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# *Committee Meeting*

of

SENATE EDUCATION COMMITTEE

SENATE LABOR COMMITTEE

*“The Committees will meet jointly to hear testimony from invited guests on the topics of: teacher sexual misconduct; the reporting of child abuse in schools; and the process for tenure charge arbitration in the case of teacher sexual misconduct”*

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**LOCATION:** Committee Room 4  
State House Annex  
Trenton, New Jersey

**DATE:** May 31, 2018  
12:00 p.m.

**MEMBERS OF COMMITTEES PRESENT:**

Senator M. Teresa Ruiz, Chair  
Senator Shirley K. Turner, Vice Chair  
Senator James Beach  
Senator Michael J. Doherty  
Senator Samuel D. Thompson

Senator Fred H. Madden Jr., Chair  
Senator Nilsa Cruz-Perez  
Senator Sandra B. Cunningham  
Senator Anthony R. Bucco



**ALSO PRESENT:**

Erin M. Basiak  
Anita M. Saynisch  
Gregory L. Williams  
*Office of Legislative Services  
Committee Aides*

Wade Homer  
Elizabeth Mahn  
*Senate Majority Office  
Committee Aides*

Sarah Fletcher  
Rebecca Panitch  
*Senate Republican Office  
Committee Aides*

***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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M. TERESA RUIZ  
*Chair*

SHIRLEY K. TURNER  
*Vice-Chair*

JAMES BEACH  
MICHAEL J. DOHERTY  
SAMUEL D. THOMPSON

ANITA M. SAYNISCH  
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**New Jersey State Legislature**  
**SENATE EDUCATION COMMITTEE**  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

**REVISED  
COMMITTEE NOTICE**

**TO: MEMBERS OF THE SENATE EDUCATION COMMITTEE**  
**FROM: SENATOR M. TERESA RUIZ, CHAIRWOMAN**  
**SUBJECT: COMMITTEE MEETING - MAY 31, 2018**

*The public may address comments and questions to Anita M. Saynisch, Erin M. Basiak, Committee Aides, or make bill status and scheduling inquiries to Marguerite Tazza, Secretary, at (609)847-3850, fax (609)984-9808, or e-mail: OLSAideSED@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Senate Education Committee will meet on Thursday, May 31, 2018 at 12:00 PM in Committee Room 4,\* 1st Floor, State House Annex, Trenton, New Jersey.**

**The Senate Education Committee and the Senate Labor Committee will meet jointly to hear testimony from invited guests on the topics of: teacher sexual misconduct; the reporting of child abuse in schools; and the process for tenure charge arbitration in the case of teacher sexual misconduct.**

Issued 5/21/18

\* Revised 5/30/18 – Please note the room change.

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

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FRED H. MADDEN, JR.  
*Chairman*

JOSEPH F. VITALE  
*Vice-Chair*

SANDRA B. CUNNINGHAM  
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## New Jersey State Legislature

SENATE LABOR COMMITTEE  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

REVISED

### COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE LABOR COMMITTEE

FROM: SENATOR FRED H. MADDEN, JR., CHAIRMAN

SUBJECT: COMMITTEE MEETING - MAY 31, 2018

*The public may address comments and questions to Gregory L. Williams, Committee Aide, or make bill status and scheduling inquiries to Cynthia D. Petty, Secretary, at (609)847-3845, fax (609)777-2998, or e-mail: OLSAideSLA@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Senate Labor Committee will meet on Thursday, May 31, 2018 at 12:00 PM in Committee Room \*4, First Floor, State House Annex, Trenton, New Jersey.**

**The Senate Labor Committee and the Senate Education Committee will meet jointly to hear testimony from invited guests on the topics of: teacher sexual misconduct; the reporting of child abuse in schools; and the process for tenure charge arbitration in the case of teacher sexual misconduct.**

Issued 5/21/18

\*Revised 5/30/18 – Meeting moved to Committee Room 4

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

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**SENATOR M. TERESA RUIZ (Chair):** Good afternoon, everyone.

Welcome to the joint Committee hearing with Senate Labor and Senate Education.

Roll call.

MS. BASIAK (Committee Aide): Senator Ruiz.

SENATOR RUIZ: Here.

MS. BASIAK: Senator Madden

**SENATOR FRED H. MADDEN, Jr. (Chair):** Here.

MS. BASIAK: Senator Beach.

SENATOR BEACH: Here.

MS. BASIAK: Senator Doherty.

SENATOR DOHERTY: Here.

MS. BASIAK: Senator Bucco.

SENATOR BUCCO: Here.

MS. BASIAK: Senator Thompson.

SENATOR THOMPSON: Here.

SENATOR RUIZ: Just a point of personal privilege before I have opening remarks.

Mary, from my office -- this is her last day. She has served the people of New Jersey for two decades, and I just wanted to say congratulations on her retirement.

If you will join me in doing so. (applause)

So in preparing for this, we were afforded the opportunity to watch really disturbing footage of individuals who describe our students with words like *scumbags*. In one of them, someone names Hispanic

children being the “weirdest of the bunch.” In another part of the video, they refer to the city where I’m raising my daughter as “the *bleep* of New Jersey.” I couldn’t even say it, because, you know, I’d probably get thrown out of this chamber.

You continuously hear, “Was there a witness? If there wasn’t, none of this happened.” “I don’t say anything, I don’t tell anybody.” “If you hit the kid -- if you hit the kid, it is what it is.” I mean, it just goes on, and on, and on. And even when asked, “What will it take to remove a teacher from a classroom?” someone refers to “blood, or even rape.” It is some of the most disturbing conversation that, in my entire life, I have had to be witness to.

What bothers me in all of this, is that I am sure that this is just a small sliver of who we are here in the Garden State; but if we don’t work to eradicate this kind of thought, to fix this, to create policy to secure, then it really just ruins the entire bunch. We have to collectively work together to be sure that what comes out of this Committee is a proactive approach -- to be sure that when you see something, you say something. And that as any adult, in any school district, in any building, in any capacity -- whether you’re serving in the cafeteria or you are a janitor cleaning the hallway -- when you see something that is done against a child, that it is reported immediately, and that we follow up.

I’m not certain what the status of these two individuals is; I guess I’ll have an opportunity to ask that later -- whether they are, you now, fired, or suspended with pay, or suspended without pay. But I have to tell you something. For the parents out there, please recognize one thing. The joint Committee here -- and I know that my Chairman, Co-Chairman shares

in this same thing -- as a parent, when you drop a child off in a school, the last thing you want to worry about is that the person -- you're putting your child's livelihood in their hands -- that they would go about their day and think that it was okay to call children *scumbags*; to refer to an ethnic group as the "weirdest of the bunch;" to go out of their way not to report an incident, even if it included sexual misconduct.

And so I hope that at the end of this we don't come out talking about protecting people who work in school districts this way; that we collectively talk about how we remove people who work in districts this way.

Thank you very much.

SENATOR MADDEN: Thank you, Chairperson.

Ladies and gentlemen, welcome to today's joint hearing regarding the issue as it relates to what appears to be the support by people in leadership positions -- the support of, possibly, child abuse, sexual misconduct; and the list indicates that it goes on and on.

And it's not limited to one geographic area; it goes across the state in a couple of different areas that we know of.

We have a responsibility, as legislators, to help protect our children through law. The laws that are on the books -- we feel as though that's just what's going on. But when you get indications and copies of videos that show something otherwise, that's why you're all here.

The reality is, much like Senator Ruiz said, when you hear statements and children are being referred to by educators-- I need to know the truth so that we can (indiscernible) the truth. Whether it's recommending to teachers -- that they would recommend the teacher lie to

defend themselves; where there's comments being made about changing dates on reports that are then being used in legal proceedings regarding discipline -- and the list continues to go on and on.

But regardless, if the laws that are being broken -- whether they are civil or criminal -- and the statutes that are in existence do not lend themselves to require the reporting necessary, then we'll amend the statutes to put more teeth in them. If the statutes are there, and laws are being broken, then we're going to see, to the best of our ability, that those laws are enforced.

The people who are going to testify today -- thank you for being here. It is our hope that we will have an open discussion and dialogue, and that your testimony will help shed some light on how we can advance forward to further rectify the issue in front of us.

Once again, welcome to the joint hearing between the Education and Senator Labor committees.

And thank you.

SENATOR RUIZ: Thank you, Chairman.

First we'll ask Dr. Lamont Repollet, Acting Commissioner of the Department of Education, and his team, to come up.

**ACTING COMMISSIONER LAMONT O. REPOLLET, Ed.D.:** Good afternoon, Chairwoman Ruiz, Chairman Madden, members of the Senate Education and Labor Committees.

Thank you for the opportunity to participate in today's joint Committee hearing discussion on the reporting of child abuse in schools, teacher sexual misconduct, and the process of tenure charges arbitration.

As I have said many times, as a parent and as an educator, my motivation, every day, is making decisions that are best for kids. It is heart-wrenching to know that there are individuals out there who may hurt a child, particularly a student. It is even more alarming that those individuals may be working or seeking employment in our schools.

To say I am passionate about the safety of our students is an understatement. There's is no place for impropriety or inappropriate conduct in our schools. Our teachers and administrators must always be held to a greater standard of behavior. Schools are responsible for the academic, social, and emotional well-being of our students in their care. We must never compromise on that charge.

The Murphy Administration's commitment to student safety has been evident from the Governor's actions in his first 100 days in office. He has invested in school safety in this year's Fiscal Year 2019 budget, and signed the *Pass the Trash* legislation into law on April 11, 2018.

As part of the legislation, the Department has been tasked with creating a public awareness campaign for the districts, and preparing employment forms for prospective employers to use when hiring an individual for a job that requires regular contact with children. These plans and the forms are in the final stages of review and will be available soon for our districts to use. The Department will use our broadcast system, social media, and website to instruct candidates and districts on how to complete the new forms.

The Department's oversight and compliance: The Department plays various roles in the oversight of teacher conduct. We have several

processes in place to implement the various laws associated with teacher certification, hiring, teacher conduct, and certification revocation.

The Department oversees the issuance of teacher certifications. Prior to the issuance of a teacher certification, every candidate must submit to, and pass, a complete State and Federal criminal history record check through New Jersey State Police and FBI. Certificate holders also have a continuing responsibility to report any arrests or indictments against them. Failure to do so can result in the revocation of their certificate.

The Department, through the State Board of Examiners, also maintains continued oversight over all certified teachers and school administrators throughout their career. The State Board of Examiners may immediately revoke the certificate of any teacher found guilty of a specific disqualifying criminal offense, including child abuse, endangering the welfare of a child, or sexual misconduct. The Board of Examiners may also suspend or revoke teacher certifications for unbecoming conduct, including inappropriate actions that may not rise to a criminal level.

The State Board of Examiners receives information on various teacher sexual misconduct or child abuse cases from a number of sources, including criminal charges or convictions, DCP&P Institutional Abuse Investigation Unit reports, out-of-state reporting, district reporting, tenure arbitration, and Department investigation reports.

Information regarding school staff sexual misconduct or child abuse can also come from news media reports or alerts from members of the public.

In addition, the Chief School Administrators must report to the State Board of Examiners any teaching staff member who retires, resigns, or is terminated after allegations of unbecoming conduct.

For the 2016-2017 school year, there were 3 teacher certifications revoked for child endangerment and 28 for sexual misconduct. For the same period, there were 2 certification suspensions for child endangerment, and zero for sexual misconduct.

For this school year, 2017-2018, we have only partial data, since it's ongoing. However, to date, there have been 4 teacher certifications revoked for child endangerment and 16 for sexual misconduct. For the same period, there were 4 certification suspensions for child endangerment and zero for sexual misconduct.

School districts must also remain steadfast in addressing allegations of potential teacher sexual misconduct or child abuse through swift completion of internal investigations; prompt reporting to law enforcement, the department of DCP&P; and expeditious disciplinary action, including the pursuit of tenure charges under the Teacher Effectiveness and Accountability for Children of New Jersey Act, or TEACHNJ.

Through TEACHNJ, the Boards of Education can file tenure charges against a staff member accused of sexual misconduct for "unbecoming conduct," or "other just cause." The tenure charges are filed with the district board of education, with a copy to the employee. Once charges are certified, they are sent to the Commissioner for a determination that the charges are sufficient, if true, to warrant dismissal or reduction in salary of the person charged. The employee has 15 days to submit a written

response to the charges. If the charges are deemed sufficient, they are referred to an arbitrator for final determination.

The Department is vigilant about its obligations to protect students from any educator misconduct. We welcome this body's investigation into recent disclosures that challenge the protocols which we have in place.

Thank you.

SENATOR MADDEN: Welcome, Acting Commissioner.

In your testimony, if you could just clarify a couple of points for me.

DR. REPOLLET: Yes.

SENATOR MADDEN: If we'll go to -- it's written, so if you want to look at yours, it's fine. It's under the -- basically the second part, Department Oversight and Compliance.

If we can move down to the second paragraph, the last sentence, "Certificate holders also have a continuing responsibility to report any arrests or indictments against them. Failure to do so can result in the revocation of their certificate."

Okay?

DR. REPOLLET: Yes.

SENATOR MADDEN: If you could just pay attention to that; and I think if I move on to the next question, you'll be able to answer both of them, maybe in one response.

We'll move onto the next paragraph, the second sentence. "The State Board of Examiners may immediately revoke the certificate of any teacher found guilty of a specific disqualifying criminal offense,

including child abuse, endangering the welfare of a child, or sexual misconduct.”

And my question of you revolves around two words. In the first reference, it says the failure *can* result in the revocation of a certificate; and in the second one, after the individual is even found guilty of a disqualifying criminal offense, their certificate *may* be revoked.

And my question of you is, why would that not be that it *shall* be revoked, guaranteeing that it’s revoked? It indicates here that people could actually be found guilty of these criminal offenses against our children and still retain their teaching certificate. And it might just be the way it’s typed, but that was not only your written testimony, but your oral testimony.

Could you comment on that, please?

DR. REPOLLET: Yes, thank you.

I’m going to have Mr. Chris Huber -- he’s our legal counsel -- he will explain more the legalities of the word *shall* and *can*.

SENATOR MADDEN: If I may, for anyone who is going to testify, and also for the audience, if you could clearly state your name and who you represent; and at that point, then commence your testimony.

Thank you.

**C H R I S T O P H E R H U B E R, Esq.:** Sure; thank you Senator.

My name is Chris Huber; Special Assistant with the Department of Education.

And I think there’s -- just to clarify-- So the initial statement in the Commissioner’s prepared statement would include any arrest or

indictment, regardless of the charge. And simply failing to report under the Department regulations could result in a revocation.

The second statement that you referred to deals with a specific list of disqualifying offenses that are provided for in statute and regulation; where, if a teacher is found guilty, they're not permitted to hold a teaching certificate.

So I think there's the distinction to be drawn between not only the potential -- or the offense that the individual was charged with, but also where in the criminal process the teacher is. So when found guilty of a disqualifying offense, versus being charged or indicted.

SENATOR MADDEN: Okay; so it's rather clear, I believe. In the paragraph it said -- it's written, anyhow; if you could clarify this for me, Mr. Huber.

MR. HUBER: Yes.

