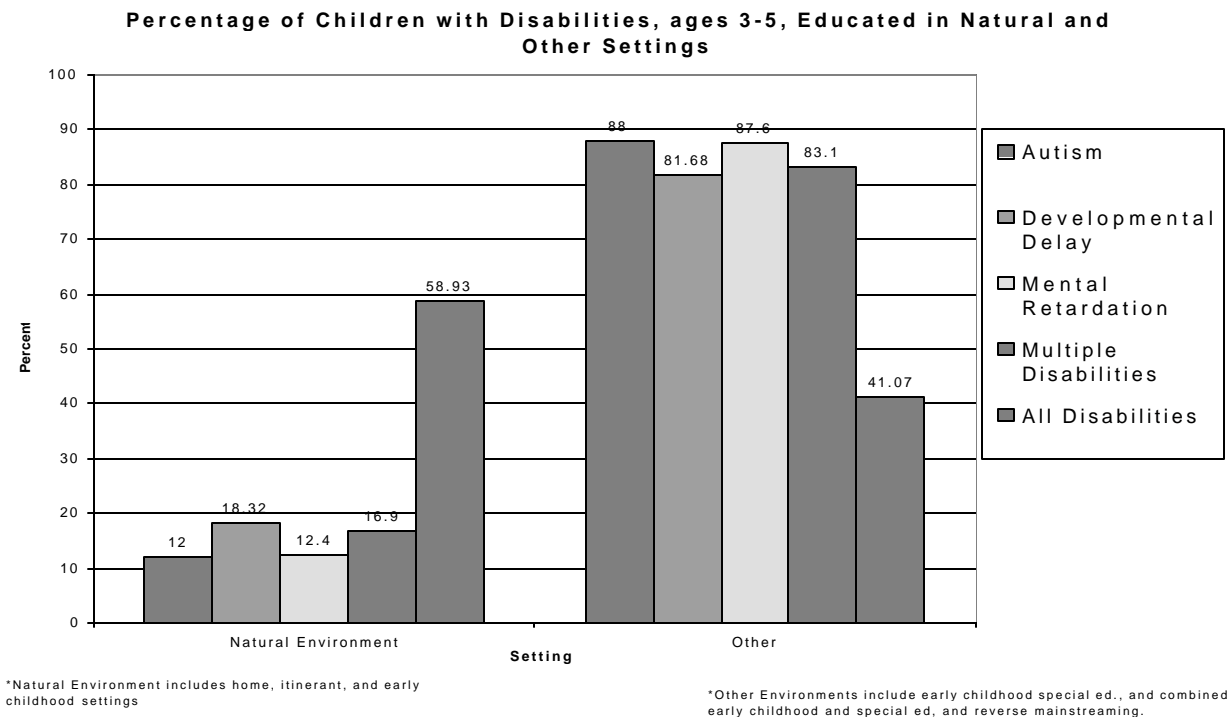
Research on Segregated Settings

Even though the majority of the research available today supports inclusive education, there are a handful of studies that take an alternative position. For the most part, these studies report situations in which students are placed in general education classrooms without proper supports (Baines, Baines & Masterson, 1994), or they are in regular classrooms but not receiving special education, as defined by law (Zigmond & Baker, 1995). Such studies should definitely raise concerns. It is inappropriate and illegal to "dump" students in classrooms where teachers are unprepared and lack resources to support special education needs in the regular class.

SEGREGATION IN MARYLAND'S SPECIAL EDUCATION SYSTEM

Maryland Begins Segregating Children with Disabilities from a Young Age

Best practices in early intervention for young children with disabilities and developmental delays point to the delivery of services in “natural environments” – that is, the environment a child would be in were he or she not disabled. For young children, natural environments include the family home, play groups, child care, or community preschool. Data indicate that young children with disabilities who are segregated are more likely to be segregated when they reach school age. This may be in part due to a local jurisdiction’s service delivery system, which segregates at all age levels. The rate of inclusion once children reach elementary school, however, is also affected by parent expectations. If a young child with a disability is included in natural environments alongside typical siblings and peers, parents are much more likely to expect their child to attend his or her neighborhood school. Conversely, parents of children placed in specialized early intervention programs without access to typical children, are more likely to accept and want segregated classrooms and schools for their school-aged children.



Maryland Segregates Students with Disabilities

In 2001, the U.S. Department of Education’s Office of Special Education Programs (OSEP) found that Maryland is non-compliant with federal law because too many students with disabilities are removed from the least restrictive environment (LRE) and placed into more segregated settings to receive their education (OSEP Monitoring Report, 2001). Maryland is one of the most segregated states in the nation for its education of students with disabilities. Out of the 50 States, Puerto Rico, and the District of Columbia, Maryland places 4th highest for its placement of students with disabilities in nonpublic separate special education schools. Conversely, Maryland ranks poorly for its education of students with disabilities in the general education classroom (OSEP, 2001).

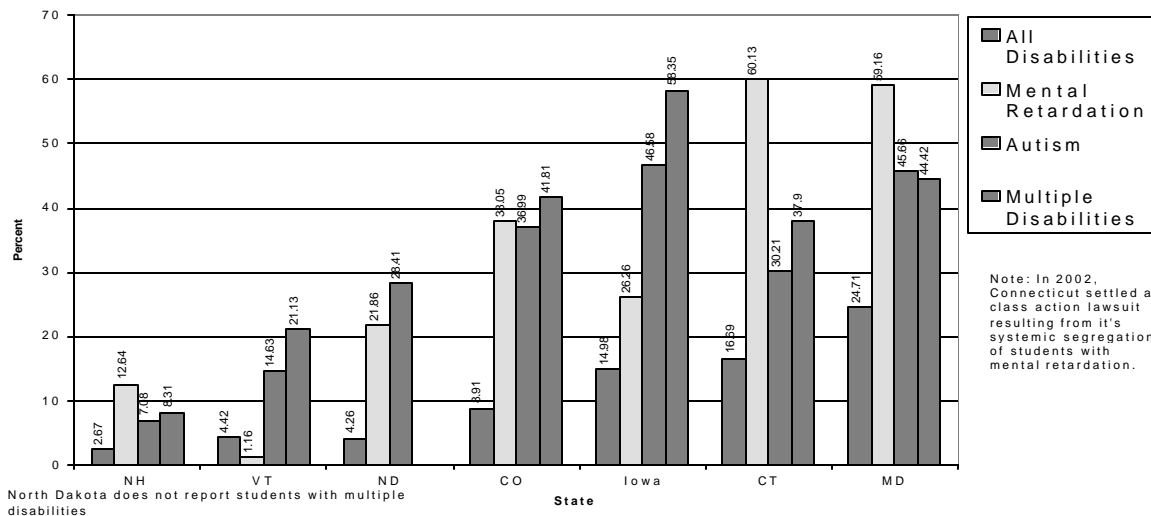
The Segregation of Students with Disabilities: Where Maryland Ranks Nationally

