
Committee Meeting

of

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

"Testimony from presenters on the topic of special education"

LOCATION: Committee Room 16
State House Annex
Trenton, New Jersey

DATE: June 11, 2013
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Co-Chair
Senator Linda R. Greenstein
Senator M. Teresa Ruiz
Senator Diane B. Allen
Assemblywoman Bettylou DeCroce



ALSO PRESENT:

Melanie Schulz
Executive Director

Sharon M. Benesta
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



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Co-Chair

Hon. Diane B. Allen
Hon. Linda R. Greenstein
Hon. Donald Norcross
Hon. M. Teresa Ruiz
Hon. Samuel D. Thompson

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Hon. Ralph R. Caputo
Hon. Betty Lou DeCroce
Hon. Ruben J. Ramos, Jr.
Hon. Scott T. Rumana
Hon. Benjie E. Wimberly
Hon. David W. Wolfe

COMMITTEE MEETING NOTICE

TO: MEMBERS OF THE JOINT COMMITTEE ON THE PUBLIC SCHOOLS

FROM: SENATOR RONALD L. RICE, Co-Chair
ASSEMBLYWOMAN CONNIE WAGNER, Co-Chair

RE: FULL JOINT COMMITTEE MEETING – June 11, 2013

The Joint Committee on the Public Schools will be meeting on Tuesday, June 11, 2013 in Committee Room 16, beginning at 10:00 a.m.

At this time, the committee will hear from presenters on the topic of Special Education.

The public may address comments or questions to Melanie Schulz, Executive Director, at 609-633-6787, or by email at mschulz@njleg.org

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SENATOR RONALD L. RICE (Chair): Good morning.

This is the meeting of the Joint Committee on the Public Schools. Today is Tuesday, June 11.

Many of our members, as you know, are not here today. We are, for the record, in an election season. There are a lot of announcements and events taking place throughout the state, given the issue of the special election that's coming up in August and October, and the fact that we've just come out of a primary election. So there are a lot of things happening. But I think that this meeting is very, very important. As we address budget issues -- and we seem to be coming to that end real soon in the next few weeks -- it's also important because we're going to have to, in the Legislature, address some of the concerns of the public, and taxpayers, and the voters as it relates to special education, and that's what this is all about.

But before we get into the meeting, I want to ask the staff to take a roll call. And then we're going to do the Pledge of Allegiance.

Melanie, take a roll call, please.

MS. SCHULZ (Executive Director): Senator Rice.

SENATOR RICE: Here.

MS. SCHULZ: Senator Allen.

SENATOR ALLEN: Here.

MS. SCHULZ: Senator Greenstein.

SENATOR GREENSTEIN: Here.

MS. SCHULZ: Senator Ruiz is supposed to join us today.

And we have Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: Here.

SENATOR RICE: All right. Let's do the Pledge of Allegiance.
(audience recites the Pledge of Allegiance)

First of all, we're going to start the agenda. But I would like to give our members a chance to just say good morning to you. Why don't we start to my right and ask Assemblywoman DeCroce to maybe say hello and make any comments she may want to make?

ASSEMBLYWOMAN DeCROCE: Good morning, everyone.

I'm very happy to be here today and to be a part of the Joint Committee. And certainly one of the issues that is near and dear to my heart is special education. And when I was first assigned to this Committee and to Education -- as Melanie knows -- that was one of the top subjects for me. So I'm very happy to be here today to be a part of the discussion. And I look forward to working with everybody.

Thank you.

SENATOR RICE: Thank you.

Senator Greenstein.

SENATOR GREENSTEIN: Thank you.

Again, it's great to be here today and see many people who I have met or know well, and to take testimony on this important issue of special education. I'm glad to see we have many speakers on the list and others out in the audience who have something to contribute here. And I think we'll come out of this hearing with some very good information.

Thank you all for coming.

SENATOR RICE: Senator Allen.

SENATOR ALLEN: I look forward to it. I don't want to make it any longer. (laughter)

SENATOR RICE: Let me just say that there has been a Special Education Task Force report that came out, and many people throughout New Jersey -- particularly the stakeholders relating to education -- that's the parents, the advocates, educators, school board members, etc. -- took a look at some of the recommendations. And there have been some changes to the New Jersey Administrative Code, which really impacts the area of special education.

Those of us who have actually taken a look at those recommendations and reports have some concerns about some of the aspects of it and some of the things that were changed. And so this morning we're trying to get on the record, from the stakeholders and representatives for the Legislature, issues that may need to be addressed and looked at from a legislative perspective. I really never liked changes in codes and regulations because they come and go, and it creates problems. And I always say that when we do regs and we change codes, we should go back, as legislators -- if it's good stuff -- and just codify where it takes all of us to make those changes.

So with that I'm going to ask the first speaker, John Burns, from the New Jersey School Boards Association to come up.

And I also want to acknowledge that Senator Ruiz has just come in -- Chair of the Education Committee.

Senator.

SENATOR RUIZ: Good morning.

SENATOR RICE: Okay.

J O H N B U R N S, E S Q.: Mr. Chairman, members of the Committee, thank you so much for this opportunity to appear before you today.

The New Jersey School Boards Association believes that all New Jersey's educationally disabled students should be provided an appropriate public education within our state and, where possible, within the regular school environment.

As far back as 1911, State aid was established to cover the excess cost of special education -- that is, those costs that exceed expenditures for regular education. State funding initially covered half the cost of special education. Later that funding was based on the category of disability.

In 1996, State funding shifted from categorical aid allocated according to program to a distribution-based system based on four tiers defined by disability. Additional aid for extraordinary circumstances was also added in 1996 and refined by a law enacted in 2002. State funding for speech-language services was built into general education aid because it was such a common service that separate funding was not needed. Since 2001, however, special education expenditures have increased faster than State funding, due in large part to insufficient State aid. As a result, the percentage of special education costs covered by the State aid dropped by one-quarter. To make matters worse, the local levy cap law eliminated the ability for local districts to obtain waivers for additional local spending to offset the lack of State aid.

Federal aid was initially based on a per-pupil reimbursement but changed in the 1990s to a formula that included a base amount, a census factor to reflect enrollment growth, and a poverty factor. Initially, the Federal government promised to cover 40 percent of the costs of implementing required special education services. However, the amount of

special education costs actually provided by the Federal government is less than one-tenth of the costs of the federally required service.

Because of these constraints in funding, in 2007, the New Jersey School Boards Association commissioned a study titled “Financing Special Education in New Jersey.” This research document was based on a year-long study that included statistical analysis of State and Federal data, independent data collection, and on-site visits to school districts. The full 225-page report can be found on the NJSBA website.

This study found that the growth in special education costs, which then totaled approximately \$3.3 billion for roughly 240,000 students, could be largely attributed to tuition and transportation for out-of-district programs. Over the previous decade, the intensity of special education programs had increased, with more students placed in out-of-district autism programs and related services. For local school districts, that’s a critical trend because 57 percent of special education costs are borne by local property taxpayers, according to the 2007 NJSBA study. The remainder comes from State and Federal aid.

In 2008, New Jersey enacted a new school funding formula, which made several changes in how the State provides aid for special education. The School Funding Reform Act bases one-third of special education funding on the average percentage of students who receive special education services statewide, or a percentage of 14.69 percent. In fact, the number of classified students in an individual district could be far greater. In addition, the new formula also distributes two-thirds of State funding on ability to pay, rather than the number of students served, thereby driving up costs locally.

As a result of these continuing pressures that special education places on local district budgets, in January 2013, the New Jersey School Boards Association embarked on a new study of special education. Comprised of board members, chief school administrators, and business administrators, the New Jersey School Boards Association's Special Education Task Force is charged with reviewing the State's current process for funding special education -- also charged with studying other states' systems of providing special education. We're also to look at exploring alternative funding methods and identifying cost-efficient strategies to fund and deliver special education. It is hoped that when this Task Force issues its report later in the fall, it will be able to identify ways in which local districts can employ more efficient strategies using existing special education dollars that will lead to greater achievement of the students in our special education programs.

The work of the Task Force has involved consultation with both national and state special education experts, key personnel in our State Department of Education, special education advocates, practitioners, and academics. Also as part of its work, the Task Force is conducting two surveys: one national survey looking at alternative methods of funding special education, such as lotteries, business fees, and foundation grants. The other survey is a statewide study that looks at issues of special education staffing and spending in New Jersey.

As a result of its work thus far, the Special Education Task Force is taking a focused look at the following questions: What role should our county special services schools, jointure commissions, and education services commissions have to support our local school districts in the

provision of special education services? What can be learned from other states that have county or regional service models for the provision of special education? Can we increase the use and variety of shared services among all school districts? Can we provide more training to all future and current general education teachers so that they can have the tools necessary to provide greater achievement for the special education students included in the general education environment? Can we provide greater training to special education teachers so that they have greater knowledge of Core Curricular Content areas? Can we provide more training for our local school board members so that they have a greater understanding of the legal, budgetary, and curricular framework of special education in order to exercise appropriate oversight at the local level? Can general education be strengthened to provide greater support to all students in all environments to avoid over-classification in special education? Can Response to Intervention and Universal Design for Learning promote greater achievement for all students in all environments? Can we provide improved training for school leaders in staffing patterns and curriculum alignment with a greater emphasis on inclusion and access to the curriculum for special education students? Can we provide training for our child study teams in order to reduce destructive Individual Education Plan-related conflicts, to build greater trust with parents to resolve issues to the mutual satisfaction of districts, parents, and their students? Can we reduce litigation costs to districts through greater use of mediation and other methods of alternative dispute resolution? Where local districts have strong general and special education programs, can we reduce out-of-district placements where appropriate for the benefit of special education students?

The NJSBA Special Education Task Force will release its report in the fall to the Governor, the Legislature, and all interested stakeholders. It is hoped that its report will offer concrete best practices and recommendations for local districts to improve outcomes of all students throughout New Jersey.

Thank you for this opportunity to testify.

SENATOR RICE: Thank you.

Could you tell me, is the Task Force just the New Jersey School Boards Association members or is a coalition of stakeholders?

MR. BURNS: It is a Task Force that is set up by the New Jersey School Boards Association, and it includes not only Board members but also business administrators and chief school administrators.

SENATOR RICE: Do parents have a say-so in what happens with special ed? It seems to me that when they go into the school districts they come back to those of us with concerns. And the concerns could be a lot of different things. It could be the way a school is operating, lack of funding, the space, teachers, other parents, students. But it seems to me that you would want some parental input into some of the conclusions you're coming to. I recognize that perhaps when it comes to, "Can we spend the money more wisely?" parents tell us all the time about what is happening to money and this student went here, and this one didn't go, and this cost this much versus this. So could you really make certain-- Because when you give your report to the Legislature, I'm sure that the Education Committee, under Senator Ruiz, is going to be having some hearings and raising some issues based on whatever you tell us and what you're findings are. And we'll probably do the same thing. But I think it would be more

fruitful to us if at the conclusion of your in-house research and the academia's coming together and the business people-- I think that it makes more sense to be more objective and hear from some parents in your districts that this is impacting.