SENATOR MADDEN: "The State Board of Examiners *may* immediately revoke the certificate of any teacher found guilty of any specific disqualifying criminal offense." When you talk about the specific offenses that are under the statutes, I believe you're talking about Administrative Code 18a -- the ones that are laid out, okay?

MR. HUBER: Correct.

SENATOR MADDEN: So they're found guilty of those disqualifying specific offenses, but there's no indication from the testimony that, as a result of that, those certifications are immediately revoked and never to be teaching in our schools again. It just says it *may* be revoked, which leaves discretion up to who? If that's accurate; if it's not, could you talk to the Commissioner and adjust the testimony?

MR. HUBER: Senator, I think that they are -- they would be revoked. If you are found guilty of one of the disqualifying offenses, you cannot hold a teaching certificate in the State of New Jersey.

SENATOR MADDEN: The offenses that are on -- that are within the Administrative Code today -- the specific offenses -- based on the acts that you're here to testify on, do you feel as though that specific list of offenses should be enhanced or amended? Time has gone on since the original Code was written; 2C law changes. Are there certain adjustments that you knowingly know now that we should take a look at that, possibly, are not in that list?

DR. REPOLLET: I think with the recent law, Pass the Trash -- I think we need to really kind of look at any type of laws that govern that. So you have these qualifying offenses; I think we need to look at the law to make sure it's consistent with the Code law. So that's one thing that we, at the Department -- we're currently in the process of looking at our different regulations as well; so we would make sure that we look at that more, and make sure it's in line with the current laws we have in place.

SENATOR MADDEN: And you'll be able to report back to both the Education and Labor Committees with your review--

DR. REPOLLET: Oh, yes.

SENATOR MADDEN: --the finding on your review?

DR. REPOLLET: Yes.

SENATOR MADDEN: And lastly, just back to the Commissioner, real quick -- do you rerun those prints that are housed in the database, the SBI database, still, every two years?

DR. REPOLLET: Do we rerun them?

SENATOR MADDEN: Yes, sir. Do you know if you're-- You may not know what I'm talking--

DR. REPOLLET: Oh, I'm not quite sure if the Board of Examiners--

SENATOR MADDEN: So what happens -- the individual's fingerprints are sent in -- the teacher, the educator -- and they're retained, actually, and they're flagged in the State Police identification system. So if a teacher is arrested and fingerprinted, the flag comes up immediately and we know that they're locked up. Before -- somebody who's outside of the state -- we wouldn't know if they were arrested in Maryland; and there's a Federal print that has to be rerun.

In the past practice of your Department, they used to run those every two years. Is that practice still in existence, or has that been changed, or do you not do it anymore?

DR. REPOLLET: I'm not quite sure, Senator, if it has changed; however, we review that process. However, I do know that the Board of Examiners sends out a list of revocation certificates -- whether it's monthly or it's updated periodically -- I do know that it is sent to districts on a monthly or as-needed basis, based off the information we may have received. There are several ways in which we can gather information; I think the self-report is the one incident we would hope that they would; however, we understand sometimes people will do things to cover themselves. But once we find information based off of several reporting agencies, then we can -- then the Board of Examiners will definitely send out a list to districts in regards to those educators or employees who may have violated the law.

SENATOR MADDEN: So here's what happens. The prints are housed; the fingerprints are already in it -- they are already in the computer. If the individual gets arrested this afternoon and they're fingerprinted, they are sent electronically now back into the system. And they're searched against the entire database to see if there are any prior arrests for that individual. Even though there's no applicant or -- the applicant's prints are still there; those prints will get matched up with the teacher. Your Department gets notified, generally, within 24 to 48 hours of that teacher being arrested, because of the timeliness, and you can get right on that.

But what happens when they are out of state, you don't have the ability, nor does New Jersey, to immediately receive that. So what happens -- your Department was, every two years, taking the Federal print card and running it against the national database to see if the educators had any kind of indictments or arrests out of state.

My question of yourself -- if you could get back to us, because this is important -- whether or not the Department still runs or scrubs those prints every two years.

DR. REPOLLET: Yes, we can do that.

SENATOR MADDEN: It's been a long time since I know that was-- But that was really the way it was being done. And if not, could you just -- if you could just tell us.

DR. REPOLLET: Yes, we'll get back to -- get that information back, through the Chair--

SENATOR MADDEN: Thank you, sir.

DR. REPOLLET: --in a timely fashion.

SENATOR MADDEN: Thank you.

SENATOR RUIZ: So just following up on that. And Senator Madden's expertise is in this, so I just want to go slow here, a little, because I don't understand the whole thing.

What you're explaining right now is that every two years, everyone gets looked at again. Is that's what supposed to be happening?

DR. REPOLLET: I'm not quite sure of the process right now--

SENATOR RUIZ: Okay, okay.

DR. REPOLLET: --but I'll get that information back; to find out what the process is, whether it's two years, and whether it's in-state (*sic*) as well. We'll definitely get that information of that process back to you.

SENATOR RUIZ: I would just say that if, in fact -- whatever the current procedure is, if it's not something that's happening outside, that relying on self-reporting is probably not the best way for New Jersey to go. So this is certainly an avenue that, you know, we should all be working towards to be sure that there's, you know, an objective overview of personnel.

In reviewing-- And I'm sure you had an opportunity to look at the tapes. And I know that this is more of a local issue, to some degree -- right? What is the Department doing, or does the Department do any proactive training with stakeholder groups to send clear messages that we have zero tolerance; this is what should be happening when an incident occurs. Do we have ongoing training for that? How does this work?

DR. REPOLLET: Yes, there is training, a yearly training, with our employees. It's done through Human Resources; I think that may even be in Code, in regards to training every year. However, we can, as far as

this year, look into exactly more of the reporting aspect of it, right? Because we know it's a local-- Sometimes these issues occur locally; and as far as the State getting information, it may not be in a timely fashion, or we may not even be informed whatsoever.

So I think when we put out the guidance for the Pass the Trash law, I think we can also have some information in there in regards to reporting and making sure -- not mandatory, but make sure they follow the law. So we can actually try to get the guidelines to really match with the law and the responsibility to those districts, and then have the Human Resource departments of those districts really, kind of, come up with a system.

So as we're currently going through the Department right now, we're looking at areas in which we can, kind of, become a model organization to help improve. So I think we'll look at this -- this law, right now, currently in this place, in making sure that we have mechanisms in there that we can get information in a quicker fashion.

SENATOR RUIZ: I appreciate that, Commissioner. The problem with that is, no matter how good we get on this end, if you have a person who's blocking information it'll never get out of that room, and that child's life will always be endangered.

So in addition to fixing up policy that will help us get to, you know, reporting in a better timeline, and addressing the issue and getting the adult out of the classroom or out of the school building -- if that's what the outcome points to -- we have to change the culture of individuals who think that their main priority is to protect the worst.

DR. REPOLLET: So we can conduct regional trainings along the line that is conducted by the Department of Education, just to get information out and talk about different guidelines.

So as we are going around talking about this current law, we can put mechanisms in place where we can go out and get information out there to people in a way that it represents the State.

SENATOR RUIZ: I appreciate that. And I think part of it is really empowering our parents as well -- that if they feel that an incident is happening, that they should go to their school board, you know? That might be another avenue if they feel that the school or a governance team will, you know, protect an individual or cover up something.

Any questions or other comments from members?

Senator Thompson.

SENATOR THOMPSON: In preparation for this, we were given the history of several cases of teachers that charges were being brought against, etc. And the teachers requested arbitration, etc.

Some of the charges in some of these cases I would say fall in the category of *criminal misconduct*: sexual abuse, and so on, etc. Does a contract with the teachers require that rather than the information being filed with law enforcement officials for possible criminal prosecution, that instead it must be handled through the Department of Education, etc., and subject to arbitration?

MR. HUBER: Senator, I think there's-- So there's two different processes.

So the tenure arbitrations that you're speaking about go directly to the tenure rights of the individual teacher; as opposed to any potential criminal conduct that is alleged against an individual teacher.

So I think that would be two different paths. So it would be a tenure arbitration--

SENATOR THOMPSON: No; so you're saying the school board -- or whoever the appropriate authorities are -- could, rather than go after their tenure, report it to law enforcement; and then they have a criminal trial. And, of course, if they're convicted there, then you don't have to worry about tenure because, based on what you said earlier, they're out.

MR. HUBER: Correct. So, generally speaking, tenure charges would be held in abeyance if criminal charges are filed against the teacher--

SENATOR THOMPSON: Yes, until the criminal charges are processed, and so on, they would be there.

But based on these cases they cited here, when they went through the tenure charges, what the ultimate outcome was -- they got a little slap on the wrist and that was the best. They said, "Okay, continue teaching," despite the charges, which certainly the school district, and maybe even the Department of Education, felt were valid. By the time they got to the arbitrator, the arbitrator said, "Oh, dismissal is too severe;" instead they only get a slap on the wrist.

So then maybe these school districts, or whoever, should be looking more at a number of these cases filing criminal charges and going that route, as opposed to going the tenure route. It might be a better

outcome, a more appropriate outcome. And that way, the outcome on tenure would be very clear: They're convicted, and that's it.

DR. REPOLLET: I think that goes with what Senator Ruiz said, in regards to districts being held responsible and accountable for reporting things that may be criminal.

SENATOR THOMPSON: Well, again, if there's sexual abuse, sexual harassment--

DR. REPOLLET: Yes, yes.

SENATOR THOMPSON: --if there's allegations of physical abuse, then that's all in the category *criminal*. But apparently, the school districts that are pursuing the tenure route, and the ultimate result from the arbitrator was, like I said, a minimal slap on the wrist, "Go back and teach classes again."

DR. REPOLLET: Yes, but that still has to be reported, Senator, to the proper authorities. If school districts get information as far as any misconduct, especially sexual misconduct, that is supposed to be reported to local law enforcement agencies.

SENATOR BUCCO: Thank you, Madam Chairman.

And I have to say I think Senator Ruiz really hit on the issue, in her opening remarks -- when we drop our children off at the school, we expect them to be taken care of and in safe hands.

And in all of your opening remarks, and your testimony, Commissioner, you have all the safeguards in place. The problem is, there's a big hole in it; and the hole is, if it's not reported to you or the Board of Examiners, nothing is done. And that's where I think something has to be clamped down on -- even the person who is not reporting it is hiding the

facts -- I think they're just as guilty as the person who abused the child. And that should be taken into consideration.

I think there's a lot that has to be done to tighten up on all of this so that there's reporting -- accurate reporting and training. I mean, we saw Starbucks close, the other day, all of their stores to retrain their employees. Maybe we should start looking at that also, and how we're going to retrain all of these teachers.

Thank you, Madam Chairman.

SENATOR RUIZ: Thank you.

And that is another thing that we have to look at. Because I think, currently, if you cover up the offenses it's *de minimus*, as opposed to being considered a co-conspirator or, you know, calling it collusion.

In a portion, I want to talk to cameras in the buildings. I don't know if we have a State policy on record. There is a conversation that alludes to the timeframe; and I don't know if this is done at the local level, or it is something that we should discuss to change so that there is a uniform protocol across the board. How long is the length of time that we are to preserve the footage of what is captured in a school building? Because the individual alludes to -- one was the timeframe, "Don't worry about it; it's probably already been overridden with new footage."

DR. REPOLLET: To my knowledge, I don't believe there is an actual length of time; I think each district, with their protocols or procedures with regards to recovering footage -- working with local enforcement agencies, I know some districts hold it 30 days; some districts hold it 60 days. So I don't personally think, in my experience of 22 years, the last 13 in Administrative, that there is a set number of hours or days in

which we're supposed to hold on to that. And that's something that we can actually look to--

**PAULA BLOOM:** Yes, definitely.

**DR. REPOLLET:** --and uniform. If not, we can talk to our ECS and County Superintendents to make recommendations of what we may have, prior to there's legislation for that.

**SENATOR RUIZ:** And perhaps-- Thank you for being proactive. That's a conversation that perhaps-- We had invited the County Prosecutors to participate, and they're going to forward testimony. They're just gathering; they're on a fact-finding mission currently. But maybe that's a conversation you also want to have with Law and Public Safety, so they can give you the best governance, as far as how long we should keep material.

Anyone else?

**SENATOR MADDEN:** Commissioner, one-- If there's a misconduct allegation being investigated by a school district, are you notified; is your Department aware of that? Or do they just do it independently, on their own? Could you talk about that?

**DR. REPOLLET:** No, we're aware of it, Senator.

The process is that they notify the County Offices, the ESC; and that information will come to us via a weekly report. We are now asking our County Office to give the Department of Education a weekly update on what's going on. We started that practice about three weeks ago, just to get information in real time. So these most recent events that we've actually had -- we've been getting better at the process.

**MS. BLOOM:** Yes.

DR. REPOLLET: So there are expectations that they're supposed to report things, in a timely fashion, to the Department of Education.

SENATOR MADDEN: Regarding -- when you are at the Department level, the State Department, do you keep a database on this, do you track it? I mean, here they're telling you what's going on and it sounds like the Department tracks the finding, the end result. What do you do with this information? Can you talk to us about that; and do you feel as though your collection system is as strong as it should be, or does it need work?

DR. REPOLLET: Well, we're going through a process of auditing our entire system.

So we're looking at collection, in regards to-- I'm going to let Chris talk about the process in which we gather information from the Department, and then what's the next steps.

Introduce your name--

MS. BLOOM: Yes; Paula Bloom. I'm the Coordinator in the Division of Field Services in the Department of Education.

So there are two processes to collect incidents that occur in the schools; one is the School Security Incident Report, which is reported through the County Offices to the Office of School Security. Then there are incidents that Dr. Repollet was speaking of, which are notified directly to the Executive County Superintendent from a District Superintendent. And then we're calling those *real-time incident reports*. And we collect those, and they're maintained within each county. So the Department currently maintains them within each county; each incident is maintained that way.

SENATOR MADDEN: Do you conduct any kind of an analysis at the State level regarding the findings, as it relates to all of the school districts, or even by county?

DR. REPOLLET: Yes, we have the Electronic Violence and Vandalism Reporting System. So a lot of those incidents might be reported in the Violence and Vandalism; and as a result of that, we look at that information, and then we give out a district grade that's reported on their website in regards to-- The Violence and Vandalism Report that we get from mass information has to do with anything that has to do with crimes, whether it's a student, or whether it's an employee, an educator. And we get that information; and as a result of that, we collate that information. Districts are to report that information on an annual basis; and at the time, we report that information on their website.

SENATOR MADDEN: Okay; so you gather and collect it, like-- But aside from just printing out the totals, do you do anything with it? Do you look, and ever say, "Interesting; 90 percent of these cases are always unsubstantiated in this area, yet over here, you know, only 30 percent are unsubstantiated." And maybe there needs to be training on the investigative-- Like, do you ever take a proactive approach, like a global look at this?

MS. BLOOM: Yes. Regarding the EVVRS -- the Electronic Violence and Vandalism Reporting System -- that Dr. Repollet was speaking of, we generate an annual report that has an analysis of these incidents that are required to be reported. And they are provided to the public and to the Legislature.

SENATOR MADDEN: Do you do any audits yourself, randomly? Do you go down and pull cases and--

MS. BLOOM: Yes; through the EVVRS, the office that is responsible for oversight does do audits.

