

Public Comment Analysis

Date: May 22, 2012

Topic: Formulas and Method Used to Allocate Revenue Among Community School Districts and Schools

Date of PEP Vote: May 23, 2012

Summary of Proposed Item

Annually, the New York State Education Law and Chancellor’s Regulation B-801 require the Chancellor to develop objective formulas for use in allocating the DOE’s share of revenues among its community school districts and schools (known as the “FSF Formulas Weights” or “formulas”). On April 5, 2012, the DOE issued proposed formulas for the 2012-2013 school year. In them, the DOE proposed changes to the formulas to create greater alignment with college and career ready high school graduation requirements and the Special Education Reform.

On April 19, 2012, DOE revised the formulas and Public Notice to correct an error in the originally proposed formulas, which incorrectly stated that the weight for kindergarten students in Integrated Co-Teaching (“ICT”) applied to students in first through fifth grades as well.

On May 8, 2012, the DOE issued a further revised Public Notice which included a description of proposed transitional funding to support the change from special education classroom funding to special education pupil per capita funding. The proposed formula changes and transitional funding are now being considered for possible permanent adoption at the May 23, 2012, PEP meeting.

Summary of Issues Raised and Significant Alternatives Suggested

The DOE received relevant comments from nine commenters during the comment period on the proposed formulas. All of these comments are summarized and analyzed below.

Comments related to Full-time Classes for Integrated Co-Teaching (“ICT”) and Self-contained (“SC”) pupils: Several commenters inquired about the effect of the proposed revised formulas on ICT and SC instruction. Specifically, commenters asked: Will the revised weight for ICT students make it more difficult to offer full time ICT classes? Will the revised weight provide enough funding to pay for a full-time special education teacher for ICT classes? Does the revised formula allow schools to offer self-contained classes if schools have insufficient numbers of students to fill the classrooms? Will schools which currently have 12:1 classes with 10 or 11 children in these classes be funded next year even if they do not have the 11th and/or 12th child?

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In addition, a commenter asserted that transitional funding provides a safety net for schools that have a declining enrollment of students with IEPs, but it does not address the needs of the zoned/neighborhood/choice schools that are going to have partially filled classes; DOE should continue per class funding.

Comments related to Individualized Education Plans (IEPs): Several commenters inquired as to the effect of the proposed revised formulas on the ability of schools to meet the requirements of students' IEPs. Specifically, they asked: Do the proposed changes to the Fair Student Funding formula diminish the resources available to meet the needs of students with IEPs? Will special education formula changes force schools to be out of compliance with IEPs? How can Special Education Reform comply with IDEA unless the full continuum of services is adequately funded, even when schools feel that particular students require self-contained, full time classrooms?

In addition, a commenter asserted that given budget constraints, it makes more sense to have specific special education programs in certain schools, rather than placing all special education services in all schools.

Comments related to increased weight for pupils receiving special education services during 20-60% of the school day: Commenters asked: How can schools eliminate self-contained classes and move toward multiple SETSS services where general education class sizes are already large? Will schools receive funding for extra SETSS teachers to push-in to general education classes, which will now also include students who need ICT support as well as SETSS? Will students who move between SC or ICT and GE classes during the day receive additional supports to get from class to class and to handle the transition challenges?

Comments related to IEP Declassification Weight: A commenter asked whether a new funding weight for students declassified from special education services would result in more declassifications?

Comment related to over-the-counter High School Students Weight: A commenter inquired as to the rationale for a new per capita weight for these students?

General Comments: Commenters asked: Does funding follow each student? Are the formula weights the same through New York City? What funding will networks have in order to provide professional development to meet the needs of schools implementing special education reform? Can DOE systemically disseminate best practices information on budget allocation and resource usage from the most successful schools in phase one of the reform? Why is DOE following a "budget-driven implementation" approach for achieving the goals of special education reform?

A commenter also asserted that DOE should re-work the funding formula to ensure more resources for schools to implement the reform.