MR. BURNS: One of the things that we are doing as part of the study is we have initiated outreach to all of our districts and all of the personnel in those districts, many of which do include parents, so that we can try and get as much information as we can with regard to special ed so that our recommendations really are reflective of the information that we receive.

SENATOR RICE: Okay.

Senator Allen.

SENATOR ALLEN: Thank you.

I appreciate you being here.

I'm not sure whether this is a question you can answer or not, but it's one that has been weighing heavily on me. When a parent or parents meet for their IEP meetings and try to decide what's going to happen, we've heard more and more that the school brings a lawyer to those meetings. The parents, generally, (a) don't know that's going to happen, and (b) might not be able to afford an attorney at that point, and (c) should not have to deal with that in my estimation.

How do we deal with this? And do you feel it is necessary for an attorney to be there? I see in your notes you talk about wanting to eliminate litigation and looking for mediation, and I think that's excellent. I support that. But more and more we're hearing the opposite. Is that

something that's coming from the school boards? Is that coming from school administration? Who is behind that move?

MR. BURNS: Well, first of all I think it depends on who you ask as to who is actually behind that move. I think depending on your perspective it will depend on who is exactly behind that.

One of the things that the Task Force most recently investigated was this issue of the IEP. How can we, in that IEP process, make it a process that's much more focused on the programs that the students need rather than on litigation? And the Task Force was privileged enough to hear from a superintendent by the name of Matthew Jennings. He is in the Alexandria School District. And he spoke about how he requires his child study team to go through extensive training in how to work with the parents and how to present the child study team so that, from the very first initial contact, the child study team is building trust with the parents such that where there are the issues involved in the IEP where there may be disagreements, they are not disagreements that result in litigation because there is an understanding on both sides that they're there to work for their students. And his work is really quite interesting because what it really focuses on is good practices for the child study team to use.

SENATOR ALLEN: That sounds exactly like the way it should be -- where everybody is working together. And I know that that does happen -- and possibly most of the time. I just don't know that.

But this concept-- I wish your group would look at this and see how often are attorneys-- And these are attorneys who don't even know anything about the child often. And from what I can see under the law, it's

illegal, but it still goes on. And we need to find a way to go more with what you were just describing from that other gentleman.

Thank you.

MR. BURNS: I will certainly take that back to the Task Force.

SENATOR ALLEN: I appreciate it.

SENATOR RICE: Senator Ruiz.

SENATOR RUIZ: Thank you, Chairman.

Good morning, everyone.

I just want to take a moment to -- to Senator Allen -- as part of the Ed Committee -- Chair -- we did post a bill, and it was signed. And I believe they're formulating that also. So the Legislature has taken an approach to creating a Special Ed Task Force that should have cross representation from different sector groups to really engage in a more global conversation. I see a lot of my working group here in the back.

One of the biggest issues that we have -- never mind getting to the point of litigation -- is really embracing the family, the guardian, whomever is responsible for the student and giving them the necessary reinforcements to understand this entire process. I would suspect that-- And I have lived this alongside some friends and people who have visited our offices, which I'm sure all of us can attest to. It's an emotional undertaking. And it is a labor-intensive undertaking to get the volumes of paperwork that you're faced with, never mind language barriers or just complete knowledge. I have sat through that 50-page parent manual, and I have had to read it multiple times just to get some kind of a sense as to what's in it -- never mind the 504 and the IEP -- and just a true recognition of what the student is entitled to. So we do have a bill trying to create an

ombudsman's office in the Department of Education to see if that helps. There has to be a greater place for families to seek, kind of, objective help to navigate the process so that they know what-- When something is written in a document, that the school district must provide it; and it has to be to the best of the ability that that parent feels. Otherwise they have to go out and find it-- I mean, it's the simplest things that we may be aware of. But I think that a lot of our families do not have -- do not understand what the entitlements are and where they can go to seek help in a more easy way. Truly, I think a lot of times they will go to the local school district, and there's a lot of -- could potentially be a lot of back and forth discussion that is sometimes, to families, not deemed objective.

SENATOR RICE: Senator.

SENATOR GREENSTEIN: Thank you very much for your testimony.

The issue that I'm particularly interested in and really don't know a lot about is this issue of how we fund special education. I see that one of the looks that you're taking with the Task Force is the county level -- the jointure commissions and others. I've always thought that -- and I don't know if this has ever been considered -- that a statewide approach to special ed makes sense -- that there be one pool of money and that a particular individual district, let's say, that has a certain school that attracts a lot of families shouldn't be responsible for paying for that. I would really like to see all of the students in one statewide pool and the payment be on a statewide level. Is that being considered? Has it been before?

MR. BURNS: It's not something that we've looked at yet, but it's certainly something that we can look at. I mean, certainly that is

something that from just the objective standpoint you would say, "Gee, we have this one pool; we have a pool of students." Maybe we can look at that at the statewide level.

SENATOR GREENSTEIN: And I think it's fair because if a district happens to have a school that attracts families -- and I know we have had that in my district -- lots of people move in there, and then it's a real burden on the district. So this, I think, would be the fairest way to--

MR. BURNS: I will certainly bring that back to the Task Force.

SENATOR GREENSTEIN: Thank you.

SENATOR RICE: Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: Thank you.

One of the issues that you did discuss was: Can general education be strengthened to provide greater support to all students and environments to avoid overclassification in special education? I have heard from constituents -- and in the life that I've lived I have seen -- where at times children are classified as learning disabled when its behavioral problems, and that's a big difference there. I mean, that's something that has to be addressed in a different way. And having them classified with a learning disability when really it's not a learning disability but a behavioral problem-- I mean, how do you -- how do they look at addressing that?

MR. BURNS: Well, I mean, there are several studies out there that try to look at that particular issue because -- merely because a student is having difficulty, that does not necessarily mean that they need to be classified.

ASSEMBLYWOMAN DeCROCE: Right.

MR. BURNS: And the studies that we've looked at have really drawn home a point that when a district has a strong general education program, in general, their special ed program is also strong as well. Because the general education program is able to put in place those strategies for those students who, like you said, might be having difficulties but may not necessarily reach to the level of needing classification.

ASSEMBLYWOMAN DeCROCE: Right.

MR. BURNS: They're able to employ strategies to help those students. And one of the things that the Task Force is looking at is: What are those best practices that those districts with strong general education programs have? What are the practices that they're employing to make sure that those students who are on the cusp, if you will, of classification or not-- What are we doing to help them so that--

When we look at this in a really global perspective, what we're really looking at is education in general, and maybe not having so much of a demarcation between general ed and special ed; but really looking at what can education really provide for each individual student. And that's really where, ultimately, we would like to go in terms of: Does education, in general, serve the individual needs of each student?

And so, yes, that is something that we will be looking at and making recommendations on.

ASSEMBLYWOMAN DeCROCE: Okay. Thank you.

SENATOR RICE: Any other questions from the members? (no response)

Let me thank you very much for taking the time out of your schedule to come this morning, John.

MR. BURNS: Thank you very much.

SENATOR RICE: And we're looking forward to seeing that report. But please go back-- I can't emphasize enough that since the Task Force is working anyway-- You know how you school people do. You always add another question at the end. Tell them we'll give them extra credit if they just respond to the issues and research those issues raised by my members.

MR. BURNS: We will.

Thank you.

SENATOR RICE: All right. It doesn't mean we're going to agree with them now, but we will give them extra credit for effort. (laughter)

Next we're going to ask--

Is Marie Blistan here, and Marybeth, from the NJEA?
(affirmative responses) Could you come up?

You have others coming up?

M A R I E B L I S T A N: Yes, I do, Senator, if that's okay.

SENATOR RICE: Could you name them?

For the record, can I just have your names?

MS. BLISTAN: Yes, Senator. My name is Marie Blistan, and I will introduce our presentation to you if you would allow me.

SENATOR RICE: In a moment. Who is with you there. We have Marybeth.

MS. BLISTAN: No, you don't have Marybeth. We'll go right down the line here.

P E G K I N S E L L: Peg Kinsell, Statewide Parent Advocacy Network.

SENATOR RICE: Okay.

JENNIFER HALPER, ESQ.: Jennifer Halper, Disability Rights New Jersey.

SENATOR RICE: Okay.

RUTH DEALE LOWENKRON, ESQ.: Ruth Lowenkron, Education Law Center.

SENATOR RICE: Okay.

MAUREEN MAHON: Maureen Mahon, New Jersey Association of Learning Consultants.

SENATOR RICE: Okay. The women of five. This should be pretty interesting. I'm the only guy here today up here.

ASSEMBLYWOMAN DeCROCE: George is over here.

SENATOR RICE: Oh, George, thanks for having my back over there. I thought you had slipped out on me. (laughter)

Why don't we get started? I know there's a lot that needs to be added to the conversation. I know that these recommendations and the Task Force-- There have been discussions about the teams in the classroom, case managers. I mean, there's a lot of confusion that's taking place out there. There seems to be increased roles for educators who barely can function now given the kinds of things we keep adding to the curriculums.

So why don't we start off with you leading? Once again state your name -- each speaker state your name for the record so we can have clarity as to who is saying what here.

MS. BLISTAN: All right.

Thank you, Senator.

Senator Rice, first and foremost, I want to personally and professionally thank you for holding this Joint Committee and giving us an opportunity to come before all of you.

And a special thanks to all of the Committee members who could be here with us.

Thank you to the Committee members who won't be or can't be.

But we trust that you will, in fact, share the concerns and information that we're bringing forward to you.

I am, first and foremost, again, a classroom teacher of over 30 years in special education. I am also an elected leader at NJEA. I'm the Secretary-Treasurer and Vice President Elect, and I am also the Chair of the Special Education Stakeholders Coalition.

I am going to first ask you to please reference the packet that we just gave to you. I am only going to reference what is in it because as we go down the line from each speaker, they will reference their testimony in there. On the right hand side -- the first paper -- you see a letter that we, as the Coalition, presented to Governor Christie about a week ago. Behind that are two white papers that the Coalition wrote on positions. Behind that is a timeline that I'm going to be using when I speak with you. And behind that is a paper that tells you about the Board of Education Administrative Code process and a little timeline behind that. On the left-hand side are all the copies of the testimony from the people before you here, plus there are some copies of testimony from people who could not be here.

