
Committee Meeting

of

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

"Invited guests will discuss special education initiatives, followed by public comment"

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: April 16, 2009
11:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Co-Chair
Assemblywoman Joan M. Voss, Co-Chair
Senator Diane B. Allen
Senator Bill Baroni
Assemblywoman Mila M. Jasey
Assemblywoman Amy H. Handlin
Assemblyman Joseph R. Malone III
Assemblyman David W. Wolfe



ALSO PRESENT:

Melanie Schulz
Executive Director

Sharon Benesta
Chief of Staff

Meeting Recorded and Transcribed by
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ASSEMBLYWOMAN JOAN M. VOSS (Co-Chair): Thank you all for coming today to discuss something that is very near and dear to all of our hearts, and that is the issue of special education.

We have many people here who are going to testify. This is something that, to me, is very, very important. Because as I said to the Commissioner, the one thing that we have to keep at the top of our radar screen is that every child -- and I mean every child -- gets a thorough and efficient education that provides them with all of the things they need to have the highest quality of life. So that's the whole intent behind our meeting today: to bring some of the concerns, some of the issues--

Because of my interest in this particular area, I have calls from all over the state. And I always say that my role as a legislator is to be the spokesperson, the mouth, for those who don't have an opportunity to voice their concerns. So I hope, today, many of you will come and voice your concerns, and make sure that we get answers to some of the questions that we raise.

My Co-Chair, Senator Rice, would you like to say a few words?

SENATOR RONALD L. RICE (Co-Chair): I concur with the Chair. We are concerned about conversations we have, that come to our attention from various stakeholders, in regard to how we redesigned these programs. There are concerns about the regs, there are concerns about our rules, and most importantly about the input of those who are most impacted on -- the family members of those. So hopefully they will have questions raised that we can answer -- get answers for -- and determine what changes actually need to be implemented to make sure that we protect our young people, particularly those with these special needs.

So, Chairwoman, thanks for setting this meeting up. We know we're in budget times and we know things are very tough. But I intentionally extracted the Governor's quotes during his budget message. And he continued to say that he's going to do all these wonderful things to protect our children. And if I don't hold him accountable for anything else, it's going to be for women and minority participation -- the stimulus package; and protecting our children. And so this is a very important meeting leading into our budget discussions and the final vote of the budget.

So thank you again.

ASSEMBLYWOMAN VOSS: Thank you.

Assemblywoman Jasey.

ASSEMBLYWOMAN JASEY: Good morning.

I'm looking forward to hearing from all of you. Special ed is certainly part of the spectrum of services that we are obligated to provide to all of our kids throughout the state. Having been a board member for eight years, I understand the challenges from the school board side; but I also understand the challenges from the parents' side, being the parent of a child who was classified very early in his career.

And so one of the things that I keep with me all the time is the fact that we're always learning more about how to reach children, how to teach children as we learn more about how the brain functions, as we learn more about how to train our teachers. We need to make sure that our rules, regs, and legislation keep pace with the knowledge that we're gaining.

So I look forward to this as part of an ongoing and continuing process of educating us so we can better serve you and serve our kids. Because our children truly are our future.

And I must say that this is-- Although this is an impressive room, it's very disconcerting, because I can't see those of you behind the pillars. (laughter) And I assume the-- I hope the acoustics aren't too terrible, because this is a really important topic for us to be addressing today. So if you need to get up and move so that you can see or hear, please feel free to.

So I look forward to this. And I thank all of you for taking time out of your very busy schedules to come and inform us.

ASSEMBLYWOMAN VOSS: Thank you.

Assemblywoman Handlin, would you like to say a few words?

ASSEMBLYWOMAN HANDLIN: Thank you, Madam Chair.

This really is an impressive turnout, especially considering that in many, many school districts across the state it's Spring break. A lot of people are out of town, and yet you're here. And it's crystal clear to us that you're here because of the passion that you share for the needs of special-needs kids and for the commitment of the State to do as much as we can and as much as we need to, to provide the best education for them.

So we're here to listen, we're here to determine priorities, and we're here to make sure that your message is at the top of the list of those priorities.

Thank you.

ASSEMBLYWOMAN VOSS: Thank you.

Senator Baroni.

SENATOR BARONI: Thank you very much, Madam Chair.

And having had the great opportunity to serve with Chairwoman Voss on the Education Committee when I was in the Assembly, there can be no greater advocate in New Jersey for children who are in our special education programs than Joan Voss. It is the passion that the Chair brings to this issue, unmatched, perhaps, by anyone in the Legislature. We're very blessed to have her continuing to bring this issue to us, not just in formal settings like this, but also in conversations about budgets and about other policies. And I think that's--

This is a very critical time for our state. We read the paper every day, and we see the challenges that New Jersey is facing economically and through our State budget -- real challenges. I just want to make sure -- and I know that we all want to make sure that, as we go forward with the budget process, our children who are in our special education programs do not bear the burden of bad decisions made in the past. These kids deserve and have a right to an education that will match their educational needs. And I can tell you that as a Senator who represents some of the most amazing institutions of learning anywhere in the country -- all of us do -- that we will work every day to make sure that these kids get the education that they have a legal right to get, and make sure that it's the best in the country.

Thank you, Madam Chair.

ASSEMBLYWOMAN VOSS: Thank you so much for those kind words, and the feeling is mutual in terms of your concern for education.

Senator Allen.

SENATOR ALLEN: Thank you.

I believe that when we came upon this new formula, that many special education children and many towns were given the short shrift, not to mention fewer dollars.

I'm concerned that with so many towns having to figure out ways to deal with these children and their needs, and not having the money-- Is it 14 percent that I think they're given -- and we have towns that have 29 percent of children with special needs in my district. Where is the money coming from to start with? And now, when there's a possibility that even fewer dollars will be coming, I am so concerned.

So I think we need to perhaps change where we are to start with, not just maintain the status quo. And I'd be interested in hearing from people today -- if there are those who agree with me -- ideas on how we can make those changes to make sure that our children do, indeed, get what they need. Because I don't believe that they do -- not every one of them, not today.

Thank you.

ASSEMBLYWOMAN VOSS: Thank you, Senator Allen.

We have a variety of people who are going to testify representing all different groups and, of course, the Department of Education. And we'll certainly have an opportunity for people to ask questions.

But I'm going to start off with the representative from the Department of Education, the Assistant Commissioner of Student Services, Barbara Gantwerk; and I believe Roberta Wohle, and--

ASST. COMMISSIONER BARBARA GANTWERK:
Jerry Vernotica, Assistant Commissioner for the Division of Field Services;
and Roberta Wohle, the Director of the Office of Special Education
Programs.

ASSEMBLYWOMAN VOSS: Thank you.

ASSISTANT COMMISSIONER GANTWERK: Good
morning.

First of all, let me thank Senator Rice and Assemblywoman
Voss for allowing me to represent the Commissioner today at this very
important meeting.

And we'd just like to make a couple of comments and answer
any questions that you may have, specifically speaking about the issue that
has raised concerns -- and that was the role of the county superintendent in
special education placements as it relates to the CORE bill -- law.

