



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable the Members of the Board of Regents
FROM: Lawrence C. Gloeckler *Lawrence C. Gloeckler*
COMMITTEE: Vocational and Educational Services for Individuals with Disabilities
TITLE OF ITEM: Increasing Opportunities for Students with Disabilities to be Educated in the Least Restrictive Environment
DATE OF SUBMISSION: March 6, 2003
PROPOSED HANDLING: Discussion
RATIONALE FOR ITEM: Implementation of the Individuals with Disabilities Education Act (IDEA) regarding Least Restrictive Environment
STRATEGIC GOAL: Goal 2
AUTHORIZATION(S): *[Signature]*

SUMMARY:

Research shows that the majority of children identified as eligible for special education services are capable of participating in the general education curriculum to varying degrees with necessary supports. Statewide trend data indicate slow but steady progress towards decreasing the percentage of students with disabilities provided special education services in separate educational settings from 10.2 percent in 1996-97 to 7.4 percent in 2001-02. However, New York State continues to place a significantly greater percentage of students with disabilities in separate educational settings compared to the 2000-01 national average of 4.2 percent.

This report provides information on New York State's progress in increasing the number of students with disabilities provided special education services in settings with nondisabled peers for each BOCES region and New York City. It includes examination of successful strategies and recommendations to ensure statewide accountability for serving students with disabilities in the least restrictive environment.

Attachment

INCREASING OPPORTUNITIES FOR STUDENTS WITH DISABILITIES TO BE EDUCATED IN THE LEAST RESTRICTIVE ENVIRONMENT

Executive Summary

Research shows that the majority of children identified as eligible for special education services are capable of participating in the general education curriculum to varying degrees with necessary supports. Consistent with the least restrictive environment (LRE) provisions of the Individuals with Disabilities Education Act (IDEA), we must take steps to ensure continued progress toward meeting the Regents policy of decreasing the percentage of school-age students with disabilities educated in separate educational settings.

Despite positive trends in many Boards of Cooperative Educational Services (BOCES) regions, some regions of the State continue to rely too frequently on separate site placements as the means to provide students with the extra help they need. A student with a particular disability could be in a regular school-based program in one part of the State and in a separate educational setting in another region of the State. This disparity results in students with disabilities in some regions being afforded greater opportunities to be educated with nondisabled peers and access to the general education curriculum as compared to other regions. Statewide trend data show slow but steady progress toward decreasing the percentage of students with disabilities provided special education services in separate educational settings from 10.2 percent in 1996-97 to 7.4 percent in 2001-02. However, New York State continues to place a significantly greater percentage of students with disabilities in separate educational settings compared to the 2000-01 national average of 4.2 percent.

To ensure that students with disabilities throughout the State have equal access to special education programs and services in settings with nondisabled peers, the Department needs to:

- support the leadership of District Superintendents and School Superintendents in their collaborative efforts to accomplish the goals of the next five-year Special Education Space Requirements Plan;
- provide supports to those regions with the highest percentage of students in separate educational settings;
- strengthen regulatory requirements relating to the Special Education Space Requirements Plan; and
- authorize a continuum of interventions/consequences when progress is not achieved.

INCREASING OPPORTUNITIES FOR STUDENTS WITH DISABILITIES TO BE EDUCATED IN THE LEAST RESTRICTIVE ENVIRONMENT

Research shows that the majority of children identified as eligible for special education services are capable of participating in the general education curriculum to varying degrees with necessary supports. Consistent with the least restrictive environment (LRE) provisions of the Individuals with Disabilities Education Act (IDEA), we must take steps to ensure continued progress toward meeting the Regents policy of decreasing the percentage of school-age students with disabilities educated in separate educational settings¹ from 10.2 percent in 1996-97.