My personal testimony is right there in the front, but I am going to tell you I am not reading that testimony. I am, rather, going to give you an overview of the major problem that has brought us before you. And then each of my colleagues will get a little bit more into the weeds, as we say, into the content.

At the beginning, in September 2012, we saw that the Governor's Education Transformation Task Force released a report. This was a Task Force that the Governor had put together approximately a year, year-and-a-half before. When we saw the report on September 5, we were still dismayed that there still was only one person that we knew of who was on that Task Force that had any special education background, and that was a person who was an administrator from a private school.

When we actually read the report, the dismay turned into shock at what we saw were sweeping changes that were being proposed in special education. If I could just summarize them into five main areas, I will tell you that they ran the gamut of extending the timeframe to a school district's completing evaluations for transfer students from 30 days to 90, which is well over half-a-year; reducing the timeframe in which school districts provide reports for families; allowing extended time for class size waivers -- in fact, like, forever -- disregarding notification to parents until after a class waiver has been granted; extending the timeframe before a student qualifies for home and out-of-school services; and major changes in the case management piece.

So when we saw that report and looked further into the report, we were further baffled. And I am going to add the word *frightened*. Because what we saw was that that Education Transformation Task Force itself

realized the enormity -- the gravity of special education code and itself recommended that the Department of Education convene a Task Force that would actually comprehensively go through code before making any changes.

But what we saw happen was that there was no other task force. And so we heard from stakeholders across the state, and we decided to form a group. We had a meeting and thus was formed the Special Education Stakeholders Task Force. We then met -- and if you look at the timeframe -- between October, November, and December. And we went through the proposed changes and compared them to our present code. And we produced not one, but two, white papers of those positions.

In February, when we saw that the code changes were still going through the State Board of Education, we immediately contacted the State Department of Education and we asked for a meeting so that we could meet with them in person -- and this is, again, representatives from the stakeholder group -- and go through the white paper. We did meet. We finally got a meeting near the end of that month with them. We went through -- and we were further upset when we saw that the -- what we had said was basically what we thought-- I mean, we could only take it to be ignored because the proposed changes were still going through the State Board of Ed.

In March we called for a lobby day through NJEA. Our stakeholders Coalition did the same. We produced a number of people who were able to give the testimony. I did not copy this for you, but I could certainly do it. These were people who testified that day in front of the Board of Education. And I dare say there were none who supported this

process of not allowing special education stakeholders to be a part of what they were moving through.

Following that, in March we received no word that it was being stopped, or postponed, or at least allowing us to give word. And so we then further put out more information to our stakeholder groups. And, in fact, we held a, what we called, *statewide teleconference* through the Coalition. And, ladies and gentlemen, we had well over 1,300 call-ins across the state that night wanting to get information on what was happening with special education.

We then could receive no word from anyone that our voices were being heard and so we began to meet with legislators. You see the list that we met -- actually, it's not a full list, but you see we did meet with State Senate President Steve Sweeney, we met with Assemblyman Rible, we met with Assemblyman Benson. And Assemblyman Benson had also been hearing from his constituents. And he started to draft legislation that would at least cover one of these many areas that are going to dismantle special education in this state if they go through, and that was the case management piece.

In the meantime, what we also learned was that -- and I think Senator Ruiz mentioned it -- there was legislation that passed through the Legislature and signed by the Governor which would establish a Special Education Task Force, with approximately 17 of the stakeholders, that would, in fact, go through the code and do a comprehensive review for improvement for special education, of which all of us -- I can speak for all of us -- would be more than willing to be a part of. However, instead of having that Task Force convene, I'm sitting before you on June 11, and this -- the

proposed changes have continued to be on the docket to go through the State Board of Education's regulatory process.

What we did see happen in June was that there -- it was not on the Board of Education's agenda. So when we questioned numerous people, including -- like I said, that letter to the Governor last week -- we have heard rumors, "Well, it will be stopped. It's being postponed." And when we have asked the question: "Postponed until when, July, August, September? Is the Task Force going to be allowed to be convened and study?" we have been met with silence from everyone -- State Board of Education members, State Department of Education members, and legislators alike. And so I can only surmise that the answer is that no one seems to know.

And so with that, we are before you very desperate to have someone hear the voice of the people who are representing the children in this state, because they are the ones who are going to first and foremost feel the impact of what is about to happen.

And so with that, I'm going to pass on the testimony. I appreciate your kind attention. And we will field any questions either at the end of our -- each of us -- or at the end, perhaps, of the full presentation, which might be more beneficial to you.

SENATOR RICE: Before you do that, so I don't forget, you just got me concerned, particularly given the era we're in. It's election time -- politics -- and nobody is paying attention to anything.

I need you to raise -- give those questions to staff. And I want staff -- I'm taking the authority of the Chair now. If my members disagree, let me know -- to send a letter to the State Board requesting from this

Committee that we are asking them to respectfully delay doing anything with that until we can get passed this, and to also send us information as to where they are with the status of it. I think that's very important. Because what's going to happen is that given the timeframes we're in, there's not going to be any objectivity if things start to move because people in government -- legislators in both Houses, both parties, the Administration -- won't be paying attention because there is just too much going on. And so we need to know where they are with that, and we need to ask them respectfully to give deference to us as the Joint Committee and put a hold on that.

Okay, Melanie? (affirmative response)

And then *cc* all the members of the Committee so they know that request was made.

Senator.

SENATOR GREENSTEIN: Thank you.

I heard a little bit about these problems, particularly with Assemblyman Benson's bill and others.

The list that you gave of the problems with the regulations-- Is that in any of the material here? I see a few mentioned, but I don't see a list.

MS. BLISTAN: I can get you that very succinct list. However, I will tell you that as each of my colleagues testifies, you're going to hear a little bit more about that. But I can also give you--

SENATOR GREENSTEIN: It would be good to have a good list.

MS. BLISTAN: Yes, I can certainly send you that list.

SENATOR GREENSTEIN: What do you-- What's the back story in your opinion? Always saving money becomes an issue. But what else is behind these changes? And who are the experts who are advising the State Board of Ed to make these changes? What do you think is behind it?

MS. BLISTAN: They have stated that they want-- The State Board of Ed's position was that they wanted to align according to Federal code. They were looking for some cost efficiencies. And they claim that the same items I brought to your attention that are going to diminish parental contact would increase parental contact which makes no sense. But that is-- They were the answers that we received.

When we asked them, "Where did you get your information?" they continually referred to the Transformation Task Force. And when we brought to their attention that there was only one person we knew about who had any special ed background, and that was an administrator from a private school, we received, again, silent stares, basically.

MS. LOWENKRON: May I speak?

SENATOR RICE: Hang on a moment. You always have to come through the Chair.

Go ahead, Senator.

SENATOR GREENSTEIN: Is it all right, through the Chair?

SENATOR RICE: Yes. Okay, go ahead. Give your name.

MS. LOWENKRON: I'm sorry, Senator Rice.

I'm Ruth Lowenkron, Education Law Center.

I guess I directed my "May I speak" to Senator Greenstein inappropriately. I'm sorry.

I just wanted to add real quickly, is that what's so interesting, I think, about our Coalition -- if you take a look at the members of the Coalition -- it's an incredibly diverse group. It's not your typical one-side-of-the-aisle, if you will, advocates for students. We have a number of people who you wouldn't expect to be there -- service providers. And I think that's very, very interesting. And when we testified each time before the School Board, we noticed that people from the other side of the aisle -- the principals and supervisors, for instance -- they were saying the same things we were saying. And I think that's really important to keep in mind when you asked your question: Who is behind this? We don't know because if all the sides seem to be saying these regs are wrongheaded -- everybody is certainly saying there's this great rush -- it's a great question to us. And we don't see people who are supporting these regulations.

SENATOR RICE: Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: I just have a few questions to ask.

On the regs that were posted -- that were put up there for public review-- Have they been through the time period and the legal process to be published? So it's still in the review period, correct?

MS. BLISTAN: Yes.

Is that the proper term, Jen?

MS. HALPER: Jennifer Halper, with Disability Rights New Jersey.

They have not been published in the register yet either as proposal or adoption. So they are still in draft form going through the State Board.

ASSEMBLYWOMAN DeCROCE: So there's still time to put a stop.

MS. BLISTAN: Yes.

ASSEMBLYWOMAN DeCROCE: And the legislation that established the Task Force -- is the Task Force that really should be looking at all these regs.

MS. BLISTAN: Yes.

ASSEMBLYWOMAN DeCROCE: So it gets to them prior to it being approved to be published in the register. And that's the process, correct?

MS. HALPER: That's what we would hope.

ASSEMBLYWOMAN DeCROCE: And that's where we're at.

MS. HALPER: That's what we had hoped would happen. There is nothing to prevent the State Board from putting these regulations through before the Task Force convenes.

ASSEMBLYWOMAN DeCROCE: Right. If they had the public hearing period they've met.

MS. HALPER: Right. They could still move forward.

ASSEMBLYWOMAN DeCROCE: They could. So that's what is key in all of this -- is to try to stop that process.

MS. BLISTAN: Yes, exactly.

ASSEMBLYWOMAN DeCROCE: Thank you.

SENATOR RICE: And that's why I need the letter to go from us right away to at least let them know that we are concerned. We don't have the answers yet, and that's what we want. We want to know just where we're going with this.

ASSEMBLYWOMAN DeCROCE: The regs need to be stopped.

SENATOR RICE: Exactly.

Any other members? (no response)

I do have one question before the speakers speak. The Coalition -- because this is always a lost piece, and my colleagues -- most of my colleagues don't know-- We know about the NJEA.

MS. BLISTAN: Yes.

SENATOR RICE: And we know NJEA represents all the school districts except for one. That happens to be Newark. And I know you have not had a good relationship. We have serious problems there. We've been talking about special ed going back to when I first got elected -- how we were wasting money, and we could do things better here in New Jersey, and all that. But are they in the Coalition with you? Do they have representation there, or do you kind of forget sometimes that they're the only AFT that's dealing with the local level?

MS. BLISTAN: No, we did not actually forget. There were a couple of other groups -- they were one of them -- that we had planned to start. What happened, Senator Rice, was this Coalition that we formed came about because in around October -- after those regs were published -- we heard, at NJEA, from the stakeholders group. There is another special education group -- an advisory group. I know Judy Lanning knows of it. I have never seen it.

But most of the stakeholders came from there, right Judy?
(affirmative response)

And they contacted us. Unfortunately, AFT was not one of them. But we plan to, hopefully as we move forward, include them.

SENATOR RICE: Let me do this: Just like I'm asking Melanie to fast track a letter to the State Board, I'm respectfully asking you to fast track a conversation to the President of NTU, because they wanted to do some special ed stuff there.

