
Committee Meeting

of

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

“The Committee will receive testimony from the Department of Education and the Education Law Center on the Department's use of the PARCC scores to meet graduation requirements, or alternatives such as the SAT, ACT, ACCUPLACER or profiles”

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: March 15, 2016
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Co-Chair
Assemblywoman Mila M. Jasey, Co-Chair
Assemblyman Benjie E. Wimberly
Assemblywoman Betty Lou DeCroce
Assemblyman David P. Rible



ALSO PRESENT:

Rebecca Sapp
Chief of Staff

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

SENATE

Hon. Ronald L. Rice
Co-Chair

Hon. Diane B. Allen
Hon. James Beach
Hon. Nilsa Cruz-Perez
Hon. Samuel D. Thompson

ASSEMBLY

Hon. Mila M. Jasey
Co-Chair

Hon. Ralph R. Caputo
Hon. Betty Lou DeCroce
Hon. Sheila Y. Oliver
Hon. David P. Rible
Hon. Benjie E. Wimberly
Hon. David W. Wolfe



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MEETING NOTICE

TO: Members of the Joint Committee on the Public Schools

FROM: Senator Ronald L. Rice, Co-Chair
Assemblywoman Mila M. Jasey, Co-Chair

The Joint Committee on the Public Schools will hold a meeting on Tuesday, March 15, 2016 in Committee Room 11 on the Fourth Floor of the State House Annex, beginning at 10:00 a.m.

The Committee will receive testimony from the Department of Education and the Education Law Center on the Department's use of the PARCC scores to meet graduation requirements, or alternatives such as the SAT, ACT, ACCUPLACER or profiles.

The public may address comments and questions to Rebecca Sapp, Chief of Staff, at 609-847-3365, or by email at Rsapp@njleg.org

Issued March 7, 2016

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ASSEMBLYWOMAN MILA M. JASEY (Co-Chair): Good morning; with apologies for being a little bit late, but we wanted to be sure that our members were here. We had a miscommunication on timing.

So this is the -- yesterday we had our reorg meeting of the Joint Committee on the Public Schools. And I want to thank the members for supporting Senator Rice and myself as -- to continue as Co-Chairs of the Committee.

The first meeting of the year is one that we think is very important because it has the potential for impacting our students across the state.

Before we start, I want to give our members an opportunity to say hello and welcome you to the Committee.

We'll start with Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: Thank you, Madam Chairwoman.

First of all, I'm very happy to be back on the Joint Committee. I've been on it for the last three years -- I believe three years now. And as my colleagues know, I have very in-depth feelings about our children, and our schools, and making sure that we talk about, in depth, and understand where we need to help. And there are so many areas that need help in our educational system.

And recently, I have been supportive of pre-school and full-day kindergarten. And I think it's so, so important to our children in this day and age to start at a young age. I mean, at 2 years old, a 2-year-old can pick up an iPhone and do more than what I can do with it. (laughter) So what does that tell you?

So we have to prepare them for the future. And so I'm proud to be a part of this Committee; I'm proud to participate; I look forward to the year. I'm sure we will be on the road with some of our meetings, and I think that's good for the public -- to be able to have the opportunity to see us in action, because not everyone can arrive in Trenton and be here to see what's going on.

So I look forward to working with my colleagues, and I am proud to be a part of the future of our children.

ASSEMBLYWOMAN JASEY: Thank you.

Assemblyman, welcome to the Committee.

ASSEMBLYMAN RIBLE: Thank you. I feel like I'm becoming partners in all of our committees here (laughter) -- serving two, in Education and Higher Ed.

Also, this is my first time on the Committee. I'm just looking forward to working with the public, working with the professionals, so we can find a way to make our public schools better -- and that's been a priority of mine since I've been in the Legislature. I wound up sitting on the Education Committee, learning so much. I have a tremendous amount of respect for our Chair and Vice Chair (*sic*), and I'm looking forward-- I have spent a lot of time with our Vice Chair, so I'm looking forward to having this time to spend with Senator Rice and working with him. I know he cares so much about our public schools as well, and I just look forward to working with everybody.

And thank you for having me.

ASSEMBLYWOMAN JASEY: Thank you.

Assemblyman.

ASSEMBLYMAN WIMBERLY: Thank you, Chairwoman.

It is definitely an honor to serve my third time on the Joint Committee on the Public Schools. I guess, completing my 26th year in the Paterson Public School, education has always been paramount to me when it became -- when it comes to the issues that we face here, not only in the State of New Jersey, but nationwide. And in particular, this fair and efficient education is something I will majorly focus on and try to bring light during this term.

So I thank the Co-Chairs for the outstanding job they do, and I look forward to bringing this show on the road, and getting to the points that we need to face and address here in the State of New Jersey.

Thank you.

ASSEMBLYWOMAN JASEY: Thank you.

Senator.

SENATOR RONALD L. RICE (Co-Chair): Thank you very much.

Good morning, everyone. Let me, first of all, apologize for coming into this setting late. I thought it was 10:30; I was in my office, I've been here since 7:30. So that's usual for me, but being late to a meeting is not usual.

I want to also thank my colleagues for the support they gave us, as Co-Chairs, again. We have a lot of work to do.

I want to welcome Assemblyman Rible to the Committee. I know him very well, and really appreciate his leadership. We run across each other, we talk a lot, and even fellowship once in a while, and we bump heads. But I think it's a good addition.

One of the things that Assemblywoman Jasey and I spoke about yesterday is that we know that we're going to have to put our road shows together. And Assemblyman, this is the kind of Committee that -- we set up subcommittees, because we know that members can't make everything. But this is a Committee that does travel up and down the state to try to hear from the education people and those who are impacting education.

But one of the things that we want to try to do a little bit more this year is to try to get a little bit more into some of the rural communities -- the counties like Warren County, Sussex County; and maybe Cumberland, some place -- Salem -- down there, because we don't get to them enough. And it's travel time, but that's okay for those of us on the Committee.

So for the members themselves, you know, if we need to be in your district for something, in terms of information or to hold a public hearing, then we just need to know. If you say we need to be there, we're going to be there. Just schedule it, and etc., okay?

So with that, we're looking to hearing ELC today, who has been really great partners in this whole piece. I'm the senior member of this Committee, along with Assemblyman Wolfe, who is not here today; and so-- We have had a great partnership with you at ELC. We know that your information is valid; and you have been very good for the education system, particularly our kids, because that's what your fight is.

With that being said, I'll just turn it back over to my Co-Chair.

ASSEMBLYWOMAN JASEY: Thank you, Senator.

Could we have a roll call?

MS. SAPP (Chief of Staff): Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: Here.

MS. SAPP: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Present.

MS. SAPP: Assemblyman Wimberly.

ASSEMBLYMAN WIMBERLY: Here.

MS. SAPP: Assemblywoman Jasey.

ASSEMBLYWOMAN JASEY: Here.

MS. SAPP: Senator Rice.

SENATOR RICE: Here.

ASSEMBLYWOMAN JASEY: Thank you.

The purpose of today's meeting is to gather information and ask questions about the graduation requirements for the Class of 2016.

My concern for high school seniors this year is that the entire leadership of the education community in the State of New Jersey has lost sight of its own goals in implementing PARCC and what the common standards aspire to be. Significant numbers of high school seniors are being over tested, with few educational benefits. Students who are in danger of not graduating are being asked to take the SAT, ACCUPLACER, the military test -- the ASVB -- and other tests; or may face a lengthy portfolio process to earn their diploma.

So many days lost to testing and increased stress for these students and their families, not to mention the cost of testing borne by the school districts, is unacceptable. This is not increasing their knowledge and skills; it's increasing the idea that short-term intensive teaching-to-the-test classes can get students to the benchmark; or that various tests, which are

not designed to test New Jersey's Core Curriculum, will be the Hail Mary pass to graduation and the finish line in 2016.