And I want to say at the outset that New Jersey-- All of us in
the Department of Education, and especially those of us who've worked in
special education for many years, are fully committed to ensuring that
students with disabilities have access to the full continuum of services. And
we recognize, as does everyone, that some students in special education may
need a separate, self-contained -- be it a private or public -- separate
program based on their needs. And there's no change to that in these
regulations whatsoever.

The regulations put a structure in place to implement the law
that gave the executive county superintendent the very important role of
providing information to districts about available, in-district programs for
their consideration; and for the county superintendent to help in identifying

needs and developing additional in-district programs. That's how we implement that law.

And I want to make perfectly clear, because there has been a lot of confusion about this-- The role of the executive county superintendent is to provide information to the IEP team. The IEP team is the team -- it includes the parents -- that makes the decision as to the placement of that student. But what this does is to make sure that we implement the Federal laws, which require that prior to sending a student to a separate, segregated program, the district considers all available, in-district options. Because the law requires that wherever possible or appropriate, the student be educated with their non-disabled peers.

And so what this does -- the regulations -- is put a structure in place for the executive county superintendent to provide data. And we continually clarify the requirements so that the executive county superintendent is not reviewing, approving, denying. They are not looking at IEPs. They are not even recommending programs. What they're doing is providing information. With so many districts in the state, we don't know and the districts aren't aware of other programs that might be available for a student. So through this structure, the county superintendent just gives information. All the county superintendent gets is the age of the student and the class type that the district IEP team or someone has considered. If they move back to the team -- the parent is a member of that team. The decision is made only by the IEP team as to where that student is placed. And I know there has been some confusion, and the regulations make it perfectly clear. That is their only role. And we think this implements the Federal requirements, it implements concerns that we have heard from

many advocates -- that New Jersey has an overreliance on separate, segregated programs.

Now we, in New Jersey, are very proud of the continuum of services that we provide. And I believe that we provide a better continuum than many states that do not have the kinds of services that we have, the kinds of separate programs that meet the needs of students. So we have a full continuum, but we have three times the number of students, percentagewise, of any state -- of the average -- and the highest in the country of students educated in separate programs. So what this does is make sure that districts are considering in-district programs. But it does not require, in any way, that they place students or that the county approves or denies it.

I think we have continually heard concerns. Based on the concerns that we heard, we made changes to the regulations. We have met and heard other concerns and received comments. And when these regulations are proposed again, there will be changes to that based on the comments that we've heard. So we've continually tried to recognize the concerns that parents have had and to make it perfectly clear.

We have met -- Jerry, Roberta, and I have met with the county superintendents. We meet on a monthly basis with the special education supervisors in every county to make sure that everyone is clear -- and I believe they are clear -- that their role is information and resource provision.

And I believe that is the important message that I wanted to get across today -- that we believe that the regulations implement the Federal law, and move us forward in assuring that all students have the range of

options and the appropriate considerations prior to the IEP team making the determination.

ASSEMBLYWOMAN VOSS: I just would like to share with you something before I introduce Assemblyman Malone, which kind of speaks to the concerns of the parents. And I want you to hear it in their own words. Okay?

It says, "The new regulations authorize the office of the executive county superintendents to intervene in the IEP process. This already causes many students with disabilities to be deprived of a timely and appropriate service and placement, as the regulations state the IEP team requesting an out-of-district placement must give the executive county superintendent's office the age of the student, the type of program needed. The county superintendent then provides the IEP team with other public or regional programs available. There is no mention of private programs as an option. The IEP team would have to justify the suggestions of a private placement in writing. Districts would then shy away from suggesting these types of private placement to avoid red tape. And the IEP members may feel intimidated to disagree with the county executive."

This is verbatim from a parent. And that, I thought, kind of put it in perspective as to how the parents feel. So maybe you can address that.

ASSISTANT COMMISSIONER GANTWERK: Sure. Absolutely.

First of all, the districts are required to consider in-district programs first. They are not, by law, allowed to immediately say we're going to send the child out. We believe there are benefits to educating

students the way the law said, with their non-disabled peers, wherever appropriate. Because we have so many small districts, sometimes they may not have an appropriate in-district program. And they may not be aware that in a neighboring district they do have one that would meet the needs of the students.

Now, of all things, it must meet the needs of the student. So the student has an IEP with certain services required. So the question is: Where can that IEP be delivered appropriately? And it is very appropriate to look around to other schools. We have lots of situations now where schools are getting together and saying, "Well, we need this type of program, but I have only one child who needs it. You have two children who need it. You have one. Let's put it together. We can develop a quality program in-district. Those students will have opportunities for interaction with non-disabled peers."

So I think what we're trying to do is move that forward. I understand that parents may be concerned. And certainly that's an issue that the teams must really fully discuss with parents -- the programs. We also have opportunities. If a parent feels that a district is inappropriately making the placement, we have complaint investigation procedures so that we will investigate any complaint that a parent has. And we do this all the time. We have fully operational complaint investigation procedures to see if the district is not doing what they're supposed to be doing. And we have a monitoring system to look at districts and see their procedures.

So I think we have many ways to address that. And it's also new. So I think some of the newness is a fear that can only go away when we start implementing it, and making sure that parents understand what

their rights are and that districts understand what the purpose of this county office review -- not review, but county office information resource sharing.

ASSEMBLYWOMAN VOSS: I appreciate that, because I've had to contact the Department of Education because of some inappropriate circumstances with child study teams.

But is there a Web site? I mean, I know how to access the system, but many parents do not know how to access the system. And is there a Web site where you can look and say, "I have a complaint, and I would like to register it?"

ASSISTANT COMMISSIONER GANTWERK: Yes. On our Web site there's a special education -- there's a complaint form that's right on the Web site.

ASSEMBLYWOMAN VOSS: So they would go to the Department of Education, Special Education, and all of this would be available to them?

ASSISTANT COMMISSIONER GANTWERK: Well, also, every parent is suppose to receive a parental rights document -- PRISE, Parental Rights in Special Education. That's a Federal law. Every state must have a document. We have that document. Every district has multiple copies of that document. And parents are to be given that document multiple times.

ASSEMBLYWOMAN VOSS: That's the problem.

ASSISTANT COMMISSIONER GANTWERK: They're not?

ASSEMBLYWOMAN VOSS: Not always. And especially with the parents who have English as a second language. This sometimes can be a problem.

ASSISTANT COMMISSIONER GANTWERK: Well, I can tell you it's now translated into Spanish. But the last one was translated into 13 languages. And we had it in 13 languages available to districts. And we're moving forward again to have those translations available.

And when we monitor a district, one of the things we look at is: Are you giving PRISE? Are you giving out the appropriate documents to parents?

ASSEMBLYWOMAN VOSS: One of the problems I have found -- and I don't mean to belabor this -- is that in many districts, the head of the child study team has a tendency of changing frequently. And so I know districts that have had more than six heads of the child study team in five years. And this certainly is-- And is somebody, like, monitoring them to make sure that they're putting all their ducks in place, in terms of their communication with parents?

