



United Federation of Teachers  
*A Union of Professionals*

June 16, 2008

Linda Wernikoff, Executive Director  
Office of Special Education Initiatives  
New York City Department of Education  
52 Chambers Street  
New York, NY 10007

Re: Application for Innovative Program Waiver

Dear Ms. Wernikoff,

This letter, together with the Statement of Consultation, confirms that the New York City Department of Education has consulted with the United Federation of Teachers regarding an application for an innovative program waiver to continue the Special Education Teacher Support Services model in the New York City Public Schools.

During the course of our consultation, we raised a number of issues regarding implementation of the existing SETSS model. These concerns included the NYCDOE's failure to adequately disseminate information to IEP team participants regarding the ability to recommend SETSS for multiple periods (up to 50% of the school day); failure to implement and fund indirect SETSS, which provides collaborative consultation between the SETSS teacher and the general education teacher concerning adjustments in the learning environment and instructional strategies and techniques; and failure to ensure that students with disabilities who are not receiving adequate support through the SETSS model are recommended for more intensive services. We also asked for information on the number of SETSS teachers who have participated in the professional development programs identified in the narrative supporting the waiver application.

In response to these concerns, you added a statement in the description of the SETSS service indicating that the service "also provides consultation to a student's general education teacher;" you described your efforts to provide information to the field about the opportunity to recommend SETSS for multiple periods and indicated the percentage of students who currently receive SETSS for more than 5 periods a week; and you indicated that you were unable to provide information on the number of SETSS teachers who have participated in the professional development programs outlined in the waiver request.

A more serious concern, which was also addressed, concerned the proposed methodology for evaluating the effectiveness of the SETSS program. The NYCDOE initially proposed

to include comparisons of the performance of SETSS recipients on State assessments in Mathematics and English Language Arts with the performance of students in self-contained classes. In our view, this was an invalid comparison because the educational needs of the students in the two groups are not similar. The current plan, which we support, measures the progress of SETSS students on State assessments in Mathematics and English Language Arts from year to year.

Lastly, this waiver application is needed because of recent changes in the State continuum of services for students with disabilities. There are two other issues pertaining to the continuum of services that we have agreed to address as part of our consultation regarding the SETSS waiver. The first pertains to collaborative team teaching and the second pertains to paraprofessional support services.

With regard to collaborative team teaching, you have agreed that the New York City continuum of services will be modified effective July 2008 to incorporate the state limit of 12 students in integrated co-teaching classes. The new description of CTT services or integrated co-teaching will state that the number of students with disabilities in a CTT or integrated co-teaching class may not exceed forty percent of the total class register with a maximum of 12 students with disabilities.

The issue regarding paraprofessionals arises because NYSED is in the process of developing a State IEP which may only include services in the State continuum and approved waivers. State regulations do not specifically reference the types of paraprofessional support that the NYCDOE provides. You have agreed to include paraprofessional services in the drop-down menus on the IEP form used in the New York City Public Schools in the following manner: Support from a paraprofessional assigned to the classroom may be necessary for a student with a disability in the general education classroom to provide assistance to the student in specific instructional areas. This paraprofessional support will be included in the IEP under supplementary aids and services. Health paraprofessionals and other support service paraprofessionals including Behavior Management paraprofessionals, Awaiting Placement paraprofessionals, Special Transportation paraprofessionals, sign language interpreters, oral interpreters, cued speech transliterators and orientation and mobility paraprofessionals will be included in the IEP under Related Services.

With the above understandings, we support the Department's application for an innovative waiver to continue the SETSS program. However, we strongly urge the Department to address the additional issues that we have raised.

Very truly yours,



Randi Weingarten  
President

Enclosures



The New York City Department of Education, as part of the Board of Regents and State Education Department's ongoing efforts to implement the purposes of P-16 Educational Reform in New York State, is seeking a waiver to continue the service known as Special Education Teacher Support Services (SETSS), a flexible hybrid service combining Consultant Teacher and Resource Room Services.

In order to improve instructional outcomes for students with disabilities and to comply with federal legislation and State regulation requiring inclusion of students in mainstream school culture and access to the general education curriculum, the NYC Department of Education issued a new Continuum of Special Education Services entitled "Special Education Services As Part of a Unified Services Delivery System" in 2001.

The continuum's intended flexibility is supportive of various combinations of special education supplementary aids, services and supports across the entire spectrum of instructional settings. This flexibility encourages the creation of innovative instructional models which maintain the least restrictive environment and more closely address student needs.

In order to foster flexibility, the NYC Department of Education requested an innovative waiver from the State Education Department to combine Consultant Teacher Services and Resource Room into a single hybrid service known as Special Education Teacher Support Services (SETSS). This flexible model provides specially designed and/or supplemental instruction to support the participation of a student with a disability in the general education classroom. It also provides consultation to a student's general education teacher.