<p>Self-Contained Classrooms (out of general education classroom >60% of school day)</p> <ul style="list-style-type: none"> • 10th highest for students with disabilities • 14th highest for students with mental retardation 	<p><i>Out of the 50 States, Puerto Rico, and the District of Columbia, Maryland ranks 34th for its placement of students with disabilities in the general education classroom (outside of the general education classroom <21% of the school day).</i></p>
<p>Public Separate Schools</p> <ul style="list-style-type: none"> • 11th highest for students with disabilities • 4th highest for students with mental retardation • 8th highest for students with multiple disabilities • 5th highest for students with autism 	
<p>Private Separate Schools</p> <ul style="list-style-type: none"> • 4th highest for students with disabilities • 9th highest for students with mental retardation • 7th highest for students with multiple disabilities • 10th highest for students with autism 	

Source: OSEP, 2001

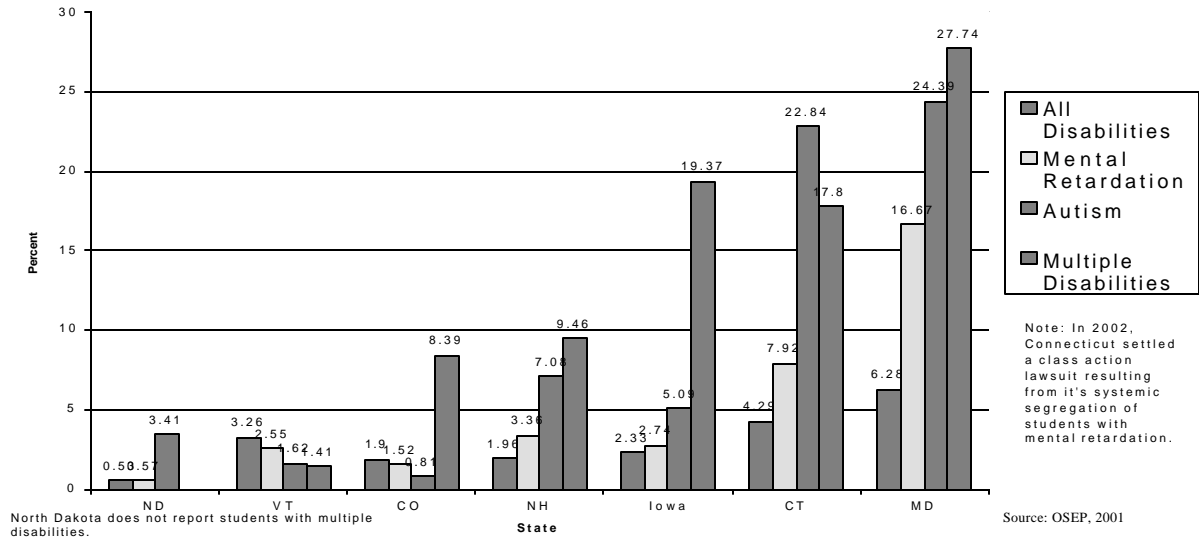
Maryland falls far below states like Vermont and New Hampshire, which have the most inclusive education systems in the country, behind states like Colorado and Iowa, which have made inroads in including students with mental retardation and autism, and even lags behind Connecticut, which recently settled a class action lawsuit for its systemic segregation of students with mental retardation. As noted above, Maryland ranks particularly poorly for its placement of students with disabilities in segregated classrooms and schools. These statistics are noteworthy because there is no reason to believe that Maryland's children are more disabled than those in other states. Rather, systemic policy and practice explain Maryland's poor showing.

Percentage of Students with Disabilities Educated outside of the General Education Classroom for greater than 60% of the School Day (LRE C) 1998-99



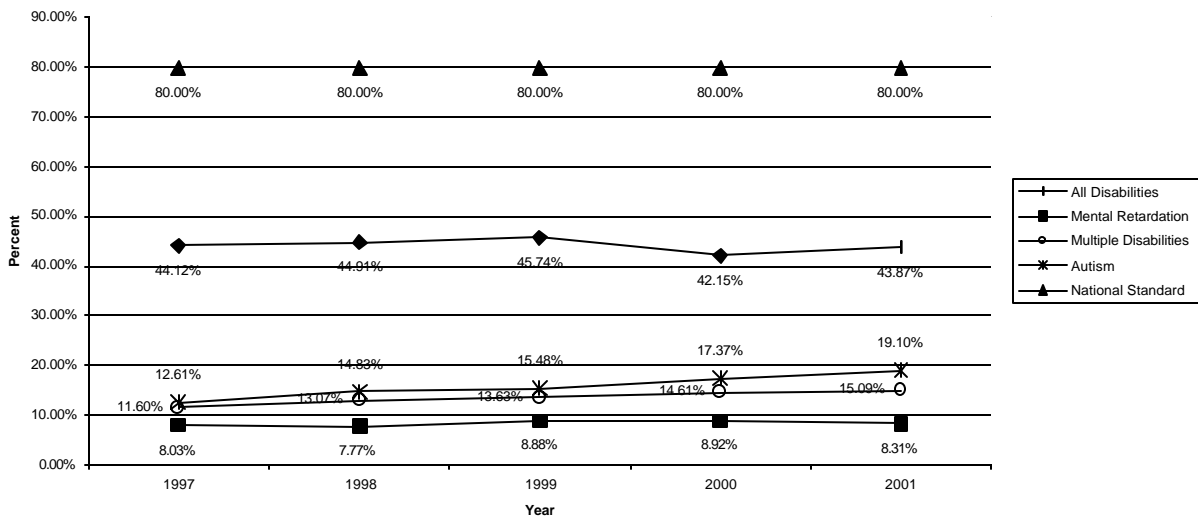
Source: OSEP, 2001

Percentage of Students with Disabilities Educated in Separate Public and Private Facilities (LRE Category F & G) 1998-99



Furthermore, the U.S. Department of Education expects states to educate 80% of students with disabilities in the general education classroom, and is currently considering raising that standard to 90% (OSEP, 2002). *Rates of inclusion are variable across the state; however, no Maryland school system has attained this standard.* While the Maryland State Department of Education (MSDE) has made efforts to increase the inclusion rates of children with disabilities through its State Improvement Grant, the Task Force on Inclusion, and through grants to local school systems, little progress has been made over the last five years, with only minor improvements for students in certain disability categories.