SENATOR MADDEN: And do you have a report on that? "We did 50 audits last year, we did 200 audits; this is what we're finding."

MS. BLOOM: We'd have to get back to you on that answer.

DR. REPOLLET: So the information outside--

SENATOR MADDEN: What is your experience? Do you find that everything is being done correctly in the field, or do have a percentage of cases that you overturn?

DR. REPOLLET: We're currently reviewing our Field Services now, currently, looking at all those practices. I can't speak of the past, in regards to what the Department has done in that, besides what Paula and Chris have been talking about now. But I do know that we are having a deep dive into our Field Services to ensure that we get information in real time. The idea of analyzing the data, outside of the Violence and Vandalism Report, is something that we can do as well.

SENATOR MADDEN: And Paula, have you been with the Department of Ed for a short period of time also?

MS. BLOOM: Eleven years.

SENATOR MADDEN: Eleven years.

MS. BLOOM: Yes.

SENATOR MADDEN: So is Paula not qualified to answer my question? Because it's pretty simple. She's claiming that you go out--

MS. BLOOM: Can you repeat your question?

SENATOR MADDEN: Sure. You go out and you do these analyses, and you even conduct audits; there's a unit that does audits. My question was, on the audits, could you tell us -- when you go out and do these random audits, do you find that they are accurately investigated, or do you happen to turn cases over and--

MS. BLOOM: So I have to clarify.

So the Electronic Violence and Vandalism Reporting System is handled by an office that's not mine. So that office would be the more appropriate office to be able to respond to your question.

SENATOR MADDEN: So Commissioner, what I would ask you is -- and I know we're going to move on in a little bit -- can you get us that information?

DR. REPOLLET: Yes, Senator.

MS. BLOOM: Yes.

SENATOR MADDEN: The question is, the past three years, fiscal years, past three school years -- whatever you have -- the total numbers that you pulled in the audit, and what your findings were in terms of their practices in the field. Are people accurately investigating these? Or, just, if you had to overturn them -- things like that.

DR. REPOLLET: Yes, Senator.

SENATOR MADDEN: Thank you, sir.

DR. REPOLLET: No problem; thank you.

SENATOR RUIZ: Just one final question, and I'm not sure, Commissioner, if you're going to--

So it appears in the video that one person is employed by the school district; in the other case, I'm not sure. Do you know the status of

the individuals, particularly the one who I know, for a fact, was part of the school district? That would be a case that, at this point, should have been filed somewhere.

DR. REPOLLET: Other than the information that may have been reported in the news, no.

SENATOR RUIZ: Thank you.

Thank you.

DR. REPOLLET: Thank you

SENATOR RUIZ: Next, we'll ask David Hesse, former Commissioner of the Department of Education.

And again, I'll remind everyone that we do have a long list. If you have prepared remarks, to make them brief so that we can have an engaging question-and-answer period.

**DAVID C. HESPE, Esq.:** Good afternoon; it's great to be back with the Senate Committees.

Thank you for inviting me to testify.

My name is David Hesse; I'm a former Commissioner, former Superintendent, college president, worked for this Office of Legislative Services for a while.

Currently, I'm with the law firm of Porzio, Bromberg, and Newman. I've done a lot of investigatory work since I left State government a couple of years back.

And I just wanted to make three recommendations, just to be mindful of your time; so I'm going to get right to the recommendations.

First, in terms of the tenure arbitration proceedings, I would recommend that we add additional statutory language to address criteria

regarding teacher misconduct. As you know, in the statute we have very strong criteria regarding performance issues with teachers -- and by the way, I'm also referring to all certified staff, but particularly this law regarding teachers. On performance issues, I think arbitrators are more likely to get those cases right; than in misconduct cases, where often arbitrators apply standards more applicable to private world or government world, not schools. The behavior in schools and what we expect in schools I think is different than in private and in government. I would suggest relooking at whether or not we need more criteria to guide those arbitrators regarding misconduct cases.

The second recommendation is that I do think we need to expand and clarify the role of the Board of Examiners in licensure issues. Oftentimes we forget that there are two pieces to every teacher misconduct case: There's the employment issue -- should they be employed in the district; and then there's the licensure issue -- should they hold a license, should they be able to teach in any district?

And we do know that not all of the situations that we want either the arbitrator, or the Department, or the Board of Examiners to be involved in, *do* they get involved in -- because of an information flow issue. And I think you heard the interchange between Senator Madden and Commissioner Repollet; and I think that's an issue we do need to grapple with -- is that information flow. Not all the situations that we want to know about, do we know about. And I think that is a notice provision -- are we clear for districts? And I can tell you from my involvement with large numbers of districts -- we're really not in terms of what needs to be notified to the Board of Examiners, what needs to be notified to the county

superintendent, and how that happens. And what's the incentive for districts to do that, when sometimes it might not be in their best interest to make that notification or to bring this to light? And we've seen what happens when that's not done.

And then I would just give you my last recommendation, and that is: We have to always focus on information flow in all directions -- from districts to the Department; from Child and Families to the district; from Child and Families to the Department; from law enforcement to all of the above. It's always the information flow, and the incentive to those agencies and educators to make that information flow, that I think is the problem. So I kept it at my three minutes; those are my three recommendations.

And any questions you may have, I would be more than happy to answer for you.

SENATOR MADDEN: Commissioner, I have a question for you.

MR. HESPE: Sure, Senator.

SENATOR MADDEN: And it all has to do with the dismissal component.

MR. HESPE: Yes.

SENATOR MADDEN: Here's a statement. I'll read it, and ask you to respond to it.

MR. HESPE: Yes.

SENATOR MADDEN: Maybe you can help us out on understanding how this could happen.

MR. HESPE: Sure.

SENATOR MADDEN: “Even in cases where unbecoming conduct is affirmed by the arbitration courts, the NJEA lawyers have been able to argue through technicalities that the unbecoming conduct cannot lead to dismissal, and it’s been done successfully.”

Probably without looking at a specific case, it may be a little tough to answer. But from a global sense, your position as the Commissioner -- as you’re indicating some guidance here on language that we need to add, could you comment on that? How, if you’re -- now we’re in the arbitration court, and the individual is found guilty; and through technicalities, the dismissals are not upheld.

MR. HESPE: Well, as far as I know, the only mechanism for not upholding the arbitrator’s award is actually enter the supports. And the courts are very deferential to the arbitrator’s decision. And so without actually seeing a fact pattern, Senator -- I’m more than happy to take a look at an individual fact pattern for you and get back to you directly. It’s hard for me to say what that technicality may be. But the system really is geared to defer to that arbitrator’s decision. That’s one of the reasons that I think giving them more guidance is going to be helpful, because I think the circumstances where a court is going to intervene-- And I do know there’s one case where the Supreme Court did intervene in an arbitrator’s decision, basically saying that the arbitrator went outside the lines on this one, not in the other direction.

So if I could have that fact pattern, I’m more than happy to take a look at it, Senator, and get right back to you on it.

SENATOR MADDEN: All right; thank you.

SENATOR RUIZ: Following up on this a little bit -- and I don't remember if it was during your time -- but there was a conversation around arbitrators. One was that we needed more; and I think we were able to bring more professionals into the field. Are we attracting and keeping the best to determine and make the most appropriate decisions in these cases? Or what can we do to be sure that we have the most knowledgeable individual in charge of these specific cases?

MR. HESPE: Yes, it's an excellent question, Senator.

Because a few years back the issue was, are we going to have enough arbitrators--

SENATOR RUIZ: Right.

MR. HESPE: --to deal with what we thought was going to be a large number of cases being brought by school districts? And we just haven't seen that. And I think that number -- those numbers, we were thinking 200, 300 cases, and we haven't seen that. As a matter of fact, I was counting this year, and it was a few dozen cases so far this year, which is pretty much on par to what we saw before TEACHNJ, in terms of the tenure controversies and disputes cases.

And so, two reasons for that, I think. The first reason is that, in terms of the performance area, the legislative criteria were very well designed; and you should feel good about that, because I think you hit that very well when you did that a few years back, Senator. That criteria is clear; arbitrators are applying it clearly, and therefore, teachers and other certified staff will often look at that and say, "All right, I understand what an arbitrator is going to do. Let's not put everyone through this." And we're not seeing a large number of cases.

On the other hand, moving from performance issues to misconduct issues, I think the arbitrators really are, in some cases, unmoored. I was reviewing a few of the cases last night in preparation for today, and it looked like they were all over the place. And that's a problem for practitioners in school districts because they really don't know what that arbitrator is going to do. And that's a reluctance, then, on their part to even take something to arbitration, on either side, if you're not really clear on how arbitrators are going to decide a particular misconduct case. And so I think that reluctance to go to arbitration might be due to arbitrators being a little erratic in their decisions on misconduct cases.

The good news is, I think with the small number of cases that we have, I think it might be easier for the Department to identify skilled -- highly skilled arbitrators, and maybe focus on them; although you might have to change the process for selecting the arbitrators, in statute, to be able to focus more on quality.

SENATOR RUIZ: Thank you.

Any questions from members? (no response)

MR. HESPE: Thank you.

SENATOR RUIZ: Thank you.

MR. HESPE: It's always great to be here; thank you.

SENATOR RUIZ: Thank you very much.

Next we'll ask Debra Bradley, Director of Government Relations; and David Nash, Director of Legal Education, New Jersey Principals and Supervisors Association.

**D E B R A B R A D L E Y, Esq.:** Good afternoon, Chairwoman Ruiz and Chairman Madden.

I'm Debbie Bradley, Director of Government Relations for the New Jersey Principals and Supervisors Association.

And with me today is David Nash, a staff attorney in our office; as well as the Director of our LEGAL ONE program, which focuses on training principals, teachers, and school staff on the law.

I want to thank you for the opportunity to testify regarding the role of our public schools in protecting our children from sexual misconduct and abuse.

Our members work in leadership roles in New Jersey's public schools at the school building level, and we're part of the hierarchy of the administrative level where we report to Superintendents, and then, through the Superintendent, to the Board of Education.

Our members are committed to ensuring that every single child is educated in a safe environment, free from fear of sexual harassment, threat of harm, or any form of abuse. And fortunately, there are extensive safeguards currently in place under State and Federal law to ensure that our students are protected.

And we've attached an appendix for your reference which provides some key Federal, State, and local laws, as well as cross-agency partnerships and policies that exist to form the foundation for our child advocacy and protection systems at the school level.

The appendix, and the issues, and laws we've referenced cover a broad range of issues, including potential sexual misconduct issues arising in our schools.

As an Association, NJPSA is dedicated to ensuring that our members are well versed in child protection laws and in their obligations

personally, as professionals, to report, investigate, and work with partnering agencies, including law enforcement, concerning allegations of teacher sexual misconduct and all forms of child abuse.

As an Association, we embrace our responsibility to prepare our members for their important professional leadership roles, by taking on professional development programs beyond the necessary legal knowledge to the next level of training. For example, we offer hands-on programs year round in staff supervision, proper investigative techniques, effective staff training on key issues, including warning signs of child abuse, how to work well with law enforcement, and mental health issues.

At this point, I'd like to turn this over to Dave Nash, who will talk about the existing process of how we handle these cases at the school level.

**D A V I D N A S H, Esq.:** Thank you very much. It's a pleasure to have the opportunity to be here with you.

Again, my name is David Nash; I'm the Director of the LEGAL ONE program, which is part of New Jersey Principals and Supervisors Association, and our Foundation for Educational Administration.

Nothing is more important for every principal in the State of New Jersey than ensuring that all children come to school in a safe school environment. Our members are committed to doing everything possible to make sure that happens for all of our children. This is really one of the areas where it's critical that every employee in the school district understand their fundamental obligations to ensure student safety. And school principals, as the leaders of our schools, do play a crucial role in

making sure that everybody else in that school setting fully understands their responsibilities.

Our principals reinforce the legal requirements that we have to identify children who may be victims of abuse as early as possible, to immediately report those issues through mandatory staff training that we provide for our staff on an annual basis.

The legal obligation is very clear. It's laid out very specifically in New Jersey statute and code, and in mandatory local board policy, regarding the requirement for all staff to immediately report any issue where there is a suspicion of abuse or sexual misconduct involving a child. If there is reason to believe that a child may have been abused or have been the victim of sexual misconduct, principals ensure that staff understand that this must be immediately reported to DCP&P. In many cases, an individual staff member who suspects a child is being abused will inform the principal, and together the principal will be there, with that staff member, as they make the call to DCP&P. But it is made clear to that staff member their legal obligation to be the person making that immediate call.

School districts are required, as well, in every single case where DCP&P is contacted, to contact law enforcement. And that happens for important reasons. Law enforcement may need to intervene immediately, that day, if there is concern about a child going home to an unsafe environment. And law enforcement does provide another important safety net to make sure that any potential criminal issues are appropriately investigated in every case.

At this point, once DCP&P and law enforcement have been notified, the school district really takes on a supportive and cooperative role

in that investigation process. The lead is taken by DCP&P, and to the extent that law enforcement is actively involved and chooses to move forward with the criminal investigation, they are taking the lead on these issues.

The school principal is there to support that child. The school principal or designee is there with the child, as the child is being interviewed in that process; and is there to make sure that, in this traumatic process, we are providing all the supports we possibly can for that student.

We do know that if the student is potentially the victim of abuse or neglect, school districts have the authority to immediately suspend the staff member who may be suspected of having engaged in that abusive behavior. And commonly what we do see is, that staff member is either suspended with pay, or is reassigned so that there is no contact at all with children, given the concerns about safety. And that is clearly the appropriate approach to take in those cases to make sure that there is no ongoing harm once we suspect that abuse may have occurred.

In the event that there is a finding of sexual misconduct or abuse, the teacher is going to be subject to dismissal through the tenure charge process. Conduct unbecoming clearly would be warranted in a case where we have an issue of child abuse or sexual misconduct. The State Board of Examiners will also be notified, and they will consider potential revocation of that staff member's certificate. So there is a safety net in place to ensure that these issues are addressed through the tenure charge process, through the State Board of Examiners, through DCP&P, and law enforcement. And all of those pieces are critical to making sure that nothing ever falls through the cracks.

There are also occasions where, potentially, DCP&P does an investigation and determines that they are not able to move forward; are not able to substantiate allegations. School districts have, in some cases, still moved forward on their own with tenure charges for conduct unbecoming against individuals, even where there was not a finding of substantiated child abuse or sexual misconduct; because the school district was able to establish, through preponderance of the evidence, that the child in question was in danger and there was some conduct unbecoming that occurred, even if it didn't technically meet the standards of DCP&P. So we have had those cases move forward as well.

We are committed to ensuring that every child is educated in a safe environment and is never in a situation where they are fearful. There's a multi-prong system in place to make sure that these issues are addressed. And as a State Association, we're committed to doing everything possible to support school principals across the state in ensuring a safe environment for all of our children.

So I would be very happy to answer any questions you might have.

SENATOR MADDEN: Sir, so are you reporting that DCP&P -- they'll receive the case from the school district; they will then determine whether or not it is to be reported to the law enforcement authorities?

MR. NASH: Actually, Senator, the requirement is for the school district to make sure that every case is reported to law enforcement. So whether or not DCP&P contacts law enforcement -- which they should

as well -- the school district, in every case, is to contact law enforcement every time we have called DCP&P.