Introduction

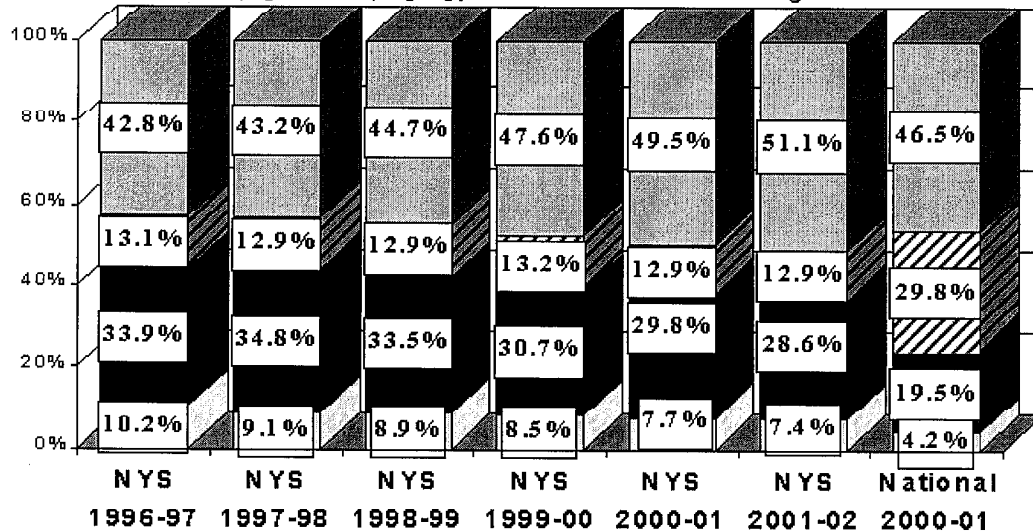
Despite positive trends in many BOCES regions, some regions of the State continue to rely too frequently on separate site placements as the means to provide students with the extra help they need. A student with a particular disability could be in a regular school-based program² in one part of the State and in a separate educational setting in another region of the State. This disparity results in students with disabilities in some regions being afforded greater opportunities to be educated with nondisabled peers and greater access to the general education curriculum as compared to other regions.

Statewide trend data show slow but steady progress toward decreasing the percentage of students with disabilities provided special education services in separate educational settings from 10.2 percent in 1996-97 to 7.4 percent in 2001-02. However, Chart 1 below shows that New York State continues to place a significantly greater percentage of students with disabilities in separate educational settings compared to the 2000-01 national average of 4.2 percent.

¹ Separate Educational Settings – Students with Disabilities are provided special education services in buildings/facilities attended by students with disabilities only for more than 50 percent of the day.

² Regular school-based programs – School-age students with disabilities are provided special education services for at least 50 percent of the day in buildings/facilities that are also attended by nondisabled school-age general education students. Regular school-based programs are most often provided in integrated school district buildings, but may be provided in BOCES buildings or private school buildings.

- Chart 1 -
**Percent of School-Age Students with Disabilities
(Ages 6-21) by Types of Educational Settings**



In General Education Classrooms 80% or more of the School Day
 In General Education Classrooms between 40% and 79% of the School Day
 In General Education Classrooms less than 40% of the School Day
 Separate Educational Settings

To ensure that students with disabilities throughout the State have equal access to special education programs and services in settings with nondisabled peers, the Department needs to:

- support the leadership of District Superintendents and School Superintendents in their collaborative efforts to accomplish the goals of the next five-year Special Education Space Requirements Plan (hereafter referred to as Space Plan in this report);
- provide supports to those regions with the greatest need for decreasing the percentage of students in separate educational settings;
- strengthen regulatory requirements relating to the Space Plan; and
- authorize a continuum of interventions/consequences when progress is not achieved.

Federal Monitoring

The United States Department of Education's (DOE) review of special education in New York State, as well as the self-assessment conducted by the Department as part of the federal Continuous Improvement Monitoring Process, have identified the issue of

least restrictive environment as a serious concern in the State. These findings note special concerns with regard to placement of students with disabilities in programs that afford interaction with their nondisabled peers. The DOE is moving toward an outcome-based monitoring system and recently produced a national ranking of states on the separate site measure. New York State was tied with Michigan as the second highest in the nation with only New Jersey placing a higher percentage of students with disabilities in separate sites. We anticipate that the DOE will continue to target New York for intensive corrective action on this issue.