Percentage of Maryland Students "Fully Included" in General Education Classroom (LRE A: Educated Outside of a Regular Classroom <21% of the School Day)



In 1999, the Maryland State Department of Education’s Division of Special Education received a State Improvement Grant from the U.S. Department of Education. Among its many objectives were that each local school system would increase the number of students with disabilities participating in general education classrooms by 2% per year. Despite this meager goal, fewer than half of local school systems have reached the yearly target.

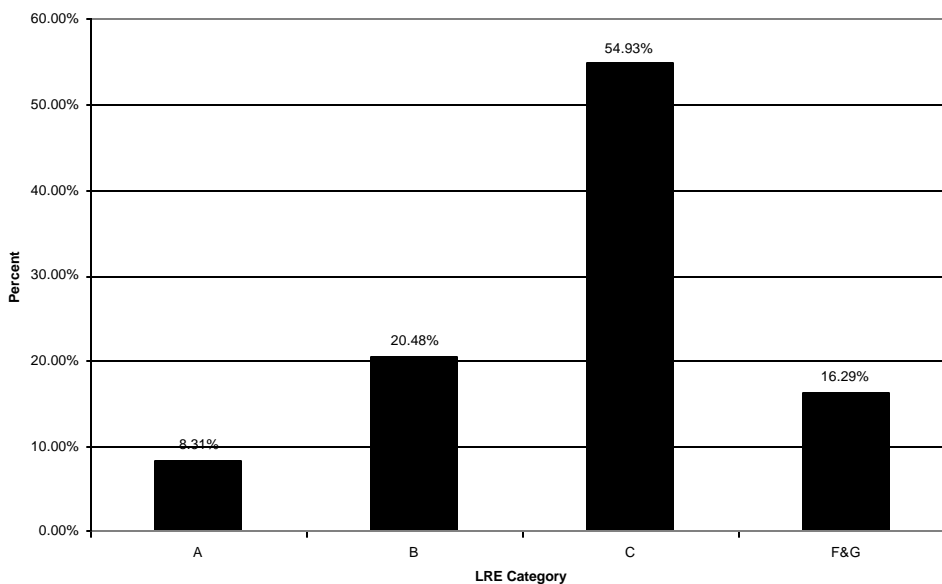
State Improvement Grant Goal of increasing number of students with disabilities in general education classroom by 2%			
	1999	2000	2001
Number of LSS reaching goal	<i>Baseline data collected</i>	12	8

Research indicates that students who are pulled out of the general education classroom throughout the day to receive specialized services are not viewed as true members of their classrooms by their peers without disabilities (Schnorr, 1990), yet on a standard basis, Maryland school systems implement a “pull out” or “resource room” model of delivering special education services. The placement of children out of the general education classroom between 21-60% of the school day is of particular concern for children with developmental disabilities, who are routinely segregated for core subjects (math, language arts) and only included during “specials” (music, art, physical education). *In practice, the vast majority of students with developmental disabilities may not have access to the general curriculum and may not be taught by teachers with subject matter competency for the subjects in which they will be annually assessed under NCLB.*

In Maryland, Some Disability Groups Fare Better Than Others

While Maryland has poor inclusion rates overall, students with certain disabilities are far more segregated than others. In 2001, more than 90% of Maryland students with mental retardation were educated outside the general education classroom for some portion of the school day. Of those students, nearly 55% were educated outside of a general education classroom for more than 60% of the school day. (MSDE, 2002)

Percentage of Maryland Students with Mental Retardation by LRE Category, 2001



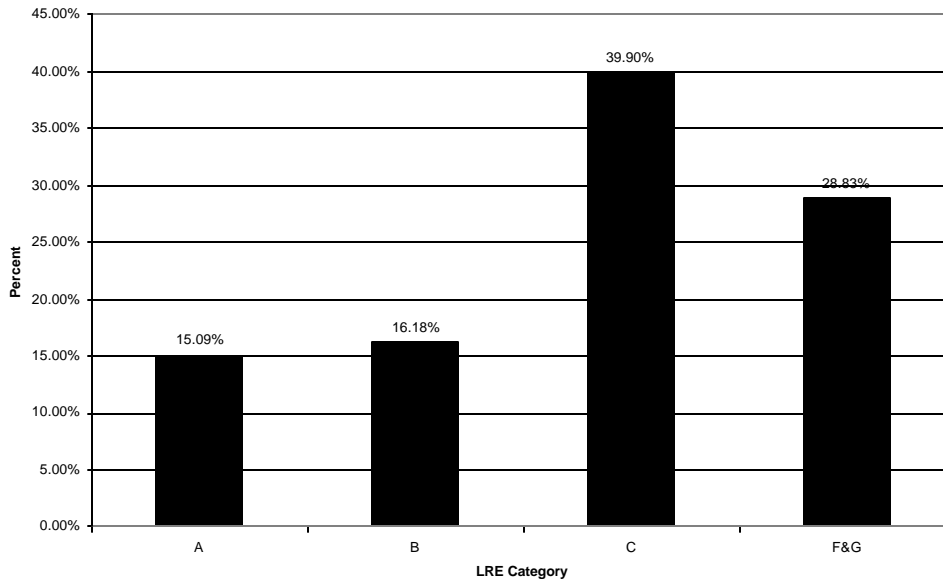
A= out of general education classroom <21% of day
 B= out of general education classroom 21-60% of day
 C= out of general education classroom >60% of day
 F&G= separate public and private schools

Source: MSDE, 2002

From 1997 through 2001, the number of Maryland students with mental retardation who were educated in a general education classroom (out of general education classroom <21% of the school day) increased by only 0.28%. (MSDE, 2002)

While inclusion rates for children with a label of mental retardation are the worst in the state, the rates for children with labels of multiple disabilities and autism also are quite low.