SENATOR MADDEN: And when you talked about the school district, I believe you represent the supervisors and the principals.

MR. NASH: That's correct.

SENATOR MADDEN: That's who you're -- when you say the *school district*, you mean that cadre, or that group of people?

MR. NASH: Generally speaking, that is who makes the call. It's a district-by-district decision who the individuals are who are responsible for contacting law enforcement. But every district has to make sure that it happens in every case where DCP&P is contacted.

SENATOR MADDEN: Okay; thank you.

SENATOR RUIZ: There's an alarming statistic that 10 percent of school children are victims of sexual abuse by school personnel, ranging from, you know, coaches, to bus drivers, etc. In your specific professional dealing with supervisors, have there been any proactive approaches to ensuring that these incidences don't occur? What -- can you give us a real tangible example of what you think is an effective model of training, or retraining, or doing something so that instances can be prevented?

MR. NASH: We have partnered with some of the leading experts on issues of child abuse to train school administrators, counselors, and others about signs that a student may be in jeopardy.

So we have, for example, partnered with an organization called Prevent Child Abuse New Jersey that has great expertise on the signs that you may see if a child is potentially the victim of abuse; and working with

teachers, and counselors, and administrators to recognize those signs, and to understand when we need to move forward with a potential report.

SENATOR RUIZ: That's more of a case when the child is, perhaps, a victim of abuse outside of the school district. I'm talking about preventative strategies to remind personnel of what their responsibilities are in training, and how often-- Is this regulated; how often do people have to undergo, kind of, these refresher courses?

MR. NASH: Every year school districts are required to review, with their staff, reporting obligations, including obligations related to reporting on child abuse; and a number of other issues where children may be endangered.

As an Association, we do provide extensive training to help school districts understand that districts do not have to choose to use our services, but we have in-depth training that we offer on that issue, and helping folks understand their legal reporting requirements; the legal, moral, ethical, obligation they have to ensure the safety of all children.

SENATOR RUIZ: From your perspective, when an incident gets reported -- to the entire process, just, you know, walk -- if you could walk us through it. How long -- just, if you can guesstimate -- how long of a time will it be from the time that an incident gets reported, to the time where the investigation is conducted, before we actually see the case closed? And are there things that we can do to better help expedite and clean up that process so it's more effective?

MR. NASH: There are guidelines that DCP&P has established regarding completing the investigations. They are supposed to complete investigations within a 60-day timeline. There are sometimes extenuating

circumstances, and there's a protocol for DCP&P to justify the need to extend the timeline for completing an investigation. But the guideline at the State level is supposed to be within 60 days; and oftentimes they are finished much sooner than that. There are times where even though school districts are supposed to be informed, that sometimes there is a delay before information comes back to the school district and we learn about the outcome of that investigation. It's supposed to happen immediately once we know, once the investigation has been completed.

So DCP&P has put those standards into place; generally speaking, they are followed. Obviously we want to see those investigations completed as quickly as possible, because you're going to have that staff member out there in limbo, you're going to have children who may have been victimized; and this issue hanging out there if we don't have the investigation completed.

SENATOR RUIZ: And during the arbitration process -- how long does that take?

MR. NASH: It's a dramatically streamlined process, compared to where we were before.

SENATOR RUIZ: Right.

MR. NASH: So now we're looking at, generally speaking, less than a year, from beginning to end, for that process to work its way through. These cases used to take, as you know, two to three years--

SENATOR RUIZ: Right.

MR. NASH: --in many cases, before we had a final conclusion. So it has been significantly streamlined.

SENATOR RUIZ: Is there an opportunity to decrease that timeframe? I mean, from personally working on the bill, I know that, you know, we were back and forth; we were looking at streamlining some of those timeframes. But the fact that when you still add it up, it could take a year -- I mean, that's a little bit alarming. Are there ways that we can revisit the law and figure out where we can--

MR. NASH: I mean--

SENATOR RUIZ: You don't have to answer now--

MR. NASH: Sure.

SENATOR RUIZ: --but if there are recommendations, if you could forward it, through the Chairs, it would--

MR. NASH: We would be happy to review that.

SENATOR RUIZ: Okay; thank you.

MS. BRADLEY: One comment that I wanted to make was to your prior question about the nature of the arbitrators. And I know that the statute specifically required arbitrators be selected based upon a long range of experience, and a national certification, as well as direct experience in school law. We think that those criteria have actually led to very well-prepared and experienced arbitrators. And we hadn't been able to find them initially; it was a little bit difficult because organizations, like PSA, have the ability to nominate a certain number of arbitrators to serve on the permanent panel. And initially, we had some difficulty in finding them.

Since that time, however, I think the standard being set has led arbitrators to rise to it. So you have a lot more folks going for national board certification as arbitrators. So I think that the problem has actually sort of evened out in practice.

SENATOR RUIZ: Great; thank you.

SENATOR MADDEN: One quick question.

Sir, or ma'am, are there any curriculums or programs directed toward the children of how to identify abuse and report abuse in school? Could you talk about that, if there is?

MR. NASH: Within the health standards that have been adopted by the State of New Jersey, there are some standards related to ensuring your own health and safety, and recognizing when you may be in a situation where boundaries are being crossed. And we do address that through the health curriculum in an age-appropriate way. Obviously, it's very different how you would address that for a high school student, versus an elementary student; but that is part of what we do, working with children to try to get them to understand appropriate boundaries, and where to go and ask for help if those boundaries are being crossed.

SENATOR MADDEN: Do you also cover how to report?

MR. NASH: Absolutely; and understanding the critical need to go to a trusted adult. We review that for the individual; and part of our training is always looking at how you can step in and help your friends and classmates as well. Oftentimes that's the person who allows us to find out that a child is in danger.

SENATOR MADDEN: Thank you.

MR. NASH: Thank you.

SENATOR RUIZ: Any other questions? (no response)

Thank you very much.

Next we'll ask Patricia Teffenhart, Executive Director of New Jersey Coalition Against Sexual Assault.

**PATRICIA TEFFENHART:** Hi, everyone; thank you for having me.

Coming after a bunch of colleagues who have really specific expertise in the legalities around schools and administrators, what I bring to this conversation -- which I hope can be helpful -- is the overall context as to why this issue is so important and why we are really thankful that we're having this conversation as a joint Committee hearing.

My name is Patricia Teffenhart; I am the Executive Director for the New Jersey Coalition Against Sexual Assault. We represent New Jersey's 21 county-based rape crisis centers and the Rutgers University Office of Violence Prevention and Victim Assistance in New Brunswick.

So I'm here today in two roles, which is slightly unique. I'm usually here strictly as an advocate on behalf of the Coalition; but I also have the privilege of being the mom of a 10-year-old son. And so advocating on behalf of children and school safety, particularly as it relates to my professional expertise around sexual violence prevention and response, is particularly compelling to me as an individual.

I think it's important to note that today the #MeToo movement -- we're all familiar with it -- is really amplifying the voice of survivors. And what it's doing is shedding light on the ways by which power and control often contribute to the perpetration of sexual violence, as well as the long-term silencing of survivors. And it's well documented that children, upon whom violent acts are committed, endure a lifetime of trauma.

The Center for Disease Control released a report, in 2017, that estimates that the lifetime financial impact of sexual violence victimization,

per survivor, is \$122,000. This is lost wages, and tuition payments, mental health services, drug and alcohol treatment, etc.

It's also estimated that sexual assault survivors are 13 times more likely to attempt suicide than non-survivors.

So what these points -- I hope what they illustrate is that this is a serious crime, and that the people who commit this act are deserving of serious consequences. The systems, unions, or institutions that permit sexual violence by harboring and protecting perpetrators need to be held accountable.

In April, I think New Jersey did take a serious step in the right direction by signing the *Safer Schools Bill*; I think it was more hyperbolically referred to as the *Pass the Trash Bill*, which I didn't-- It's a pretty hyperbolic issue in and of itself, so we try to really refer to it as what it was. We were working together with 17 other organizations -- some of them you've heard from already, and will be hearing from shortly -- to make sure that we were addressing loopholes in the hiring process. You know, teachers are no different, or individuals who work in schools are no different, in the way these behaviors manifest than those who, we've been learning, work in the private world. What we know is that a number of people are resigning before findings are substantiated, or they are signing nondisclosure agreements; those records are sealed and then they are moving on to seek employment, and wreaking havoc in new communities and perpetrating against new children.

And so New Jersey did our schools, and our children, and our families a huge service by passing that law. And we're thankful that Governor Murphy has signed that.

I think that it's important to note that -- and Chairman, I think it was you who just asked this question -- about telling trusted adults, and what is it that we're saying to young children in school. And what we tell young people, pretty universally, is that if someone is hurting you, you tell a trusted adult. But we also have position people, like law enforcement professionals, doctors, and teachers, in the hierarchy of people who we would like to assume can serve as trusted adults. And conversations like this are so incredibly important so that we are sure that when we tell young people, "Tell a trusted adult," that someone who identifies as a school professional actually would live up to that standard and serve in the best interests of our children.

I think every New Jerseyan is able to support strong policies that ensure that our children, when they get on that school bus or they walk into those front doors of that school, are protected; and that everyone working in that system is working in their best interest.

I'm happy to answer any questions that you might have that could be helpful as far as the work that's being done across the state around (indiscernible), prevention, and response. I'm happy to answer questions about impact, trauma -- whatever could be particularly helpful to inform on the real weighty importance of this conversation we're having here today.

SENATOR RUIZ: I just want to thank you for the work that you do.

And you echo a point-- I think in one portion of the video, it alludes to the perpetrator telling the victim, "If you report, I will kill you," right? And so for a high school incident, that's something different, because you assume that the young adult will be able to decipher that that's really

not going to happen. But if the child is in elementary or in middle school, and you see an adult, you know, telling you, "Do not report this"-- So I just am grateful for the more that we can ensure that our children 100 percent understand that no adult who's making them feel uncomfortable or endangering them -- that when they use the words, "If you report, something else of more severe intensity will follow," that they understand that there are other avenues that they can go to.

MS. TEFFENHART: Thank you for that, Senator.

I think it is really important to know that sexual violence is a power-based crime. It's a human rights infliction; it is never really about sex. And so in incidences that we're discussing here today -- we're talking about incidences of individuals in positions of authority in a school district, for example. It is incredibly challenging for all children who are subjected to child and sexual abuse to come forward. It is particularly challenging when it's someone who's in an authoritative position in a school. You have to go to school, right? And for some children, it becomes even more complicated. "I have to go to school because both of my parents are working and I can't stay home. And so I have to subject myself to this."

And perpetrators are savvy with the tactics that they use. They know how to manipulate the vulnerabilities of their victims. And this isn't exclusively relating to just children in school districts, but really as a general common narrative. I think it's important for the public to understand that the reason why so many survivors don't come forward is because there are elements of power and control. And we see that playing out, I think, in the media now, with high profile celebrities or elected officials who have been responsible for really heinous acts for years. They've been threatening

people that they're going to take their careers away from them. In instances of young children, sometimes the threats will be that, "Not only will I harm you, but I will also harm your sister, or your parents." Or, "I know who your track coach is, and I'll make sure you never get to play," or whatever those dynamics are. Those are all the things that silence children and make them fearful to disclose.

And the conversations we're having here today -- about holding the adults in the room accountable for mandatory reporting, for ensuring safe spaces, for addressing loopholes in the hiring of our (indiscernible) processes -- those are so critically important. Because I know none of us, who are parents or adults, who have young children in our lives for whom we care -- we never want to set them up for failure; we never want them to come and say to us, "You told me that if I told someone, that they would listen to me and I would be -- my disclosure would be honored and I would be kept safe." There are too many instances where young people disclose their victimization, and the adults in the room turn a blind eye, or they are fearful of retribution themselves. And so it goes unreported, and those children don't gain access to services, and those perpetrators are never held accountable.

SENATOR MADDEN: I just have one question.

It's really your opinion, with your experiences -- and thank you for your testimony.

In the educational world, the educational system, if you will -- should there be a higher standard of conduct expected of those individuals as it relates to reporting child abuse?

MS. TEFFENHART: In New Jersey, the standard is pretty clear. Everyone in New Jersey is a mandated reporter; and I think that is a pretty high standard. And as some of the testimony that we've already heard today amplifies, there are trainings and there is awareness, I think, for everyone working in the school; that they are mandated reporters. I think there needs to be some accountability mechanisms, perhaps strengthened, that identifies that, if someone is negligent in their responsibilities to mandatedly report instances or fear of sexual misconduct, they are also accountable.

SENATOR MADDEN: When you talk about New Jersey's reporting requirement that everyone has to report, in some venues, some states, that's not so -- it's more specific groups are held to that standard.

Do you have an opinion as to whether one system is more successful than the other? Or could you make -- if you have a comment, could you respond just to how you see those two systems?

MS. TEFFENHART: Sure; I think that's an excellent question.

I think when we're talking, particularly, around child protection or instances of sexual violence, there is a shared community responsibility to keep, particularly, children and our most vulnerable citizens safe. I think a standard that holds all of us to a high standard as mandated reporters is strong. I don't have statistical evidence to show how that relates to our counterparts in other states, but I'm proud that New Jersey has a statute that makes all of us responsible. It is very in line with how the Coalition talks about prevention of sexual violence; that there is no easy fix to this; there's no one curriculum that's going to be -- sorry for the violent

metaphor -- but no silver bullet that solves this issue; nor can one system or one group of individuals be wholly responsible for the accountability pieces.

I think what we, perhaps, lack in the State of New Jersey is a general constituency awareness that we are, in fact, all mandated reporters. You know, I think what we've heard here today is that the professionals who work in our schools receive training that remind them of the fact; but I'm quite sure that my neighbors, or the kids who my son plays hockey or baseball with -- their parents might not know that they are mandated reporters. I don't have an easy answer for that; I hear, you know, budget things rising like, "How do we do a massive statewide campaign about this?"

So I don't have an easy answer for that. But I do think, you know, there has been focus on professionals and their roles as mandated reporters; but we could strengthen accountability by making sure every New Jersey citizen understands their role as mandated reporters.

SENATOR MADDEN: Thank you.

The individuals prior to you testified that there's a current curriculum or program, within the health curriculum of their school systems, as it relates to child sexual abuse and misconduct. Are you familiar with that -- those programs or curriculums?

MS. TEFFENHART: Not particularly the ones that were mentioned. But we have had a number of conversations, particularly with the Chairwoman, about some of our interests in having some robust conversation around what it actually takes to prevent sexual violence.

Our focus at the Coalition, which is pretty consistent with experts who run coalitions all across the country-- So there are 56 state and

territorial sexual violence coalitions. And, generally speaking, our consensus is the same; and we actually came up from a meeting with the Commissioner of Health, where we discussed this as our philosophy also.

We really focus on the risk of protective factors identified by the Centers for Disease Control that contribute to perpetration. Because, as we discussed, the power and control elements that influence victims -- it's an unfair balance for us to say that, particularly young people, or anyone really, is responsible for preventing their own sexual assault. We can think of how many instances we've heard this play out in media. We just had an instance in Ocean County where an actual judge asked a survivor, during her court hearing, whether or not she knew how to close her legs; and if she had, she could have prevented the assault being committed against her. And those are the kinds of common narratives that survivors are subjected to.