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Analysis of Issues Raised and Significant Alternatives Proposed

Full-time Classes for Integrated Co-Teaching (“ICT”) and Self-contained (“SC”) pupils:

In the first year of the citywide roll-out of this reform, new enrollment policies providing access to a zone school or school of choice will apply to students in *articulating grades* or students entering school “*over-the-counter*.” As schools work on the IEPs for their students, they are being asked to consider more inclusive and innovative programs when appropriate, to maximize the amount of time in a general education environment. The shift from per class to per pupil Fair Student Funding (FSF) supports this goal, while the FSF allocation process simultaneously provides for significant year-to-year stability in schools’ budgets. This is because the FSF allocation process applies the proposed FY13 formulas only to *changes* in each school’s pupil register. Consequently, school budgets are adjusted from year to year only for register changes in FSF categories (i.e. changes in the number of students in SC versus ICT); to the extent that a school’s FSF register stays stable, the FSF special education per capita budget should stay stable. Given that students in non-articulating grades make up the majority of school registers, large scale changes in the special education per capita budgets for schools are unlikely next year.

Schools that received “class funds” in the current school year for unfilled special education seats in ICT and SC classes will receive a transitional supplement in the 2012-13 school year, capped at the FY12 count of unfilled seats and net of actual register increases in FY13. Fiscal constraints do not allow the implementation of transitional funding to all schools with empty seats. But, if schools enroll fewer students with an ICT or SC program recommendation than are needed to fully fund a full-time classroom teacher, school networks will help schools address this challenge, in line with the process outlined in the “IEP’s” response below.

IEP’s: Proposed changes to the special education weights do not diminish the total resources available for implementing special education mandates for DOE special education students. The proposed formula changes would increase the special education allocation. Current FY13 pupil register projections show a net increase of about 6,000 pupils eligible for the special education. When the current FSF special education weights and the proposed FSF special education weights are applied to this net register change and adjusted for the average school percent of FSF under each formula, the proposed weights would generate about \$2 million more in FY13 to support these pupils than the current weights would.

Special education formula changes will not force schools to be out of compliance with IEPs. The full continuum of services will remain available and schools will still be able to provide self-contained classes when warranted and recommended on the IEP. To meet each student’s needs in the *appropriate least restrictive* environment, however, may require schools to develop special education service delivery models that are unique to each student and that focus on increasing access to the general education curriculum.

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During this first year of system-wide rollout of special education reforms, schools will begin to build their capacity to develop various special education service delivery models in accordance with New York City's continuum of special education services. Schools will be supported during this process by their networks. In some instances schools may enroll fewer students with a specific program recommendation than are needed to fully fund necessary staff for that program (for example, five kindergarten students with program recommendations for a special class). In these cases, schools should review all their resources to identify any available resources in their school that can be used to implement the program. Although schools must be prepared to implement each student's IEP as written, IEPs can be reviewed and amended at any time with the parent's participation. In some instances, review of the IEP and the unique needs of the student may demonstrate that full time services are not warranted, and that the school can address the needs of the student through a program other than what is recommended on the IEP. In these instances, the parent and the school should agree on the services and document these recommendations on the IEP, following required procedures. Finally, if the determination remains that the student requires a program that the school currently does not have and the school does not have the resources to implement, the school would work with their Children First Network. The network will work with cluster and central administration to ensure that the school has the resources to meet the mandated needs of the students.

Under Special Education Reform, special education students should be able to attend the school they would attend if they did not have an IEP; either their zoned school or school of choice. Reform directs every school to educate the overwhelming majority of students with disabilities that they would serve if the students did not have IEPs. As a result, school teams will be expected to meet the needs of students identified for special education services within the context of their school. Students with significant needs for specialized programs or barrier-free sites will continue to be served at schools that have those provisions. The enrollment policies for the Special Education Reform will be enacted in articulating grades (namely Kindergarten, 6th, and 9th grades) and students who enroll via the over-the-counter process.