All the rhetoric around the advantages of implementing PARCC and college and career readiness for our students is sacrificed when we witness this mad scramble and patchwork process. We are putting students through an obstacle course of various pathways to graduation with no educational basis, no relationship to the curriculum standards that exist or to what the State of New Jersey aims for in its college and career readiness efforts.

This year's graduation requirements are not the pathway these students were given at the start of their high school careers. In addition, it leaves the impression that their diplomas represent not so much a degree of achievement, but rather success at making it through a testing gristmill.

This is simply unfair. The DOE's approach to graduation requirements for 2016 undermines both common sense and a commitment to implementing the PARCC testing as a way to help students, and not to place unfair, high-stakes testing requirements in their way.

The fact that we are holding this hearing today without the participation of the Department, who was invited, is a disappointment. What better way to have a handle on the graduation possibilities of the Class of 2016 than to ask the Department? Where are the data and the support for what's happening in our school districts and students? Where's the transparency about what's happening in our education system? Once again, we are left with those responsible for the education of New Jersey's students not providing the Legislature or this Committee with the information and data that we need. We're asking these questions now, in

March, because we don't want to get to May or June and find that students are scrambling.

If it turns out that it's not a problem, that would be welcome news. But the anecdotal information that we've been getting would seem to be against that.

So we're going to start this morning with a presentation from Stan Karp of the Education Law Center. And we also have other information that we'll share as we go along.

So Stan, would you come forward -- and thank you very much for responding.

S T A N K A R P: Thank you. I use the light here?

MS. SAPP: You're good.

ASSEMBLYWOMAN JASEY: Yes.

Can you guys see? Can you see that?

MS. SAPP: Red is on. You're good.

MR. KARP: Is that good?

ASSEMBLYWOMAN JASEY: Yes.

MR. KARP: Thank you.

Good morning. Thank you for the opportunity to testify today about New Jersey's high school graduation policies.

My name is Stan Karp; and for the past 10 years, I've been the Director of the Secondary Reform Project through the Education Law Center. Before that, I was a high school teacher -- an Elite Teacher for 30 years in Paterson, New Jersey. I've also served on several New Jersey Department of Education advisory committees, addressing secondary reform issues and assessment issues. And I have had extensive experience

with the history of New Jersey graduation testing, as both an educator and a policy advocate.

Last month the New Jersey Department of Education proudly announced that New Jersey's high school graduation rate had improved for the fourth straight year, to nearly 90 percent, one of the highest graduation rates in the country. However, we're here today because new graduation policies imposed this year by the Department threaten to sharply reverse this progress, with the greatest impact on our most vulnerable students and high-need districts, but also with significant impact across the state.

ELC's primary concern, as I will try to outline today, is the potential impact of these policies on current high school students, and especially on the current seniors in the Class of 2016 who are scheduled to graduate this June. There are about 95,000 seniors in the Class of 2016; more than 50,000 of them did not take or did not pass the PARCC ELA test, which is the test that replaced the New Jersey High School Proficiency Assessment as the graduation exam given to high school juniors.

The more than 15,000 students in the Class of 2016, who will not have PARCC scores in order to qualify them for graduation, will need to use one of the other options that NJDOE has designated to meet the State testing requirement and graduate this June. Many of those students, perhaps most, will; but thousands won't. As the data we are about to show you make clear, there are thousands of seniors in their schools across the state who are currently wrestling with the Department's new rules. We ask that you keep those students in the forefront of our discussion, as we review the policies and data that have put their graduation prospects in doubt.

So I'm going to try to go through the presentation; I believe you all have a copy of the presentation. As I said, I was a high school teacher for 30 years, so I am totally used to being interrupted and I am happy to take your questions whenever the Chair or the Co-Chair feels they are appropriate.

First, I'd like to review what the current law requires. High school graduation requirements are set by statute and regulation; they are not simply set by the Department. They actually are set by laws passed by the Legislature; which are then turned into regulations, which also have the force of law.

Then the New Jersey High School Graduation Standards Act -- which was passed, I believe in 1979 -- requires an 11th grade test in Language Arts and math; re-testing opportunities in senior year for students who don't pass it as juniors; and an alternative assessment that is not a standardized multiple choice test. That's what the statute requires. New Jersey has had four different graduation tests over the years -- and we may talk about some of that history -- before we had PARCC.

The current standards and assessment regulations require that students must pass HSPA, the High School Proficiency Assessment, or AHSA, the Alternative High School Assessment, in order to get a State-endorsed diploma. The regulations name those assessments; they're quite specific. They are the only assessments that are named as graduation requirements. They're also identified in the regulations as parts of the major assessment components of the State's assessment system.

And finally, there's a third body of law that's relevant, and that's the New Jersey Administrative Procedure Act, that requires agencies

like the Department of Education to follow certain rulemaking procedures, including public notice and opportunity for public comment, before they can change policies like high school graduation requirements. Those policies cannot simply be changed by Department guidelines or Department memos; there are legal requirements. And this is because there are significant consequences attached to these tests for students and their families. And so they are both a body of law, and there's even a body of court decisions that affects the way in which high school graduation requirements can be changed.

The Department's new graduation policies have been imposed without revising the current statute or adoption of new regulations. The PARCC tests that have been given don't actually meet some of the criteria of the statute. For example, the statute requires the 11th grade math test and the 11th grade ELA test. There is no 11th grade PARCC math test. The PARCC math tests are connected to courses, which could be given at any time throughout the high school career; so it doesn't quite match what the statute requires.

The statute also requires opportunities for retesting for students who don't pass the first time. There is no opportunity to retake a PARCC test, because the only way you can retake a PARCC test is to retake the entire course. So there's a mismatch there.

Last year, however, even though these were still in the assessment regulations as required -- requirements for graduation -- the Department stopped giving the HSPA, it stopped administering AHSA, and it replaced those tests with PARCC as the only free State-developed assessment that was given to all public school students.

So it became, in effect, the primary State exam -- the only one that all students were offered free of charge.

Because the Department's policies raised concerns, ELC, on behalf of parents from a variety of districts -- urban, suburban, students from different groups -- the Education Law Center and the ACLU of New Jersey filed a petition challenging the Department's action because it violated both the statute, the regulations, and the APA; and that is now pending in the Administrative Law Court.

This somewhat dense chart is what the DOE has circulated. They've circulated four or five versions of this chart which tries to summarize the new graduation policies. And on the left side are the requirements to satisfy the English Language Arts assessment requirement, and on the right are the requirements to satisfy the math requirement. You notice that the chart titled *Graduation Requirements*; it's topped by several PARCC tests on each side, and then has other tests, and then ends with a portfolio. You'll notice that all these tests are not mentioned in the current assessment regulations; while the only two tests that are authorized by those regulations -- HSPA and AHSA -- do not appear anywhere on this chart.

So some of the concerns we have are that, for the first time, PARCC has been used as a graduation exit exam after a single administration of a new test. This has never happened before. All of the four previous graduation tests that have been used in New Jersey were always used or piloted for two or three years before any kind of diploma stakes were attached to them. I was a high school teacher when the Minimum Basic Skills Test was first administered in the early 1980s; it was

piloted for two or three years before it became a requirement for graduation. That test was later changed to the High School Proficiency Test 9, which again was tested for two or three years before it became a graduation requirement.

At one point, the Department decided that they wanted to move the graduation test from the 9th grade to the 11th grade. That required revision of the statute. The high school graduation statute was revised so that it authorized a test at the junior level, in the 11th grade, and that became the HSPT 11; and that was used as a graduation test after a couple of years of field testing, until the High School Proficiency Assessment, in 2001, which had also been field tested for several years.