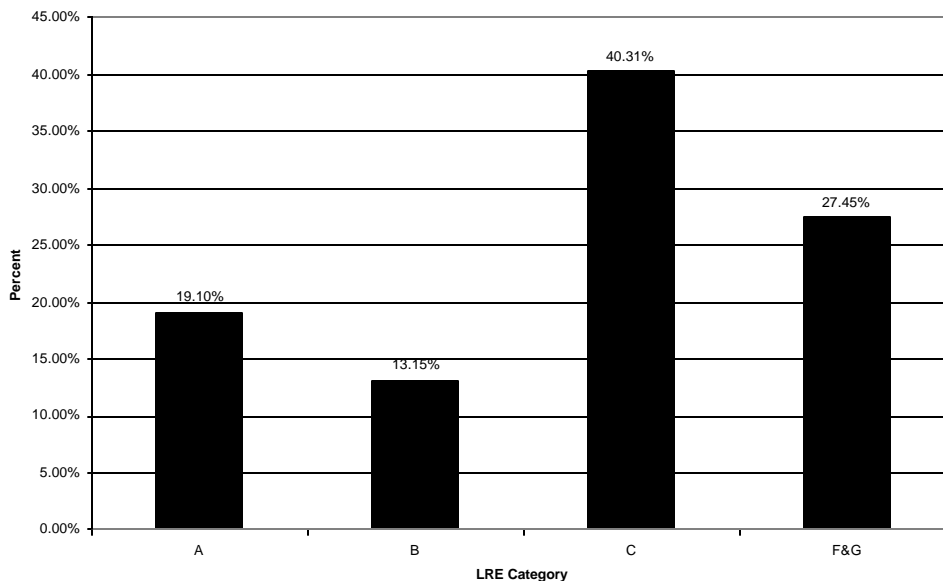
Percentage of Maryland Students with Multiple Disabilities by LRE Category, 2001



A= out of general education classroom <21% of day
 B= out of general education classroom 21-60% of day
 C= out of general education classroom >60% of day
 F&G= separate public and private schools

Source: MSDE, 2002

Percentage of Maryland Students with Autism by LRE Category, 2001



A= out of general education classroom <21% of day
 B= out of general education classroom 21-60% of day
 C= out of general education classroom >60% of day
 F&G= separate public and private schools

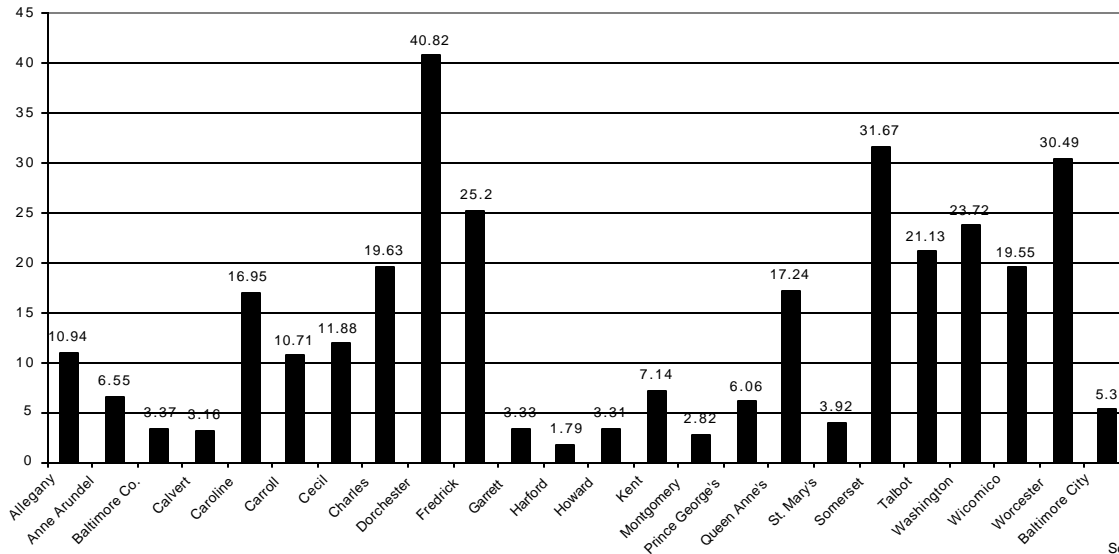
Source: MSDE, 2002

As these tables show, significantly more students with multiple disabilities and autism are educated in separate classrooms and schools than are educated in the general education classroom.

In Maryland, Some Local School Systems Are More Segregated Than Others

In Maryland, the likelihood of a child with a developmental disability being educated in a general education classroom in his or her neighborhood school is directly related to where the child lives. The percentage of students with mental retardation included in general education classrooms ranges from a low of 1.79% in Harford County to a high of 40.82% in Dorchester County.

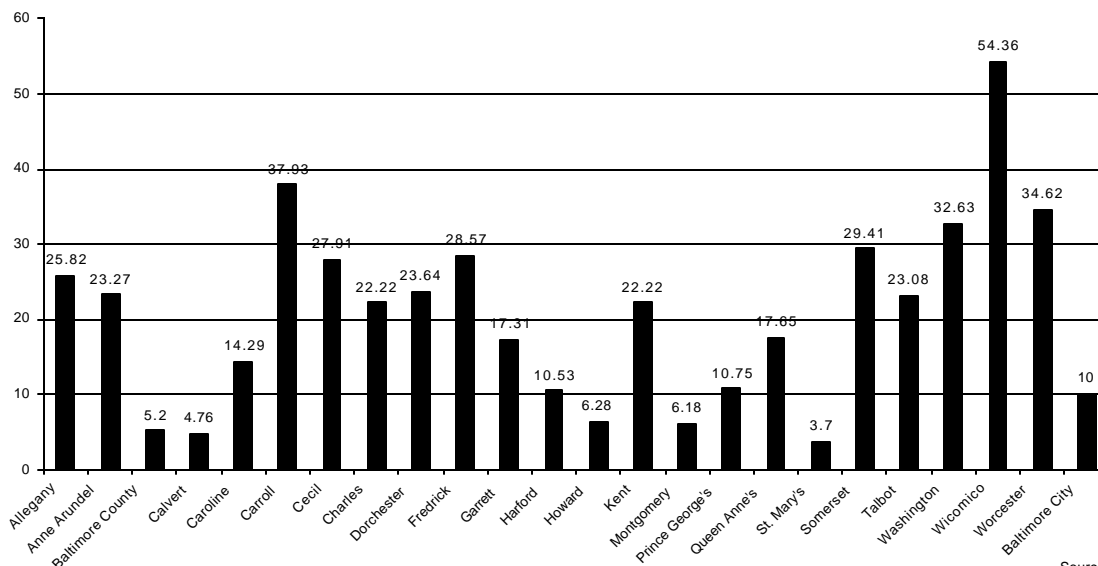
**Percentage of Students with Mental Retardation Educated in General Education Classrooms
(outside of general education classroom <21% of school day)**