MS. BLISTAN: Okay.

SENATOR RICE: They need to be a part of-- And you can let them know that you spoke to me and I made that suggestion. And I'd like to know who they're going to recommend so I know there's someone on there. If they don't show, they don't show. But we have to do this holistically because, just as we went through all of the merit pay and all the different things, the advocacy groups were on one page, NTU was on the same page. But it's a takeover district. At the end of the day, there was really no strong support system, so they had to deal with contracts and the needs of people. And they did something that's coming back to haunt them right now because we're a takeover district, and whatever the commitments were during the contract piece are not being honored by (indiscernible) or anyone else. And so that's very important to me as a representative of the NJEA district, but also of the NTU district. And I'm sure that's just as important -- I would like to think -- to Senator Ruiz and my colleagues as well who represent that one aspect of the state. The rest of it is represented, on the education side, by NJEA, even for their takeover districts. Because I know we see special ed-- The problems you see, we see. But there may be some uniqueness there too that never gets talked about in these coalitions given the size of the city -- and this whole issue that we had,

last discussion of autism -- that we really didn't pay a lot of attention to when it came to black folks. That's the only way I can put it, African-American, black folks. And now we're starting to recognize it's not only the lead in the system that's been impacting us -- like, recently, they found more lead in Jersey City -- now we have autism that maybe we have not been paying attention to.

So if within any recommendations coming -- those areas where you have that minority -- majority-minority population -- particularly African-American and other immigrant population -- we need to take a look at that to make sure that we don't exclude something we're recommending. Because it's difficult, sometimes, to get my colleagues agreement -- particularly in my own party -- on what's right for people, for a lot of political reasons. And then I get to raving and saying the wrong things. If they get an attitude, I don't care. But that's what happens. We don't need that.

MS. BLISTAN: I totally agree.

And, Senator Rice, if I might add, that's a point well taken about our AFT colleagues, and we will readily take care of that. But I do want to make clear that Newark and every other part of the state is covered in our Coalition through our partner groups -- SPAN in particular, and the Disability Rights group, ELC, so on. So the constituents, but not the AFT.

SENATOR RICE: My concern is that that's the people side of it. My concern is that the educator side be there too. None of us have a monopoly on brains, and we can add. You know I love you all, but I cannot neglect participation by NTU. Maybe one day they will be a part of you.
(laughter)

Senator.

SENATOR GREENSTEIN: In terms of legislation, you said that this case manager is just one of a number of different areas. The first question is: Are you looking for legislation on each of the other points as well? And the related question is: Is it likely this legislation will pass given that the Governor is probably -- I assume is supporting the Education--

MS. BLISTAN: Senator, the way I can answer that is: We would not be here before you if the process that has always been in place in our great state was actually still being implemented. There is something wrong here when I give you that timeline and I'm telling you we are before you because we can't get our voices heard. I have to agree that legislating code and regulations just is not the best thing. But when you are left with nothing else, then we have to come to you.

SENATOR GREENSTEIN: So you're looking at it as a form of getting your voices -- getting all of our voices heard.

MS. BLISTAN: Yes, absolutely.

SENATOR GREENSTEIN: Thank you.

SENATOR RICE: Any other members? (no response)

Okay, the next--

MS. BLISTAN: I'm going to pass that on.

SENATOR RUIZ: Before you call the next person, Chairman, I just want to apologize. I have two 8th grade classes visiting Trenton today, so I have to go say hello to my kids. They're very anxious and excited. Graduation is approaching shortly.

SENATOR RICE: Bring them in.

SENATOR RUIZ: I would, but they're on the other side of the building. And attempting to navigate myself through both the Annex and the main is a difficult task. (laughter)

SENATOR RICE: Take the monorail. (laughter)

Go ahead, next speaker.

MS. MAHON: Hi, I'm Maureen Mahon. I'm the President of the New Jersey Association of Learning Consultants. And we are the case managers that you're talking about. My name is Maureen Mahon and I am the president of the NJ Association of Learning Consultants.

The Association is in support of the Coalition of Stakeholders. We want the proposed code revisions--

SENATOR RICE: Can you pull the mike in front of her, please?

MS. MAHON: We want the proposed code revisions stopped so that the Governor's Special Ed Task Force can thoughtfully consider the proposed changes. We also want the Governor to appoint a child study team member to the Task Force as only a child study team member can speak from the inside of special education. We are in support of Assemblyman Benson's bill to codify the child study team member professional as the only case manager.

Learning consultants, or LDTCs, are by definition master teachers who hold advanced degrees in the diagnosis and treatment of special needs students. We know the role of teacher well because we were teachers before going on to further studies to include all the aspects of the student's career.

Teachers already face a formidable job. And to expect them to take over the case management of special ed students is an unreasonable request. I would like to describe what a case manager does. We work throughout the year to address aspects as varied as transportation, transitions from preschool through adult life, and State testing. We coordinate services including OT, PT, speech, personal aides, home programming, community-based instruction, assistive technology, and extended school year. We conduct functional behavioral analysis, write behavior plans, research mental health resource for placements, and explore career options for our students. We collaborate with our fellow team members to create the best outcomes for our students; we sit on INRS and 504 committees; and attend conferences on the newest brain research, technology, methodologies, case law, and State regulations just so we can comply with the legal aspects of our job. We do all this and then, as learning consultants, we administer extensive individual standardized tests, write IEPs, and hold meetings. Most importantly we are the students' advocate throughout the process of special education. Learning consultants know that a case manager's rapport with the family is essential to the success of any student's school career, as well as knowing the strengths, weaknesses, and aspirations of the student. We have the skills and the access to coach students, teachers, and parents to a positive outcome. We believe that child study team case managers are one of the most important, effective resources that a special needs student can have.

Teachers and guidance counselors, for all of their knowledge and excellent skills, simply don't -- they lack the time, training, and

information to undertake the multifaceted task of case management. Again, we ask you to stop the code revisions and support the Benson bill.

SENATOR RICE: Okay. Any questions from any members?

Senator Ruiz.

SENATOR RUIZ: I haven't gone through all of the regs, but there was one that was highlighted -- and I'm not certain if it's part of it. As part of the child study team, they were looking to remove the speech pathologist from the group unless the parents requested. Is that correct? I just want to be sure that it's an accurate-- Does anybody know? Peg is shaking her head.

MS. MAHON: I think it was removal from the--

SENATOR RUIZ: From the initial assessment.

MS. MAHON: From the initial assessment, but at the preschool--

SENATOR RUIZ: Correct.

MS. MAHON: Which would--

SENATOR RUIZ: Unless the parent requests, which means the parent would have to know that's even available in order to do so.

MS. HALPER: That parent request is not a piece--

SENATOR RICE: Excuse me.

MS. HALPER: I'm sorry.

SENATOR RICE: Through the Chair, put your name on the record. We're being transcribed.

MS. HALPER: Jennifer Halper, with Disability Rights New Jersey.

The way that the regulation -- the draft regulation is written at this point is, it requires only one member of the child study team to be in an initial meeting with families. And it may be the speech pathologist. It doesn't have to be. There is nothing in there that says if a parent requests the speech pathologist to be present that the school district must comply with that request.

SENATOR RUIZ: And currently, through the Chair, who is presently at that meeting at the first assessment if it were to happen tomorrow?

MS. HALPER: If it were to happen tomorrow, it would be the entire child study team plus the speech pathologist.

SENATOR RUIZ: Thank you.

SENATOR RICE: To Senator Ruiz, you may have been out of the room. They indicated that there should be certain people on the Task Force.

You're talking about the legislation that the Senator passed.

Did your legislation identify who should be on that?

SENATOR RUIZ: It did speak to some, but I'm certain that if it needs to get expanded, I'm committed to working to engaging that a voice be placed on there as best as I can.

SENATOR RICE: So I guess the question--

SENATOR RUIZ: You were requesting a child study team professional, correct?

MS. MAHON: Correct.

SENATOR RICE: Anyone else? (no response)

Next speaker.

I have a series of questions, but I'll raise (*sic*) them because they may get answered.

MS. HALPER: Thank you, Chairman, for the opportunity to speak today -- the invitation to speak about students with disabilities and special education. You have my testimony. I'm not going to read that to you today. I do want to make a couple of general comments.

SENATOR RICE: And your name is? (laughter)

MS. HALPER: And my name is Jennifer Halper, Senior Staff Attorney with Disability Rights New Jersey. We are the designated protection and advocacy system for people with disabilities throughout the State of New Jersey. Our Board of Directors has consistently identified special education as a priority for people with disabilities.

Of most concern to us is how quickly this process is moving and how many regulations are being changed. In addition to the special education code, there are approximately 16 other sections of code -- education code that are being changed, and they're at various points in the process. And when speaking about students with disabilities, all of those sections impact students with disabilities, not just the special education code. And it's just impossible for anyone to completely grasp all of the changes that are being made to the entire educational system in this state.

In addition, most of the changes are not positively impacting student achievement or instruction, and that is where a lot of the concerns you're hearing about from your constituents and from this panel are coming from. If they were to positively impact students, we wouldn't be here.

We're at a point in time where we are asking our students to reach higher standards; we're asking our teachers to reach higher standards.

But now with this code change, we're lowering the standards for our school district officials, and it doesn't seem to really match what we're asking of our students and teachers at this point in time. So we should be proud of our current code. We should be proud of the rights that we provide to our citizens. And we should not be looking to roll those rights back at this time.

In addition, there is no change in Federal law or State law that require any of these changes to occur. And so we're asking that the Task Force be allowed to meet, review the special education code, and that these code recommendations be put on hold.

A couple of the sections that I would like to highlight for you right now-- One was going to be the child study team composition that Senator Ruiz already asked about.

Another section is copyrighted materials, which does not get a lot of conversation at this point in time. But I think it's extremely important to parents. What the code change is recommending is that parents would not have a copy -- the right to receive a copy of a document that has copyright protection. They would be allowed only to view it. And so the U.S. Department of Education actually has specific guidance on how schools should handle copyrighted documents. And we would ask that the State look to what the U.S. Department of Education has provided on how to handle these types of materials. So instead of completely eliminating the possibility of a parent ever receiving a copy, really look at the nuances that exist within the copyright law. There's a doctrine of fair use, which could potentially come into play, which would allow a parent to receive a document. If it didn't fall under a fair use standard, there would be the

possibility to receive a summary of what is in the document. That is completely left out of the proposed regulatory changes, and we think that it takes too strong of a line and reduces parent access to critical information about their child.

In addition, I wanted to speak briefly about the exemption section in the code. Currently in the code, a school district can seek an exemption in class size or in age range, and that exemption is for the school year only. Under the proposed changes, it would be open-ended, and so it could go on for the entire career of a particular child, not just for the one school year.