This time we have the use of a new test as a graduation requirement after a single and very controversial administration. This is unprecedented; this also raises several questions about the validity and the reliability of the test, and the appropriateness of using it.

The test also raises concerns because it has put the graduation prospects of many more students at risk. HSPA had passing rates of about 80 to 90 percent, typically; and then they had the AHSA alternative for those students who had not passed HSPA.

PARCC exams, last year, had passing rates of about 30 to 40 percent, which meant far more students -- tens of thousands of students were not able to use the scores that they got on those tests to satisfy the State requirement. This put their graduation in doubt; they are the ones who have to use something else.

We are also concerned about the elimination of the alternative test, which closed a pathway to graduation that had been annually used by

about 10,000 students, including a large number of the English Language Learners in the senior class who benefited especially from a test that had more native language accommodations. They could take that test in their native language; and also the tests that are given later in the high school career give the ELL students more chance to learn English. So there's a difference between having to take a test one time as a junior, and having additional chances a year later.

Some of the new PARCC tests are given as early as freshman year, and the ELL students have to take those tests -- at least the Language Arts parts of those tests -- they have to take them in a language many don't understand: English. There is no translation of the ELA PARCC tests.

So the test itself-- Yes?

ASSEMBLYWOMAN JASEY: PARCC is only given in English?

MR. KARP: The math tests are available in a Spanish translation, but the PARCC English test -- the English Language Literacy test are English only. That was true of HSPA too. It was not true of AHSA.

So the elimination of AHSA is a concern-- Sorry; yes?

ASSEMBLYWOMAN DeCROCE: I'm just making sure I understand. The other two, where you said one was and one wasn't. So that was there for them-- I mean, how is that working now if it's only under PARCC and there is only English?

MR. KARP: Well, I will be giving you some results about how the ELL students did on the PARCC test and what their situation is now. So we will come back to that.

ASSEMBLYWOMAN DeCROCE: Can I--

MR. KARP: Sure.

ASSEMBLYWOMAN DeCROCE: I just have one other question that I had noted down here. When you talk about the requirement for graduation, and the testing, and the PARCC, does that also-- What about children who are classified? Do they have to pass that for graduation purposes? I mean, how are they treated as a classified student? Because if they're classified right up to their last day of school in the 12th grade, how does that affect them?

MR. KARP: Good question. What a special education student has to do for graduation depends on what the IEP -- the Individual Education Plan -- says for that student. That plan is supposed to make very explicit what that student has to do in order to qualify for graduation. And that plan, which is supposed to be worked out with the student's family and the student's teachers, is supposed to be an appropriate measure of that student's proficiencies for graduation purposes.

Now, it may be that an IEP student is required to sit for and to take the State administration, whether it's HSPA or PARCC. But it's up to the IEP whether passing that particular administration is a graduation requirement for that student. And for some, it may well be. Not every student who has an IEP is automatically exempt from graduation. That's a determination that's supposed to be made by the Child Study Team.

ASSEMBLYWOMAN DeCROCE: Okay, thank you.

ASSEMBLYWOMAN JASEY: Okay; one more, and then we're going to let Stan finish.

ASSEMBLYMAN WIMBERLY: Honestly, that's a concern with the IEP. And obviously, with a lot of areas I know, there is a shortage of Child Study Teams and a lot of IEPs are not updated. Are you running -- or do you get a lot of complaints in reference to that, where a child's IEP-- They haven't been evaluated in the proper amount of time, and now here's a new test and here's a child ready to graduate. But yet, he hasn't been updated; his IEP hasn't been updated. And in many cases I know -- working in special education -- one of the major challenges was getting the parents to come in and sign off on an IEP.

MR. KARP: Yes.

ASSEMBLYMAN WIMBERLY: How has that impacted, or how will this impact -- your professional opinion on this?

MR. KARP: Well, I don't have data to give you about that. But I can tell you that the Education Law Center, for example, runs an intake process in which we get many, many calls and requests from parents who have various issues with their IEPs, not only the graduation issue.

But this is an increasing issue, especially this year. For example, I think it was just last week that the Department of Education issued a memorandum reminding Child Study Teams that by the time a child reaches, I think it's 14, the IEP is supposed to address the concern about graduation; and not all the IEPs have done that. And so students and parents are now finding, late in their high school careers, the rules are being changed. Their IEPs have not necessarily addressed this; they may not have addressed it before the change, they may not have addressed it since the change. And so they now are concerned. Is the IEP going to address the

graduation? Do they need to pass PARCC or one of the other tests, or are they getting an exemption?

So it's an ongoing issue that's been aggravated or increased by the current policies around high school diplomas.

ASSEMBLYMAN WIMBERLY: Thank you.

ASSEMBLYWOMAN JASEY: Okay, one more.

ASSEMBLYWOMAN DeCROCE: I'm sorry.

And this is what's bothering me. If there is a problem with the IEP, and it's not taken place by the time they're 14, and looking towards their graduation, why -- maybe they are, maybe they aren't, but I'm going to ask the question -- why isn't the DOE on top of that?

MR. KARP: You know, I couldn't really answer that question. I can tell you that both what Assemblyman Wimberly just referred to -- that the provision and the support of special education services is problematic throughout many districts, not only on this issue. And the magic question as to why it is the case -- some of it is about funding, some of it is about resources, some of it is about oversight. But I'm not an expert on those issues; I really can't speak to why the Department hasn't done a more systematic job. I know that ELC, for example, has had to actually bring legal action in Paterson because students who were entitled to special education services were not getting them.

ASSEMBLYWOMAN DeCROCE: Well, with that happening, and having to bring suit against-- It's going to cost the taxpayers a lot more money than if DOE oversaw it to make sure it was done. So I think that's something we should think about, and maybe ask DOE when they come in -- because that is a great concern to me. Because I don't see how that can

cost them money to make sure the districts are doing what they need to do with the IEPs. I mean, if they don't, that's going to cost the taxpayers money. So to me, it's something that the DOE should be on top of. So I think we should keep tracking that.

ASSEMBLYWOMAN JASEY: So a suggestion here is, you'll be getting requests from us asking what topics you would like to pursue over this new term.

ASSEMBLYWOMAN DeCROCE: Yes.

ASSEMBLYWOMAN JASEY: And perhaps special ed and the issues connected with it, in terms of funding services support, might be a topic that you want to put on the calendar.

ASSEMBLYWOMAN DeCROCE: Yes.

ASSEMBLYWOMAN JASEY: Okay; thank you.

MR. KARP: So some of the other concerns we have is that the new policies that are summarized in that charter are not authorized by the State assessment regulations. They rely heavily on commercially produced college entrance exams -- some of which have fees, which means the students access to those opportunities are not guaranteed and are uneven. They utilize some State tests that are not aligned with State standards, like the military test -- the ASVB -- or the ACCUPLACER which -- these tests are not validated as graduation exams. For that matter, PARCC has not yet been validated as a high school graduation exam.

They eliminate opportunities for retesting that the statute requires. They utilize English-only tests that make things difficult for ELLs. And it makes the appeals process much more difficult, even while it relies

more heavily than ever before on that process. And we'll talk more about that as we go forward.

But first I want to put some numbers on the issue. And what you have here is a summary of what the statewide results have been for the PARCC English Language Arts 11 test.

If you were a senior in the Class of 2016, last year you got only one chance to pass the ELA 11 test. And this is another problem we have with the Department's list of options. If you are a freshman, you are beginning the taking of what could be up to six PARCC tests; and the Department says you have to pass one English test and one math test in order to meet the State requirement. If you are a senior, you only have one chance at presumably the hardest of the PARCC ELA tests -- the 11th grade test. And you may not even have gotten a math test, because there is no 11th grade math test for PARCC. There are 30,000 students who were taking other courses besides the three math courses that are tested by PARCC. And they may be well beyond the Algebra I, or the Algebra II, or the geometry that PARCC has exams for.