Strategies

Several strategies have contributed to New York State's progress in implementing the least restrictive environment requirement: (1) Special Education Space Requirements Plan; (2) targeted IDEA Discretionary Grants; and (3) Chapter 405-identified school districts.

1. Special Education Space Requirements Plan

Purpose

The Special Education Space Requirements Plan,³ required by State statute every five years effective 1989, is one major strategy toward decreasing the percentage of school-age students with disabilities educated in separate educational settings. The current Space Plan covers the period 1999-2004. The purpose of such a plan is to:

- determine the need for additional facility space for all special education programs in the geographic area to ensure the provision of appropriate long-term instructional space; and
- expand opportunities for students with disabilities to be educated in sites that promote integration with nondisabled students, while reducing the number of classrooms at sites that are exclusively attended by students with disabilities.

The Space Plan must be developed by the District Superintendent assisted by a planning committee that includes representatives of public school districts, approved private schools and parents of students with disabilities. District Superintendents and the planning committees are responsible for ensuring that the Space Plan results in the necessary changes in the percentage of students with disabilities in separate educational settings in the BOCES region by the end of the five-year plan period. The 2001-02 statewide data indicate a range in the percentage of students with disabilities in separate educational settings of 0.35 to 9.26 percent. This shows that some regions place a significantly greater percentage of students with disabilities in separate educational settings as compared to other regions.

³ Although not required, the New York City Department of Education has agreed to follow the same planning requirements as the BOCES regions for the current 1999-2004 Space Plan.

Leadership

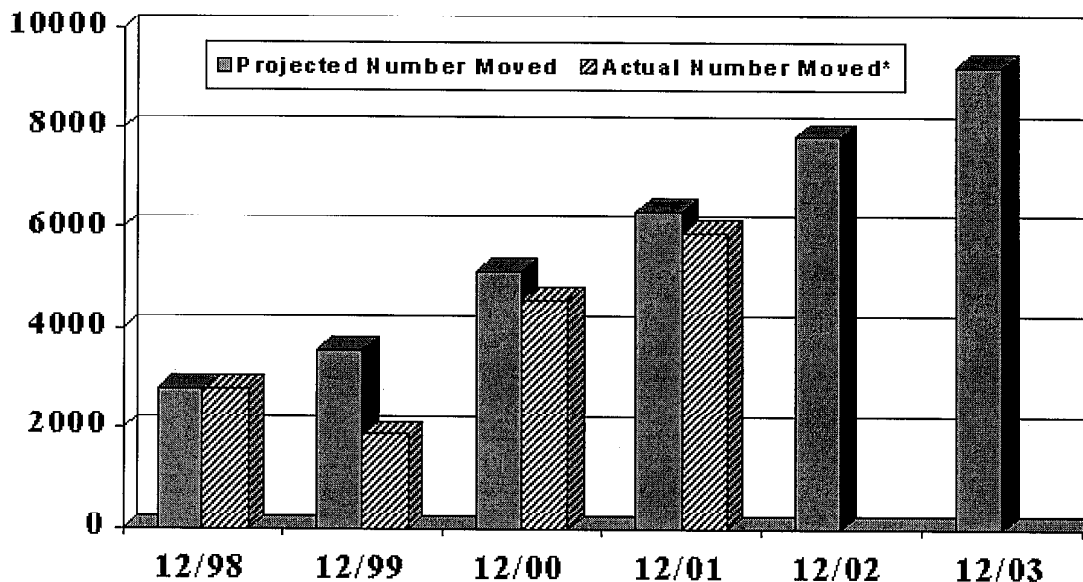
The availability of special education services and program space in local school districts and the nature of the special education services provided by BOCES have a direct and important impact on placement practices in a locality. District Superintendents play a vital role in the development, implementation and evaluation of the Space Plan. They serve as regional leaders with intimate knowledge of the availability of special education services and program space in local school districts. The Space Plan must result in sufficient and appropriate instructional space to ensure that students with disabilities are educated in age-appropriate settings and, to the maximum extent appropriate, with nondisabled students. This requires an increased understanding that the movement of students with disabilities into regular school-based settings is a regional issue requiring collaboration by all component school districts. Success depends upon the collaborative efforts of District Superintendents and School Superintendents to expand in-district educational options, reconfigure existing space, and construct new instructional space.