ASSISTANT COMMISSIONER GANTWERK: I think this is certainly a very important issue that we raise. And I know that-- I was the Director of Special Ed before Roberta. And I know she has the same thing. When I would meet with the directors of special ed to try to convey a message, it took me eight days to go around the state. And at each meeting there were about a hundred people. So with turnover and so many districts, it's very difficult. And so we work hard at that kind of communication. But you're right.

ASSEMBLYWOMAN VOSS: Roberta, do you wish-- I don't mean to be informal.

ROBERTA WOHLER: That's okay.

I think that I would just like to reinforce a few things that Barbara said, in that we have not taken any authority away from the IEP teams. Conversely, we have not given any authority to the county office to overrule the authority of the IEP teams.

Our policies, our monitoring, our training, our grant initiatives have been focused on the creation of in-district programs. These regulations reinforce, they do not negate. They are not inconsistent with the Federal mandates for students to be educated to the extent possible, or to the extent appropriate, with nondisabled students. And we have worked very hard at coordinating our policy, our training, our monitoring to reinforce that message.

I also want to say that before we came here today -- and I checked this every week since I last spoke to the Assembly -- is that I met with the mediators, I met with the head of our complaint investigation. I asked if during mediation, in any case, has anyone said that the county office was interfering with placement decisions? The answer to that question was no. What they said has been brought up in mediation is that the districts might say, during a mediation, "The State wants us to create in-district programs." And we have created them.

And so in following the LRE provisions, we are -- we believe that this will -- we have a program that is appropriate to your child. And when there is that disagreement, there is a system in place -- and there has been a system in place -- to resolve those disagreements.

Similarly, I sign every complaint, I read every complaint. And to date, there has been no complaint that said that the county office interfered with the -- because of these regulations -- with the determination of a placement.

So thank you for the opportunity.

ASSEMBLYWOMAN VOSS: I just wanted to reiterate what I read to you about -- it doesn't have to be an overt thing. It can sometimes be, perhaps, a subtlety, or that the perception of the parents sometimes is one that is not conducive to--

Yes.

ASSISTANT COMMISSIONER GANTWERK: I also just want to ask Jerry Vernotica here -- because he is in charge of the county superintendents -- to make clear what they have done with the county superintendents in this area.

ASSEMBLYWOMAN VOSS: Thank you.

A S S T. C O M M I S S I O N E R G E R A L D J. V E R N O T I C A:
Thank you, Barbara.

I just wanted to basically assure the Committee, and special ed parents, and teachers, and administrators that one of the things we've made a very significant effort on is, since the regulations have been put in place, I meet regularly with the county superintendents to make sure there are agreed upon processes; and clearly define what the role is of the county superintendent, particularly in this particular situation.

I have to agree with Barbara and Roberta -- is that what the county superintendents are doing -- and we bring this up at every meeting -- is basically working with the database to provide information so that the

district, the IEP teams, and the parents, as part of that team, can choose where they would like that placement to be. In no way is the county superintendent's role to read IEPs, to make placement options.

I think what's happened here, back a few months ago, is the fact that given that this is an additional step in the process, it creates a lot of anxiety. And we well recognize the fact that this additional step now, which is a source for fiscal -- remember, these CORE accountabilities are for fiscal accountability -- regulations are to encourage in-district placements as your first option, and then identify neighboring school districts where there are programs that are meeting the child's needs if, in fact, that school district is unaware that the neighboring district has these programs; or to also encourage the consolidation of such programs so that there can be -- we can better meet the needs of the students and also save the taxpayers some dollars.

So that is basically what we've worked on consistently -- is the agreed upon processes, and the clarifying of the role that this database will just be simply to identify placements to the districts.

ASSEMBLYWOMAN VOSS: As always, I have a question.

Since the county superintendents have such a huge discrepancy between -- like, Bergen County has over 76 districts, and say Gloucester has 13 districts -- do you think -- and I'm just playing devil's advocate here -- that some of the county superintendents may have a slightly different interpretation of this? I don't know. I'm just playing devil's advocate.

ASSISTANT COMMISSIONER VERNOTICA: No, Assemblywoman. I mean, we have a section of our agenda, every month, whereas I -- we tell stories to make sure there is consistency. And this is one

of those things. I have one person who is just basically the chair of the special ed database that is coordinating all of these activities. And a primary goal that I took, upon taking this position as Assistant Commissioner, was to make sure that this was being applied equitably.

Now, again, some may interpret it differently, and there may be some responses from the community, the school districts. But every county superintendent is very clear as to their role in the implementation of this.

ASSISTANT COMMISSIONER GANTWERK: One other thing. When we look at why students are removed from their district, we talk to superintendents, we talk to child study team people, or -- why are students not educated in-district? And many of the reasons they give us is, "Well, we don't have that program. We don't have enough students. We don't have room. Our teachers aren't trained." Those aren't reasons why the student must be in another program. Those are reasons that you can't serve the student. But it's not because their needs could not be met if you didn't (*sic*) have the resources. So a lot of this is about looking at how we put together the appropriate resources or find the resources that the student needs. So I think that's an important point. Sometimes students are removed not because they must be, but they just don't have that program or that service. And we're trying wherever possible and appropriate.

But the bottom line that I want to state is that the student's IEP, and the services they need, determine where they are. Because if that can't be delivered, it's not an appropriate program. And those needs include academic, social, emotional, after school. It's more than just: "How is the student doing in reading and writing." It's, "Where can that student

get what they need to be able to take their appropriate role in society?”
And that’s not just only academics.

ASSEMBLYWOMAN VOSS: Thank you.

Senator Rice.

SENATOR RICE: Yes. I have several questions -- and going back to some genesis here.

The Department actually finalized this fiscal accountability regulations, I believe, on my birthday, December 18. Is that correct?

ASSISTANT COMMISSIONER GANTWERK: I believe that’s--

SENATOR RICE: Yes, it is.

ASSISTANT COMMISSIONER VERNOTICA: It was on your birthday, Senator.

SENATOR RICE: Did the public have an opportunity to comment?

ASSISTANT COMMISSIONER GANTWERK: Did the public have an opportunity? We had-- There were-- We had public comment. We received written comment. There were some meetings that were held. And I received comment. I mean, we had comment on the sections that we were looking at -- the special education. I think there were-- I know there were going to be public hearings when the proposed rules are up for adoption. So then there are going to be, I think -- I know, three public hearings.

SENATOR RICE: So is the answer to my question yes, the public had opportunity to comment, or is it no?

ASSISTANT COMMISSIONER GANTWERK: I believe there-- Yes, there were.

SENATOR RICE: Or are you not sure?

ASSISTANT COMMISSIONER GANTWERK: I know we received comment, yes.

SENATOR RICE: Okay. How was the public made aware of the fact -- of the time frames that they had an opportunity to comment?

ASSISTANT COMMISSIONER GANTWERK: The regulations were put on the Web, and there was an address that people could send their comments to after those rules were proposed.

SENATOR RICE: Were there community meetings held or hearings for comment for the record? You know, we're holding a meeting today. We're on the record.