There are 95,000 kids in the Class of 2016. As the data shows, about 62,000 of them were tested. There were about 32,000 students who did not take the test -- for a variety of reasons that we could discuss -- but they didn't take the test, so they obviously will not have PARCC scores that they can use to qualify.

Of the students who took the PARCC test, about 40,000 passed, and about 22,000 didn't pass. And I should add that even those numbers were affected by the fact that the Department deliberately lowered the scores that are passing for the Class of 2016. We had heard a lot in the

run-up to PARCC about how the PARCC pass rates would be consistent across districts and states; and that “4” or “5” would be the college readiness measure of whether or not a student had passed a PARCC test.

Well, when it came time to setting the cut score for graduation, frankly the Department also included those students who had gotten a “3” on three of the PARCC tests that the seniors were most likely to take. And so instead of only having about 40,000 students actually meet the requirement, they added about another 15,000 or 20,000 students.

Still there are 22,000 students who didn’t pass; and if you add the students who didn’t pass to the students who didn’t take the test, you get a number at the bottom of 54,000, 55,000 students. We are calling those students *at risk for graduation*, not because many of them will not be able to meet the other requirements, but because they did not meet the first State requirement on the State test that is now the primary test given to all high school seniors. They are students who will not be able to use PARCC to satisfy the graduation requirement. That’s why we call them *at risk*.

If you break the numbers down a little bit, there you see -- by ethnicity -- you see that the pass rates and the failure rates are significantly different for African American and Hispanic students than for white and Asian students. And yet, on the right, where you see the actual numbers of students who did not pass, you have significant numbers of students in every category. This impact is across the state. And again, I remind you that the numbers on the right, of students who were not able to use PARCC scores to graduate, do not include the students who didn’t take the test. This is only among those students who did take the test. These are the numbers of students who took the test and still don’t graduate.

So sometimes we've heard that the problems we're running into are only a problem with students who *didn't* take the test. We have a problem with students who *did* take the test as well.

The results by subgroup -- you see that the pass rates for students who are economically disadvantaged are also significantly higher (*sic*) than the students -- almost 50 percent higher (*sic*) than for the students who are not economically disadvantaged. And then you see the pass rates for the English Language Learners and the special education students are, again, much more significantly higher (*sic*). And again, on the right, you have the numbers of students who took the test in those different subgroups and who are at risk of not being able to graduate with their PARCC scores.

When you look at it by DFG -- low, middle, and high income -- again, you see that the highest rates of not passing are in the low income districts; but you see there are significant numbers of students in the middle income districts who also were not able to satisfy the graduation requirement through PARCC. And again, you have large numbers of students in all categories.

And then a word about the math test. Up to now, I've been giving you information only about the ELA II test. Because for the seniors in the Class of 2016, that's the gateway; that's the one ELA test they've had a chance to take. But they also have to pass a math test. And if you look at these results, you'll see that the results on the math test were significantly worse than even the results on the ELA test; and that the seniors in the Class of 2016 who took Algebra -- very few of them passed. The much higher number who took the Algebra II test again had significantly -- three

out of every four students did not pass. And then on the Geometry test, it was almost four -- it was over four out of every five. Those students will also have to use -- it's about 30,000 math students there who will not be able use PARCC math scores. Some of these are the same as the 55,000 students in the ELA bucket who can't use the ELA test to meet the ELA requirement; some of them are new. So you have at least 50,000 to 60,000 students in the senior class who have to use some other assessment besides the State assessment in order to satisfy the graduation requirements that the Department has imposed this year; and again, imposed graduation requirements without the authorization that all the other graduation tests have had through the statute and the regulations.

Up to now we've only been able to give you information that the Department has released as part of its assessment data -- it's results of the tests. But we have, in the last couple of weeks, received some data. One of the things we're concerned about is, of these students who didn't pass or didn't take PARCC, how many of them are getting the other requirements they need through the other options. And so we looked at two of the largest districts; and because these districts have been more transparent about what's going on in their districts, they have actually shared some information with parents and we've been able to share it with you.

So if you look at this chart, the impact to Newark, Newark has about just under 2,000 seniors in the Class of 2016. It tested a very small number of them, for a variety of reasons; it tested less than half of them. And of the ones who tested, about 530 passed; about another 450 didn't.

And if you add up the students who didn't pass with the students who didn't take the ELA 11 test, you have about 1,300 students.

Well, last week when I was presenting to parents along with someone from Central Office -- who was working with the students who had not passed PARCC to meet the graduation requirements -- he said that less than 10 to 20 percent of the students who had not taken or who had not passed PARCC had satisfied the other requirements. That means that Newark has over 1,000 students at this point, as of February, who have not satisfied the new graduation requirements with PARCC or with any of the options on the Department's chart. The only option that they haven't actually had a chance to run through completely is the portfolio option, which the District is now running extensive extra programs. I was at West Side High School, where they had a Saturday program last week in which -- they had about 90 students coming on Saturday morning trying to satisfy the material for this portfolio process that we'll talk a little bit more about in a minute.

But -- so you had the largest district in the state, Newark, with over a thousand students at risk of not graduating as of February of their senior year.

In Paterson we have a similar spread of numbers, and we have similar information that the District has been fairly transparent about, thanks to some advocates in the District. And just going to the key number, you have, as of February, between 600 and 700 students who have not passed or taken PARCC, or have not satisfied the other graduation requirements.

And so in these two districts, you have really significant numbers of students at risk of not graduating, even though they have stayed in school -- and remember, all these students must satisfy all other requirements. They must get all the graduation requirements that the District and the State require; they must have GPAs, and attendance records, and all other service requirements met. And this is all just about the State testing requirement as an obstacle to getting a diploma.

We have heard some--

Sorry; go ahead.

ASSEMBLYWOMAN JASEY: And I want to add, at this point, members have -- in your packet you have, according to your District, how many students are not going to be able to use the PARCC scores to graduate. So I have mine for LD 27, which is a very high-performing suburban district, pretty much; and we have upwards of 2,500 students who have not passed the PARCC test. But that doesn't mean, obviously, that they're not going to graduate, but rather they have to satisfy the other requirements.

We wanted to make it clear to all our members that this is not just a Newark or Paterson problem.

MR. KARP: Right; thank you for that. And at the end of the presentation I will be going over the sheet that each of you received, and clarifying and answering any questions about exactly what that information says and what it means for your District.

In addition, we have -- someone asked before about the impact on the English Language Learners. And of the English Language Learners in the senior class of 2016, only less than a third -- less than one out of three

passed the ELA PARCC test 11. And so the New Jersey Association of (*sic*) Bilingual Educators -- which is also the New Jersey Teachers of English to Speakers of Other Languages -- did a survey to find out, of these students who were not passing PARCC, how well were the ELL students faring at passing the other options. And so they did a survey of 52 districts; surveyed about 750 seniors in these 50 districts and found that only 10 percent of those seniors had been able to satisfy the other options on the district's chart. And so that these students were also at risk of graduating and had only the portfolio.

In the past, those students would have taken the Alternative High School Assessment, and that assessment was able to be taken by some students in their native language. Several hundred did; it was not thousands of students, but it was hundreds of students in many districts that serve concentrations of native speakers who are not English. And the State even supplied four State-developed translations of the tests. What the alternative test was, was a series of performance tasks. It was a series of assignments that covered the same material that was in HSPA, but in a different format. It was made by the State testing vendor that made the HSPA; both made the same.

But when it came to AHSA -- that test could be administered in the native language, and the State made it possible for districts to do that by supplying translations of the performance tasks in up to four different languages -- Spanish, Portuguese, Haitian Creole, and Gujarati. All the NJDOE substitute assessments, all the other assessments on that chart -- the SAT, the ACT, the ASVB, the ACCUPLACER -- they are all English-only. There is a Spanish version of the ACCUPLACER which the bilingual

educators have actually asked the Department to approve as an option, and so far that has not happened.