Trend Data

The statewide percentage of students with disabilities in separate education settings has continued to decline from 10.2 percent in 1996-97 to 7.4 percent in 2001-02. Attachments 1 and 2 show that the number of regions with placements in separate educational settings at or below the national average doubled from 11 regions (28 percent) in 1996 to 23 regions (59 percent) in 2001-02.

Chart 2 below shows that, as of December 2002, approximately 6,000 students with disabilities have been reported as moved from separate educational settings to school buildings that have nondisabled students in attendance. However, the reported decrease in some BOCES regions in the percentage of school-age students with disabilities educated in separate educational settings is primarily the result of more accurately reported data. In addition, we remain concerned that certain buildings are considered regular school-based programs, although they do not provide the level of integration necessary to ensure that students with disabilities have full access to the general education curriculum and learning standards.

- Chart 2 -
**Projected and Actual Cumulative Number of Students with Disabilities
 Moving from Separate Settings to Regular School Based Programs**
**2001-02 Space Plan Progress Reports Show Students Are Currently
 Being Moved into Regular School Based Settings At a Rate
 Roughly Equal to the Rate Projected in 1999**



Thirty-seven of the 39 regions (95 percent), including New York City, have exceeded their target levels of integration, compared to 31 regions (79 percent) as reported in the 2001 Space Plan Progress Report. It is projected that each BOCES region and New York City will meet or exceed the target levels of integration at the end of the current five-year Space Plan. Should this occur, the projected statewide percentage of students with disabilities in separate educational settings will be 5.64 percent, which continues to exceed the 4.2 percent national average.

Twenty-six regions (67 percent) continue to project, by December 1, 2003, placements in separate educational settings at or below the national average of 4.2 percent. Despite the excellent results in many BOCES regions, there remain certain regions where significant changes at both the district and BOCES levels must occur in the next five-year Space Plan cycle to achieve the desired outcome. Attachment 3 shows that 13 regions (34 percent) project to be above the national average as of December 1, 2003, indicating a greater need for reductions in those regions in the next five-year Space Plan cycle.

2004-09 Special Education Space Requirements Plan

The next Space Plan, covering the period 2004-09, is due February 1, 2004. In order to achieve benchmark outcomes, most regions must maintain progress or, in certain regions, significant changes at both the district and BOCES levels must occur. Achieving this goal is essential if students with disabilities are to be provided:

- greater access to the general education curriculum and opportunities to be involved in challenging coursework and activities related to reaching higher academic standards;
- greater access to extracurricular activities and enrichment programs with nondisabled students; and
- increased opportunities for independence.

2. IDEA Discretionary Grants

Since 1998, VESID awarded IDEA discretionary funds to all BOCES regions and New York City to support implementation of their five-year Space Plans. Grant awards for each region ranged from \$50,000 to \$250,000, and \$2 million was allocated for New York City. Grant funds were used to continue the goals of the Space Plan to support programs and activities to achieve the benchmarks established for each region.

3. Chapter 405-Identified School Districts

Within Chapter 405 of the Laws of 1999 are specific provisions that require the Education Department to identify school districts with high rates of identification of students as students with disabilities, low rates of declassification of students with disabilities, high rates of placement of students with disabilities in separate educational settings and significant disproportion, based on race and ethnicity, in identification and placement in more restrictive settings of students with disabilities. The Department must then work with the identified school districts to verify such rates, determine underlying causes and, if necessary, may require the development of a corrective action plan to implement policies, practices and procedures to improve results in the problem areas.