In fact, I think we do our state a better service by really focusing on what are the risk and protective factors that increase or decrease the likelihood of perpetration. Those are the things that we work on; those are the things relating to rigid gender roles, toxic masculinity, building empathy in young men and boys, creating supportive environments both in and out of the school. We have the opportunity to work with all the rape crisis centers across the state, and many of them work in predominantly middle schools, and some high schools, delivering different curricula. But our focus is really on helping young people dissect the harmful messages that they receive through media consumption, and then being able to, sort of, speak back to that and recreate their own reality in relation to gender norms, or rigid toxic masculinity, and things like that

And we'll also say -- and I've been saying this often, as these conversations around prevention have come up -- I do think we need to recognize that the anti-harassment, intimidation, and bullying work that we do in New Jersey is critical for the foundation for building a less-violent society. I use this analogy often -- and if you've heard it, I apologize -- but you can imagine a scenario on a playground; and there's that really tall, old-school metal slide that we all used to go down. And you were fearful, when it was like a 95-degree day, that when you slid down it, you were going to get a burn on the back of your thighs. Yes, I don't even think they have them anymore, so I am aging myself in sharing the story.

But the visual still serves the purpose. You can imagine that there are bunch of children on the playground; and they're all waiting, eager, ready to go down that slide. And there's a child at the top of the slide who's now looking down it, and they're scared. This slide is steeper than they thought it was; it is hot; they are afraid they're going to get burned, they're going to fall off, they're going to get hurt. And they're realizing that this may not be a risk that they wish to take with their body.

And so then the question that we would ask is, what's the role of the other children who are all anxiously waiting to go down that slide? They are all standing there on the steps. And what we talk about around playground behavior is, a compassionate, appropriate thing for us to do for our friends on the playground is to move aside and let this person walk back down the steps.

And that analogy could really be born out over time to talk about bodily autonomy and consent. We just built the foundation for young people understanding an individual's right to make risky decisions

with their body, and we didn't once talk about sex. But the foundation of that conversation has -- really does lay the ground for us to have less violent people moving forward. Because when we respect someone's right to go or not go down the slide, you can imagine how that could translate, over time, to us deciding whether or not we wish to push ourselves upon someone sexually.

SENATOR RUIZ: Thank you very much.

Any questions, or-- (no response)

Thank you.

MS. TEFFENHART: Thank you for asking questions.

SENATOR RUIZ: Thank you.

Next I'll ask Ed Richardson, Executive Director of the NJEA, with Keith Waldman, the attorney, to come up.

**EDWARD J. RICHARDSON:** Good afternoon.

I'm Ed Richardson, Executive Director of the New Jersey Education Association.

Joining me here today is Keith Waldman, an attorney with Selikoff & Cohen; and our Government Relations Director, Ginger Gold Schnitzer.

Chairman Ruiz, Chairman Madden, members of the Committee, thank you for the opportunity to speak today at this hearing.

Let me begin by saying emphatically that nothing is more important to NJEA members than the safety and well-being of our students; and there is no place in New Jersey's public schools for anyone who hurts or abuses children.

Our members have both a legal and a moral responsibility to protect students and to report any suspicion that a student is being abused.

When suspected abuse of a student is reported by anyone, it is the obligation of the State and the school district to act swiftly to investigate any allegations and determine whether, in fact, a child has been abused.

In some instances in which school employees are the target of the investigation, or are potential witnesses in the matter being investigated, reporting must be made to the Institutional Abuse and Investigations Unit at the State.

If those employees are members of NJEA, it is our union's statutory responsibility to represent those members and ensure that their due process rights are protected during the course of any investigation or subsequent disciplinary action.

NJEA's legal duty to protect the well-being of students and our duty to represent members are not optional, and they are not mutually exclusive. We must do both.

It bears noting that when child abuse is suspected, it is typically reported first to the school administration and IAIU. It is not typically reported first to a union official. In fact, in conversations with multiple union leaders, within NJEA and other unions, not one can recall an instance in which that has occurred.

The union, more typically, learns about an allegation when a member is informed by school administration that he or she is being investigated by IAIU. In those cases, NJEA fulfills its statutory

responsibility to represent the member, while the State and the school district fulfill their responsibility to investigate the allegations.

Both of those roles are essential. When allegations are made, they must be taken seriously, which is why thorough investigations are important. But in some instances, the allegations are false; which is why every member deserves union representation and due process.

The videos that were released a few weeks ago highlight that fact. The individuals, who came into the offices of our local affiliates under false pretenses, made false allegations of child abuse. The scenarios they presented never occurred. We are deeply disappointed by how two of our local affiliate presidents appear to have reacted to those allegations; but we are also troubled by the dishonest and underhanded tactics used by the organization that secretly recorded those leaders.

They came with the explicit purpose of using dishonesty to harm our members and our union. In an environment where even a small number of people are willing to lie and deceive to harm our public school employees, it is critical that they have a union that will stand up for them and defend their legal rights.

We also recognize that despite the dishonest tactics used to obtain and edit the videos, some of what was said on them appears to fall far short of our values and the standards we set for our union, its leaders, and its members. That is why we have commissioned an independent review headed by the Zazzali law firm. That process will involve an exhaustive review of current practices and protocols by NJEA local affiliate leaders and staff. It will make recommendations for additional ways to ensure that NJEA's mission is accomplished; that the well-being of students

is paramount, and that members' rights are respected. Specifically, we want to ensure that every NJEA affiliate leader and every NJEA staff member understands the obligation to report suspected child abuse and knows how to make that report.

Based on what we learn, we intend to provide additional direction, guidance, and training as needed, to ensure full compliance with the law.

It's been asked -- and I would like to fill in the answer to the question -- about what has occurred following the incidents that I've described.

First, the two Association leaders in question have resigned their positions as Association Presidents. They have both been suspended without pay by their school districts, pending the investigation by the district.

As noted earlier, we must ensure that we are meeting our dual legal responsibility to protect children and represent members; and we take both of those responsibilities very seriously.

Thank you; and I'll answer any questions.

SENATOR RUIZ: Thank you.

You alluded to the law firm that is conducting the-- So you're just at the beginning phase of the independent study -- the investigation that the NJEA is doing on their own?

MR. RICHARDSON: We are just at the beginning phase; but we have asked that it be done expeditiously so that we may have the opportunity to include any recommendations in training programs that we do over the summer.

SENATOR RUIZ: And is this something that you're going to share the document publicly with everyone, without it being redacted? Or, what is the purpose of conducting this investigation?

MR. RICHARDSON: The purpose is to guide our practices. But we will make available a summary of the findings and recommendations; we think that's important so that people understand what it is we believe we need to be doing.

SENATOR RUIZ: I respect you saying that. You know, it's hard to -- and I don't want to put words in your mouth; I wish I had your testimony before me -- that this group came in disingenuously and *set up*. I cannot accept that. A person is not *set up* to say the following things: "This file right here -- this huge file is from a teacher that had sex with a student. You're not going to jail. You know what this file is about? It's about whether you're going to keep your pension."

No one can set you up to say something like that. No one can set you up to call a group of Latino students the "weirdest of the bunch." No one can set you up to call Newark the *ish-hole of New Jersey*. No one can you set you up to say, "If an incident occurs, it is what it is, and I don't have to report it."

And so while I recognize -- and I'm not defending the firm, or the company that does this, or what their angle is -- but you cannot be *set up* to have this kind of mentality.

MR. RICHARDSON: I understand what you're saying, Chairwoman; and that is why I indicated that, in spite of the tactics that were used, we felt it necessary to take some serious action. I would point out, however, in every reference in my testimony to the video, I made

reference to what *appears* to have been said. We've had the videos professionally analyzed; there are no less than 26 edits in them. And in some cases-- And I'm not talking about between, you know, one total concept or thought and another; I mean within a sentence.

We have a very long history, unfortunately, of dealing with this organization, as do many other progressive organizations around this country. A sitting U.S. Congresswoman -- the tactics are very well known. They've, unfortunately, been very well-deployed in the throes of our organization, as well as many others.

So I don't minimize what went on there; but as I said to you, yes, some of the words that were used -- you can't ignore, and we're not.

SENATOR RUIZ: I'll come back.

SENATOR MADDEN: Good afternoon.

Your membership -- do you have policies within your own union membership, about reporting child abuse, that your members have to adhere to?

MR. RICHARDSON: Our policies are the State policies; I mean, we are all bound by the law. And so in our regular training events throughout the state -- in programs where we're invited to do training with our local affiliates -- we consistently educate our members about the requirements to report, how reporting needs to occur, and what the consequences are of failing to report.

SENATOR MADDEN: What are the consequences for failing to report?

MR. RICHARDSON: It could ultimately result in tenure charges and removal for that employee, even if they have no connection with regard to the incident at hand. So it's a very serious consequence.

(Mr. Richardson confers with counsel)

SENATOR MADDEN: So, Mr. Richardson, one of the questions -- and you're testifying--

Excuse me; are you okay?

MR. RICHARDSON: Yes; I'm sorry.

SENATOR MADDEN: So one of the -- part of your testimony is that you have a statutory responsibility to represent, or protect, the member; and that, as a union, you have a responsibility to the good and welfare of the child. You didn't use *good and welfare*; you said to, I believe, *protect*, actually, I think, was the word.

So here's the scenario. An individual shows up -- whether it's a real or not a real case -- and they come before one of your local union presidents. And there's a case put before the individual about child abuse. And your testimony is that that individual, if I'm hearing you correctly-- Are you testifying that the union president that this was reported to has a responsibility, or is mandated at that point to report the child abuse through some system? And if so, like what is -- how does that work? We hear testimony-- For instance, we're in a school; and the child comes before the individual in the school -- a teacher who he or she trusts; and that teacher then goes to the principal or the supervisor, as was testified to. And then, from that point, it goes up to the State Division of Child Protection. So that's okay; that's the clean one. That's the one where the student

actually went through; reported it. The teacher knew it, the child knew the teacher knew it; and they reported it up.

It's the scenario, now, where the child has not had the strength to report it; has not had the wherewithal to report it; whatever. But it has not been reported. But the individual, the member, comes to the union representative saying, "Look, I have this issue that I did." Like, how -- and it's an abuse case; they confess to you that they did it. What do you do here with this? One word is, we have a statutory responsibility to protect; the other word is, we have a responsibility to report. So let's stay with that scenario that's in front of us. I'm going to ask you to respond to that.

MR. RICHARDSON: Let me begin again by pointing out that the scenario you described is very atypical. I've not been able to actually replicate or find out one that actually occurred.

But we'll stay with it, on a hypothetical. And under the terms of the statute, a person -- as we heard from a previous testifier -- a person who has -- and I'll defer to counsel -- a reasonable knowledge, or reasonable belief that abuse has occurred -- is the language of the statute -- is required to report it. And that is the standard that we instruct all of our members regarding, including someone who has been elected as a local Association President or other union official.

The duty of fair representation means, however, that an individual so accused is equally entitled to representation from their union. And what would occur in that instance is that legal counsel would be assigned. And so, you know, as I said, when such incidents occur it is more typical that it is the school administration or IAIU that is making the allegation regarding the staff member, and they're assigned counsel. And

that is how our duty of fair representation commitment is honored. And that, as I said, is the typical instance of how this may occur.

SENATOR MADDEN: If we can get back to the reporting component.

There is a mandate to report the incident. How is it reported, who does the individual go to, the individual who is the union rep? In this case, I'm thinking the President, but it could be someone a little bit lower. But how is that--

MR. RICHARDSON: Right. In our training -- both of people in leadership positions and members -- we provide everybody with the State hotline. So there is a 24-hour toll-free phone number that can be called to report an allegation.

And it's worth noting, some of those are even done anonymously; and yet there is an obligation on the part of IAIU to investigate every one of those.

SENATOR MADDEN: The Hotline you're referring to -- is that an NJEA hotline or a State--

MR. RICHARDSON: No, no, no; it's a--

SENATOR MADDEN: The State DC.

MR. RICHARDSON: It's the State IAIU hotline. I could find the number; I have it in my notes somewhere here, if you like.

**G I N G E R C. G O L D S C H N I T Z E R, Esq.:** It's 1-877-NJABUSE.

MR. RICHARDSON: It's 1-877-NJABUSE.

SENATOR MADDEN: For the individual who fails to report it, what are the potential circumstances?

MR. RICHARDSON: As I said, it could be tenure charges against them, and even up to and including criminal prosecution.

SENATOR MADDEN: But it's not guaranteed a tenure charge; it just *may* be a tenure charge.

MR. RICHARDSON: I'm going to defer to counsel on that.

SENATOR MADDEN: Just your name for the record, sir.

**K E I T H W A L D M A N, Esq.:** Sure; Keith Waldman. I'm a shareholder of the firm of Selikoff and Cohen, and I am here on behalf of the NJEA and its affiliates.

The answer to your question is that-- Could you repeat the question? (laughter)

SENATOR MADDEN: That's fine.

For the individual who just failed to -- knew it; was, I walk in, I'm a member, I--

MR. WALDMAN: Right; are tenure charges mandatory.

SENATOR MADDEN: I try to get in front of it, or whatever, but-- If I did not; if the representative -- the senior rep, the union rep -- did not report it, what's the--

MR. WALDMAN: The answer is, that tenure charges are not mandatory.

However, again, I want to echo something that Executive Director Richardson said, which is that this is very much an anomaly. When people are accused of institutional abuse, they're referred to counsel. The NJEA and its affiliates are not in the business of taking records of allegations of abuse; they're in the business of making sure that members

get represented. When a member is referred to counsel, the member enjoys an attorney-client privilege.

SENATOR MADDEN: Do you have a position on whether or not the alleged allegations of child abuse, child sexual misconduct, etc. -- whether or not they should be all reported to law enforcement agencies for investigation?

MR. WALDMAN: By extension, the allegations are reported to law enforcement. The IAIU, upon a finding of abuse, reports them. If there's a serious enough allegation of sexual misconduct, it is typically reported immediately and that misconduct actually, oftentimes, will result in a criminal investigation.

This idea that the tenure hearing process should be in any way adjusted to reflect a remedy or a procedure for sexual misconduct, I think, is in some respects flawed. Where there is an allegation of sexual misconduct, the police are involved. Where there's a tenure charge, the tenure charge is put on hold. There's a case; it's the OTT case; O-T-T. And there's an OTT reservation. And the whole process is put on hold, and the employee is, at that point, suspended without pay because the employee is electing to have this OTT reservation process. The criminal investigation goes on; perhaps the individual is prosecuted, perhaps there's not enough proof. But the bottom line is, the tenure hearing process waits for the criminal process.

SENATOR MADDEN: Sure.

So are you testifying that every allegation of child abuse or child sexual misconduct -- every case is reported to the police for investigation?

MR. WALDMAN: No, that is not my testimony.

SENATOR MADDEN: What did you testify?

MR. WALDMAN: I testified that if it's a severe case of abuse that's alleged, that would typically go to the police.