So the ELLs are going to have to rely disproportionately on the appeals process. And the appeals process is pretty burdensome for districts, especially with ELLs. What happens now -- and I'll go into the appeals process in a second -- but there are some extra burdens for districts that have to give the appeals to ELLs.

And finally ELLs, before this process ever happened, already had the lowest graduation rate of all the subgroups -- at about 70, compared to the overall rate of almost 90 for all students. So we are especially concerned about the impact on them.

SENATOR RICE: Excuse me, Madam Chair.

ASSEMBLYWOMAN JASEY: Yes?

SENATOR RICE: For the record -- because we're being recorded and people will be reading the transcripts -- would you explain what the *portfolio appeal* is?

MR. KARP: Yes; thank you, Senator. The next slide is going to get directly to that, and so I'll be happy to explain it in detail. But thanks for the question.

I just wanted to take a minute-- One of the options -- one of the main options, especially for the students, for example, in Assemblywoman Jasey's District who didn't pass PARCC, will be to use their ACT or their SAT scores in order to satisfy the requirement. That will work for many students; it will not work for all. And what this slide shows is, for example, in the A and B districts, the average rates -- the average

scores on the SAT do not exceed the threshold that the Department has set for graduation qualification this year.

So for example, in the A/B districts, the last data we have data for -- the last year we have data for is 2014; there were about 11,000 seniors in 2014 in the A and B districts, which are the low socio-economic districts. There were about a third of those students who didn't take the SATs or ACTs at all; and of the students who did, their average scores were right on the margins; many were under the DOE's cutoff. As a matter of fact, of the 10 largest A and B districts, 8 of them have averages that fall below the Department's cutoff for graduation.

So we are concerned that in those districts, the option of the SAT and the ACT will not be an option that students who didn't pass PARCC will be able to use to graduate.

And so now we get to the portfolio appeals process. The DOE's plan for this year relies on a massive expansion of this process, which has never been used for more than-- The DOE has not been very transparent about data, but the data that we have been able to see suggests that 2,000, at most 2,500 students in a year might have used the appeals process.

The appeals process also is another one of those off-the-books processes. The appeals process is not authorized by the statute. The appeals process is not authorized by the assessment regulations. The appeals process was created by the Department the last time it gave an assessment that a lot of students failed unexpectedly. And that was when they made the switch to the Alternative test in 2010. Some of you have been tracking this for a long time and remember something called the *Special Review Assessment*. That used to be the alternative test to the State

graduation test, the HSPA. And there were a lot of concerns that, at one point, SRA was not reliable, that some districts were relying on it too much, and too many schools. And so it was replaced. It was replaced with the Alternative High School Assessment; and the administration and scoring of that test was turned over to the State testing vendor, the same testing vendor that administered and scored the HSPA.

Well, the first time they did that, in 2010, many more students failed the AHSA than they expected. And late in their senior year, many of these students were told that they were in danger of not graduating. And that's when the Department first created the appeals process -- which was only supposed to be in place for that year -- which included the first use of these cut scores on SATs and ACTs as an equivalent. But again, it was something that the Department implemented on an ad hoc basis to respond to a situation. I remember it was a situation after the Assembly had actually held committee hearings about the problems that this was causing -- much as we're here discussing it today, on a much larger scale. AHSA only affected those students who hadn't passed HSPA and were trying, late in their senior year, their last chance. Here we're talking about a much larger number of students who now have to turn to this appeals process.

The appeals process has also changed in a couple of key ways. I talked to you about the performance tasks, that were supplied to the districts by the State testing vendor, in four different languages. Now the Department is not supplying any of the tasks that must be part of the appeals process. The districts are being directed to create the tasks themselves. And they have been given very detailed instructions about creating tasks that somehow ally or are based on the new PARCC tests.

The old tasks from AHSA were based on HSPA. The new tasks are supposed to be aligned with the new PARCC assessments. This means that districts have to figure out how they're going to make these new assessments, how they are going to make sure that those assessments meet the requirements that the Department has issued, and then they're going to have to administer those assessments to thousands more students than they have had to administer in the past. And since they are not getting translations, if they are giving these to students in their native language, the districts must take the new tasks, translate them into the native language, administer them to students, take the answers and translate them back into English for the Department to review.

I was told at the presentation -- that I mentioned -- about Newark that they were preparing about 250 ELL portfolios on that basis -- a tremendous extra amount of work; that in Paterson and Newark, hundreds of portfolios, hundreds of extra programs are now actually being implemented in districts facing really dramatic problems of resources and budgets.

That is the appeals process that districts and schools must complete for students who don't have one or the other requirements to meet--

ASSEMBLYWOMAN DeCROCE: Could I--

Thank you, Madam Chair.

When you talk about the appeals process-- And so they're in their senior year, and they know that they have a problem because they haven't passed the test. So they go through the appeals process. How does that affect them, or does it affect them, that they had to go through the

appeals process when they have already applied to colleges for acceptance? I mean, what's going to happen there, in all of that?

MR. KARP: Good question. One of the problems is the students learn that they can't use PARCC, but they only learned this in December or January. Usually you would take HSPA in March of your junior year, and you would know by April or May whether or not you had passed that, or whether or not you had to take it again as a senior, or start to prepare to take the Alternative.

The way that it happened this year is, those tests were given last spring; and frankly, a lot of students who took the test were told that they didn't count; were told that they were not being used as a graduation requirement; were told that they would not have any impact on their high school records. They took the test; some of them took it seriously, some didn't, some didn't take it at all. But no one knew anything about who passed because the scores for passing were not set until November of last fall. And then those scores were set by the State Board and applied retroactively to what students had gotten in the spring, and then students were told whether or not they had passed or not. That has never happened with a high school graduation test in New Jersey before.

And so students only began to find out in December and January whether or not they had passed PARCC, and what the other options are. Now, frankly, some of them didn't take PARCC or didn't take it seriously. Of course, they saw that chart and they already had one of the scores from the options in their pocket and they thought they were okay. But many students were not well -- and many parents did not really understand all the implications of this until very recently.

And so now districts are scrambling to do lots of things -- to give extra administrations of tests. This has actually led to extra layers of testing at a time when the Department says it's committed to reducing layers of testing. Districts are spending a lot of money to give kids extra administrations of the ACCUPLACER, or extra administrations of PSAT or SAT. These tests cost money, and the district now either has to pay for them or make some other arrangement with the providers to get waivers, which are limited in their availability.

They are also making extreme use, in some districts, of the military test -- which, again, is not a test that is validated as a high school graduation test, and also is not an educational assessment. There are some other issues-- Paterson, for example, has scheduled 15 administrations of the military test, partially because the military will come and administer the test. You don't have to use the staff to administer it; and actually, there's no cost. But the problem is, when the military administers the test, it's not an educational exam that is protected by the FERPA rights about student privacy and data. It actually becomes a military document, and the students' personal information may be transmitted to the recruiters; and we have some concerns about whether or not parents and students are getting full information.

We certainly understand that districts are trying to help students jump through the hoops and graduate in June. But this kind of process, done so quickly, with such poor preparation and understanding -- this is the kind of problem that you can run into.

ASSEMBLYWOMAN JASEY: Excuse me. So you touched on a couple of things that I wanted to ask about.

I have a lot of concerns about the military test because of exactly what you said -- in terms of student privacy and who has access to that information.