In April 2000, 107 school districts were identified for placing 15 percent or more of their students with disabilities in separate educational settings. In December 2002, the Department identified 171 school districts for placing 6 percent or more of their students with disabilities in separate educational settings. The percent used to target school districts for a high rate of separate site placements was lowered to ensure that more school districts review their placement policies and practices and set goals to decrease the high percentages of students in separate educational settings.

Identified districts use the Comprehensive System of Personnel Development (CSPD) Plan as the vehicle to address systemic problems associated with each

Chapter 405 issue. The plan is based on a thorough analysis of district and building data to determine needs and includes identification of specific goals and outcomes for each issue. VESID provides technical assistance to address the Chapter 405 problem areas through the Special Education Training and Resource Center network, Regional School Support Centers, Quality Assurance review process and regional training programs.

An analysis of 2000-01 statewide data regarding placements in separate educational settings reveals the following progress:

- There was a decrease in the number of school districts that place more than 15 percent of students with disabilities in separate educational settings (from 117 districts to 76 districts).
- There was a decrease in the number of school districts with disproportionate placement of minority students in more restrictive settings (from 102 districts to 89 districts).

Challenges

There are BOCES regions that continue to be above the national and State percentages of students placed in separate educational settings. The current regulations need to be strengthened to link each school district's comprehensive long-term plan pertaining to education facilities to the special education space plan requirements. School districts need to be more accountable so that approval of new leases, new construction and renovation of instructional space within a geographic area is consistent with an approved Space Plan. We are proposing that fiscal incentives, using available IDEA discretionary funds, be targeted to those regions with the greatest need for decreasing the number of students with disabilities in separate educational settings.

Next Steps

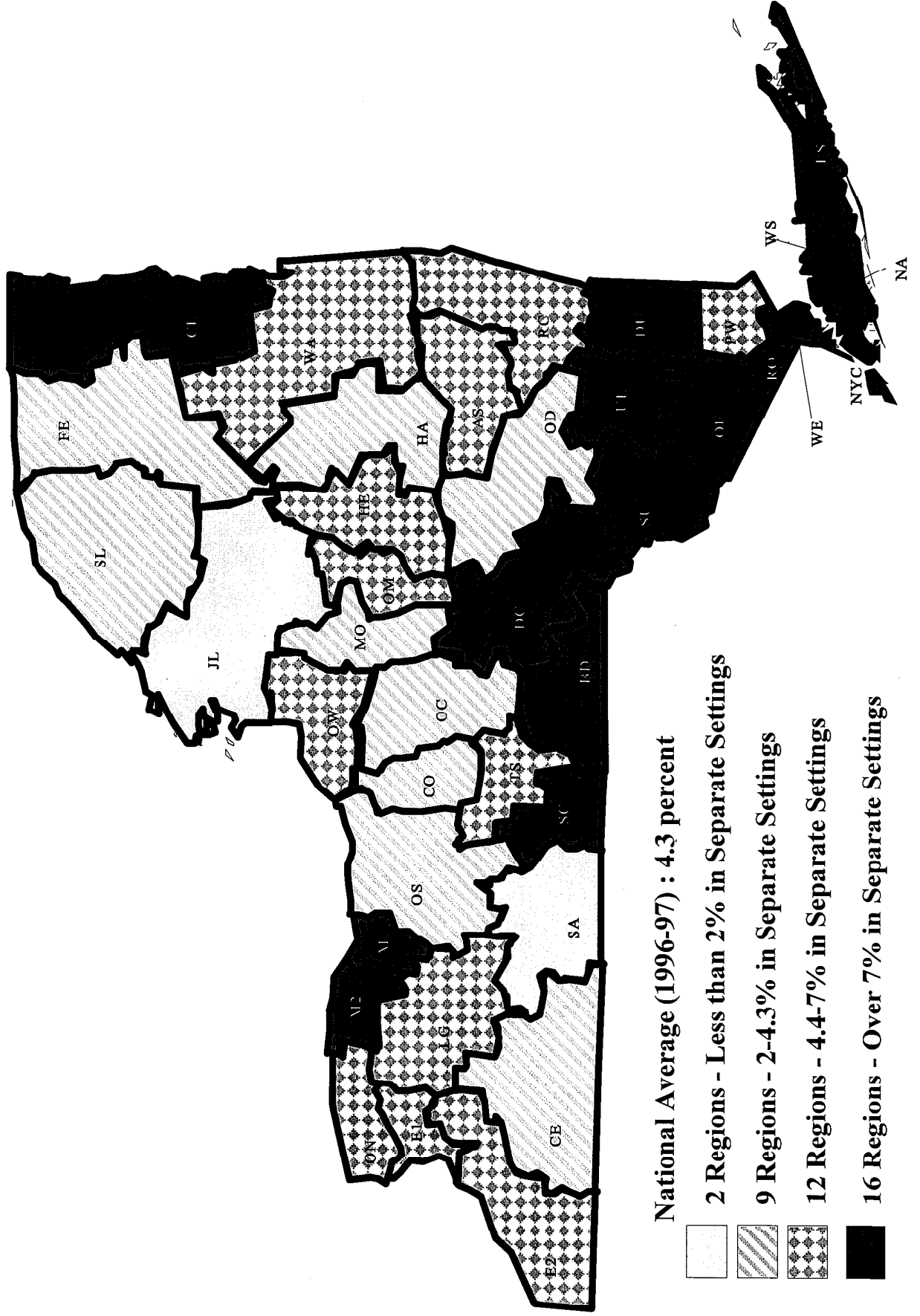
The implementation of the Space Plan requirements, combined with the IDEA Discretionary Grants and Chapter 405 provisions, has effected systems change at the regional and local levels specific to decreasing student placements in separate educational settings. We do not want to lose the progress we have made. It is important that all BOCES regions and New York City continue to support these efforts.