ASSISTANT COMMISSIONER GANTWERK: I can only speak really to the section-- I mean, I don't -- the other sections there may have been. For the special education, we did have some meetings that advocates requested. It was upon the advocates' request that we had some meetings. But there were no public hearings for this section except held by the Legislature.

SENATOR RICE: Okay. So if that's the case, then I suspect that there may be some voids that need to be filled, because you may not know all you need to know from stakeholders and families. I mean, your knowledge, I'm sure, in special education is quite extensive, like mine is quite extensive in a lot of things. But I don't know everything. Things change, and families will tell you that. And there's a need to know.

So with that, let me ask you this: Do these regs exceed the CORE bill requirements?

ASSISTANT COMMISSIONER GANTWERK: I do not believe they exceed it. They provide structure for implementing it. I don't believe they exceed it.

SENATOR RICE: Do they address all the areas of the CORE bill?

ASSISTANT COMMISSIONER GANTWERK: I believe they address all the areas of the CORE bill.

SENATOR RICE: Okay.

ASSISTANT COMMISSIONER GANTWERK: I believe they--

It doesn't stay on. (referring to PA microphone)

SENATOR RICE: Is it on now?

ASSISTANT COMMISSIONER GANTWERK: These implement both the letter, I believe, and the intent, for ensuring that there is information on in-district programs provided by the county superintendent, which is specifically in the bill -- in the law -- as well as having the county superintendent do needs assessment, facilitate the development -- in-district options. And we've held very closely to the law when we wrote the regulations, and we made changes based on the comments we did hear from the public. From the very first time they were published, to hearing the concerns about the role of the county superintendent, we made very specific changes so that we believe it would be clear that there's no role to approve or deny.

SENATOR RICE: Well, was a cost study done regarding -- in reference to the taxpayers as required -- special education and CEIFA?

ASSISTANT COMMISSIONER GANTWERK: The cost study as part of CEIFA to determine the formula, not this particular section? That has not been done yet. It will be. It's required.

SENATOR RICE: I know it was required, but it wasn't done?

ASSISTANT COMMISSIONER GANTWERK: No.

SENATOR RICE: And you're not sure about comments. So we're not sure about cost study, because we're not sure about comments. I just want to be clear where we're going with this.

Do you understand what I'm saying, Madam Chair?

Do you have any idea what data you're going to be using when you do this cost study? Where is your data coming from?

ASSISTANT COMMISSIONER GANTWERK: Well, I would have to speak to the people who are doing that cost study. And I think it's going to be an outside person doing the cost study, looking at all the data that we have. But I personally have not been involved in developing that, so I don't know.

SENATOR RICE: All right. Do the regulations require the ECS to provide information regarding the entire continuum of placement options?

ASSISTANT COMMISSIONER GANTWERK: I think the intent is to provide information on other public programs, and I think that's what it says in the law.

SENATOR RICE: But you're not certain?

ASSISTANT COMMISSIONER GANTWERK: Well, yes. Other public programs.

SENATOR RICE: Let me ask a final question, and then I'll come back. It's my understanding, in talking to various people, that we had something close to maybe 23,000 or more students -- families requesting -- I'll assume with this bill, that is -- requesting placement in out-of-district programs. Can you tell me how you expect the county superintendents to actually oversee and review all of that to get that correct? Do you have an answer? I want to hear this. (laughter)

ASSISTANT COMMISSIONER VERNOTICA: Well, first, let me, Senator -- and I'll get to that -- let me just go through the 6a23a27, which is basically labeled -- and I'm sure you're all very familiar with this -- the shared special education services -- under shared services -- when it comes to the fiscal accountability regs.

The emphasis is on: "shall promote and facilitate the sharing of special education services consistent with IDEA requirements, as follows..." and then it was identified -- to basically answer a question you had of Barbara. "It's to coordinate with the Department --" and please bear with me as I read it so it is clear -- "It's to coordinate with the Department to maintain a real-time statewide and districtwide database that tracks the types and capacity of special ed programs being implemented by each school district, and the number of students enrolled in each program, to identify program availability and needs -- needs regarding program needs within school districts. It's to coordinate with the Department to maintain a statewide and districtwide list of all special ed students served in out-of-district programs, and a list of all public and private entities approved to

receive special education students that includes pertinent information such as audit results and tuition charges. It serves as a referral source by maintaining information on placement options available to other school districts and their tuition rates, for school districts that do not have appropriate in-district programs for individual special education students.”

Then, when school personnel serving on an IEP team are considering that a student’s IEP be implemented in a special class program that is not available, as Barbara said, in-district, “They shall inform the executive county superintendent of the age of the student and the class type that they are considering. And the executive county superintendent shall identify whether such special class programs are available in local districts and if there are vacancies.”

So, therefore, given that particular process, this happens at different times -- different times of the school year. I’ve had no indication from any of the executive county superintendents, all working with real-time databases now, that it has been a problem in the volume of requests coming in to say, “Is there a program type, or isn’t there?” And initially, the superintendents in school districts, as they’re working along with their principals, directors of special services, and IEP teams, are very familiar with other relationships that they have with other school districts or private school placements in order to identify these program types.

What I also want to emphasize is that, again, the county superintendents are in no way interfering or intervening when it comes to programs, when it comes to individual children’s needs, and/or the types of programs that they are recommending. This is to keep the (indiscernible) for placement options.

So given the fact that there may be -- leading into Senator Rice's second question -- that there may be thousands and thousands of instances where districts have to notify the superintendent, it's done on an ongoing basis. And to date, it has not been a problem for any of the executive county superintendents to my knowledge.

SENATOR RICE: Through the Chair, the information-- The local IEP team, as you indicated, has to give the ECS information. And you mentioned class type, age, etc.

ASSISTANT COMMISSIONER VERNOTICA: Correct.

SENATOR RICE: Is there a requirement to provide information on private placements?

ASSISTANT COMMISSIONER GANTWERK: No.

SENATOR RICE: No.

ASSISTANT COMMISSIONER GANTWERK: And the law--

SENATOR RICE: Why not?

ASSISTANT COMMISSIONER GANTWERK: The law says, "Serve as a referral source for districts that do not have appropriate in-district programs for special education students and provide these districts with information on placement options in other school districts, and conduct regional planning and identification of program needs for the development of in-district, special education programs."

So the law -- the intent of the law was to have the county provide information on in-district options. We have, on our Web site-- All of the private programs are there. That information is available. But the focus of this law was to provide districts with the information on other districts. And that's why I say we're implementing the intent of the law.

SENATOR RICE: But if the local IEP teams have (indiscernible) a different placement -- right?

ASSISTANT COMMISSIONER VERNOTICA: Correct.

SENATOR RICE: --from those recommended by the ECS, then they have to give written explanation justifying the decision for that.

But yet there is no requirement to provide. So I feel like I'll be getting set up.

ASSISTANT COMMISSIONER GANTWERK: Well, the reason we--

SENATOR RICE: I don't want to be intimidated. I don't want to be-- Do you know what I'm saying? I mean, there is something missing there in the relationship.