But the other question I have has to do with capacity; you touched on this a little bit. At a time when we know our districts are struggling to make do with flat funding and the 2 percent cap, what's your assessment, if you have any, on districts' capacity to do this; and what kind of resources is the Department, to your knowledge, offering districts to help them with this? Because I was a little surprised when you said -- I didn't realize that the portfolio -- the guidelines for what constitutes the portfolio are not being given by the Department. If every district has to make up their own, that would sound like additional work that districts are having to do with less -- fewer administrators and less capacity to do it.

But tell me if I'm mistaken on that.

MR. KARP: No, I think you're raising some concerns. There are a variety of ways in which this has an impact on district resources and capacity. One, you'll remember that last year districts put a tremendous amount of capacity and resources into the administration of PARCC. And now we have a situation in which PARCC is not proving to be very useful as a graduation requirement for 50,000 to 60,000 students. They have to do something else. So the something else takes resources -- whether it's district resources for extra testing, or district resources for the portfolio.

You also have a more demanding portfolio. This is also -- especially for guidance counselors or for testing coordinators, and for counselors who should be spending time preparing students for their college opportunities or their post-secondary opportunities. There are actually

students who have, in their pockets, acceptance letters from colleges; and yet they have not satisfied the graduation requirement, and may not know how they are doing on that until the Department reviews their portfolios sometime in May, depending on when they're submitted. They're submitted on a rolling basis.

We also have a problem that the portfolio assessment takes place largely behind closed doors. It does not produce useful data that helps inform any kind of instruction. That is basically a stop gap, a safety valve -- a way to kind of compensate and do damage control for a flawed administration of a test.

And so to have all this attention and resources, by both students and districts, flowing into this appeals process is not a useful activity, in our judgment. But we are very concerned that students, who need this for access, get it. And frankly, we're not quite sure that students are getting equal access to this all across the districts and all across the state.

We do know that the Department has offered support to districts; they have offered to go to districts that have high numbers of appeals and to actually review them in the district. We know that, in some districts, they have come together at the county level and tried to help each other construct the tasks that they might be able to use. Districts, as usual, are trying to help their students, and the schools are trying to help their students. But the burdens here are significant.

ASSEMBLYWOMAN JASEY: Assemblywoman, did you have a question?

ASSEMBLYWOMAN DeCROCE: No, that's okay. He ended up answering the graduation question; he did answer it.

MR. KARP: So we also have, in addition to--

Oh, I'm sorry.

ASSEMBLYMAN WIMBERLY: No, no -- a quick question; and you may have answered it already. I apologize.

Obviously I am familiar with the SRA process, and the college process with the SAT scores, ACT scores. Just for my clarification, if a student is accepted to a four-year institution or a junior college, there is still a chance that they will not pass because they maybe opted out. Now, what happens to that student? Is there-- You know, with the appeal process, all that -- is there any wiggle room? Is there any way around that? So you get a kid who gets accepted to Rutgers, but says -- you know, his parents say, "We're not going to take this test." And Rutgers may a be stretch; it may be a lesser university with an open enrollment. And they're not going to be able to graduate. Is there anything that can be done here, along with the appeal process, for college acceptances?

MR. KARP: That student would be able to do the portfolio process. The student would have to satisfy the requirements somehow to get a high school diploma; and presumably, that diploma is necessary for them to continue on to Rutgers.

But even if they didn't take the test -- they didn't take the PARCC test, and let's say they either didn't take or didn't score well enough on any of the--

ASSEMBLYMAN WIMBERLY: As you know now, some colleges are accepting people without SAT scores.

MR. KARP: Absolutely.

ASSEMBLYMAN WIMBERLY: So you have, like, Montclair State, I believe you do not -- you no longer have to take the SATs.

MR. KARP: But I'm sure that--

ASSEMBLYMAN WIMBERLY: So--

MR. KARP: Excuse me; I didn't mean to--

ASSEMBLYMAN WIMBERLY: Yes, so what happens to that student?

MR. KARP: Likely that letter also says that "this is contingent on you finishing and completing your high school graduation--

ASSEMBLYMAN WIMBERLY: Requirements.

MR. KARP: --and passing your requirements, and getting your diploma." And so they need to somehow satisfy the State testing requirement in order to go forward. I mean, that would be a condition. But the appeal process would be one way they could.

ASSEMBLYMAN WIMBERLY: Would this be a place where legislation could be put in place for somebody who's accepted to a four-year institution -- would not have to meet that portfolio requirement or appeal requirement to receive a high school diploma?

MR. KARP: I'm neither a legislator nor a lawyer; I'm an educator. So certainly the Legislature has a number of things that they could do, because the Legislature passed the statute. They could suspend the statute; they could suspend it-- I don't know what the legality is of suspending it for a certain category of students, and applying it to other students. I don't really know how to answer your question that way.

ASSEMBLYMAN WIMBERLY: And obviously, my concern-- I mean, it's not just in New Jersey, but I think throughout the nation there are quite a few colleges now that no longer have SAT requirements.

MR. KARP: Absolutely.

ASSEMBLYMAN WIMBERLY: So, I mean, that kind of makes you look at it and say that maybe it's time to adjust the legislation for this.

MR. KARP: Yes, I hope we can come back to that.

ASSEMBLYMAN WIMBERLY: Thank you.

ASSEMBLYWOMAN JASEY: Okay, sure.

ASSEMBLYWOMAN DeCROCE: I'm just going to add on to that a little bit. And this is where I think we have to get the DOE in here to talk to us about this very issue with the SATs, and the PARCC, and the graduation, and the appeals process. Because, in their infamous wisdom, if they have an idea that doesn't need legislation, then they should be doing it -- and work with us to get there. But if it can't be and they can't do it, then that's something we have to look at with legislation to protect the students. You know, not let them off the hook of what they need to do to get their diploma; but work with them in a better way. Because I think the lack of being informed and the families understanding is where we're running into the problem.

So I think it is so important that the Department of Education comes in here and sits and talks to us about this very issue; because I'm looking in my own District in Morris, Essex, and Passaic -- and it's bad. So, you know, there is great concern; there should be concern for every single district in the state of what they're going through. And I think we need to

have these questions answered so we, as legislators, know what we need to do to help fix it.

MR. KARP: Yes, you bring up two -- both of you bring up excellent points.

One is, one of the reasons we have an issue is because the graduation rules have been changed very late in the game for kids who are seniors and juniors. And that's, frankly, just not fair.

ASSEMBLYWOMAN JASEY: Right.

MR. KARP: And secondly, when you change the graduation rules without revising the statute or the regulations, that's not legal. And so we have a problem of it both being unfair and illegal; and now at the same time there are students who have to deal with this.

And in terms of Assemblyman Wimberly's question -- I think it's important to remember there is no Federal mandate that the high school exit test that a state uses has to be tied to a diploma. The Federal mandate is that you have to test; you have to assess once in the high school grades on English language, on math, and on science. But there is no Federal requirement that those tests be tied to a high school diploma. Most states do not. There are -- more than half the states do not have a high school exit test. And New Jersey, frankly, could have met the Federal mandate by implementing only two of the PARCC high school tests -- one of the math tests, and one of the English tests. They didn't have to implement all six at once. And they certainly didn't have to make those tests part of their graduation scheme. This year, PARCC, which you know used to have 26 states, and now is down to 6 -- there are only two states that are using PARCC as a high school graduation standard: New Mexico, which has the

lowest state graduation rate in the country; and New Jersey, which has the third-highest.

So this test-- For example, Massachusetts -- a state we often are compared to and aspire to -- they gave the PARCC test at 3 to 8. But at the high school level, they kept giving their equivalent of HSPA. They knew that PARCC was not ready for this kind of use, and so they continued to use MCAS.

And so New Jersey has gotten itself in a bind in several places. And we are very concerned that the students are not the ones who bear the brunt of these policy decisions.

I think a few more slides-- Sure.

ASSEMBLYWOMAN JASEY: Do you want to finish the slides, Senator?