Source: MSDE, 2002

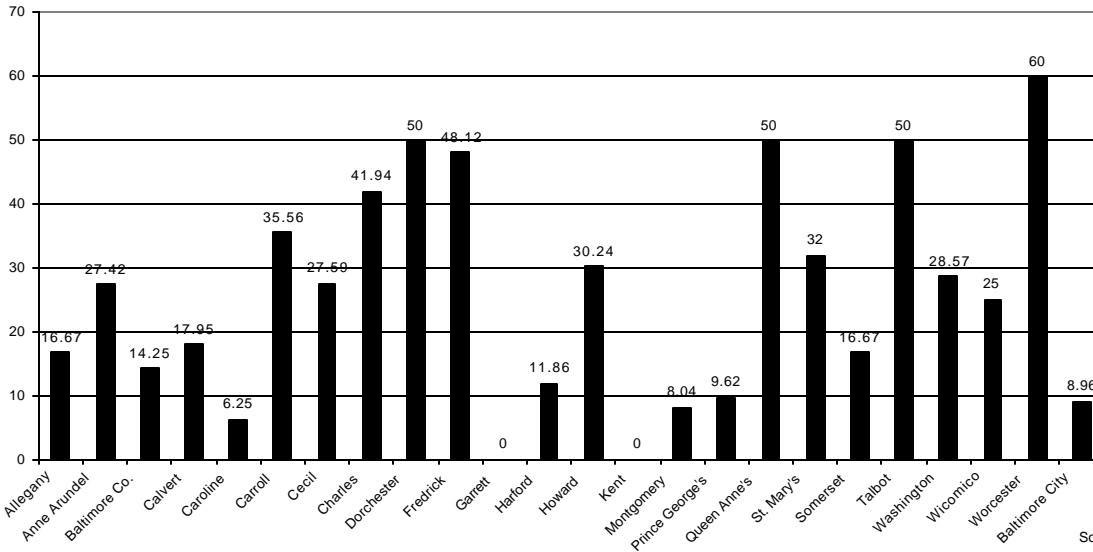
While children with mental retardation are the most segregated on a statewide basis, local school systems show great variability in the placement of children with other developmental disabilities. A child with multiple disabilities is 10 times more likely to be included in Worcester County than in Baltimore County. A child with autism is five times more likely to be included in Frederick County than in Montgomery County.

**Percentage of Students with Multiple Disabilities Educated in General Education Classrooms
(outside of general education classroom <21% of school day)**



Source: MSDE, 2002

Percentage of Students with Autism Educated in General Education Classrooms (outside of general education classroom <21% of school day)



Source: MSDE, 2002

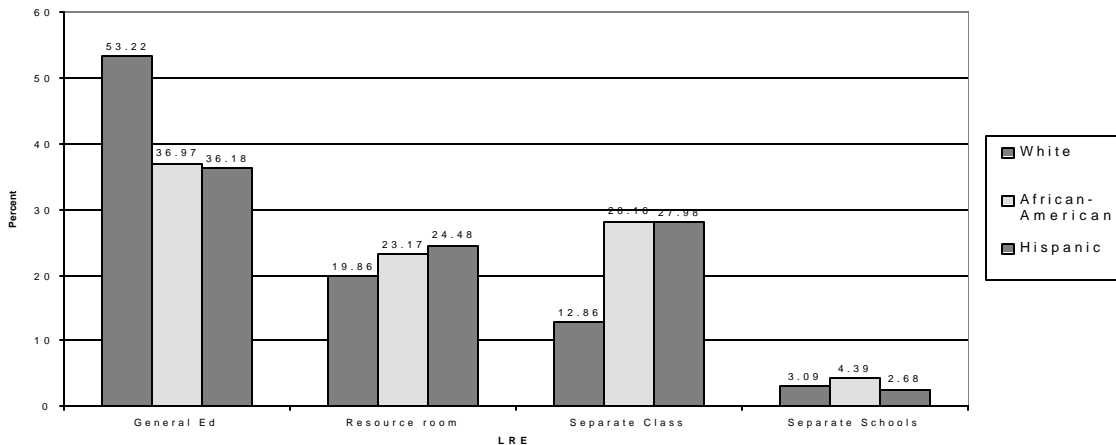
* Garrett County reports no students with Autism

The segregation of large numbers of students with particular disabilities in certain counties may be an indication that these students' educational programs and placements are not being individualized and instead, that their IEPs may be being implemented based on administrative convenience or configuration of the service delivery model.

In Maryland, Minority Children with Disabilities Are Disproportionately Segregated

Data show that nationally African-American students are 2.5 times more likely to be identified as needing special education as their Caucasian counterparts. They are disproportionately more likely to receive a label of mental retardation or emotional disturbance than their white peers (McMillan, 2002). Last year, MSDE voluntarily re-entered an agreement with the U.S. Department of Education's Office for Civil Rights to continue to track data, provide reports, and provide grants to local school systems to address the disproportionate numbers of African-American students identified as having disabilities.

Percentage of Maryland Students with Disabilities by Race/Ethnicity and LRE, 2001



Source: MSDE, 2002

Minority students with disabilities face the double discrimination of race and disability. *Once identified, minority students are significantly more likely to be removed from the general education program and be*

educated in a more restrictive environment. For instance, African American and Hispanic students are more than twice as likely as white students to be educated in a self-contained classroom. As difficult as it is for white students to obtain an education in the general education classroom, it is that much more difficult for African-American and Hispanic students to obtain the benefits of inclusive education.