To ensure success statewide in the next five-year Space Plan cycle, VESID will:

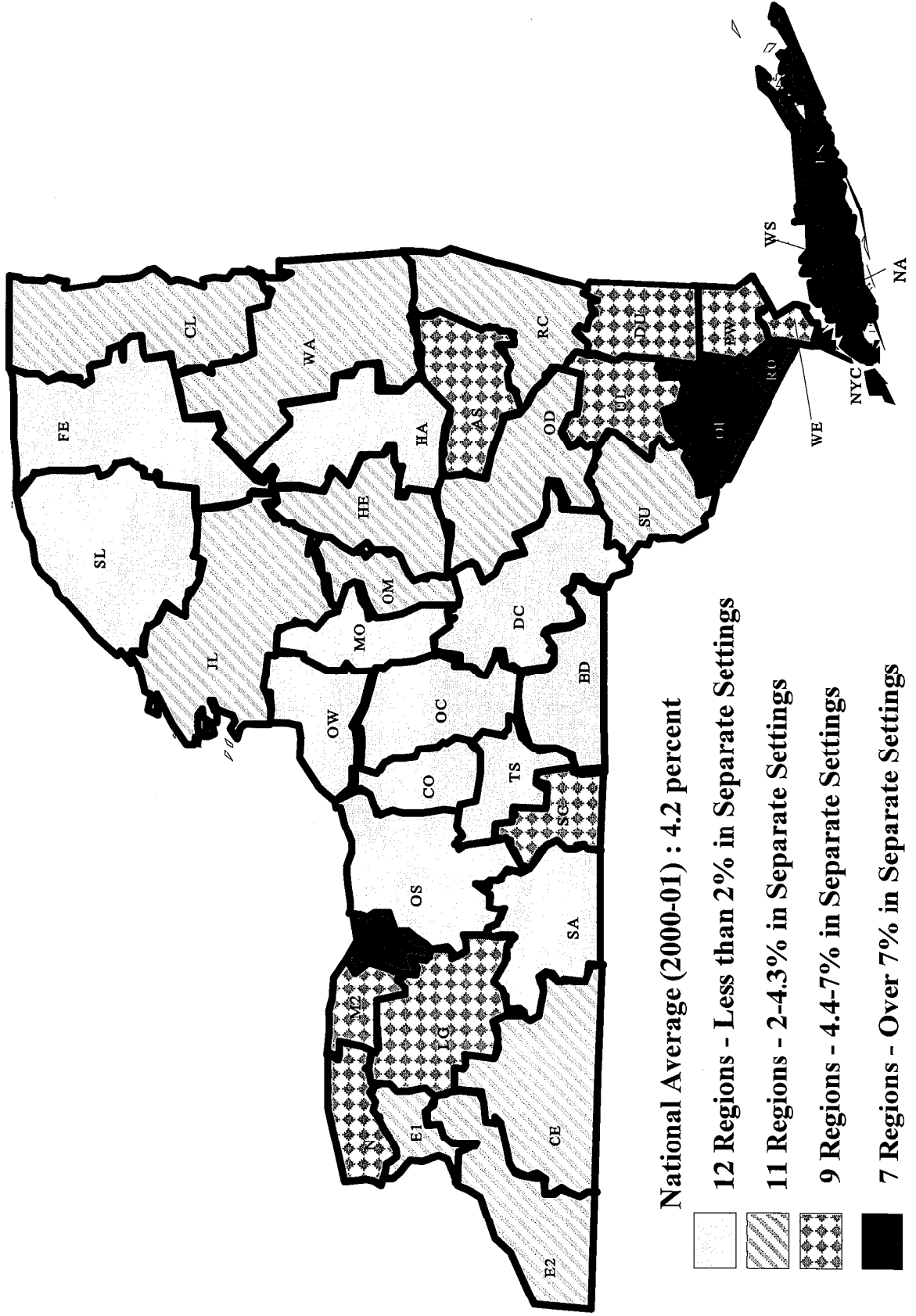
- 1) Set benchmarks so that, by December 1, 2009, the maximum percentage of students with disabilities in separate educational settings for each BOCES region and New York City is at or below the national average.

- 2) Support District Superintendents and School Superintendents in their efforts to make the needed progress in the next five-year Space Plan at both the regional and district levels.
- 3) Consider additional strategies, including fiscal incentives, in those regions with the greatest need for decreasing the percentage of students with disabilities in separate site settings.
- 4) Propose continued funding for Program Development grants that increase the available continuum of services for students awaiting appropriate services.
- 5) Propose amendments to the Regulations of the Commissioner of Education relating to the Space Plan to ensure the provision of appropriate long-term education space for students with disabilities and to expand opportunities for students with disabilities to be educated with nondisabled students. The proposed amendments will ensure that:
 - approval of new leases, new construction and renovation of instructional space within a geographic area is consistent with an approved Space Plan; and
 - implementation of the Space Plans contributes to the region's progress toward meeting the benchmark percentage of students with disabilities in separate educational settings.
- 6) Use VESID's Special Education Quality Assurance Focused Reviews to identify and address root cause issues in those districts with high placements in separate educational settings and to ensure that all students with disabilities, regardless of placement, have full access to the general education curriculum and learning standards.
- 7) Develop a continuum of interventions/consequences to apply in a consistent and timely manner when commitments are not kept and progress is not achieved as projected in an approved Space Plan.

Attachment 1 1996-97 Public and Private Special Education Placements in Separate Settings
for Each BOCES Region and New York City



Attachment 2 2001-02 Public and Private Special Education Placements in Separate Settings
for Each BOCES Region and New York City Based on 12/3/01 PD Data



Projected 2003-04 Public and Private Special Education Placements in Separate Settings for Each BOCES Region and New York City Based on Space Plan Progress Reports