ASSISTANT COMMISSIONER GANTWERK: And we put in the law -- in the regs, why. The reason we're saying, "If you're not using an in-district program, tell the county superintendent what is missing for the purposes of needs assessment and program planning." Because the law also tells the county superintendent to facilitate the development of shared programs. For the district to -- the county office to do that, they need to know, "Why in this county are we always sending students of a certain age with emotional problems out? Well, let's see. Is that an area that this county needs to think about in developing some options?" So the purpose in the regulation -- and we made that clear as well -- to provide information for the needs assessment role that the county had-- They can make the decision to send the student wherever appropriate.

SENATOR RICE: Let me end on this: My suggestion, through the Chair -- and my suggestion as Co-Chair -- and as Senator, I've just come

through situations different than this in my district. It was more of a funding thing dealing with special ed and needs. I think we're going to have it resolved.

I'm going to suggest, and I'm going to be serious about this -- and take it for what it's worth, but you know me. (laughter) I'm going to suggest that some of the questions I raised-- You may have a problem with the -- the Commissioner may have a problem with them, but I want those issues addressed. And so I'm going to suggest you meet with some of the advocates, and public, and people who have those same kinds of questions, and have discussions with them, and come back to us and tell us how we're going to correct those areas that may be somewhat vague and that can be ruled or decided if they're ever challenged one way or the other -- and do harm to people.

See, we don't want any room for problems in the future with anybody, but particularly these special need district people. And I want to be sure that these super superintendents -- which I didn't like in the first place -- we need to take away the superness of it later. But right now, I don't like giving them much authority, and then the public and others are not involved in the process -- here at the State level -- the way we think openness should be and (indiscernible) should be. We're always fast-tracking something. Then when we want things fast-tracked as legislators, we can't them fast-tracked, and I always find that interesting.

So I think we need to wheel back a little bit, and I think we need to wheel back before the budget -- on the leverage I have for now. If not, we're going to have some more discussion that may not be very pleasant. That's the best way I can put that for the record.

Okay?

ASSEMBLYWOMAN VOSS: Thank you, Senator. You raise some interesting issues.

Before I get to Senator Allen, I just want to call everyone's attention to the fact that Assemblyman Joe Malone was here. And unfortunately he couldn't stay because he's on the Budget Committee. But he is also an educator and passionately interested in the issues that we're discussing. And so I'm sorry that he couldn't stay, because he would give us some more insight into some of the problems.

But without further ado, Senator Allen.

SENATOR ALLEN: Thank you.

I have several areas that I'd like to cover. The first is the talk of consolidation of programs. Can you tell me the kinds of consolidations that have occurred; and if there are some counties that have done a lot of it, some that have done none? Where does all of that stand?

ASSISTANT COMMISSIONER VERNOTICA: Well, it's an ongoing effort. And one of the things, for example, in Ocean County -- even prior to the CORE regulations -- they're shared with the Educational Services Commission, basically, given the fact that there are a lot of small districts. There is a lot of support there, whereas they have shared child study team services at a county level. And this is the type of thing each executive county superintendent is looking at right now.

SENATOR ALLEN: So it's just in its beginning stages. You don't really have any programs to point to at this point.

ASSISTANT COMMISSIONER VERNOTICA: Not at this point.

SENATOR ALLEN: I'd like to hear about the fiscal pressure that's on the IEP teams. I hear about this from parents who believe that because of cuts in funding for special education, they're being pressured -- I guess ultimately by the administration -- to accept something that they don't feel is really what is needed but that, given financial situations, they're forced to take something that they feel is really inappropriate.

I guess -- speak to me about the money for special ed. And, again, context would be that 14 percent, which still very much concerns me. And speak to me about how you deal with that, given that many parents don't understand that there is a chain that they can go up. And it's very rare that anybody ends up in my office. And when they do, it's been a horror, an absolute horror, for them.

ASSISTANT COMMISSIONER GANTWERK: Well, the funding for special education essentially comes from three places. It comes from the local district; it comes from the State, through the funding formula; and it comes through the Federal government, through IDEA funds. And the Federal funds are approximately \$360 million each year. And that's to supplement.

In addition, as you know, we're getting stimulus money. And districts will be receiving an additional \$360 million on top of their regular allocation for special education alone. And that's over a two-year period. And this stimulus--

SENATOR ALLEN: And then what?

ASSISTANT COMMISSIONER GANTWERK: After the two years? Well, we don't know. We don't anticipate that same amount. But we certainly know that the special ed money will continue. Perhaps it will

increase -- not to the tune of double -- but assuming it-- I mean, I can't say what will happen at the Federal level in two years. But the State formula, while it allows for all districts to be funded at 14 percent, districts that have extraordinary costs get additional funds for those students where the costs exceed a certain amount. And on top of that, districts that have a high incidence of low-incidence students -- in other words, a high proportion of low-incidence, high-cost students -- students with autism, students with multiple physical and mental challenges, and difficulties -- can apply -- and we have that set up for this year -- to apply for additional funding. That's also in the law.

So there are those three roots to provide funding. And I think those are safety valves -- the safety valve for the high-cost child. You can have one child that costs \$80,000 for tuition and another \$50,000 for transportation. I mean, these are unique, but they exist all over. So we have those costs, and the situation where they have a very high incidence of low-incidence children.

And I think the issue that you've raised has always been there -- there is pressure, at a district level, to spend all of their money in the best way possible. And there are always sort of tugs. Our issue is that the Federal law says students with disabilities have to get what's in their IEP. And so we, in our monitoring, look to see that that's assured.

Are there pressures? Yes, I think there are pressures on school districts about all programs. And so at an IEP team meeting, they are probably looking at cost-effectiveness or efficiencies as well. And what we tell districts, and make clear, is that cost can be an issue when you are comparing like programs that can deliver everything the child needs. But if

it can't deliver what the child needs, then you have to make -- deliver that IEP as determined.

But I'm not going to say to you there aren't pressures at a district level to look at how they can provide appropriate programs in a cost-effective manner. That is--

SENATOR ALLEN: Do you know whether parents are given something -- because I know the parents I've spoken with have not been -- but are they supposed to be given something that says, "If this doesn't work for you, here are your avenues of recourse."

ASSISTANT COMMISSIONER GANTWERK: Yes, and I would be very-- I mean, I guess I shouldn't say I'd be surprised. But I would be surprised if parents didn't get that parental rights information document. I mean, we have parents telling us they could paper their walls with it because they get it at every meeting, they get it at every notice. So I believe parents will get it.

Now, to be honest, I think it's a hard document, sometimes, for anybody to understand. So a parent might-- It might be a little daunting. We wrote it. It complies with the Federal government. They want everything in there. But there are a lot of legal things.

SENATOR ALLEN: Couldn't there be an executive summary that says, "If you don't agree, you can call these three people?"

ASSISTANT COMMISSIONER GANTWERK: Yes, and we have--

You want to speak to that?

MS. WOHL: There are resources that are listed in the document. And both the county offices and the Office of Special Ed -- we

get calls constantly. And if the parents have not been provided that information, then we summarize it for them, and then we provide it to them.

SENATOR ALLEN: I don't know how it is that people come to me and they just don't have any of this information, but that's what's happened. And I think others on this Committee have seen the same thing.