In addition, they're looking to change the legal standard to use in determining whether an exemption is appropriate, and they're moving toward what's called a *best interest of the child standard*. So when a school district is seeking an exemption for a particular child, they would use a best interest of the child determination to determine whether to have that exemption. But the standard used for all of the other children in that class is a lesser standard of no harmful effect. So you're using two different legal standards when considering an exemption for children who would potentially be in the same classroom, which is concerning to us.

And with that, I will end my remarks. You have my testimony, and you can read that at your leisure.

SENATOR RICE: Any questions from the members? (no response)

The next speaker, state your name and who you represent -- what organization you represent.

MS. KINSELL: Good morning.

My name is Peg Kinsell. I am the Institutional Policy Director at the Statewide Parent Advocacy Network. I also have the honor of directing a military family support project at the Joint Base McGuire-Dix-Lakehurst, supporting military families of students with special needs.

SPAN is New Jersey's federally designated parent training information center under IDEA. And we also operate the NE-PACT, which is the training, technical assistance provider to all the PTIs and Community Parent Resource Centers in the northeast region of the United States. We're also fortunate enough to house New Jersey Family Voices and Parent to Parent Network.

Let me just piggyback for a minute on what Jen said, because we are concerned too. And in my packet I added a little visual. We certainly have a focus on special education students, but this is what the Department of Ed website looks like now. Those are all 17 chapters that are in some type of proposal or review change. That's kind of nightmarish for me to look at, and I kind of know what I'm doing. Imagine for a parent or family what that even means. I know what the impact might be. For them to try to even negotiate or be a part of that process is ridiculous. And then I will talk to you about what I think the process at the State Board of Ed -- to even try to read or relegate through some of this information is--

So a couple of the pieces of code that we wanted to bring out-- We, again -- families, advocates, and professionals -- are extremely alarmed with the proposed changes. What I also want you to understand, as far as this Coalition, what we're talking about today are issues that we all agree on. There are still a ton of them out there that everybody has their own feelings about. So this is just the tip of the iceberg. There is a lot of stuff

that needs to be talked about. And that's our biggest concern: Where's the fire?

We, years ago-- And those of you who have been around with me for a while know how hard we fought to get a really good special ed code, and we have one of the best in the country. So this whole rolling back to the floor of the Federal law and having a minimal code, to me, is so disappointing because I know how hard all of us worked to get what we got. And to do it in this kind of rush to judgement, for lack of a better term, is just totally disheartening. So we've done our best. We worked as hard as we could to inform and prepare parents to be a part of this process. But as you know, when you have State Board of Ed hearings at 2:00, or committee hearings at 10:00 during the school year, it's not real easy to get parent or family input. I want to thank all the families that have come out and are still lending their support.

So a couple of the issues that we are concerned about or wanted to lift up is -- one that was spoken about briefly is prior notice. To make a long story short, as part of the process of when students are evaluated and they get these evaluation reports-- What we did in our code was say, "Instead of just saying you need to have the evaluation report sometime before the meeting," which a lot of times was being handed to you as you walked in the door, our code now says that 10 days prior to the meeting, parents or families should have a copy of these really complicated reports that are written by people who have ABCs and Ph.D.s after their name. And give them some time to either digest; look to some other experts or family members in their circle; or call SPAN, or DRNJ, or somebody else and try to get some support. So we stepped away from having to walk into

a meeting with 10 people with shirts and jackets watching you read. We got a timeframe so that parents could actually look through these reports, highlight the words that they didn't understand that were 18 letters, look them up, and get an idea so that they could be as informed a member of the team as the "professionals." So this suggestion now is to roll that timeframe back from 10 days to 5 days. We find it totally unacceptable. And the biggest reason or rationale we got was that there was difficulty with districts complying with that, which-- I guess you can imagine how I feel about that.

The other issues around timelines were reevaluations and transfer students. Typically a reevaluation -- school district. Every three years a student with a disability is up for a "reevaluation," and typically a school district has 60 days to complete it. They want to extend that time to 90 days. We feel that there is no reason to extend for 30 more days any needed programmatic changes that student may need, or that classroom that that student is in may be suffering under-- If it's such an issue, again, it was cited as a compliance issue, and a district is having a hard time meeting these timelines, then we just felt like you could really kind of front load and start the reevaluation time even 30 days earlier and do the 30 days prior to that 60-day-- We didn't see that that was a big deal, but it evidently is.

Here is one that's really very dear to my heart because we have served, at the Military Family Support Project, close to 1,000 military families now -- all with students with special needs. And you can imagine a lot of the questions are around special education and IEPs. This change seeks to increase from 30 to 90 days the time the school district has to complete evaluations for transfer students. So whether you're transferring

from district to district or from another state into New Jersey, that is a huge amount of time for a child to wait for appropriate services and supports. We think this is a horrible suggestion both for those families that we service and certainly for families -- the transient population and the families that that is going to impact -- our kids in foster care, migrant children, children who are in low-income families who have to relocate frequently. This could be a nightmare for these guys.

So those are a couple of the issues that we're really concerned about. But I have to tell you, as Ms. Halper said, programs to support student development, the equity code, the bilingual code-- I mean, some of this (indiscernible) is charging down. And most of this is around accountability on the district's part, about limiting access for parents and families. And every time I come before one of these committees, people complain to me about parents not wanting to be interested, community not wanting to be interested. And all I see-- And every place I look here is more barriers for that input, both from communities and families. So it's really disheartening to me.

I appreciate so much you letting me kind of soap box this. And I appreciate your interest.

I did also include-- Every year the Department has to submit a report to the Feds on why their code extends past the Federal. So I did, in my comments, submit a copy of that to you too so you could see what we had said was a really good reason we exceeded the Federal requirements up until now. And I would be happy to talk to you about any of these issues going forward.

Thank you so much for the opportunity.

SENATOR RICE: Senator Allen is going to speak.

I just wanted to say that you didn't soap box us. I think legislators have a responsibility to listen to substance. Soap boxing is listening to someone who is coming and not telling us anything and just wasting our time. But this is important for the record.

Senator Allen.

SENATOR ALLEN: You indicate that you've asked -- I'm unclear exactly whom -- but you've asked, on these three specific things that you mentioned, why and were told that it was because some districts could not comply. Are you familiar with any districts that can't comply, or were you given any information on what these districts were and why they couldn't comply?

MS. KINSELL: We weren't getting specific district information, but we met twice with the Department of Education. We just really thought we could talk some of this through. That was basically the rationale for some of these -- that there were compliance issues and that they should-- Rather than lift up the districts or give them the resources they may need to comply with these, this was their answer.

SENATOR ALLEN: I'm wondering, Mr. Chairman, if either we could do this as a Committee or if I could do it individually, but I would love to know who these districts are and what their issues were. It's hard for me to imagine that they couldn't have found a way to make these work. But let's give them the benefit of the doubt and see if we can find out what this is. And then perhaps that would give us a new basis for conversation.

SENATOR RICE: Sure. Senator, the staff has taken notes, and they're going to follow your direction and try to get that information.

SENATOR ALLEN: Thank you.

SENATOR RICE: Anyone else?

MS. KINSELL: I just wanted to add one other thing. When you had spoke about the attorney piece in the IEP meeting-- Senator Rice spoke so eloquently about Newark, and of course it's close to our heart because that's where the main office of SPAN is. Beside the coercion or the interference, let's say -- to be polite -- of school board attorneys in the IEP process, we also find -- especially in urban areas, a lot of times, or rural areas -- school resource officers attending IEP meetings or threats of DYFS being called for noncooperation. So there is a lot of kind of underground coercion happening too, depending on the school district or the population. So it was just something else I kind of wanted to make you aware of, and another reason why we feel really strongly about any way to minimize parents' rights or access to this process -- we think is an abomination.

SENATOR ALLEN: If I could respond.

SENATOR RICE: Senator Allen.

SENATOR ALLEN: Thank you, Mr. Chairman.

I appreciate that. And I certainly am hearing these very similar things. We've looked at what the law is, and it's just kind of fuzzy. And we're trying to work on that actually right now. I don't think the legislation is ready to go in, but it's something I think we'll be considering, I hope, in the Education Committee.

You're absolutely right. We want parent involvement. We desperately want parent involvement, and I know all of you do as well. And the concept of putting up these barriers, after barriers, after barriers for those parents who are involved, who have overcome so many obstacles to

start with, is ridiculous. So I'm hoping that when you come upon egregious cases where parents have been threatened and so on that you will pass them on. As I do this legislation, I want to make sure that we have cases to back it up so we can hopefully move it through.

Thank you.

SENATOR RICE: Just so I don't forget, let me just do a public announcement here. The New Jersey Legislative Black Caucus is going to be-- We're going to be holding hearings in Paterson, Newark, and Trenton dealing with some education issues. Paterson and Trenton, particularly -- Paterson and Newark particularly are going to be dealing with this whole State control piece. This whole Task Force's recommendations, as well as the things that the various coalitions are doing trying to gather information, has an even more substantial impact on the takeover districts that have been controlled for 24 years --1822. Because the public basically has no say so. In Newark when they try to get information, they can't get it. When they send an OPRA request they still can't get it. And that's the sad part about it. It's not even intervention, it's occupation. Intervention means that we should be able to work through and find out some of the answers to questions that you have in order to build a capacity.

So that's going to be in Newark on June 18, at Bethany Baptist Church, 275 West Market Street. If there is anyone who wants to come and speak on the impact of the special ed piece -- where we are right now -- and how you foresee that impacting the school districts throughout the state, but particularly those takeover districts where there is no authority by way of governance, etc., and personnel-- So I just wanted to say that.

The next speaker-- Who do we have? We're doing pretty good here. (laughter)

MS. LOWENKRON: I believe I'm the last one.

SENATOR RICE: Okay.

MS. LOWENKRON: Thank you very much for allowing me to formally address you, since I already informally and, perhaps, a little inappropriately addressed you moments ago.

I'm Ruth Lowenkron at the Education Law Center.

You've probably noticed that we have divided our discussion with you today so that we don't repeat each other. I'm the one who is going to be speaking about regulations other than the special ed regulations which affect our students with disabilities.

But I do -- before I get to my assigned talk, if you will, I just want to underscore what seems to be the theme this morning, and that is the lack of opportunity of parents and their advocates to communicate with the Department of Education. I think it feels to me, from your questions and comments, that I'm preaching a bit to the choir. But I just want to underscore it because this is not the usual in the rest of the country. My office is part of a network of advocates across the country who provide special education advocacy. And we have familiarity with how other advocates interact with their state departments of education. And their state departments of education care about what parents have to say and what their advocates have to say. And it's smart business to listen to parents and not put their blinders on and their earmuffs on and refuse to listen.