**Direct Services** provide specially designed instruction and/or supplementary instruction delivered by a certified special education teacher through individual and/or small group instruction to provide the student with compensatory skill development or remediation activities. These services address areas of deficit that have been identified for that student and strengthen the student's cognitive skills in order to aid the student to benefit from the student's general education classes. Direct services are provided to address educational needs directly related to the student's disability and not to provide additional academic instruction. This means that instruction is not provided in place of the student's regular academic instruction.

**Indirect Services** provide collaborative consultation between the certified special education (SETSS) teacher and the general education teacher which focuses on adjusting the learning environment and modifying and adapting instructional techniques and methods to meet the individual needs of the students in the general education classroom. Agreed upon strategies are delivered by the special education and/or general education teacher in the general education classroom.

These services are designed to maintain students in the general education environment and utilize the combined expertise of the general and special education teacher. The service may be all direct or a combination of direct and indirect service to the student. The student's IEP must indicate the amount of time, the distribution of time between direct service and indirect service (consultation) and the location of the service (i.e. general education classroom or a separate location). Group size may not exceed eight students.

For a student at the intermediate/junior high school or high school level who is recommended to receive SETSS in the general education classroom the specific subject area(s) during which the SETSS will be provided must be indicated.



For a student at the elementary level who is recommended to receive SETSS in the general education classroom the subject area of instruction during which SETSS will be provided must be indicated.

For indirect SETSS services, the IEP must indicate the general education class being taught by the teacher receiving the consultation.

Consistent with changes in Regulation, NYCDOE will amend the minimum amount of services to three hours per week.

There was much dialogue by various constituencies regarding the Continuum of Services and the SETSS model when it was introduced in 2001. Parents, collective bargaining units, advocates, the State Education Department, college partners and legal personnel were all consulted during the development and approval phases of the Continuum of Services in 2001. With the subsequent issuance of the Continuum, borough parent forums were conducted throughout the City to discuss the new SETSS model as well as other innovative programming in the Continuum such as Collaborative Team Teaching. These forums were attended by thousands of parents, advocates and staff members and the SETSS model was very well received. The SETSS model has been utilized as an effective service delivery model in the NYC public schools for the past seven years. SETSS teachers have been selected by their Principals to participate in specialized training opportunities including the Wilson Reading System, Kaplan Study Skills and Schools Attuned. We have also designed a SETSS Academy this year to continue to support the professional development of teachers providing this service.

As of February, 2008, 41,631 out of 151,370 total public school, school-age special education register are receiving SETSS services. This comprises 27.5% of the special education register. As of February, 2008, the public school school-age register for Less Restrictive Environment (LRE) placement stands at 82,786 (54.7%), a historical high.

Students receiving SETSS have exceed students in self-contained classes in earning Regents, local and HS equivalency diplomas. Of the special education exiters during the 2006-07 school year earning a Regents, local and HS equivalency diploma nearly 60% were students receiving SETSS.

The success of the SETSS program in supporting improved academic outcomes for students will be evaluated by reporting to the State Education Department the performance of SETSS recipients for each year on State standardized examinations in Mathematics and English Language Arts as compared to the past performance of these students. In addition, graduation and post secondary outcomes of special education exiters who have received SETSS services will be compared to past performance and exiters receiving SETSS services.

Based upon the widespread implementation and success of the SETSS model we are requesting a waiver to continue this program with the understanding that the minimum number of hours per week that can be recommended for SETSS will increase to 3 hours to reflect changes in State regulation.

**\* STATEMENT OF CONSULTATION \***  
**APPLICATION FOR VARIANCE/INNOVATIVE WAIVER**  
**FROM COMMISSIONER'S REGULATIONS**

Please identify below the name and telephone numbers of representatives from the following groups who were consulted in the development of the variance application:

Building Administrator's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Teacher's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Parent's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Student's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Committee on Special Education Chair: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Collective Bargaining Organization(s) United Federation of Teachers  
 Representative's Name: Randi Weingarten (Phone #: (212) 598-9215)

Signature: \_\_\_\_\_

Affiliation: UFT

Support with comments attached.

Representatives Name: \_\_\_\_\_ (Phone #: \_\_\_\_\_)

Signature: \_\_\_\_\_

Affiliation: \_\_\_\_\_

Others as appropriate (i.e.,

Business, College or University)

Name: \_\_\_\_\_ (Phone #: \_\_\_\_\_)

Signature: \_\_\_\_\_

Affiliation: \_\_\_\_\_

Were any of the above groups opposed to the application? YES ☐ NO ☐

If yes, please include the following information:

1. The name of the representative group(s) which was opposed; and
2. A summary statement (no more than one page) from the representative group(s) describing the reasons for its opposition.