SENATOR RICE: Yes.

ASSEMBLYWOMAN JASEY: Okay; go ahead.

MR. KARP: This refers to the fact that the impact, as someone made reference to earlier, is taking place all across the state. This is a quote that was in the paper about two weeks ago from the new President-elect of the New Jersey Counselors Association. And again, the counselors are bearing the brunt of much of the appeals work. And what she says is, "What we are seeing is that the number of students, as of February, who haven't met the graduation requirements is significantly more than what we have ever experienced before. I don't think any of us anticipated what we were going to be facing at all."

Even districts that maybe had only two or three appeals start to have a dozen. Districts that had a dozen appeals start to have four or five

dozen. Many districts-- I believe this is in Mountain Lakes or Franklin Lakes; this person, Ms. Karas, is the head of the Guidance Department at Franklin Lakes, I believe--

ASSEMBLYWOMAN DeCROCE: Franklin.

ASSEMBLYWOMAN JASEY: Franklin.

MR. KARP: Franklin. So they have to deal with a number of students. But districts can deal, even though it's a burden for districts to deal with three, four, five, six dozen. But compared to dealing with hundreds of them -- it's just an order of magnitude.

We have news articles that have started to come from out of the state. Here we have an article from the *Ledger*, which covers the whole state; an article from the *Atlantic City Press*, in the south; and from *The Record*, in the north, about Clifton. So this impact is concentrated in high-needs districts, but is not limited to them by any means.

Again, the legal issues are that-- Because of the legal issues I mentioned, there is a case that's now pending. And the case is pending before the Administrative Law Judge; there is supposed to be a hearing on this later this month. And one of the things that we think is significant for the Legislature to take note of is an addition to this challenge of the Department's rules. It is possible that a student who this year is denied a diploma on the basis of these illegally adopted and improperly imposed rules -- that that student may also have a claim against the district or against the State because the laws and the legal process have been evaded and circumvented here.

So our recommendations are that the Legislature should consider ways to encourage direct ask; force the Department of Education

to withdraw the rules that it has issued for this year; that no senior in the Class of 2016 should be denied a diploma solely on the basis of the testing requirements; that all these graduates should meet all the other requirements for graduation that the local board and the State have put in place.

One of the things that the Legislature could consider is-- When the Governor's College and Career Ready Task Force issued its report back in 2012, they realized there was going to need to be a transition between the current assessment system and the new one, PARCC. And they recommended that this transition include several years where we didn't have an exit test cut score requirement on the State test, and instead students would graduate on the basis of what their transcript said about what they had completed, what they had earned, what their grade point averages are. So there's some precedent for actually having this policy adopted.

The DOE has put together a proposal that's now before the State Board that would continue the current rules through 2019 and would add a few wrinkles to them. If the proposal that the DOE has submitted passes, then starting next year any freshmen who opted out of PARCC would not be able to access any of the other options to graduate. Which means that those students would be at risk for graduation because PARCC would be the only option. If they didn't take PARCC, they wouldn't be able to use the SATs, the ACTs, or even the portfolio process. That is in the rule proposal. That doesn't affect the current seniors, but is a concern down the road.

The substitute assessments -- all these other options on the chart besides PARCC -- would be eliminated by 2021; and the only thing that would be left would be PARCC, and the appeals process for the students who didn't pass PARCC.

The Department further -- the proposal would be to require passage of the ELA 10 (*sic*) and the Algebra I test as a mandatory test that you had to pass -- not just take -- for graduation, by 2021. This year, the pass rates on those tests were 37 and 36 percent. So it's very possible that we could be dealing with similar kinds of problems, going forward.

And finally, this is a sample of the sheet that each of you were given for your District. And what it has, again, is the list of the high schools in your legislative district, the number of students who are registered to take the test, the number who took it and passed, the number who did not pass. And then by adding the number who did not pass with the number who didn't take it, you get the number that we've been using for *at risk for graduation*. Many of these students will find other ways to meet the State test requirement; but some will not, and that is our concern.

Thank you for your patience. I would be happy to answer any other questions.

ASSEMBLYWOMAN JASEY: Thank you very much for your-- You know, it's kind of mind-boggling. And I think the one thing that -- the one thought I keep having is, "Why do we keep making these mistakes?" Because last year, the roll-out of PARCC-- It has nothing to do with objecting to changing the test; but rather, the roll-out was not -- I don't think it was great. And it caused a lot of anxiety among parents and teachers, and it required a lot of resources from districts.

So the roll-out was shaky. And now to think that that test is suddenly the test that students have to take and pass in order to graduate-- Again, it's the timing of it. You know, you can't change the rules in the middle of the race, if you will; and that's how I see this. It's not a judgment in any way on the efficacy of the PARCC test; that's a whole other issue. But rather, changing the rules for our seniors is -- just seems very unfair to me.

And also, the timing comes at a time when, again, resources are really scarce across the state. And we keep asking for more and more. And this was news to me that the 2012 report actually recommended -- the Task Force actually recommended that it be phased in. I don't understand what happened there. So I find that we're in a really difficult spot, and we're going to have to do some real thinking and discussion about how we address it, and also how we find out from our districts how serious the problems are. Because as you said, these are the worst-case scenarios; and in fact, some of these students -- perhaps many of them will meet the requirements. But you know, it just seems like an unnecessary situation to be in.

So with that, I'm going to ask-- I know Senator Rice had some comments or questions; and then members, we'll open it up to you as well.

SENATOR RICE: One question is-- Thank you for the presentation. And I know you're in court, in litigation, but has ELC been in touch with or made a presentation before the State Board?

MR. KARP: Yes. As a matter of fact, ELC has been asking the State Board of Education to make clear how it was planning to use PARCC beforehand, and to change the regulations before it implemented new

policies, for about four years. The first time I testified for ELC about this topic was before the College and Career Ready Task Force in December of 2011. And then when the current assessment regulations were adopted in 2013, ELC testified before the State Board and said, “Before you adopt these resolutions--” because by 2013, we were well into implementation of Common Core and PARCC at the State level. And so we asked the State Board, and we said, “You should not be adopting these regulations,” which still talked about HSPA and AHSA, “until you clarify what it is you are planning to do with PARCC in terms of high school graduation.”

And interestingly, if you go before the State Board and testify, the State Board responds to your comments. And in their response to the comments that we made in 2013, the Department said, “Well, we will revisit this if and when it becomes a matter that we’re changing the graduation.” Those aren’t the exact words, but basically they acknowledged that we were bringing up something that would have to be addressed, or possibly had to be addressed. And yet they never addressed it, and instead gave the impression, through a number of ways -- the Task Force report; Commissioner Cerf, at the time, on several occasion said, “No student will have to pass PARCC who is currently in high school.” And then in October 2014, the Department started issuing memos with this chart and this policy. And they began to change the graduation rules by memo, without coming to the Legislature and without revising the regulations.

SENATOR RICE: So the presentation we just had was not presented to the State Board.

MR. KARP: That information was. For example, I think one of the things that was distributed to the Committee was the presentation

we made to the State Board just last month -- which includes almost all of the points--

SENATOR RICE: It was distributed?

MR. KARP: Oh, yes.

SENATOR RICE: But was it verbally articulated?

MR. KARP: Yes, I delivered it during a public testimony session.

SENATOR RICE: Okay. And the reason I'm raising that is because I saw -- before reorganization, at the end of the session -- that one of the next meetings we need to have -- and you can make note of this -- is this Committee, as a whole, needs to meet with the State Board people behind closed doors on a couple of issues. Number one -- for the new members -- is that we have tried on several occasions to get the Commissioner to come before our Committee; we don't get him. And the rationale before was, he was "Acting." So I would like to think he's coming now.