SENATOR RUIZ: Just following this same stream -- I thank you, Chairman for letting me interject, just briefly -- you're talking about processes the way it should happen. When I think back -- the videos, again, there's a culture in those two districts of reporting that's very clear. The individual indicates, "I have spoken to-- This is what usually happens. Please come and talk to me first; don't talk to anyone else. If you're at school A, B, or C, don't talk to Cathy; talk to Peter and talk to Paul." I mean, there is a structured thought frame as to how they deem reporting. I'm not saying that this is blanketed or that you guys codify this behavior; but it is a culture that exists in some districts. And so while the reporting should be going in a different pattern, that is not what is happening.

MR. RICHARDSON: Again, the scenario depicted in the videos is atypical. And assuming that what is said in the videos is accurate, no, that is not an appropriate way to address a situation like that, nor is it cultural. We do not teach our local leaders to behave that way.

MR. WALDMAN: And if I may add, as an NJEA network attorney for more than 23 years, that has not been my experience. That's not how it's handled. These cases are referred to counsel and, if need be, to criminal counsel. Records are not kept by locals; this is very unusual. And again -- that's, again, if the video is what it purports to be.

SENATOR MADDEN: Were you here when the Association of Principals and Supervisors testified, by any chance? Were you in the audience?

MR. RICHARDSON: Yes.

SENATOR MADDEN: There was a-- The procedure, the steps there, were you go to the principal; the principal-- Then you would contact the Department of Child Protective Services; is that--

MR. WALDMAN: That is a procedure.

SENATOR MADDEN: But you're-- Okay.

MR. WALDMAN: I'm sorry.

SENATOR MADDEN: Where do the police come in on this?

MR. WALDMAN: The principal can contact the police. In addition, there's no requirement that somebody who has seen something and says something go directly to the principal. The principals would like you to go and speak with them; but you may actually call that IAIU number directly and report it. If you've seen something, say something. Again, the question is one of a reasonable belief that abuse has occurred.

SENATOR MADDEN: But see, here's -- this is where I'm landing with this now. You say they *can* report to the child protective services; but earlier, you used the word *severe*; you emphasized *severe*. If it's severe child abuse, or-- That's when I asked you that, I wrote it down; that's what you had said.

MR. WALDMAN: The question, I believe, that you asked was, do we report it to the police at every step.

SENATOR MADDEN: Yes.

MR. WALDMAN: And my answer there was, not necessarily. I don't believe that it is reported to police at every step.

SENATOR RUIZ: Unless it's severe.

MR. WALDMAN: But again, if there's a reasonable belief that abuse or sexual misconduct has occurred, it is to be reported to the IAIU, period. And it may be reported through the principal; it may be reported directly to the IAIU.

I'm glad you gave me the opportunity to clarify my testimony in that regard.

SENATOR MADDEN: Yes, sure. And really, I think, for myself anyhow, this is an extremely important piece to carve out; because, in the end, the answer is "no," the police are not guaranteed to be called. They might be guaranteed to be called at certain levels of abuse; but just as a matter of protocol, they are not part of the regular initial process or investigation. Even though we are taking tremendous steps, I believe, in putting police officers in all of our schools, but yet, they're not part of the reporting mechanism.

Interesting; but thank you.

MR. RICHARDSON: I think it's important to note that going back to, sort of, the first response -- which is to report all allegations, either to the principal, who then reports them to IAIU, or directly to IAIU -- IAIU has an obligation to investigate every complaint, even anonymous complaints. And in so investigating can, at any time, refer a matter to law enforcement. So there's not an ability, within the confines of the statute, for an allegation that IAIU finds to be of a criminal nature, or a potentially criminal nature, to be ignored by law enforcement.

Am I correct in that?

MR. WALDMAN: In addition -- that's right -- there is actually a specific Memorandum of Understanding between law enforcement and

the Department of Education that specifies which allegations of abuse get reported and which ones do not. We're not painting on a clean slate here, a clean canvas here. There's an MOU that has been in place for many years.

SENATOR MADDEN: Between Education and law enforcement.

MR. WALDMAN: Correct.

SENATOR MADDEN: Where is this at? Is it within the State Department of Education?

MR. WALDMAN: Between the State Department of Education and, I believe, it's the AG's Office. I'll be happy to provide a copy of it to you offline.

SENATOR MADDEN: And who else; who's the -- who represents the educational component?

MR. WALDMAN: I believe it's the Department of Education and the Attorney General's Office.

SENATOR MADDEN: Got it; we'll get a copy of that.

Now, collective bargaining language -- is there anything in the collective bargaining language, or do you have it, that addresses child abuse, child sexual misconduct?

MR. RICHARDSON: I don't believe that anything like that would be typical in a collective bargaining agreement. There is, sometimes, sort of boilerplate or broad language that employees are required to follow any legal or statutory requirements; and that's presumed. The typical language in a collective bargaining agreement is explicitly terms and conditions of employment; and with regard to school employees, that's very narrow. It's salary, benefits, work hours, etc.

SENATOR MADDEN: So in the agreement -- you generally do not have a disciplinary component in your agreements? Like you probably have how to take a sick day or how to take a vacation day--

MR. RICHARDSON: Yes.

SENATOR MADDEN: --but there's nothing regarding the actions, the standard of conduct for being an educator? That's not part of the agreement?

MR. RICHARDSON: I don't think we typically negotiate those. But districts do have, you know, codes of conduct for their staff. And there is a code of conduct for teaching staff that exists at the State level.

SENATOR MADDEN: Interesting.

MR. WALDMAN: The contracts typically have *just cause* provisions for discipline. But in terms of codes of conduct or compliance with statutes, almost routinely the contracts have provisions in them that say, basically, the extent and consistent with statutory law the statutes govern. So the contracts really follow the statutes in that regard.

SENATOR MADDEN: What's going through my mind is, with regarding statutes, I'm thinking it's more labor statutes, not-- I'm not sure if it helps-- I have to see the language; but regardless, the answer is no, it's not in there, specifically.

Thank you.

SENATOR RUIZ: Do you think it's prudent to have presidents of the Associations deal with cases? And I know you're saying this is not what usually happens, but I would assume -- and maybe I shouldn't make the assumption -- but if there is an employee who has an

issue or they feel that they want to address an issue, I would imagine that they would turn to the Association, the local chapter, or their President to get some kind of guidance, regardless as to what the subject matter is. Do you think it's prudent to have that Association President take on cases of personnel in a school that they, perhaps, work in the same way?

Am I clear in my question?

MR. RICHARDSON: I think so.

In other words, is there any type of a conflict of interest in representing an employee, maybe, or colleague in a school?

SENATOR RUIZ: Yes.

MR. RICHARDSON: Typically not; but if there is, we do have instances in which the Association President can assign that representation to someone else.

More often what happens, frankly, is the local leader reaches out to their NJEA field representative, and that individual addresses whatever the issue is with the member. So yes, if there's a feeling that, for whatever reason, there may be a conflict in a local leader handling a particular matter, then there are other ways of addressing it.

SENATOR RUIZ: And I know you may have some speculation as to the videos. But has there been any determination amongst the organization to look at the files that are held at those two specific local sites to review any further issues that may have been swept under the rug?

MR. RICHARDSON: That's sort of been addressed. The county prosecutors in both of the counties in which the videos were shot have issued subpoenas to those local affiliates. Under advice of counsel from NJEA, they have fully cooperated and provided everything requested.

SENATOR RUIZ: I lost my-- Does any other member have a question?

Senator Thompson. I'll come back.

SENATOR THOMPSON: My comments -- I have not seen the videos, so my comments are based on the newspaper articles I saw a week or so ago.

To me, the more disturbing aspect of it-- As far as the reporting goes, I'm sure that 99 out of 100 people who come to see you come and say, "I have been accused of something and I need help," as opposed to, "I went and did this, and I need help." And in fact most of them will probably tell you, "I didn't do it." (laughter)

But the more disturbing part to me, as I read the newspaper clippings, was what the individuals indicated they would do, how far they would go to protect the individual. I think they said, you know, "We'll lie; we'll make up things." That's the part that disturbs me most. I mean, that's -- I know they come to you to get their defense, and you're essentially serving as a defense attorney; but there's limitations on how far you should go in defending a member. And that's the part that really concerns me -- whether there is this perception out there that, you know, "Use any tactic you can; get the person off, no matter what."

MR. RICHARDSON: Yes, you know, assuming the accuracy of what was included in the videos, I will say emphatically that that is not how we operate. Representation is about ensuring that a member's due process rights are fully preserved; it's not about doing some of the things that you cited in order to "get them off."

SENATOR THOMPSON: It may not be the way *you* want to operate, but these guys were implying that that is the way *they* operate. So I would suggest, maybe, you should go out and people (indiscernible) level -- it may occur to them that is not how we want to operate.

MR. RICHARDSON: And that's why we're undertaking this independent review. We know how we want our folks to function providing representation to our members; we need to make sure that those values are reflected throughout the organization. And so we are going to make sure that-- You know, we're looking at, again, the protocols and practices of affiliate leaders of staff, of those field representatives who we employ, to make sure that we're consistent in implementing and standing behind those values.

SENATOR THOMPSON: Thank you.

SENATOR RUIZ: Thank you, Senator.

So you've indicated what you're doing now. Up until this point, when this came out, you know, and was uncovered, what proactive measures was the organization doing to avoid circumstances like this? What training, what do you require, what do your leadership members on the local levels -- what type of training programs, what kind of, you know-- A multitude of things. How do you guide them so that they can best carry out whatever your mission is in protecting teachers?

MR. RICHARDSON: So it's important, I think, to frame my response in the context of the structure of our organization.

We are a union of affiliate unions; we have over 800 local affiliates. And while they must meet standards of affiliation with NJEA,

they are, essentially independently governed and operated. So NJEA exists in order to provide assistance and guidance to them.

Having said that, we strongly encourage, for example, anyone who is elected as a new local association president to participate in a week-long training program that covers the whole gamut of responsibilities that come with that job; particularly issues like these very dicey legal representation issues, obligations of reporting. And so that is one threshold.

We then offer a whole series of refresher trainings, both during the summer and throughout the year on weekends, for affiliate leaders on, really, all of their responsibilities. Whether you're the president in dealing with some of those issues, whether you represent your union on a negotiations committee, whether you're the grievance chair, whether you're the treasurer -- those jobs all come with a unique set of responsibilities. And let's face it, someone who makes their living as an educator isn't necessarily trained to do all those things. They may have some insight; they may have some other experience that makes them, you know better qualified for it. But, you know, we have to teach our folks these things.

SENATOR RUIZ: So that -- following up just on that comment, has there been any thought to, then, having a different process to identify leadership at the local levels so that someone, as you said, would be more qualified to serve the purpose of what their role is?

MR. RICHARDSON: They are all elected by the members.

SENATOR RUIZ: Yes.

MR. RICHARDSON: So ultimately, you know, we live by the democratic processes within our affiliates. And so--

SENATOR RUIZ: But could you change the governance structure? I mean, you use the word *encourage*; but if they're using your name -- right? -- that's proprietary. Can you mandate certain policies?

MR. RICHARDSON: That's one of the things that we are actually looking for recommendations on in this external review. Are there things that we should be requiring of every local leader; and if so, what are they? What does that nucleus of training look like, beyond the things that we offer and encourage them to do?

SENATOR RUIZ: I would ask you not if this-- If the review is going to take a while, not to belabor it, that you should have a consortium of people already working on these issues so that there is a more proactive approach coming out of union leadership.

When we think about measures, or the 10-year process, or alleged allegations, or making accusations -- when it's just human capacity that's involved, it's very subjective, right? Is there any way to -- so when it's academics, we have in place objectives in there so that no one can deny that you filtered, or you did something because you like someone or you didn't like someone. Is there any way -- as far as you know through your lens, in working in this capacity for years, or with your institutional knowledge -- is there any type of framework or model that would integrate some kind of an objective measure that would help in circumstances like this?

MR. RICHARDSON: I think it's very difficult because representation generally is -- it's very fact-specific; it would be very hard, I think, to standardize, in some way.

Having said that, there are, I think, certain basic parameters around being a union representative that, yes, we already do make sure that

people understand and follow. And that goes to-- I referred to some of the standards of affiliation. And so the duty of fair representation is one of them; you know, a union leader can't play favorites. If you're going to represent one member on a matter, and another member is subject to the same issue, they deserve the same representation.

So there are fundamentals, I think, that are somewhat measurable and enforceable, and we do enforce them now. I am really, genuinely looking forward to the recommendations of the review that we've contracted, because I think we can do better, and we always want to do better.

SENATOR RUIZ: Thank you.

And I'm going to turn it over to Senator Cunningham.

I don't have an opinion on this next question I'm going to ask you, so -- but it's something that we've heard time and again. What is the position of the NJEA in having-- We know that school buildings have cameras in hallways and in other areas. What's the position of the union in having cameras inside the classroom?

MR. RICHARDSON: We think it would have a chilling effect on the instructional process. And I think we have adequate protections in place to make sure that our members are held accountable for the work that they do, as the professionals that they are. And so I'm not sure we have explicit policy on this; I would have to check that.

SENATOR RUIZ: That's fine.

MR. RICHARDSON: But my gut reaction is that I think it would have a chilling effect on the profession in the way that the art of teaching is conducted.

SENATOR RUIZ: Thank you.

Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Madam Chair.

One thing I did want to say about the cameras -- they're not going to do anything under the cameras, I assume. So I don't know what purpose that will have if they're in the hallway, but--

What I really wanted to ask you -- what kind of training do you provide? You said that there's a training when they come on board; and then you have refresher training. What does the training encompass?

MR. RICHARDSON: So we review the exact requirements of the reporting law, and the definition that I just read out of the reporting laws, so that they understand the very broad nature of it.

We go over their response -- their unique responsibilities as educators, as well as their responsibilities as citizens in New Jersey. But they do have unique responsibilities as educators. And then we do review the consequences of not following that. In fact, as we discussed with Senator Madden, that, you know, turning a blind eye to possible abuse of a child could result in your own tenure dismissal or criminal charges. And so that's the general scope of what we are teaching our members.

The nature of the training that we do is varied. Many people are not aware that we have a preservice affiliate that is -- the members consist of people who are young people preparing to become teachers. This is a topic at our preservice conference, so that even people who have not begun their careers in education are aware of these responsibilities.

Again, we do this through a variety of leadership trainings, and also professional seminars.

And then our local affiliates can ask us to come in and deliver training on virtually any topic that they think is needed. I can speak from my own experience, because I occasionally get invited to -- you know, sort of, opening day or new member orientation programs that our associations run at the local level. And I've seen, firsthand, that this is also one of the topics that is addressed in those training programs.

SENATOR CUNNINGHAM: Okay, I'm still a little unclear on what you actually do. You know, I know you're working with young people; these are new people coming in, and you're teaching them the responsibilities. What are they learning, in terms of ethics; do you do ethics training? Do they know that it is wrong to-- Or have they been told that if a student, or a parent, or someone comes and says, "My child has been hurt, harmed in some way," that they know who to report it to; they know when to report it? What kind of training do you do, and who does the training?

MR. RICHARDSON: Typically, the training is provided by one of our field representatives, who are very familiar with these requirements. In some instances, we will bring in an attorney, like Mr. Waldman. And we do delve into the depths of exactly how to report. As the testimony from Principals and Supervisors attested, those procedures may vary from district to district, but it is most typically the school principal. But again, nothing -- and we make this very clear -- nothing in the law prevents anyone from calling that hotline. And we give them the hotline number and indicate this is what is likely to happen when that number is called -- that every call has to be followed through and investigated by IAIU. "This is what an IAIU investigation may look like

and may involve. You, as the person reporting, obviously are going to be contacted, as long as it's not an anonymous report." And so we get into pretty explicit detail about all of those things.