ASSISTANT COMMISSIONER GANTWERK: We recognize that. And we provide funding to organizations -- to the State Parent Advocacy, for one -- to do trainings for parents. Because we know we don't get to everybody. So we developed a project so that parents could get training themselves. We also do trainings for parents in our learning resource centers that we've set up. But does it happen that somebody doesn't understand? Yes, there's no question that there's always more work to do to make sure that people understand.

SENATOR ALLEN: I'd be interested in knowing, as you move forward, what kinds of things you're doing so that parents--

And I understand. I don't disagree with you that it can be daunting and that not every parent is able to decipher it. And even those who can decipher it -- again, going back to what the Assemblywoman said -- are often intimidated and just don't know how to get to that next step. I mean, we just get phone calls from people who are at the end of their rope and just don't know where to turn. And even if everybody did the right thing in trying to educate them and keep them informed, it wasn't working.

So I guess my point is that clearly we need to do more along those lines. And I'm not suggesting that I know exactly what it is. I'm sure you have a much better handle on it. But we need to do more for parents

so that they can, in fact, know where to go to ask those questions and get what they need for their children.

ASSISTANT COMMISSIONER GANTWERK: That's absolutely true.

And I just say that we understand that, because in the Department, we'll have our own staff going to IEP meetings for their own children. And they know all the rules. They know everything. It's a different issue. It's not so easy. And so we understand. This is a difficult, emotional-- It's not just memorization of rules, it's your child.

SENATOR ALLEN: Let me just circle back for a moment to the funding issue. Do you really believe that we're funding special education adequately?

ASSISTANT COMMISSIONER GANTWERK: Yes. And I believe that our -- that the study will show-- I mean, if you're asking my belief, I've looked at other state funding, and I think we have a very rich formula. I think we have rich services that are going to students. I talk to other directors, and so does Roberta, in other states where they are amazed at some of the services. That doesn't mean-- And I'm not trying to say that every child gets everything, and it's perfect. But I think we do have a rich array of services. And I think the funding formula, because of having these -- the ability to have high-cost students paid for separately, and when you have a high incidence -- if you have a huge number of children with autism with very high needs -- that there's an additional mechanism, I think--

SENATOR ALLEN: Is there something for-- I'm going to bring out one of my towns that has a 29 percent special ed rate. But they're not necessarily a lot of high-cost students, and they're not necessarily a lot

of children with autism, or something. It's an area with lots and lots of foster kids. And they often bring many developmental problems. They aren't huge, major ones, but they're ones that need to be dealt with. And there also is an area -- this particular town I'm thinking of -- that has a lot of pockets of poverty and just a lot of kids with a lot of needs. And then just--

The bottom line is that they don't have-- I believe, from what I see, they don't have the money that they need. And for various reasons, their homeowners are taxed at such a high rate now -- higher than most other towns. Where do they go? Why is the State not there for them?

ASSISTANT COMMISSIONER GANTWERK: Well, let me just speak to a town having a classification rate of 29 percent. I would say we would have to look very carefully at why that should be. That's a very high rate of students with disabilities. Most likely, when we've seen that happening, districts do not have what they need to have in general education to appropriately educate the students. And so they look to special education as the only place to provide help to students. I think that that's -- one would question a rate of 30 percent of your students being disabled. I mean, that is-- We're the highest state in the nation, in terms of the percent of students classified, and that's three times our rate. So it's either unusual--

Now, if they were very -- if they had a lot of kids with autism, I might understand it. But if they're sort of kids with mild learning problems, then one would say, "What's going on in general ed, and how can we take a look at what's happening there?"

I don't know if, Roberta, you want to say--

MS. WOHLER: I was going to say exactly the same thing. It's unusually high. And as Barbara said, when we see that, typically there are not the services in general ed to accommodate the students, and special ed is looked to. And poor children do not necessarily equate to disabled children. That doesn't mean that they don't have--

SENATOR ALLEN: Well, I apologize if I made that seem to occur. But I think if we look at children from homes of poverty, we will see a greater developmental need than children from wealthy homes, which doesn't mean that we don't have special ed kids from every home -- from every type of home. I don't mean to say that.

Tell me if I'm wrong, but the studies I've seen have indicated that there's a little bit of a correlation between poverty and developmental issues.

ASSISTANT COMMISSIONER GANTWERK: Well, I think certainly poverty is an at-risk factor for educational issues. And I think that's why the funding formula has in it poverty as a factor in determining when districts get more money. And it's based on the percentage of poverty. Districts get Title 1 money based on poverty. So if you have a high rate of poverty in your district, you get increasingly higher amounts of Title 1 money, because Title 1 is the Federal supplemental program which recognizes poverty as the biggest -- such a great risk that the funds are based on poverty at a school level and a district level. So Title 1 is another area where districts get a tremendous amount of money, and that's supposed to supplement -- to do more.

Now, our State already gives at-risk funds for children in poverty, and the Federal Title 1 dollars are really supposed to look at the

schools that are underperforming -- the children that are underperforming, in the areas where there is poverty. So there's no question that poverty is an issue.

SENATOR ALLEN: All right. Thank you.

ASSISTANT COMMISSIONER GANTWERK: You're welcome.

Thank you.

ASSEMBLYWOMAN VOSS: I have, of course, a few issues to bring up as well, and it kind of echoes what Senator Allen said.

An IEP is an individual education program, as we all know. But one of the things I worry about is: How much training does the person who is the special ed teacher have in really determining what the child needs? Because I go to schools all the time, and very often I will find a child in a class, and I'll say to the teacher, "Is that child classified?" And the teacher will say, "No, he's just a little strange." (laughter) Well, a little strange means that-- I said, "I'm pretty sure the child has Asperger's." They don't even know what Asperger's is. So sometimes I wonder, when these IEPs are written, if the person who is writing them is truly conversant with the issues. Because every child is different. And when we're looking at the spectrum of autism, each case is totally individual. That's one concern.

Another concern is-- We talked a few minutes ago about the districts trying to consolidate programs. And I believe Senator Rice said -- or Senator Allen said, are any programs in place at this point? And there are not.

Now, if I were a parent with a child with special needs, and I was told, "Well, there's a district that has a school that we're starting at this

point that is going to deal with children with autism,” but I know there is a program that is tried and true, I don’t want my child going to something that hasn’t been vetted properly. Because the first couple of years of a child’s education are absolutely crucial. We know about early intervention and stuff. So that’s a concern I have.

And the other thing is that we certainly don’t want to have -- with funding being the issue that it is -- special needs children’s parents versus non-special needs. And this is happening in districts. And many parents come to me, as to Senator Allen’s office, and to Senator Rice’s office, and all of our offices saying, “We don’t know what to do.” And now we have to recommend a child advocate, because the parents are really not conversive with what has to be done. And I had to get a child advocate -- and this is going back 25 years ago -- because I didn’t know where to turn. And I’m sure that there are many parents who are in my situation -- at that point, at this point.

And so we really need to scrutinize this. Because just saying there’s a program-- I would not have been satisfied with that, and I don’t think any parent should be satisfied with a program that hasn’t been tried and true -- and said, “This is really going to help your child.”