Special Education Students in Maryland Are Not Achieving

Local school systems' placements of students with disabilities in segregated settings and the State's history with statewide assessments indicate that we should all be very concerned about how Maryland students with disabilities are performing academically. By fifth grade, only 24.8% of students receiving special education services scored satisfactorily on the Maryland School Performance Assessment Program (MSPAP) reading test compared with 43.7% of their typical peers. In Math, 20.4% rate satisfactorily compared with 43.1% of students without disabilities. By 8th grade, only 4.8% of students with disabilities scored satisfactorily in reading compared with 25.5% of general education students, and 8.3% of students with disabilities were satisfactory in math compared with 39.2 of students without disabilities (MSDE, 2002).

	MSPAP: Percent Achieving Satisfactory in Reading					
	Grade 3		Grade 5		Grade 8	
	Spec. Ed.	Gen. Ed.	Spec. Ed.	Gen. Ed.	Spec. Ed.	Gen. Ed.
2002	21.4	31.5	24.8	43.7	4.8	25.5
2001	25.6	37.5	25.4	46.6	7.2	28.9
2000	29.7	40.1	27.8	46.6	6.5	29.4
1999	29.4	42.2	24.3	43.2	5.3	27.8
1998	30.6	42.5	22.4	42.2	4.8	27.8

As students get older, the gap between the test scores of special education and general education students widens. While some of this may be explained by the widening developmental gap between typical students and those with developmental disabilities, it is also quite common for students with developmental disabilities who have been included in elementary school to be segregated in separate settings, without access to the general curriculum or teachers who are qualified to teach the general education curriculum, once they reach the secondary school level.

BARRIERS TO INCLUSION IN MARYLAND

Leadership

There remains a lack of vision and leadership at all levels – from the State Board of Education to school principals – with regard to the education of students with disabilities. Education leaders in Maryland must lead by example. For if those in the most influential positions do not advance the cause for civil rights of students with disabilities, Maryland will not only be unable to reform its education system but will not meet its responsibilities under NCLB.

- The State has failed to identify the civil rights of students with disabilities as a priority.
- The Maryland State Board of Education does not have a policy on least restrictive environment (as many State Boards do) and has not used its influence to address the over-segregation of students with disabilities.
- MSDE has provided little guidance to local school systems on how the progress of students with disabilities will be evaluated and met in local Comprehensive Master Plans.
- MSDE has not required local school systems to develop *and meet* measurable goals for the inclusion of students with disabilities in the general education classroom.
- MSDE has developed goals on Least Restrictive Environment for the State, but has failed to enforce them at the local level.
- Local Boards of Education have not established the civil rights and academic progress of students with disabilities as a priority.
- School Superintendents have not identified the progress of special education students as important, and have not evaluated principal performance based on the success of students with disabilities and other subgroups within schools.
- School Superintendents have not addressed local school system organizational flaws that result in parallel general education and special education systems.
- Directors of Special Education have not generally led system reform efforts to increase inclusive education.
- Principals – who are the key to successful schools – have not generally embraced the challenge of reforming schools to welcome ALL children.

Proposed Action/Solutions:

- The State Board of Education should pass a least restrictive environment policy and request regular updates from MSDE staff with regard to efforts to increase students with disabilities' academic progress and their inclusion in the general education classroom.
- The State Superintendent should use the superintendent's position to emphasize the overwhelming body of research evidence supporting inclusive education, academic accountability for ALL students, and the need for system reform, and make it a focal point of MSDE's agenda.
- The Maryland State Department of Education, in its oversight role, should require that all local school systems develop and implement LRE improvement plans as part of local school system comprehensive master plans.
- MSDE should provide incentives for schools to increase the academic performance of students with disabilities and their rates of inclusion.
- Local Boards of Education should review their data on the educational performance and placement of students with disabilities, disaggregated by disability label, age, and race, and develop improvement plans accordingly.

- Local Boards of Education should review neighborhood school data to identify the most successful inclusive schools in their systems and schools in need of improvement, and develop ways to replicate successful schools.
- School Superintendents should develop goals for the academic progress and inclusion of students with disabilities.
- School Superintendents should develop and implement plans towards unified education systems.

Accountability

The Role of the Maryland State Department of Education

The Maryland State Department of Education is charged with monitoring local school systems' compliance with federal law. The U.S. Department of Education's Office of Special Education Programs (OSEP) has judged Maryland noncompliant with the IDEA's LRE requirements, among other areas, in monitoring reports released in 1990, 1995, and 2001.

- MSDE has not held local school systems accountable for their failure to meet even the minimal least restrictive environment goals set by the State Improvement Grant, let alone the 80% standard currently recommended by the U.S. Department of Education.
- MSDE has not aligned discretionary grant funds for local school systems with inclusion generally, or inclusion for students with certain disability labels specifically.
- MSDE has accepted local school system special education staffing plans that funnel staff primarily to segregated settings, rather than to inclusive education models.

Proposed Action/Solutions:

- MSDE should set *and enforce* standards for the inclusion of students with disabilities in the general education classroom, just as there are standards for educating general education students.
- MSDE should align its discretionary funds with system needs that have been identified through Focused Monitoring. Discretionary grants should be used to build the capacity of public schools to serve students with disabilities in the least restrictive environment.
- MSDE should ensure that each local special education department makes public its annual staffing plan and provides opportunity for feedback from parents and the community before submitting the finalized plan to the local school board for approval as required by COMAR 13A.05.02.13 [D].
- MSDE should review local special education staffing plans for bias towards placement of students in restrictive placements. When bias or other problems are found, MSDE, through the provision of technical assistance and enforcement, should ensure revision of the plans so that students with disabilities will receive appropriate special education services in the least restrictive environment in which their needs can be met.

The Role of Local School Systems

While some local school systems have developed goals for the inclusion of students with disabilities, not all school systems have, nor have these plans been made available to the local community. Some of the barriers that exist regarding the accountability of local school systems are:

- Local special education staffing plans that are biased towards placement of students with disabilities in restrictive placements;
- Lack of mandatory and optional professional development opportunities;

- Lack of leadership in schools;
- Lack of integrity within the IEP process, ie. decisions made at central office level;
- Lack of strategic planning on school improvement efforts as they related to students with disabilities.