SENATOR CUNNINGHAM: What happens-- Is it mandatory, for students who have been teaching for a while, for refresher courses? Is it mandatory attendance?

MR. RICHARDSON: That's really a district matter; but I think, again, what we heard from one of the previous testifiers is that it is actually a requirement that they do that every year with employees. So that's an employment training requirement.

We don't explicitly have a requirement around it; although, as I said, it is one of the things that we just routinely include in our State conferences and are frequently asked to provide at the local level.

SENATOR CUNNINGHAM: Okay; thank you.

SENATOR MADDEN: Sir, while you're up here, could you explain -- I'll go back to this one point I did previously with similar other panels -- and it's regarding the child's curriculum or programs on identifying abuse and how to report the abuse. It was testified to earlier that it's blended in with the health curriculum. Do you agree with--

MR. RICHARDSON: Yes, and I have to admit that I'm not deeply schooled in that particular area. I do know that it is part of the health curriculum; the health curriculum standards are identified by the State in the Core Curriculum Content Standards. They are then more broadly interpreted at the local level, so there is variability across the curriculum, regardless, in how that is taught from one district to another.

But again, my understanding is that there are components, age appropriate, for how to teach a child when they feel that they are being dealt with inappropriately and, you know, what trusted adults they should bring that to the attention of.

SENATOR MADDEN: And what years is the abuse -- reporting of the abuse-- What years of one's school -- I'm going to say from kindergarten to 12th grade -- is there one year in that stretch; is it every year?

MR. RICHARDSON: The core curriculum spans K-12; I don't know the specific answer to your question without looking at the health standards.

SENATOR MADDEN: Does any other member of the panel there know the answer?

MR. WALDMAN: I do not. I would imagine somebody is here from the School Boards, and they could probably help you with that.

SENATOR MADDEN: All good. And then the-- Is it your understanding -- did I hear you testify that the State laid out the standards, you said, on the health curriculum? Would I find the child abuse education and reporting requirements in that State standard from the health curriculum, or the State's curriculum they send out?

MR. RICHARDSON: Again, I'm not certain as to the exact content of those standards, so I would have to review them.

SENATOR MADDEN: Got it; okay.

MR. RICHARDSON: I believe all the core curriculum content standards are on the Department of Education website. So if we were to search the health curriculum, we can see what's there.

SENATOR MADDEN: Thank you.

SENATOR RUIZ: Any other questions or comments from members? (no response)

Thank you very much for your testimony and your willingness to answer questions.

MR. RICHARDSON: Thank you.

MR. WALDMAN: Thank you.

SENATOR RUIZ: Next I'll ask Rush Russell, Executive Director, Prevent Child Abuse-New Jersey.

**R U S H L. R U S S E L L:** Good afternoon.

Thank you for having me.

My name is Rush Russell; I serve as Executive Director for Prevent Child Abuse-New Jersey. We oversee efforts related to the training around child sexual abuse prevention statewide. We convene a group called the New Jersey Partnership to prevent child sexual abuse; a group of experts, statewide, working together to identify policies and practices to strengthen the prevention of child sexual abuse, including specific information for schools.

I'll start with -- there was a national survey, years back, that asked teachers, "Would you report an incident of physical child abuse if you suspected it?" Ninety percent of teachers said, "Yes, I would report that; if I saw something, I'd say something."

When they were asked that same question about child sexual abuse, the number turns on its head. Eighty-seven percent of teachers said no, they would not report it. Why? Out of fear -- fear for their school's reputation, fear for disclosing their name, fear for revealing colleagues'

behavior, and fear -- just the general taboo around the topic of child sexual abuse.

So again, I want to thank you--

SENATOR BUCCO: The school system is more important than the child's welfare? That's what they're telling me.

I'm sorry.

MR. RUSSELL: There are examples of this; we've seen this on and on.

So I think as we talk about the issue of child sexual abuse, we need to address two factors -- you need to address two factors. One is that it happens far more frequently than is ever reported; and the second is, when it does happen, adults in our schools sometimes are unfortunately motivated to keep it a secret.

SENATOR RUIZ: I'm sorry. Do you have written testimony to provide--

MR. RUSSELL: Sure.

SENATOR RUIZ: --to us? I'm just curious -- and I'm sorry for interrupting your remarks. Can you remind me again when this was conducted, this--

MR. RUSSELL: I can get you the specific site; I do have that. I don't have it in my testimony. I'll be happy to get you the site for that study. We do have that information; it's all been--

SENATOR RUIZ: And that was national, or that was state?

MR. RUSSELL: That was a national survey.

SENATOR RUIZ: Okay.

MR. RUSSELL: Okay?

SENATOR BUCCO: Can we get a copy of that also?

SENATOR RUIZ: Yes; if you could also provide, through the Chairs, maybe a link to the national survey, or the study if you have that?

I'd appreciate that; thank you.

MR. RUSSELL: I'd be happy to.

All of these slides have been reviewed by Dr. David Finkelhor, one of the top experts in the field of child sexual abuse in the country.

SENATOR RUIZ: Thank you.

MR. RUSSELL: So again, the two factors -- one, it happens more frequently; second, when it does, that there's too much motivation to keep it a secret. We've seen that at USA Gymnastics; we've seen it in other youth sports, in our universities, in the church, and, obviously, it's happening in our schools.

There was-- You mentioned, Senator Ruiz, the GAO report in 2004 that found that 10 percent of school students reported an incident of inappropriate sexual conduct from school employees during their years K to 12. That's 1.5 million students across the United States; probably -- what? -- more than 30,000 in the State of New Jersey. We're not doing enough to stop it.

I think it's really important; we do recognize how much is on the plate of the schools to deal with things. But I think it's important to restate the severity of harm -- Patricia talked about this -- caused by child sexual abuse, by the crime of child sexual abuse. Victims face dramatically increased risk for alcohol, drug and mental health problems, school failure, future unemployment, chronic health conditions, marital problems, suicide

-- you can go on and on. And there's 25 years of research to support that, and I'll be happy to share that as well.

The bottom line: Once this happens, children's lives don't just go on. They don't get their lives back; they don't get to go back in time. Their lives are changed forever.

Obviously, we want to applaud the courageous action of the New Jersey Legislature in passing the bill that we call the *Safer Schools Bill*; it has been referred to as the *Pass the Trash*. I think we as adults can do better, and not refer to it as Pass the Trash. We would hope that you, and the press, and everybody else can talk about it as the *Safer Schools Bill*. But obviously, that includes making it illegal to sign the nondisclosure agreement when terminating an employee for sexual misconduct. And, in theory, that should stop some of the practices of the school hiding this information, and then that employee getting a job somewhere else, and abusing more children.

So while it sets a new legal requirement, it may not change the motivation that's out there to keep this a secret. So the motivation is still there. You have a law-- So I'll talk a little bit more about that.

But there are three recommendations that I would urge you to think about, just moving ahead.

And the first -- I don't think there's anything more important that you can do-- You've talked about the importance of background checks, and the criminal justice system, and the role of law enforcement. And that is critically important. But the reality is that so much of this behavior is hidden; it's never reported. When it does get reported, it may not be substantiated. Because of all of the complexities in these cases, it

may be plea bargained; the charge of sexual misconduct may disappear along the way. The reality is that most of these cases disappear; the issue -- it's never substantiated. The case of Larry Nasser, USA Gymnastics -- most of those charges were never substantiated 10 years later.

So the reliance on the criminal justice system, background checks -- all of that -- we need to put more emphasis upfront on training for prevention. And we would hope that that would be a mandate that we can talk about.

I'll say the training is available; Prevent Child Abuse is one organization that offers such a training specifically; a curriculum for schools. We have partnered with the New Jersey Principals and Supervisors Association. A couple of points about that: it's voluntary; and second, it's not very well in demand. Schools don't want to choose this topic; they're not coming. Very few school districts are choosing, voluntarily, to take this and put this on their plate.

There's one school district in the State of New Jersey that asked that all of their school employees be trained. Gloucester City -- the Superintendent there, based on an incident, asked us to come in and do a half-day training for all -- every single school employee on this topic. And we would applaud them for their courage and leadership.

But the content of that training has to address -- and it's some of the things that you've talked about -- offenders are very successful because they are good at hiding, you know? A lot of times they appear to be friendly, nice, charming; they're engaging with the students, which allows them to be successful. They're grooming; there are elements of grooming behavior that we know and we can recognize.

So the training needs to identify teachers or other employees who may be exhibiting that type of behavior. And that may be special gifts; time after school with a particular student behind closed doors; offering special rides; cultivating that relationship, especially with vulnerable children, which we know is the pattern. And if we provide that training schoolwide, where all school employees are aware of this behavior, they're vigilant; if they may see a teacher doing something, they're more willing to say something. And establish a reporting requirement around that. It's not to be paranoid or scared; but it's to say, "Wait a minute; I've seen a teacher with a particular student, by themselves, after hours, day after day. I'm a little concerned." And so we just need to encourage that.

There's other information that could be included in the content, but we would urge that there be quality standards for that training to make sure that it addresses some of the key issues that you've talked about here today.

We would also support information that requires the posting of the DCF hotline, the Department of Children and Families hotline in schools. I think there's -- offenders want to avoid one thing more than anything else, and that's being caught. And if you put that information on the hotline in the schools, it may deter some who may want to offend and are scared of seeing that information.

But I think, more importantly, it could empower students to be able to report this themselves. And so when they go to an adult and say, "Wait a minute; something happened," too many the times the adults are saying, "Wait a minute; you know, I don't believe you," or "Don't tell." And the student, then, has the power themselves to report that information,

if they see that poster in the schools and could report that. I've talked to folks at the CARES Institute, that provides care and counseling for hundreds of victims of child abuse -- Dr. Martin Finkel; and he also strongly supports the posting of the hotline in the schools.

Finally, I would urge -- and you're already doing this -- but pay attention to the implementation of the Safer Schools Bill. How many schools have been notified about this? Do they know about it? Are the forms being developed in terms of the hiring requirements, and the background checks that are going to be required? There are too many ways to water that down, to delay the implementation, to put in requirements that say something has to -- add language that, "Oh, it has to be substantiated language; it's not in the Bill," that could undermine what the Bill is intended to do. So we would urge there be legislative oversight for that process; to ask for those reports from our friends at the Department of Education on the implementation of the Bill.

Thank you for your time and your courage.

SENATOR RUIZ: Thank you.

MR. RUSSELL: I'd be happy to answer any questions.

SENATOR RUIZ: Thank you very much.

Senator Bucco.

SENATOR BUCCO: Thank you, Madam Chairman.

First of all, I want to apologize for my outburst, to both Chairs, and to you, Mr. Russell. That just got to me -- that report.

Senator Ruiz had asked for a copy of that report, or a link where we could pick that up.

MR. RUSSELL: I'm going to send it up.

SENATOR BUCCO: I think that that would be very good.

The Pass the Trash Bill -- that was sponsored by Senator Pennacchio as the prime sponsor, I was the co-prime sponsor on that Bill, because of an incident that happened in our District--

MR. RUSSELL: That's correct.

SENATOR BUCCO: --where a teacher was asked to leave the district, and he just walked across the city and went to another school; and an incident occurred again. So we didn't like that.

I would like, if you can give it through the Chair, all your recommendations so that we can look at them a little bit further. I think a lot of them were very valid, and I think we should be looking very seriously at implementing some of those things.

MR. RUSSELL: Thank you.

SENATOR BUCCO: Okay; thank you.

Thank you, Madam Chairman.

SENATOR RUIZ: Thank you very much.

MR. RUSSELL: Thank you.

SENATOR RUIZ: Next, I'll ask Nat Bender, on behalf of Donna Chiara, President of the American Federation of Teachers-New Jersey, to come up.

**NAT BENDER:** Good afternoon.

My name is Nat Bender; I'm not Donna Chiara. I am glad to be here with you this afternoon to discuss this important topic.

Donna did submit written testimony; I've tried to synthesize that to three main points that I will try to make briefly. And then I'm

happy to address questions; although those might be “we’ll get back to you” answers.

If students are harmed, corrective action must be taken to prevent the reoccurrence of any harm. If there are patterns of abuse or neglect, those need to be exposed or remediated.

If a child is abused, we at the union do not run away and hide from dealing with the ramifications. There needs to be healing for the student and a thorough investigation to identify wrongdoing.

I belong to a union -- and these are Donna’s words, but I’m a member as well -- that engaged well-respected arbitration expert, Kenneth Feinberg to independently develop recommendations for expedited but fair investigations into any allegations, up to and including any abuse of students. So this framework is being distributed here to the Committee; and, just briefly, it lists out objective criteria to trigger the process, including inappropriate contact with students; either physical force or any type of sexual abuse or harassment of any individual, regardless of the form of communication utilized.

Due process to ensure fairness and efficiency, including no formal rules of evidence in a hearing procedure so that witnesses may be called and cross-examined; documentary evidence may be offered, if disclosed in a timely manner, so that there can be open discussions when there are allegations of abuse. And also this framework suggests an expedited timeline.

So Mr. Feinberg was the Special Master of the U.S. government’s September 11 Victim Compensation Fund; and we think that there may be recommendations here that will help out the process in New

Jersey. We've suggested taking a look at these recommendations previously; I believe they were part of previous legislation that has moved.

Number two: Our mission at AFT-New Jersey clearly states that our priority is to promote the welfare of children. The dedicated teachers -- these are Donna's words -- I worked with for decades in Perth Amboy and served within the union always have that responsibility to our students as our first priority. Through our peer professional development and mentoring, our union seeks to help new teachers develop approaches to managing classroom behaviors; not by force, but in ways that channel even the most difficult behavior into productive expressions, fostering a healthy classroom environment.

Again, in Donna's words, as union president for more than two decades -- you heard this before from the previous panel -- I can tell you that no one has ever brought a hypothetical instance of abuse forward. When we are called into a situation, typically by district management, is when an accusation of abuse is leveled and an investigation begins. In instances where there are allegations of criminal conduct, the union lawyer would defer out to a criminal defense attorney. So we don't harbor -- we don't seek to harbor bad actors within the profession.

Number three: Teachers enter the profession because they want to help children, and see the teachers' role as a caretaker, a mentor, a trusted adult figure. I believe it is relevant to acknowledge that the impetus for these hearings comes from an operation conducted by *Project Veritas* -- I know there has been discussion about this already -- but this is a discredited political group that doctors its videos to strip away context, enters schools

during the school day under false pretenses, and raises alarms about fake abuse stories.

This group often refuses to allow the public to see the full conversations it records, rather than its deceptively edited, emotional videos. Project Veritas has faced multiple lawsuits against it for its unlawful misrepresentations, infiltrations, and splicing and dicing of unlawfully obtained material to distort. It is currently facing lawsuits in Michigan, D.C., and Florida. This is also the group that recently attempted to feed a false sexual assault story about Senate candidate Roy Moore to the *Washington Post*. The *Post* exposed the scam, and won a Pulitzer for its work.