A perfect example: When we, in our office -- along, again, with a number of the offices here -- were concerned about issues of inclusion that we are doing abysmally with here in New Jersey-- We are the worst in the country, bar none, in terms of our ability to educate children with disabilities in an inclusive environment. We wanted to sit down and talk with the State. We took a very unusual approach, and we sent 40 pages of issues to the Department and said, "Let's sit down." To their credit, they sat down with us once. To their credit, they asked for more information. But after that they said, "You know what? We'll see you in court. We think we're doing the right thing." And it's not productive, and it's costly -- hugely costly.

And that's a segue into one other quick comment that you've heard a bit about, and that's the question: Why is this being done? And we surmise -- and, in fact, there is some language from the Task Force reports -- that this is about saving money. We're all about saving money. Everybody is about saving money, speaking on this side as well. It's not a government prerogative. We are all interested in that. But we question whether what is proposed here is actually going to save money. Sometimes it doesn't save money at all, and other times it's the proverbial penny wise, pound foolish.

And I must pick up on one thing from the special education regulations since my client -- my clients -- my colleagues did not pick up on it, although I'm sure we all have it in our written testimony. This, to me, epitomizes that penny wise, pound foolish. They want to get rid of the post-secondary liaison. And that would, of course, save money. You get rid of positions, it saves money. But at what cost? Everywhere else we are

saying we need to put more effort, energy, and even money into ensuring that our kids with disabilities -- or, for that matter, all kids -- have real opportunities for them; that their education leads to a meaningful place; that we have employed citizens, not citizens on the dole. What then do we expect to happen if we are not giving them that support for their post-secondary life if we remove that liaison? And, to me, that epitomizes the problem of: Are you really doing this in a wise way if you want to be cost-effective?

I just wanted to comment real quickly, if I may, to Assemblywoman DeCroce. I hope I'm pronouncing that correctly.

ASSEMBLYWOMAN DeCROCE: DeCroce. (indicating pronunciation)

MS. LOWENKRON: DeCroce, I'm sorry.

ASSEMBLYWOMAN DeCROCE: That's okay.

MS. LOWENKRON: When you were concerned about misclassifications-- And I wanted to just pick up on that because I think one of the things that we have strongly advocated in a number of venues -- we at the Education Law Center and, again, with some of my colleagues here -- is that there needs to be good training out there. And that is especially for general education teachers who have very limited knowledge of special education issues -- how to deal with the child with a disability in the classroom, how to recognize problems and not just say, "Oh, it's a behavioral problem," and that's it. So I wanted to underscore that as well.

I think I can dispense, for the most part, with telling you who the Education Law Center is. But suffice it to say, our expertise is broadly in education. We are most known for the work we do around funding

issues. So the first speaker today -- that's very interesting to us -- about the funding study. And I would say that the School Boards has already reached out to us -- we were glad to know that they did -- to ask us about funding issues. And so we generally work on funding issues, but we also are strong advocates and have a large part of our docket on special education issues.

So the few areas I wanted to touch on briefly are the student development services regulations. Again, as I talk about this, please know this affects all students, but it is particularly important and definitely is something we're concerned about for our students with disabilities.

One of the things that the regulatory change there would seek to do is eliminate the mandate that when a school board holds is mandatory, constitutionally driven hearing when it wants to suspend a student long-term, the regulations are doing away with the mandate that a transcript or a detailed report be made and made available both to the parents and to anyone in the school district who is involved in an appeal.

We question whether this is of constitutional validity. Where is this going to lead? How can you have an appeal when you don't have a whole record? It's really -- just as an aside -- almost comical when you see the removal of the word "detailed." So what are we left to think? You can have a two-sentence report? The flexibility for the districts are already there if they can't afford to have a transcript. They can just do the detailed report. But to give an undetailed report -- it's laughable and, we think, unconstitutional.

Another problem with these same regulations is with respect to alternative education. Doing away with the mandate that the commissioner approves the alternative education program is unacceptable.

A third problem we have-- Again, here is a timeframe issue -- this time with children who are so sick they have what's called a *health condition* in the regulatory words. That means that they cannot go to school. And so they are receiving no services until an arrangement is made for them to receive some sort of home instruction or maybe another out-of-school venue for instruction. And they want to extend the time -- delay the time before these children can, in fact, receive the home instruction based on their severe health condition. Again, are these children being served appropriately? No. And they're not even getting what children who don't have disabilities and have discipline issues and are suspended are getting. So that's a huge fairness issue.

Just a few quick comments: One would be on school district operations regulations, which are also one of the 17 that Ms. Kinsell just showed to you and we're all aware of. And this is, again, a consent issue and a notice issue with respect to destruction of records. School districts want to get rid of records, they want to do house cleaning. They don't have room for records. This seems to me this should be less of an issue in our more electronic age. But be that as it may, they have, perhaps, a very justified reason for wanting to do away with old records. That's all well and good. But how can that be without the consent of the parent if it affects the parent? And certainly how can it be without notice to the parent, so the parent would know to get those records that you might not assume you need at the very moment the child is in school or immediately upon graduation? But you recognize a little bit later down the line that you, in fact, need-- And this is especially important for our kids with disabilities who may be applying for other government or not-for-profit programs

where they have to get their school records -- only to find out, “Ha, ha, destroyed, and ha, ha then, no services are available.”

So, again, pound wise, penny foolish (*sic*). Please do all that you can to make sure that these regs do not go forward or at least do not go forward with the speed envisioned and hoped for by the Department of Education.

Thank you.

SENATOR RICE: Thank you very much.

Assemblywoman.

ASSEMBLYWOMAN DeCROCE: When you referred to the board meeting pertaining to the suspension of a student, and you said that the records would not have to be retained-- Am I understanding that, or am I trying to understand that what they may be referring to are the board meeting minutes? Do they have to be verbatim or just on topic?

MS. LOWENKRON: Just to be clear, this is with respect to that part of a board meeting where a hearing is held regarding suspension. And the current regulations say that record of such hearing must be kept either in verbatim transcript form or, giving flexibility already to the district, in a detailed report form.

ASSEMBLYWOMAN DeCROCE: Okay.

MS. LOWENKRON: What the proposed regulations see to do is eliminate the mandate for transcripts and eliminate the ability -- or the need to have a detailed report and just say there must be a report.

ASSEMBLYWOMAN DeCROCE: Okay. And what about-- These are taped meetings. So is electronic tape made available then to be transcribed or provided to the individual if requested?

MS. LOWENKRON: Well, that seems to me what precisely is going to be changed. So beforehand there had to be the availability -- if not the tape, but a transcript of it. There's no discussion of actually giving over the tape. Now, if that's what's intended and the alternative is available, then that's great. But that's not what the regulation suggests.

ASSEMBLYWOMAN DeCROCE: Well, that's why I'm leading to that. For 23 years I was a municipal clerk, so verbatim minutes, tapes, executive sessions, whatever, whatever, whatever -- the tapes were made available. And I think what they're trying to do is adapt to the OPRA regulations. That's what is happening here.

So the question is: If they're going to take the regs and take away the transcribed verbatim minutes, are the tapes then kept and made available for, I think it was \$5 we -- under the OPRA regulations, a tape is a certain amount of money -- a tape available to the individuals that was recorded?

SENATOR RUIZ: Do all school boards tape?

ASSEMBLYWOMAN DeCROCE: That's what I'm asking.

SENATOR RUIZ: I don't think so.

ASSEMBLYWOMAN DeCROCE: And if they're not going to have verbatim minutes, then it should be a requirement that they are taped.

MS. LOWENKRON: Right. I mean, I certainly concur with you, and that would be one way do deal with it. And the point is that is not, from what we see, the way it's being dealt with.

I will say that--

ASSEMBLYWOMAN DeCROCE: That's something we should look into.

MS. LOWENKRON: I will say on one or two rare occasions in our 10-page testimony -- that we also, of course, provided to the Department of Education and the State Board -- when we pointed out things that seemed lacking in clarity -- "Did you mean this? Did you mean that?" -- once or twice they said, "Oh, good point. We'll make it a little more clear." So if that's what they had in mind here, that would be one approach we could take.

ASSEMBLYWOMAN DeCROCE: That needs to be.

MS. LOWENKRON: But it certainly is not how they responded, and I don't think that was what was intended.

ASSEMBLYWOMAN DeCROCE: That needs to be clarified.

SENATOR RICE: Senator Ruiz is going to speak.

But you mentioned about a 40-page document that you had a discussion with the Department on. Can you get that to us?

MS. LOWENKRON: Sure.

SENATOR RICE: See, we like to know what--

MS. LOWENKRON: That had to do entirely with inclusion of children with disabilities. And it turned into a lawsuit that we have been fighting with the State for the last--

SENATOR RICE: No problem. But we still would like to have it. See, we need to have a substantial record. Because all these things are linked and they're connected. There's a correlation between them. So if you can get us whatever you have -- conversations with -- that they met with you twice and then said, "See you in court." We need to see that piece.

We also need to know what questions were raised at the Board meeting or wherever you had it where they said, "You have a good point," but it maybe needs clarity, it may not. Because we're going to send them a letter telling them to cease this stuff -- at least hold up this stuff -- halt it. Okay? But we want to know what the conversations have been. We were not there to have the benefit of the discussions when you met with different people. So now we need a record so we can be objectively supportive, if you will, of what's right for the children in our districts, particularly those with the special needs and special education.

MS. LOWENKRON: Certainly, Senator Rice. Just to be clear, I speak a little colloquially, so when I said they said, "You were right," nobody actually said, "Ms. Lowenkron, you're right." (laughter) I just meant that they--

SENATOR RICE: They're never going to say--

MS. LOWENKRON: --must have listened collectively to our comments. So there is no--

SENATOR RICE: You're okay. I didn't even-- If they said you were right, I would be shocked in the first place. (laughter) I didn't even accept it that way.

Senator Ruiz.

SENATOR RUIZ: Thank you, Chairman.

For the record, I just want to know, after we have had our internal discussions-- I reached out to DOE, because in addition to these regulations, there are a myriad of other ones to pause, and then just focus on this particularly in and of itself. My understanding was that they were looking at it very closely. Unfortunately, I guess there has been no

determination. Since we haven't heard back, I will follow up. And I just did hear the Chairman that he is also going to weigh in on that.

Ruth, you said something in the beginning of your remarks about a teacher not having the skill set, I think, about identifying a child necessarily. Could you just go back to that a little bit?

MS. LOWENKRON: Certainly, what-- And, of course, that's not really the job of the teacher to identify.