Proposed Action/Solutions:

- Local school systems should evaluate the current placement status of students with disabilities. School systems should ascertain which students are in out-of-state, nonpublic and public special education schools and in self-contained classrooms and why these students are in such placements. In particular, local school systems should disaggregate their placement data by age, race, and disability category to evaluate where efforts should be directed.
- Based on the results of the aforementioned evaluation, school systems should develop systematic plans to build internal capacity to serve students with disabilities in the most integrated settings. The plan should be developed by stakeholders, including parents of students with disabilities that are educated in a variety of settings, educators, advocates, and administrators.
- Local school systems should develop a method to ensure that the IEP process has integrity and that IEP teams consider the most promising educational practices, based on research evidence. Local school systems should ensure that IEP teams have the authority and resources necessary to ensure the free discussion of the range of supports necessary to maintain students in the least restrictive setting (accommodations, staffing, class size, behavioral supports, etc.). School systems must ensure that IEP teams are free to make decisions based on student needs rather than on the perceived availability or lack of availability of particular fiscal, staff or other resources.
- Local school systems should develop partnerships with experts in inclusive education, who could provide overall training for school administrators, general and special educators, and paraprofessionals, as well as in-service training and technical assistance for individual schools and school personnel.
- Local school systems should set reasonable annual goals for increasing system capacity over a 5-year period. These goals should be integrally linked school improvement plans.
- Local school systems should develop an evaluation system to measure increased capacity. Evaluation systems developed should assess adequate yearly progress in academic, social, and behavioral performance, quality indicators of inclusive schools, and student, educator, and family satisfaction. It is vital that school systems avoid “dumping” (placing a student in a general education classroom without the needed supports).
- Local and State education systems should develop funding mechanisms that support innovative efforts by IEP teams to support students with disabilities in general education classrooms in their neighborhood schools.

The Role of the Office of Administrative Hearings

The Office of Administrative Hearings (OAH) is a state agency charged with administering the special education mediation and due process proceedings. OAH employs administrative law judges to hear and adjudicate special education due process complaints brought by a party dissatisfied with the provision of special education services, related services, identification of a child with a disability, and school educational placement. The lack of training for administrative law judges has been identified as an issue that impedes the implementation of the state and federal laws. Problems identified include:

- Lack of training for administrative law judges (ALJs) on special education law related to LRE;
- Lack of available, low cost counsel for parents who often request due process hearings without benefits of an attorney;

- OAH failure to inform parents when they seek a due process hearing of the formality of the proceedings, which may impact the parents' ability to provide the ALJ with the evidence in a proper form as well as forum;
- Lack of training of ALJs on best educational practices, including the inclusion of students with disabilities in general education classrooms, and positive behavior interventions;
- Lack of ALJ impartiality (evident through ALJ due process hearing rulings).

Proposed Actions/Solutions:

- MSDE must ensure mandatory, high quality training for ALJs on special education law related to LRE, as well as disabilities and best educational practices.
- MSDE should make efforts to provide or enable local school systems to provide increased parent access to high quality free or low cost legal services.

Teacher Preparation

MSDE has identified teacher preparation as a barrier to inclusive education in Maryland. A task force on teacher preparation was established to make recommendations to the Department; however the report recommendations fell short of addressing chronic and systemic teacher preparation issues that affect the civil rights and education of students with disabilities.

- Maryland's institutions of higher learning have a teacher education system that creates parallel general and special education tracks, rather than a unified system that encourages cross-training and general educator responsibility for the success of all students.
- Current general educator certification requirements require teachers to have only 3 credits in special education.
- The majority of education students receiving training to teach in the general education classroom take a disability survey course ("Disability 101") in order to meet their 3-credit requirement.
- A national focus group on inclusive education found that more education students were fearful of having students with disabilities in their classroom after taking the general survey course than when they began, because it generally teaches few applicable skills.
- General education teachers need basic courses in curriculum modification and positive behavior supports.

Proposed Action/Solutions:

- Change certification requirements for general education teachers to ensure they are better prepared to educate students with disabilities, by requiring a minimum of 9 credits in special education including "Disability 101", differentiated instruction and collaborative planning, and positive behavior supports.
- Challenge institutions of higher learning to reinvent the "Disability 101" survey course to address practical skills for inclusive education.
- Challenge institutions of higher learning to eliminate the parallel general and special education systems and instead develop a unitary system that trains teachers to educate all children in their classrooms.

Funding

Maryland's state special education funding mechanisms affects the placement of students in two interrelated ways – 1) through the chronic underfunding of special education, and 2) through the nonpublic placement funding formula. Approximately 6.5% of Maryland's special education students are educated in Maryland's roughly 80 nonpublic schools, compared with approximately 2.5% nationally. The state's nonpublic funding formula siphons state funds away from public schools, resulting in local school systems' inability to build their capacity to serve students in the general education classroom and in the public education system.

Currently, in order to access additional State funds, a local school system must place a child in a nonpublic school or develop a public-private partnership with a nonpublic school. The funding can only be used to work with Maryland Association of Nonpublic Special Education Facilities (MANSEF) school experts. Apart from applying for limited state grant funds, there is no way for local school systems to use the existing large pool of non-public school funding to access outside experts in inclusive education in order to keep students in the public school system with typical peers.

- Since 1989, State funding of public special education has dropped from 21% to 15%. Until the institution of the weighted funding formula for special education students in fiscal year 2005, as recommended by the Commission on Education Finance, Equity, and Excellence, Maryland will continue to rank the lowest in the nation for State funding of special education.
- From its very first meeting, the Commission on Education Finance, Equity, and Excellence identified special education as a primary focus and, having gathered data, the Commission made strong recommendations in its Interim Report for increased State special education funds. Yet in fiscal year 2003, few local school systems used the block grant funds over and above previous special education budgets and instead, supplanted funds or used them to fill gaps in local funding.
- While the weighted funding formula proposed under the Bridge to Excellence in Education Act will do much to assist local school systems in providing special education services, the Nonpublic Tuition Assistance Program funding formula continues to 1) draw state funds away from public special education, 2) act as an incentive to local school systems to place students in non-public segregated schools, and 3) hamper local school systems' ability to develop quality programming for students with disabilities.
- The special education nonpublic funding formula has the effect of pulling State special education funds from public schools in a continuous cycle. In 1989, 22% of State special education funds supported non-public placements and 78% supported students in their local school systems. In 1999, 44% of State special education funds supported nonpublic placements and 56% supported students in their local school systems.
- Total placements for nonpublic special education have risen every year. Placements increased 19% between FY 1997 and FY 1999. The number of placements rose from 3,132 in FY 1997 to 3,728 in FY 1999, an increase of 596 day and residential placements. Placements in nonpublic settings increased not only as statewide school enrollment grew, but because local school systems have had decreasing capacity to serve students with more significant needs.
- "There is an indication that students with disabilities are sometimes transferred to more expensive non-public schools because appropriate services that could otherwise be provided in public programs are not available because of lack of funding." (Commission on Education Finance, Equity, and Excellence)
- Last year there was a \$9.5M budget deficiency for non-public placements for students with disabilities.