Further investigations spurred by Project Veritas -- like one recently done by the Wisconsin Department of Justice -- have demonstrated the illegitimacy of Project Veritas' tactics and accusations.

We're glad to have this important discussion, and hope that it can lead to a better understanding of the responsibilities educators face. AFT-New Jersey will be reviewing the reporting requirements with our locals and in our professional development to make sure that teachers are aware of what the law is; and that teachers serving as union representatives do have the same legal requirements to report abuse.

Thank you.

SENATOR RUIZ: Thank you very much.

Thank you; thank you very much, and thank Donna Chiara for her testimony.

MR. BENDER: I will.

SENATOR RUIZ: Next I'll ask Shelley Skinner, Executive Director for Better Education for Kids.

S H E L L E Y S K I N N E R: Good afternoon, Chairwoman Ruiz, Chairman Madden, and members of the Committee.

My organization, Better Education for Kids, and our partner, JerseyCAN, are thankful for your leadership on this matter, and appreciate the invitation to testify.

I know it's been a long day of testimony, so I think I'll kind of just skip to the parts we haven't covered already.

Our organization, in particular, has been looking at a few things in regards to this matter: reporting, training, and consequences.

So in the case of the two videos, obviously reporting did not start; the process didn't go anywhere. I would encourage the Committee to consider increasing the penalty for failure to report or conceal knowledge of suspected abuse, especially in the context of a school setting.

Respectfully, I would encourage the Committee to look at strengthening the legal definitions of *abuse* and *neglect*, which would make it more clear what actions are required for reporting. The current New Jersey definitions are much more vague than the comprehensive list of that of our neighboring state, Pennsylvania. In addition, I would respectfully ask the Legislature to consider if training of school personnel about child abuse, and their responsibility to report it, is sufficient.

Again, looking at Pennsylvania, they have a comprehensive teacher training requirement to help school officials and stakeholders recognize the signs of abuse and sexual misconduct, as well as reporting requirements for suspected abuse and sexual misconduct.

Anecdotally, one of my colleagues said to me “You know, we should just have a flowchart that we give to parents and teachers,” because there’s general feeling that people don’t really know what the reporting lines are, despite baseline training.

The statute in Pennsylvania also requires that all teacher licensure applicants complete training on alleged abuse and reporting requirements for suspected abuse. In the case of Nevada, they raised the age limit from which child abuse can be claimed, from 16 to 18, as special needs students are particularly vulnerable to abuse. I’ve attached the Pennsylvania and Nevada statutes in my appendix of my testimony.

Given the sacred trust that we place in our school personnel, breaking that trust should come with stiffer consequences for the few who do. In a number of states, such as Florida and Illinois, failure to report suspected abuse and neglect is a felony offense. The Committee might want to consider adding failure to report abuse as a stand-alone tenure charge; and if this charge is substantiated, arbitrators should not have the authority to overturn the local board of education’s decision.

Finally, local boards of education should be mandated to submit a report to the State Board of Examiners to evaluate whether a teacher’s certificate should be revoked or suspended when a claim of failure to report abuse has been verified.

Children have a fundamental right to attend a safe and healthy school. We’re all here today because we want to ensure and consider every possible remedy to guard against abuse, and hold those who conceal abuse accountable. We hope it is just the beginning of our conversation, and we are here to assist the Committee in any way that we can.

SENATOR RUIZ: We're just reviewing the recommendations. And both of us have circled every single item as a possibility for--

MS. SKINNER: They're pretty comprehensive. Pennsylvania and Nevada have certainly been leaders in this work. I think Pennsylvania is really held up as a model law; Nevada as well.

And I also want to echo the gentleman who came a couple of people before me -- that one Federal study that we read -- the apprehension for teachers to report sexual misconduct. And what we read was actually a single-digit number. And so that there seems to be just a great deal of apprehension and also confusion; which is why I'm being much more definitive about what abuse and neglect is, is because there's a real squishy area for some people about, like, "Eh, is that appropriate; is that not appropriate?" And maybe being a little bit more prescriptive of, "No, these things are absolutely not appropriate." Particularly in circumstances of grooming, which has been spoken about earlier today, and about how abuse slowly -- predators lure children in; special time after school, etc. Like these things should, maybe, be laid out more explicitly -- that they are not acceptable behavior.

SENATOR MADDEN: In your experiences, to have a child actually report the abuse from someone within the school -- how do you get them to do that?

MS. SKINNER: I'm not going to pretend to have expertise; I'm not a school employee. I have not worked as a school employee for the better part of a decade. And I do think, in the case of my own children and other children just in my life, I think it's incredibly intimidating to go to

another adult, particularly if you've been threatened. I mean, I'm sure any mom here would probably agree with me; that's tough stuff. And I don't know if we really -- if we do enough to really embed this in their thinking. I think we could probably do better as a state in really reinforcing it -- just beyond health curriculum -- and try to be a little bit more dynamic about how we're looking at stakeholder training for parents as well. I mean, I think everybody here -- really, all of the folks in the village it takes to raise children, I think, need to really have a much greater understanding of reporting and inappropriate behavior.

SENATOR MADDEN: Thank you; thank you.

SENATOR RUIZ: The Pennsylvania licensure applicant who goes for training -- do you know what that looks like? At what point in time does that happen?

MS. SKINNER: I believe -- and I can follow-up with you in this -- I believe that they have to do it before they actually receive their license.

SENATOR RUIZ: And it's the Department that provides the -- the state that provides the training?

MS. SKINNER: I believe so; but again, I can follow-up with you on that.

SENATOR RUIZ: If you would.

MS. SKINNER: Absolutely.

SENATOR RUIZ: Thank you.

Thank you very much.

MS. SKINNER: Thanks.

SENATOR RUIZ: Next I'll ask Melanie Schulz, Director of Government Relations, New Jersey Association of School Administrators, to come up.

MELANIE SCHULZ: Good afternoon, Senators Ruiz and Madden, members of the Committee.

My name is Melanie Schulz; I'm the Director of Government Relations at the New Jersey Association of School Administrators.

Our organization primarily represents school district superintendents.

We've heard a lot today from a lot of people; I'm not going to reiterate. You will have my testimony, which has links to several interesting reports and pieces of information that talk about training; it talks about where to go, how to report child abuse.

I just want to go off-script and talk about a couple of things. First of all, collectively, I think we do a great job -- both on your side of the table and our side of the table -- with our education organizations. We have a long history of ensuring children's safety, whether it's in this type of an atmosphere, or whether it's preventing school violence.

In preparing for my testimony today, I learned a lot about what is in place to protect our students. And I tell you, as a policymaker, I was astounded that I really didn't know a lot about this process. It informs me now, primarily as a grandparent-- I have five grandchildren, from kindergarten to 11th grade, so I really have a vested interest in understanding this particular area.

I think that public awareness about where to go and who to report is something that we should think about. And one thing that hasn't

been mentioned here today is reporting without reprisal. I don't think that a lot of people understand that they can report and not be penalized in some way. And it's particularly the students who need to understand that, because a scenario could be that one student knows about something about another student, but they don't know who to go to. So they could go to a trusted teacher, they could go to a principal; they're going to go to someone they trust. But often they're afraid and intimidated that *they're* going to get in trouble if they do that.

No matter what the case is -- if it is sexual misconduct, whoever gets this information immediately goes to law enforcement -- is definitely one of the places that is informed. A person with the knowledge notifies the Institutional Abuse Investigation Unit and the police immediately. It's typically a principal who receives this information from someone else; like I said, it could be another teacher, it could be a student.

I also have to say that, regarding the videos -- I live in the District of one of those videos; and our Superintendent immediately suspended the individual. And as of now, that person has requested a leave of absence; so that person is no longer in the District. So I can bring you that information.

I think we can agree that better preparation in guidance on this conduct would be helpful to not only employees, but I really think it's the students. Because often it's going to be students who know about other students. And that -- in my remarks you will see that the process for school personnel is very clear and it works, most of the time; I would say, 99 percent of the time. We would recommend that helping individuals, and primarily students, know when and to whom to report an incident, without

fear of reprisal, could be worth a review. And I'm not sure whether we need a regulation on that or whether we need a law on that. But I would certainly want to work with this Committee and see if we could come up with something.

Thank you.

SENATOR RUIZ: Thank you very much.

If there are no questions from the Committee, I want to thank you very much.

Last, but not least, I'll call Michael Vrancik, Governmental Relations Director, for the New Jersey School Boards Association.

**M I C H A E L V R A N C I K:** Good afternoon, Chairmen, and members of the Committee.

Thanks for the opportunity to testify.

I have with me Robert Greitz, from our legal department, to answer any potential questions that may arise.

I had a bunch of comments to make, and I think most of them have already been made. What you're getting is a copy of the sample policy that we provide to all school boards. There's a provision in Administrative Code that requires that every school district adopt policies that, as you look through it, outlines a lot of the things that are already in place that I think go to a lot of the questions that have been asked about the procedures, etc., that districts have to have in place.

I would concur with some of the things that former Commissioner Hespe said about a focus on the school law side, as opposed to the employment law side. In the context of the arbitration process at TEACHNJ, I think our experiences have been that a lot of the arbitrators

focus more on the employee's rights. We believe that school employees, because of their unique situation in dealing with young people, need to be held to a higher standard. And I think that in the context of all the comments that have been made, the focus on school law, and perhaps some kind of provision that suggests that Commissioner rulings be part of the precedent that's reviewed when arbitration decisions are handed down in tenure hearings would be important. Otherwise, the communication between people in the school district -- parents, students, etc. -- there's been an improvement in the context of the anti-bullying regulations that have been put forward; there's a lot more focus now on school climate and improving relationships. But that being said, there are still incidences that are occurring. And from a board member's perspective, we want to make sure that districts are operating in a way that protects kids; that's the most important part of this.

So anything that we can do to work collaboratively with your Committee; or your Committee, Senator Madden, to enhance and improve the process, we're certainly willing to step up and do.

We'll be happy to answer any questions you have.

SENATOR MADDEN: So I'm thinking -- if you're in arbitration, are you testifying that the courts are looking to protect the employee rights? There was a word-- I'm trying to get my arms around that. Like, you're in arbitration; it almost sounded like you testified that the courts are already leaning one way in that. Could you talk about that?

**ROBERT GREITZ, Esq.:** When the arbitrator makes a decision, the first thing is, you go back to the arbitrators who are chosen.

The qualifications to be an arbitrator are basically two qualifications: You have to be American Arbitration Association and the labor certified -- American Arbitration Association-Labor and National Academy of Arbitrators.

There's is a provision that says you have to have knowledge of school law. Well, when the law was originally passed, there were only 28 people in the entire State of New Jersey who were qualified for the list of 25. When the list was expanded to 50, there were not 50 people. Some people have been added by getting their National Academy of Arbitrators' certification.

But we had to pull people from outside of New Jersey who knew nothing about New Jersey; and the vast majority of them knew nothing about school law. For example, the School Board Association got to pick people to put on the list; and we looked around, and we were looking for people. And I found my old law school professor from Massachusetts, who happens to be certified. He doesn't know much about New Jersey school law at all, but he was qualified to be on the list. In fact, he was one of the names; and some of his decisions have been, I believe, very good for boards of education. But those are the people who we're choosing; they don't have the background in education, so they're looking at these things from a purely labor perspective, employees' rights. They're interpreting into the decisions the *just cause provision*; they're looking at things in a different way than whether or not it's good or not good for the school system. They're looking directly -- is the employee's -- all of his rights have been met, rather than the overall, "How is it going to affect the school system?"

For example, you go back a few years ago -- there was much press about the absences of employees, where there were hundreds of absences of employees. Well, under the old Commissioner Decisions of Metallo (phonetic spelling) -- I can't say his name -- they would have looked at that differently. Now these arbitrators are saying, "Well, some of the cases -- yes, they were told they could approve." In fact, there was one case -- I believe it was out of Newark-- Was it Newark? It was 150 -- over 150 absences.

MR. VRANCIK: It was 250.

MR. GREITZ: Oh, 250 absences in a four-year period. That employee was given a six-month suspension and an increment withholding; in that period of time, he was out 250 times. And clearly, there's an effect upon the educational system of the students. But the arbitrator said, "No, that person should be coming back based upon their past record -- looking at it -- and the just cause provision that we were going to interpret into the statute."

So those are the kinds of things we're looking at, from a statutory perspective, on the arbitration side -- someone who has a little bit more knowledge, maybe, on school law.

Now, the decisions are all over the place; and I think maybe -- I think it was Mr. Nash who said that earlier, from LEGAL ONE.

SENATOR MADDEN: Sir, your name for the record?

MR. GREITZ: I'm sorry; Robert Greitz, from the New Jersey School Boards Association.

SENATOR MADDEN: G-R-E-I-T-Z?

MR. GREITZ: G-R-E-I-T-Z.

SENATOR MADDEN: May I jump to curriculum for a minute, since you're from the School Boards?

Back to the reporting of abuse, and the child learning about what abuse is, and the mechanism to report it -- it's within the health curriculum? Are you familiar with that?

MR. VRANCIK: Senator, I heard your earlier question; and I have to admit, I don't know the answer to it.

SENATOR MADDEN: Okay.

MR. VRANCIK: I don't think they can start early enough; but that's something that we'd have to check into and get back to you. I mean, at what point do you educate children that there are things that are wrong about certain behaviors? I think it probably should be as soon as possible.

I don't know what the State standards are at this point, but I will find out.

SENATOR MADDEN: Okay, thank you.

SENATOR RUIZ: So you identify the problem of the arbitrator; and it's not inexperience, but their experience of not being exposed to different, you know, types of subject matter. How do we remedy this so that we're attracting the best person, who is analyzing the case file from a global perspective instead of a one-sided view?

MR. VRANCIK: I guess that one of the things that we've discussed internally is that the ultimate arbitrator's decision -- which stands in tenure review hearings -- should be informed by previous Commissioner rulings that potentially are precedent-setting. There's nothing that says they have to do that. We hope that they do; but as Rob has said, based on

the training involved, there's a group of arbitrators that are in the pool, and the next one up, whoever that person is, is the one who handles a case.

There was a case in Bound Brook, where it wasn't necessarily students, but it was actually female staff members who had a grievance with an employee in the district. And the arbitrator eventually ruled in a way that that person was allowed to keep the job.

The district got so much grief that they actually went through the appellate process, and ultimately to the Supreme Court. And the Court ruled that the arbitrator's decision had to be thrown out and a new arbitrator had to be appointed. So it was a fairly substantial expense to the district. Perhaps had there been some other consult with previous Commissioner rulings in these cases, the decision wouldn't have gotten so convoluted.

SENATOR RUIZ: Thank you.

Thank you very much, and thank you for your patience.

We also have written testimony from New Jersey Child Assault Prevention; that's in the packets of all of the members.

I just want to take this opportunity to thank everyone; thank you for your patience, thank you for being honest. Most importantly, thank you to Senator Madden for lending his expertise in law and public safety. I think when we collaborate together and look at a problem solving, when we look at it from different lenses, our policymaking process tends to be better. So thank you very much, Senator.

SENATOR MADDEN: Thank you, Senator.

SENATOR RUIZ: That concludes today's Committee hearing.

**(MEETING CONCLUDED)**