Increased weight for pupils receiving special education services during 20-60% of the school day: The proposed formula changes to the 20-60% weight would provide more funding for flexible programming in order to promote use of the full continuum of special education services, and to assist schools in building strong part-time supports for students with disabilities. Where general education classes are already large, schools, working with their network leaders, will need to look at a range of internal options, within the context of their total resources. These options may include opening an additional class or bridging grades, for example.

To facilitate the part-time integration of students needing ICT or SC into general education classes, schools will need to ensure that all their resources are efficiently deployed. For example, if a school has three teachers providing SETSS services and their schedules are below capacity, the school may be able to rearrange the provision of SETSS to allow for one of the providers to switch to support part-time inclusion of ICT and SC pupils in general education classes. Some

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schools have IEP teachers who could provide support. In some cases, related services providers can indirectly support students by helping the general education teacher better understand how to support a special education student who is included part-time in the general education classroom. Multiple program options and services exist to serve a student with a disability and the process of deciding special education supports and services is individualized and unique for every child.

Schools which have participated in Special Education Reform Phase One have facilitated the smooth transitions from one classroom to another by placing grades together in the same hallway. Similarly, parallel schedules, in which instruction in the same content area happens during the same periods for a grade or for the whole school, greatly increase the ability for fluidity between general education and special education settings.

IEP Declassification Weight: The new declassification weight provides funding to support post-IEP transitional services. The process and procedures around IEPs will not change and parents and IEP teams will continue to determine when IEP declassification is appropriate.

Over-the-counter (OTC) High School Students Weight: Adjustments to the Fair Student Funding Transfer School Weight and creation of the new “Heavy Graduation Challenge OTC” weight for non-transfer schools are designed to better support high schools pupils with significant graduation challenges, in light of the phase out of the local diploma. These changes would adjust funding for transfer school pupils according to their level of need and whether they are over-aged and under-credited. Under-credited OTC students enrolling in traditional high schools will now also be eligible for funding to help them meet college and career ready high school graduation requirements.

General: When Fair Student Funding was established in FY 2008, it provided that schools receive the same dollars-per-student based on various student attributes, such as grade level, academic performance and other needs. As schools’ pupil registers change year to year, school funding is adjusted to “follow the student.” Due to revenue shortfalls – particularly the state’s failure to fully implement Campaign for Fiscal Equity (CFE) dollars – DOE is unable to allocate 100% of the FSF formula to all schools.

In order to provide guidance and professional development, DOE has added an instructional coach dedicated to special education reform for every network team. These coaches provide professional development to support all school staff—both general education and special education—in implementing more inclusive classroom practices and developing high-quality IEPs. Each cluster also has a Senior Instructional Facilitator who supports the coaches and can also be a resource for schools. All of these additional resources will support school leadership by providing training and clinics on IEPs, flexible programming, and behavioral supports and by responding to schools’ particular scheduling and budgeting challenges.

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Adjustments to the Fair Student Funding Special Education Weights are being made in 2012-2013 *in support of* the system-wide roll out of the Special Education Reform. These funding adjustments are only one of many components of the roll out. In addition, DOE is providing a variety of training for teachers and other school staff who work with students with disabilities, as well as workshops for families. FSF formula changes would result in an addition of about \$2 million to special education per capita instructional budgets overall, and networks and cluster staffing have been augmented to support the reform. Numerous internal DOE systems and procedures are being adjusted to support these changes. In addition, schools can access information about the experiences of the schools which participated in Phase One of the reform, in order to learn about best practices on all aspects of the reform process.

Changes Made to the Proposed Regulation

As noted above and described in more detail in the Revised Notice issued on May 8, 2012, the DOE revised the formulas in order to better align the Allocations Formulas and the Fair Student Funding process with the student needs they are designed to address. No other changes were made, for the reasons set forth above. Accordingly, the item will be presented to the PEP as revised on May 23, 2012.

A copy of the revised allocation formulas can be obtained at:
<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/BudgetAllocationFormula2012.htm>