Proposed Action/Solutions:

- The General Assembly and MSDE should ensure that the FY 2004 money allocated through the block grants in the Bridge to Excellence in Public Schools Act is used based upon the Commission on Education Finance, Equity, and Excellence's final recommendations that focus upon the needs of special education students, students whose primary language is other than English, and students at a socioeconomic disadvantage.
- The General Assembly and MSDE should request assurances that no local special education funds will be supplanted by new Bridge to Excellence in Public Schools Act funds until all students with disabilities are making sustained adequate yearly progress as required by the NCLB Act.
- MSDE should develop clear and detailed requirements on reporting progress in local comprehensive master plans, including stringent goals relating to the academic progress of students with disabilities.
- MSDE should take the lead in developing a legal mechanism for a second funding formula that would allow local school systems to use state funds currently earmarked for nonpublic tuition to support students in or at-risk of nonpublic placement to be schooled within the local public school systems. Funds should be used flexibly for such things as training and technical assistance, consulting, increased staffing, etc.
- MSDE should ensure that revisions to the non-public funding formula to allow non-MANSEF schools and other organizations with expertise in inclusive education to work with local school systems to enhance their capacity to serve students with disabilities.

The Individualized Education Program (IEP) Process

In nearly every Maryland school system and at each level of the education ladder, parents of students with disabilities face an alarming failure by local school districts to correctly apply federal and state law regarding the placement of students in the least restrictive environment. School IEP teams:

- Disregard the full continuum of alternative placement options for students with disabilities;
- Often focus only on the most restrictive settings without addressing the need to properly review IEP goals and their implementation in the least restrictive environment;
- Routinely pass over a real consideration of general education placements, noting simply that the student's needs cannot be met in a general education setting;
- Fail to consider the full range of supplementary aids and services and programmatic supports and modifications—consideration is typically insufficient or non-existent;
- Reject general education placement without specifically identifying exactly why a student's IEP cannot be implemented in the general education classroom;
- Reject general education placement without a "justification for removal" as required by the state and federal statutes;
- Place students with disabilities in "programs" based upon category of disability or cognitive ability;
- Fail to provide parents with evaluations prior to IEP team meetings thus ensuring noncompliance with the IDEA's requirement for meaningful parental participation in the IEP process;
- Hold IEP team meetings without parents in attendance.

Proposed Action/Solutions:

- MSDE should ensure training of local school systems' IEP teams in LRE requirements in a systematic manner.

- MSDE should develop guidelines, training, funding sources, for the utilization of trained IEP facilitators as used in Iowa, Michigan and New Mexico. IEP facilitators would be knowledgeable about special education law and assist IEP teams in coming to agreements over appropriate educational services in the LRE.
- MSDE should ensure joint training of local school system general and special education staff in collaborative planning for students with disabilities.

Parent Opinions Regarding Separate Settings

Many parents prefer separate special education programs for their children with disabilities. Sometimes, they believe their children will be safer or that their children will receive more or better services in separate settings. Other parents may have had unsatisfactory experiences with inclusion of their children, often because necessary supports and services were not in place. Sometimes parents are afraid of the unknown. Other times parents are pressured by their local school systems to accept segregated settings for their children. The reality is that Maryland, rather than attempting to counter these concerns by ensuring sufficient teacher training and supports, has instead left these concerns unchallenged, resulting in a serious over-segregation of children with disabilities from an early age.

- Research shows that parents whose children with disabilities are placed in segregated settings express doubts about the benefits of inclusive education; however, parents who have experienced quality inclusive education are overwhelmingly supportive of inclusion.
- Parents are more likely to advocate for inclusive elementary and secondary school placements if their child has been included with typical peers during the preschool years.
- Parents cannot meaningfully advocate for inclusion without knowing what it is or having a sense of what effective inclusion looks like.

Proposed Action/Solutions:

- Begin inclusion early by educating young children with disabilities in natural environments.
- Provide incentive grants to local school systems to develop training in inclusive education for parents and educators.
- Identify model inclusive schools in each local school system and provide parents with opportunities to observe inclusive classrooms that include children with all levels and types of disabilities.
- Implement capacity-building efforts so that neighborhood schools and public school systems can become a real choice for parents.

Data And Data Accuracy

Maryland's ability to evaluate student progress and outcomes is hampered by a data collection system that does not adequately measure the progress and placements of students with disabilities.

- Current data collection systems are flawed and thus provide inaccurate data.
- Local school systems currently report data in different ways.
- No data collection system exists to evaluate placement data against statewide assessment scores.
- MSDE does not publicly provide local school system placement data disaggregated by disability category and/or age.
- MSDE does not currently make public data on the disproportionate identification of minority students with disabilities and placements of minority students by local school system.
- No data collection system exists to evaluate placement data against graduation rates for students with disabilities.

Proposed Action/Solutions:

- MSDE should undertake comprehensive efforts to improve its data collection system, including training of local school system personnel on standard definitions, etc.
- MSDE should collect and publish data on the results of statewide assessments by children with disabilities disaggregated by the student's educational placement.
- MSDE should collect and publicly report disaggregated data by race, gender, and English language learner status with disability category and educational setting.
- MSDE should collect and publicly report disaggregated data by local school system, disability category, age, and educational setting.

MSDE should collect and publish data on graduation rates of students with disabilities, disaggregated by the student's educational placement.

CONCLUSION

The systemic issues raised in this report, *A Blueprint for Change*, reflect the harsh reality of the effects of segregation of students with disabilities. Research clearly demonstrates the positive effects for students placed in inclusive educational settings. NCLB has challenged states to ensure high quality and result based education for ALL students. The challenge for Maryland lies in ensuring that this success is a reality for ALL students with disabilities.

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