Then we tried to get Superintendents before us. Only one Superintendent appeared. To me, what they're doing is thumbing their nose at the Joint Committee, which is a statutory committee; and the language of the statutory committee says people are supposed to cooperate with us and give us the resources we need to oversee.

So I've gone to the State Board before, and I've kind of read them the riot act about their legal responsibilities and malfeasance. The State statute is very clear: The Commissioner does not run the State education system. Actually, DOE is in charge of it; the Commissioner works for DOE. And they could just say, "You know what? Put a stop to

this right now.” But the thing is, we’re going to have to go, as a Committee, and let them know that, “Look, you are appointed members, but the statute says so-and-so. And you are failing to meet your responsibilities.”

For example, we have issues -- which are not related to this -- of lead and stuff. Well, it seems to me that the State Board should want to know more. Now, I’m not saying they’re not asking questions, but I feel they’re not asking anybody any questions. They’re just waiting to hear from somebody. And that’s the problem with the State Board. They are not in front of things.

So I just wanted to be sure that was the situation that we need to be addressing when we go before the State Board, etc.

The information you provided on Newark-- And Newark is always in somebody’s conversation for a lot of reasons. And usually if you measure Newark on anything, you can see how the State is going, or how the State will go if they do some of the things that we did. But what about those other districts? Do we have a breakdown of all 600-plus districts, school districts, as to the test; who is at risk of not graduating because of this? Is there a document with all the districts?

MR. KARP: The document that we have -- if you look at the sheet that you have for your districts, we can give you similar information for any district in the state. But if you look at the bottom left number -- that number at risk -- the breakdown beyond that, of students who don’t have PARCC but have something else, there is no data that we have. We have the data that Newark has supplied, we have the data that Paterson has supplied. And we’ve heard, from some other districts, some very substantial

numbers, but not documentation. It's a moving target because students continue to take assessments; they continue to submit appeals.

But the DOE or the districts would have their pulse on that data. It has not been released in any way that we can share.

SENATOR RICE: Okay. And the reason I ask that is, for the record, I'm asking staff to request that information for the Joint Committee, because we want to analyze it; we want to take a look, from a racial perspective, at those other districts. I'm very much concerned about districts we never hear about. You know, what's happening, for example, in Phillipsburg; what's happening, for example, in some of the Cumberland County and Salem County schools; the Warren County schools. Because this impact is on everybody and we have to take a look at that so that we can figure out how to collectively fix it.

But I also want to be able to have a kind of direct conversation with the State Board members. Because they're not reading anything unless somebody sends them something, and once they read it, it gets set aside. I'm pretty sure that, except for two or three people I know who are very feisty, who keep telling the State Board the majority of what they should be doing-- But they're not listening to them, okay?

And so that's why I'm raising that; so I'm just letting the members know. Hopefully everybody, when we do get a date, can be flexible to be there. If not, I want to make sure the Co-Chairs are there, and everybody else, because we're going to have to have a closed-door, non-public meeting, and just take off the suit and ties and be very clear to them and direct, okay?

ASSEMBLYWOMAN JASEY: I do have some information that my office has been able to get by contacting other districts.

Clifton reports 193 students, as of February, at their Board of ed meeting; Montclair, last night, talked about 30 students; Bloomfield, 50; Collingswood, 40; Franklin, 75; Florence, 3 percent of the class, but they have a very small class -- so three to four students; Highland Park, about 10 percent of their class, or about 15 students they're anticipating will have to use the portfolio models. And what Administrators have said to us is that these numbers are far greater than last year -- about three times as many students or more who will have to go through the portfolio process; which, as you've mentioned, you've talked about, is very time intensive both for the students and for the staff that has to oversee and administer them.

Are there any other questions from members--

Go ahead.

ASSEMBLYWOMAN DeCROCE: I do, because I'm just--

ASSEMBLYWOMAN JASEY: --or comments?

ASSEMBLYWOMAN DeCROCE: Yes, I'm just trying to make sure that I understand, because when I go to -- and I'm referring back to the *DOE Proposal Before State Board*. In item number two, "Beginning next year, freshmen who opted out of PARCC would lose access to all other options and risk not graduating." So my understanding of this is that they won't be able to use the portfolio process. Is that correct?

MR. KARP: It's my understanding of what they're proposing, yes.

ASSEMBLYWOMAN DeCROCE: Okay. Now, if they refuse, and they did not take it during their freshman year -- the PARCC test --

they won't have another chance during sophomore or-- I mean, I'm trying to understand that.

MR. KARP: Right. I'd have to-- You know, the language of the proposal is that beginning with the Class of 2020, students must take any PARCC exam that's attached to a course that they take, if they're going to have access to the other graduation options. Now, I take that to mean -- to include the portfolio, and to include all the SAT and the ACT and the ASVB. And it's clearly-- The Department has argued that the problem we're discussing today is all a problem of opt-outs. And so they have put this rule in place, I think, to discourage, frustrate, intimidate, and prevent opt-outs. You know, we're not speaking to that issue; we are concerned with the body of students who are now facing graduation problems because of the way the State has implemented this test. But this rule would have impact going forward if it's adopted.

ASSEMBLYWOMAN DeCROCE: Well, the one thing that concerns me greatly is, when we talk about the students who opted out, I believe there was a lack of communication and understanding to the students and their parents as to what impact overall this would have on them. And because of that, I truly think, again -- and this is maybe the second or third time I've said this today -- the DOE needs to talk to us about this and how they're going to deal with it. Because it's not about who's looking good or bad; it's about what's best for the students and for the outcome of graduation here in the State of New Jersey. It's not making us look good if we're not taking care of it, and we have to.

We talk about transparency in Trenton all the time, every day of the week. You can read articles about it. So we need transparency here;

we need to make it clear to the students and the families, and we need to work with them. So I don't see any other way than to have the Department of Education come here and talk to us about it so that we can get to the bottom of it.

MR. KARP: You know, the Department released a report of what they were calling their *Testing Commission* last month. And in working on this, I couldn't help but notice one of the recommendations says, "The Study Commission acknowledges that the trickle-down process for communicating information about issues of importance and concern can, at times, be slow, cumbersome, inefficient, and ineffective, especially when the process includes multiple organizational levels." And I think it speaks exactly to the point that you and Senator Rice were making about the poor way in which some of this information was communicated, and its contribution to what we are dealing with now.

ASSEMBLYWOMAN DeCROCE: Thank you; thank you very much.

MR. KARP: We also--

ASSEMBLYWOMAN JASEY: And I will point out to the members that in your packet is a letter from the Commissioner answering some of these questions, giving some history and background information. But I don't know that I can enter this into the public record, so it is for your use. And if they wish to have it entered into the record, we'll check and do that.

But I do think we need to have that conversation, face-to-face.

SENATOR RICE: I think that, through the Chair, I think we need to direct the staff -- in fact, we will direct the staff that the next

meeting we request to have the Commissioner; and if it has to-- We'll see where we are; I understand his situation. If it has to be kind of an executive meeting, if that's what's required, then we'll do that. But I don't think that we can wait for litigation and those directions to get information, because we're legislators. And while it moves through a court system, it may be very necessary for us to move legislatively to clean up some of this stuff, prior to.

So we need to direct, we need to get a date and time. We need to check with the members to try to get that done over the next three weeks or so.

ASSEMBLYWOMAN JASEY: Okay. I think that's a good suggestion, and we'll follow up on it.

I want to thank you very much for coming. This was very informative. It cleared up a lot of questions that I had. I hope that the members found it informative; and I think we have some work cut out for us to follow up, to look into this. Because as I said, we have to be concerned about all of the students in the state and, especially, the seniors for 2016.

Thank you very much--

MR. KARP: Thank you very much.

ASSEMBLYWOMAN JASEY: --and I appreciate the audience as well.

MR. KARP: Thank you all.

(MEETING CONCLUDED)