Assemblywoman Handlin.

ASSEMBLYWOMAN HANDLIN: Thank you, Chairwoman.

I have a question, which is related to the degree -- in terms that it has been brought up -- to the degree that -- it has to do with parent perceptions and parent fears.

I’ve heard two problems. One is with coordination with the team, and the school, and medical professionals. And that goes back to

your question about whether people on the teams are necessarily trained to identify specific maladies, be they autism, Asperger's, or whatever it is. And what has come back to me is that there have been occasions when a child has been diagnosed or is in the process of being diagnosed by a psychiatrist, by some other medical professional, there's no clear line of communication between the office of the physicians and the school. And the parent has to kind of create a mechanism for communication from scratch. And that's obviously something that few parents have the expertise to do. So that's one thing.

The other thing that I wonder and worry-- Senator Allen pointed out that she gets people who are at the end of their rope.

And you had indicated it.

And at least to you it seems a little surprising, because they're overloaded with information of all kinds. And in theory they ought to know where to go and the avenues for proper recourse, and so forth.

Sometimes parents have expressed to me the fear that if they take advantage of some of the other avenues that are available to them, up to and including a visit with a State representative, somehow they will lose -- they will compromise the confidentiality of the information; that somehow in the translation from one office to another office, from one bureaucracy to another bureaucracy, from one agency to another agency, there will be too much sharing of information that they want to be strictly -- they want and have the right to be kept strictly confidential.

And I wonder to what degree that is stressed with them -- that no matter who talks to whom within our -- within the huge and complicated State bureaucracies -- their right to privacy is not going to be compromised.

I know there are laws about that, but that doesn't mean the average parent knows about the laws or knows that everyone is committed to observing those laws.

ASSISTANT COMMISSIONER GANTWERK: Let me say first that when I said I was surprised, I was only surprised they didn't get the documents. Reading it, understanding it is another issue. I well understand why people still don't know exactly who to call. It's a complicated system. So I understand that.

We get lots and lots of calls. And we are very well aware of the importance of the right to privacy. And when parents call us, we will ask permission before we talk to anyone else. If you're talking about them calling us, I think parents are maybe afraid. But once they call us, they usually stay with us and feel that we're a help to them in explaining what their rights are, and how they access all of the systems.

Did you want to add, Roberta?

MS. WOHLER: The other thing is that there are provisions for parents to sign a release of information. So that if you're talking about communication between the medical field and the school district, the information doesn't flow without there being permission for that information to be shared.

ASSEMBLYWOMAN HANDLIN: If I may, through the Chair, that is exactly the problem -- the first problem that I raised. It's one thing to sign a piece of paper that says, "You can share my information." It's quite another to ensure that that information is shared, and that it's shared quickly, and that it's shared amongst the appropriate parties, and that someone has some overall picture of what's happening with the

transmission of the information and things don't get lost in the shuffle. So that's exactly what I'm asking about.

MS. WOHL: I know that -- and I can tell you this from some of the complaints that have been related to that issue -- that sometimes the information is not flowed because a bill is not paid. Things like that can get in the way. It's possible that someone missed an appointment and there was a delay in the sharing of the information. But I don't know how frequently that happens. It happens on occasion. We know that from complaints on occasion. There are also times that the parents end up not wanting the information shared. I mean, that can happen too.

ASSISTANT COMMISSIONER GANTWERK: And recognizing this is an issue -- is communication with -- you could be working with a psychiatrist, or you could be working with other professionals.

We in New Jersey require a case manager, which is not a Federal requirement. But we require there to be a case manager that -- the parent should know who that is. And, again, I recognize sometimes they may not know, or it doesn't work. But we put in a provision, at least, to have someone there -- that the parent could call one person who could navigate the system for them or at least be ready access to them. I mean, that's the intent of that. Making it work better is something else.

ASSEMBLYWOMAN VOSS: If I may, I think what Assemblywoman Handlin was saying is that in terms of confidentiality -- not the case manager, but the case manager has friends, and they go out to lunch, and the next thing you know, Suzie Jones has bipolar, or Suzie Jones is a schizo, or whatever -- and that type of thing. And all of a sudden, it's

the buzz in the school. That is absolutely horrible. And this, I think, is what we're talking about. And the case managers and the people who are special ed teachers have no right, under any circumstances, to say to anybody who they're working with; or their friends, or whatever, what the child's disability is. And I think that happens far too frequently. And sometimes the original diagnosis is not the appropriate diagnosis. And I think that's what we're all concerned about. Because the stigma that is attached -- and I just used a very appropriate word -- because that's the kind of word that is buzzed around. And it is very hurtful and very, very detrimental to the child.

ASSISTANT COMMISSIONER GANTWERK: Well, you're absolutely right. And I can only tell you that when we know about it, or someone complains about it, we do hold that that's inappropriate. We write reports. I mean, we clearly recognize that.

Senator.

SENATOR RICE: Yes, just on the back of that, sometimes it's done intentionally. We do have particularly -- not even urban, because I have some friends who deal with this stuff -- but we have people who actually go in on a regular basis, because they do understand some of the rules and the regs. And no one wants to hear them. And they insist. People think they want the parents out of the way, so they let those little things slip out so they can frustrate people. Then eventually the parents snatch the kid out or at least try to get them out. So the principal doesn't have to deal with them any more. So (indiscernible) activists to understand. That's why I said more input from the community.

But that leads me to my question. Who assumes the administrative responsibility for the charter school education -- students?

ASSISTANT COMMISSIONER GANTWERK: Charter school?

SENATOR RICE: Yes, that's referred to private placement?

ASSISTANT COMMISSIONER GANTWERK: The charter school sends-- Do you mean when a charter school makes a determination that a student goes to a private school? It's the charter school's placement.

SENATOR RICE: Why is it not the local school district?

ASSISTANT COMMISSIONER GANTWERK: The charter school is the LEA. The local district pays, by law.

SENATOR RICE: Well, you know, in my house, I pay. If I pay, I oversee, and if I oversee, I want that responsibility. We're going to be moving a bill through, if I can get support, that local school districts should really oversee that. And some of the issues that are coming up here -- they do happen in charter schools, because charter schools are doing everything they can to have this perfect-looking picture that they're not getting yet. And if you talk to people -- you can't put people out of charter schools like you can't put them out of public education in the public system -- and that's not true. It's happening. It does happen for different reasons. And oftentimes it's this particular type of student they don't want, because they're not doing that well now.

And so I just want everybody to join me. You can put the bill in. But there's a bill I'm trying to move.

It's things like this that bother us, because we have someone being held accountable. Ultimately, if I'm having a problem with the

charter school, I'm going to the superintendent. Because you told me (indiscernible) pay, right? So I'm going to the superintendent or the school board. And we're going to be bickering back and forth. And some supers who don't want to be part of that system in the first place -- I don't blame them -- it's like, "Well, that's charter school." Yes, but you pay. Do you understand what I'm saying?