SENATOR RUIZ: No, right. And I'm just-- I'll tell you why I'm asking after you--

MS. LOWENKRON: Certainly. What we're so concerned about is that the general education teacher has such limited knowledge about services for children with disabilities because we have such a divided system. We have general education, special education.

SENATOR RUIZ: And so I'll-- This is why I just-- I wanted you to just highlight that. I think when you were speaking, a lot of people in the group were shaking their heads. I was shaking my head also. We're in the midst of really drafting something for dual certification, which I think, moving forward, is the way that we have to start certifying professionals in the state.

I shared a conversation with my colleague. We all learn differently. And the ability to really provide the resources in the classroom so that that can happen -- including a new way as to how we train the next generation of professionals -- has to be part of the conversation.

MS. LOWENKRON: I applaud you, Senator Ruiz, as I do on many fronts, but definitely on that one. And when I share the complaint with you that Senator Rice asked for, you'll see that's something that we

wanted to talk about with the State -- that licensing requirements-- Let's see what we want from our general education teachers to better serve our kids.

SENATOR RUIZ: Thank you.

SENATOR RICE: Just a couple of questions: Just for the record, can you describe the duties of the case manager and the training required by the members of the child study teams, and then kind of connect that to what kind of impact that really has on the teachers in the classroom, etc., etc., etc.? Can anyone kind of--

MS. MAHON: In terms of training, all child study team members are trained in a discipline, so you have your school psychologist, your learning consultant. We all require certificates and licenses. Social workers and our speech pathologists-- As far as a case manager training, there really is only on-the-job case management. You learn it the minute you step in the door in that position. I walked out of the classroom into the learning consultant's office and spent a year just learning how to hold the meeting and all the ins and outs. There are parts of our jobs, as case managers, that are taught in graduate classes, but not much of it is. Because a lot of our job is all the little pieces that somebody else has to take care of.

This morning, before I came here, I called transportation about summer school. I met with a teacher who wanted some information about a student that wasn't in our building, but she knew I would know enough information to send her in the right direction. I made copies of IEPs. This was all before 8:00 this morning. And I answered all the e-mails. There is no way to really-- If I gave a list of what a case manager does, it would

probably be about six pages long of bulleted items because you never know what's going to come up. This year we had a family move in with a child with extraordinary needs. We met him on August 20, so it was a little difficult for the case manager, by herself, to take care of everything. So it took all three of us on the team to really take bits and pieces.

So it is very difficult. And each district does things a little differently. I have colleagues who case manage from preschool to college. I am very lucky. I am in a middle school, and that's all I do right now. But I have worked at the elementary and high school level for many, many years. And it is unique every school year as to what I learn a case manager does.

SENATOR RICE: So the way things are moving right now, they want to really shift that to the teachers. Is that correct?

MS. MAHON: Correct. They want everything except the testing. And somebody mentioned the State Board -- the Department of Ed is looking to align with Federal code. Learning consultants and social workers do not exist in Federal code. All the testing would be done by the school psychologist, and the case management would be left to teachers and guidance counselors. It would diminish the services to the students, because they just don't have the time or the training.

As a teacher, I was shocked to learn that I wasn't very good at it when I became a learning consultant, because the training I went through to be a learning consultant further explained why students did things that I didn't understand when I was in the classroom. And I decided I wasn't a very good teacher. But had I never gone through that training, I would not have had the skills to even coach another teacher into what to do.

And that's where a lot of our time is spent -- is meeting with our teachers, backing up our teachers, and really giving our parents an explanation of what needs to happen or how we can help them when there's a conflict with a teacher. If the teacher is the case manager, that negotiation goes away because now you have a parent and a teacher trying to solve something that they both have their sides on. Your case manager is your negotiator. Their interest is only in the child and not-- We want to care about the teacher and the parent, but the bottom line is what is good for that child. And that's where we excel. A teacher and a guidance counselor don't know the law, don't know what needs to be done, and don't know the resources -- especially outside resources. That would be a real learning curve for any teacher or guidance counselor.

SENATOR RICE: Okay. I think that's very important -- outside resources that need to connect and the time that it consumes.

Did you want to say something else?

MS. LOWENKRON: May I, Senator? To clarify, I think our assumption is that they have in mind that the regs -- and the State Department of Education have in mind the teachers or the guidance counselor as alternatives to the current case manager. But, in fact, the proposed regulation is really much broader than that. And it's really questionable who else they may shove into that role of case manager. So, again, if that's all they mean -- which is bad enough for all the reasons we've spoken about -- then it should say at least that. But right now it just talks about another licensed staff member with some undefined appropriate knowledge, which leaves open other possibilities in my mind as well -- I mean, a principal, countless people. I mean, I suppose it can't be the

janitor that we like to throw around, because I'm not sure what they're licensed in. But it's very broad. So I just want to make it clear. It's even a little worse than we think because it's that wide open.

SENATOR RICE: Okay. Finally, a recommendation I'm making to you -- or at least I'm opening the doors -- is that if you outline some of these issues where there needs to be clarity and maybe submit it to the members of this Committee, in terms of some suggestions for recommendations that we can look at. And as you know, Senator Ruiz is also the Chair of the Education Committee. She and her members can look at it. It doesn't mean we necessarily agree. There may be some meetings of the minds and maybe some compromise or some support. But I think all of this is important to us, because you are the boots on the ground, the experts with that, along with other people we know within our community who we can share with. So I think that's very important.

I don't really have anything else to add. I just need to know if my members have any comments or statements.

I do want to say one thing -- is that the last meeting we had -- or meeting before -- subsequent -- in the past rather-- I know Assemblywoman DeCroce, and Assemblyman Benjie Wimberly, and Assemblyman Wolfe, and other Committee members too were very much interested and asked staff to start to take a look at preparing to do a certification piece. I hear that Senator Ruiz is doing something too. So I would ask that because we are a bipartisan group, you really work together on that. Because we don't do legislation. We can recommend legislation. But it's something we wanted to recommend as a group. So with the Senator on the lead--

Assemblywoman, if you and Benjie can work-- This way we know, at the end of the day, hopefully whatever comes out of that will be an agreement before we get into--

ASSEMBLYWOMAN DeCROCE: So we have that in both Houses.

SENATOR RICE: Exactly.

And Melanie can work along as you're doing--

MS. BLISTAN: Senator Rice, just one more thing I want to add to both Maureen's and Ruth's testimony regarding case management, especially as it pertains to the special education teachers and counselors.

SENATOR RICE: And who are you who wants to add that?
(laughter)

MS. BLISTAN: Thank you. Marie Blistan again.

And I just want you to keep this also in mind: In addition to the very specialized expertise that all three of those -- and sometimes four with the speech pathologist -- bring to the table when they are working with the students and the families, there is a time commitment that Maureen will also testify to, as will case managers throughout the state. Approximately 80 percent of their time is spent not testing students for identification; 80 percent of the time is spent with case management. And coming from a classroom teacher's perspective and/or a guidance counselor-- If 80 percent of my school day is going to be spent case managing, there is 20 percent left to actually teach the students, and I'm held accountable with that IEP. So there is a strong disconnect here with the State Department of Education who, when we asked that question, responded,

“It’s simply paperwork and scheduling a meeting or two, isn’t it?” or something to that affect.

Thank you.

SENATOR RICE: Let me thank all of those who gave testimony this morning, all of those who came--

MS. SCHULZ: We still have more people.

SENATOR RICE: Oh, I still have more people?

You didn’t give me a list.

Hang on a moment. (laughter)

Let me thank the five who (indiscernible).

Kathleen Moriarty, is she here?

UNIDENTIFIED SPEAKER FROM AUDIENCE: She had to leave to pick her special education child up.

SENATOR RICE: Tell her I apologize.

Thank you very much.

Next, we’re going to have Brenda Considine.

And is Dr. Sol Heckelman still here? (no response)

Is Gerald Thiers-- (affirmative response)

Come on up Gerry.

Those are the last two.

Is anyone else here for testimony who is not on this list? (no response)

Just make sure you give your name for the record.

BRENDA CONSIDINE: Good afternoon and thank you.

My name is Brenda Considine. I am the Chairperson of the New Jersey Coalition for Special Education Funding Reform.

I just want to thank you very much for holding this meeting and for getting input from the special education community. Many of the people who are here today are members of our Coalition.

Our Coalition formed in 1996. We're comprised of 13 statewide organizations concerned with children with disabilities and special education policy. We seek a funding formula that is adequate, efficient, equitable, predictable, flexible, transparent, placement neutral, and most of all accountable for spending and student outcomes. Those of you who have heard me testify before know that our likely -- our message is somewhat unlikely. We have always said that it's not always a matter of more money, it's a matter of smarter money. And my colleagues before me have suggested some ways we may spend our money more wisely. But I just want to sort of take you through a couple of the pillars of our organization so that you get a picture for what we're trying to do as an organization.

First and foremost, we would like to see the State commission a meaningful outcome study, a study that would really take a look at the lives of adults who, when they were students, received special education services. We do not have a longitudinal, scientifically validated outcome study that looks at these youngsters, so we really don't know what the variables are that affect their lives. And so we are really making policy based on opinion, not based on fact. And we've urged this for a very long time. There have been some smaller studies, but very few meaningful longitudinal studies. So that's step one.

Step two is a meaningful cost study. We urge the State of New Jersey to commission an independent, research-based analysis to look at the full, actual excess cost of special education. We tried to do it as a Coalition.

We met with leaders in the Department of Education and we got data. What we found is the same thing that the few studies that have been done found, which is that the data that the Department collects is so haphazard and meaningless that it cannot be analyzed in a meaningful way. We find tuition rates reported by local districts anywhere between \$8 for a student to \$423,000 for a student. And we're told that those are just accounting practices. Well, if that's what we're getting, we're not really able to make decisions about funding policy because we just don't have the data. So our Coalition is seeking a meaningful funding study.

There are a few other smaller things that are more easily implementable. We brought these to Senator Ruiz last summer and really appreciate her leadership in this area. But I just want to reiterate for the Committee some of our recommendations.

One: Stop building public segregated special education schools. We invest millions of dollars, taxpayer dollars, in building these facilities, in bonding these facilities, in transporting kids to these facilities. Those dollars could be much better spent supporting educators at the local level to build capacity for students. That simple step -- a moratorium on new construction of public segregated buildings designed for kids with disabilities -- would be a huge step forward. It would get talent at the local level. You heard my colleagues from School Boards talk about the need for that, my colleagues from SPAN; my colleagues at ASAH are going to talk about the same thing. We need to build capacity at the local level. And continuing to build these sequestered places is not the way to go. So that was number one.

Number two: Really promote public-private partnerships. New Jersey is home to a number of very high-quality, private special education programs in New Jersey. We have good public special education programs as well. We need to do more to get the talent that exists back into the local public schools through consultation programs, school within a school models, and other ways of bringing very specialized supports and services back to the local level. Again, you're saving money on transportation and building local capacity.

Senator Ruiz mentioned the troubles that parents find in terms of trying to find options for their kids. One very simple and easy-to-do recommendation is to begin to use New Jersey's real-time database to include all placement options. Right now the database does not include private special education programs. So it may look like there are no options anywhere for kids and that we need to build new programs when, in fact, there are openings in programs. It's just that they're not included in the database.

You heard my colleague from School Boards talk about the need to facilitate more peripheral intervention and do implement response -- RTI, response to intervention. It's used in 48 other states. We know it works. Why isn't New Jersey using it? There are many support strategies that can be used to help kids who end up not needing special education services.

We talked about reducing litigation by training child study team members and parent advocates to help support people before there is a crisis that ends up in court. We fully support that measure.

One area that hasn't really been discussed is the issue of superintendent merit pay, and I do want to bring that to your attention. It was just up in the Assembly Education Committee yesterday. There is a growing trend among school districts looking to compensate superintendents by offering merit pay or bonus pay for bringing back kids with disabilities from out-of-district programs. So we're basically putting a bounty on the heads of kids with disabilities and allowing superintendents to be personally rewarded for interfering in the placement decisions that they should have no role in to begin with. We really appreciate the bill that's been introduced and wanted to include that in our testimony, because that is taxpayer money that could be used to support kids. And, instead, it's being used to interfere with the federally mandated placement process in ways that are not good for students. So I did want to bring that to your attention.

And there is actually one area of the code that wasn't changed that many of you heard about a few years ago. In fact, the Joint Committee held a special hearing. The Senate Education, Assembly Education had hearings on this. And that deals with the role of the executive county superintendent. I'm going back three or four years now, but there's code language that says if a school district makes the determination, together with the parent, that a student should be placed in an out-of-district program -- public or private -- that they actually have to contact the executive county superintendent to look for in-district options. That, if the code was very clear, is reasonable. But what's happening in practice is, parents are being told, "We have to get permission from the executive

county superintendent,” or, “Sorry, the executive county superintendent said no.”

Now, we had hearings about this issue years ago. The Joint Committee met on this. There were letters to the editor. We met with the State Board. We met with the DOE. What we got was a one-page memo from then Commissioner Lucille Davy saying, “That’s not really what we meant. Here is what we really meant.” And who knows where that memo is now. I try to circulate it everywhere I go. I know it’s in the back pockets of my colleagues who go to IEP meetings. But I will tell you so few districts completely understand that piece of the code, and parents are being sold a bill of goods. So if we’re going to change anything in the code, let’s go back and fix what the Commissioner herself said needed to be clarified three years ago. And that is that the executive county superintendent has no role in determining placement. It is a referral role only. And if we opened up that real-time database in the first place, we wouldn’t need that.

In closing, I just do want to sort of drive home the point that, really, our Coalition is very, very, very invested in meaningful special education funding reform. You heard my colleagues before me talk about some of the challenges with the current system. It actually gives more money to districts with fewer kids. It was based on a system that Pennsylvania implemented. Pennsylvania has now said, “This isn’t working. Let’s revisit it.” The census formula is not a smart way to be funding special education, and we would really love to see meaningful reform that gets back to a system that provides State aid based on the needs of the child, not on an arbitrary census.

SENATOR RICE: Okay. Thank you very much.

MS. CONSIDINE: Thank you.

SENATOR RICE: I would appreciate it if you could send us a copy of your testimony. But also send us the questions that you raised and the recommendations that you raised, such as the superintendent -- executive superintendent. Because, once again, everything that is being said works poorly until we make changes. Then we make changes, and we still have three -- now four -- districts under State control, and it's not going to have any meaning whatsoever.

Also, it's very clear to many of us that the State never wants transparency and accountability. I mean, I've got laws held up in committee now -- bills, that is -- that have been there for years from Democrats and Republicans -- never go anyplace -- for accountability. It's something that we say we want.

The Governor is the first to talk about transparency and accountability, and he picks and chooses who he wants to go after when its not there. Others don't provide it. But the State should be setting the example. And to allow the Department of Education, under the Commissioner and his leadership, not to mandate this accountability in the education system across the board -- but here we're talking about special ed -- does not make any sense to me. It's a big contradiction. And that should be publicly stated, so I'm publicly saying it for the record. It's not my colleagues saying it; I'm saying it. And it just doesn't happen in special ed. It happens where the money is flowing. And this whole privatization movement is a part of that, because the mentality is connected to some of the folks working here in the State. In the past it wasn't really privatization, it was just people who just didn't get it.

And so get us what you're talking about so that we can look at it in terms of potential legislation. And then we will check to see what Senator Ruiz is doing already with legislation -- education piece -- and see if we can come out with some things that make sense in those areas.

I can also say that we're on the fast track of getting things done primarily because, once again, we're in an election year now. And I suspect that the majority of our legislative colleagues in both Houses will be back. But I don't think the mentality is going to change. We have a Governors race. I don't know who is going to be the Governor. The media says one thing, we say something else. I don't think the mentality is going to change. I think what we're talking about, as it relates to some of this accountability and transparency, education change in the best interest of the child, and other things we're talking about outside of education is really going to be the coalitions of people we have here, and people like myself and other colleagues who are not afraid to stand up and tell either party or anybody to go -- where to jump -- whether it's the President, the Speaker, or someone else. We have to be more vigilant, as we were in the past, about accomplishing goals that are going to benefit the majority of people in this state -- in this case, the majority of our students -- hopefully all the students -- but at least that majority. We cannot be caught up in the politics of who is making money out there, and all this cross the line and back and forth stuff under the auspices of good government.

I said that. This way it's on the record, so no one can misquote me.

Next speaker.

GERALD M. THIERS: Thank you, Mr. Chairman.

I'm Gerry Thiers, Director of ASAH statewide organization with 144 private special education schools. ASAH members are approved by the Department of Education and many are accredited by Middle States or NCASES, which is a national special education accrediting body.

The schools serve students with complex disabilities in four main areas: autism; learning disabilities; emotional and behavioral disabilities; and multiple disabilities, including those who are medically fragile or have severe physical impairments. We would like to report to you briefly on how these children are doing. For the past 13 years, the Association has conducted outcomes studies which fall into two types, namely: student exit studies, which provide a snapshot of student plans when leaving private schools; and two: follow-up studies, which track the progress of graduates over a number of years once they leave school.

The report with the green cover is our latest student exit study, showing the plans of students when they left private special education schools during the 2011-12 school year. The results are consistent with what we've seen over the past 12 years. Over 55 percent of the transfer students -- those who exited to attend other elementary, middle, or high school programs -- left to return to their home districts. A total of 19 percent of this exiting group planned to return to regular public education classes and 38 percent to public in-district programs such as self-contained classrooms and alternative schools. The private schools helped districts to meet the students' educational goals while saving taxpayer funds by enabling students who, in the past, may have been incarcerated or institutionalized to move back into general education settings.

The second group of exiting students is the graduates. A total of 60 percent of private school graduates planned to enter the mainstream by going either to college or a trade/technical school, or entering competitive employment or the military. Another 35 percent planned to enter either vocational rehabilitation programs or community-based program activities. Hence, 95 percent of the graduates made plans to engage in productive adult roles after leaving secondary school. Only 4 percent said that they did not have any plans.

One more finding of note is that 95 percent of the transfer students were enrolled in private schools were enrolled for five years or less. Private school placements generally do not consume the entire academic life of students but are generally temporary in nature.

I would also like to mention the results of the most recent student follow-up study that we have done in conjunction with the Maryland Private School Association. There were two cohorts of New Jersey students, one graduating in 2005-06 and the other in 2006-07, that were tracked for two years. The results were compared with a study conducted by the U.S. Department of Education of special education students across the United States. The young adults in ASAH member facilities were employed at higher rates; they attended higher education classes in greater numbers; they were able to live as independently as their peers in the other study; and were less likely to be arrested and incarcerated.

The study was conducted by independent researchers at Johns Hopkins University. The lead researcher, Dr. Deborah Carran, donated her time and she is now submitting an article for journal publication. We will

send you the complete written report as soon as the article is published, probably by the end of this calendar year.

I'd like to end with the following observations: Special education can be expensive and is often a difficult endeavor. ASAH thanks the Governor and the Legislature for their continuing support to help all students reach their fullest potential. Two: There are many things that can be done to improve the special education funding and service delivery system. We look forward to participating on the Special Education Task Force that you have created and thank you for giving us a seat at the table. Three: Despite all the problems, New Jersey is delivering quality services to many special education students and appears to do better than most states. Four: Do not be sidetracked over arguments about program costs or where services should be delivered. New Jersey, to its credit, has a full continuum of special education program options as required by Federal law. The system is interdependent. As I noted earlier, private schools return hundreds of students each year back to their districts. They also contract with LEAs to help bolster district capacity to serve more special education students and start new programs. The recent expansion in public autism programs was in part done with the assistance of private schools. Finally, in order to make real reforms -- and Brenda mentioned this earlier -- you must first find out where the cost centers are in the current system. Over the past 10 years the State has acted on the premise that there are greater economies of scale in larger, county-based special education programs. But as our cost study shows -- which is attested by J.H. Cohn Accountants -- that's the blue booklet we gave you -- smaller private programs are in fact less costly to New Jersey taxpayers than county special services programs

and district special education programs that offer comparable services. The State needs an independent cost study that looks at all factors -- facilities, overhead, busing, program instruction, oversight, and pension payments to name a few -- in order to develop a more streamlined, cost-effective system.

Thank you.

SENATOR RICE: Thank you, Mr. Thiers.

Any questions or comments from the members? (no response)

Okay. We have your written testimony as well. I think that we need to pay attention to, like you said, cost studies. I always say we never do a true beneficial analysis when we do legislation, and that bothers me. I also use the same terminology of the previous speaker past. I always talk about longitudinal studies. They always give us this frivolous stuff. And in my background in dealing with studies, and probabilities and outcomes, and how you measure things, longitudinal means usually 20 years. But sometimes we can live with a good 10-, 12-year study -- something in between. They give us like what they did last month and last year, and then you get a new commissioner and they say it doesn't work. So we can never measure the outcomes the way we do as legislators.

With that, I'm going to adjourn this meeting and, once again, thank all of you for participating. And make certain you get those who I have requested information from -- to Melanie for this Committee to review. And we're committed, through Melanie, to get the letters out and the things we said we are going to do, right?

MS. SCHULZ: We will do that.

SENATOR RICE: Okay. Thank you.

The meeting is adjourned.

(MEETING CONCLUDED)