So if I'm paying, and I have these other responsibilities, that administrative piece should really be put back. And I really wish you would move on (indiscernible) before I move a bill. But I'm going to move a bill, probably because you all move a little slow when you want to -- not you personally. But I just think everybody should understand that. And just for your information, it's Senate Bill 1282 -- in case anybody--

ASSEMBLYWOMAN VOSS: Does anyone else have any questions?

Assemblywoman.

ASSEMBLYWOMAN JASEY: I have a question in another direction.

I want to know if any thought has been given to -- perhaps I'm suggesting it here -- that in terms of teacher training, teacher education programs-- Has any thought been given to require all teachers to take some special ed courses in order to help them with being able to recognize students who have needs and also to enhance the teaching methodology? Because all students, I believe, benefit when taught in different ways. I don't know if that's something the State's considering.

ASSISTANT COMMISSIONER GANTWERK: It's definitely something that the State has been working on, and considering, and

enacted to a certain extent. There were two things that we had as goals. One was to make sure that special education teachers know the general ed curriculum. Because we didn't want students in special education to be taught on alternative, special ed curriculum. And special ed teachers were not necessarily trained in general ed curriculum, and they were more trained in early acquisition of skills.

But the second thing we wanted is for general ed teachers to learn about special education students. Because the vast majority of students with disabilities are in general education classes. That's where they are.

So the first thing that we did -- and Roberta and I worked with the Office of Standards -- was to put into the professional teaching standards for all teachers -- that they had to have knowledge and information on dealing with students with disabilities, teaching different learning styles, challenging behavior. We put in a whole list of things that really address dealing with students with disabilities. So we have it now. It's not a separate course. And the problem-- We saw that if you did a separate course, you were focused on maybe one thing, and that wasn't the child you got or-- So we looked at how could we infuse all of it and the critical issues into the teaching for all preservice teachers. And that's in there now, and we are continually looking at how to increase that.

There was also a law passed that teachers had to learn more about students with autism. And so that was put into the standards for students with autism and other disabilities. So we're constantly revising and increasing, because that's a critical issue to us as well.

Roberta.

MS. WOHLER: We also gave grants to each of the institutions of higher education that had to teach a preparation program to implement what Barbara just talked about.

ASSISTANT COMMISSIONER GANTWERK: Thank you.

ASSEMBLYWOMAN VOSS: I would like to see the course of study that the special ed teacher has to take. Because I know there have been teachers who were -- let's say elementary school teachers who then became certified as special ed teachers. And I would like to see what standards, what courses they have to take. Because I think Assemblywoman Jasey and I have both raised concerns about the people who are writing up the IEPs, who are the special ed teachers or who are the case workers. I'd like to know how they have been trained to deal with the people they are dealing with.

Does anyone else have any questions? (no response)

Thank you very much. We didn't mean to grill you.

ASSISTANT COMMISSIONER GANTWERK: Thank you very much for the opportunity.

ASSEMBLYWOMAN VOSS: Thank you.

SENATOR RICE: I did. (laughter)

ASSISTANT COMMISSIONER GANTWERK: I thought so.

ASSEMBLYWOMAN VOSS: Actually, I think we did it in a nice way.

Now we're going to have a panel of the Coalition on Special Education Funding Reform. And what I'm going to do, because there are only four seats up here, is, I'm going to call four people, three people, and

three people at a time so that you can make your testimony, if that's acceptable to everyone.

And the first group: Brenda Considine, Ruth Lowenkron, Gerard Thiers, Peg Kinsell.

Would you please come up?

Brenda Considine is the Coalition Leader, Ruth Lowenkron is from the Education Law Center, Gerard Thiers is from ASAH, and Peg Kinsell is from SPAN.

Brenda, Mary is going to be in the next group.

BREND A C O N S I D I N E: Okay.

Thank you very much. I apologize up front for the chest cold.

Good afternoon. And I want to thank all of you very, very much for the time and energy you're putting into this hearing. It's a matter that is very, very important to our Coalition.

We are a Coalition of special education organizations statewide. Many have called us an unlikely alliance. Our Coalition includes the Arc of New Jersey, the Statewide Parent Advocacy Network, Autism New Jersey, the Alliance for the Betterment of Citizens with Disabilities, ACNJ, ASAH -- formerly the Association of Schools and Agencies for the Handicapped -- the Education Law Center, Disability Rights New Jersey. And today, we're joined by the Special Education Leadership Council, the Rutgers Law Clinic, and the New Jersey Special Education Practitioners.

We had the privilege of talking with the Assembly Education Committee about two months ago around our concerns about the accountability rules. And at that time we warned that there would be

problems resulting from some of the confusion around the rules. And what you're going to see today is that we were right. There are families here -- and there would have been four times as many were it not for the fact that school is out, parents are home with their kids. And, in fact, some parents brought their kids with them today.

But there are some real problems happening as a result of these rules.

Let me first say that our Coalition supports efforts to improve the coordination of special ed services and reduce unnecessary costs. In fact, we supported the CORE bill. Further, we all support efforts to ensure that local districts build the capacity to serve kids with a full range of disabilities and rely less on self-contained programs. And that's exactly why we were concerned when the Department issued these rules, because we think the rules fail to address CORE in two key areas. Worse, the rules are giving the executive county superintendent an inappropriate role in special ed decision-making.

Attached to my testimony, we've done an analysis that compares the language in the CORE bill with the language in the Department's proposed rules. And what you'll see is exactly the areas that we're concerned about, areas where the Department has gone beyond what CORE suggests -- that is section 6A:23A-2.73iii -- I don't know how to demark that -- where there is a very clear role of the executive county superintendent spelled out in detail. That is not contained in the CORE bill.

In addition, the CORE bill contains specific language that talks about training for districts to develop in-district capacity around training for

inclusive ed, positive behavior supports, transition to adult life, and paraprofessional collaboration. We were hopeful that those kinds of elements would be in the code, and they're not. That is really why we're here before you again today.

I'm not going to spend much time, because there are a lot of parents here. We've also arranged our testimony sequentially so that there's not duplication. Each person is going to speak on behalf of their organization and on behalf of the Coalition as a whole.

So with that, I'll turn it over to Ruth Lowenkron, from the Education Law Center, who is going to focus on our Coalition's concerns around the area of cost.

Thank you.

RUTH DEALE LOWENKRON, ESQ.: Good afternoon.

Thank you for the opportunity to appear.

As Brenda said, I will speak about cost. But I can't help but stray a bit from my text for one moment and note an observation that perhaps is occurring to you too. And that is, unless the personnel from the Department of Education who testified before us are calling us liars -- which I know they are not -- no more than we are calling them liars -- I think there is something missing here. They're telling you they are not hearing about problems. They are telling you that they are educating their staff to do the right thing. They are telling you that you're not going to have problems with an executive county superintendent usurping a role of the IEP team.

But we're telling you we're seeing it differently. So if they're not seeing it that way, I don't know why that is, but we are seeing it. We are not lying. They're not saying we're lying. So it seems to me, just as a

very practical approach, if they agree with us that this should not be the role of the executive county superintendent to, in fact, usurp the role, then something drastic should be done right now and not just go on, status quo, with the Department saying, "This shouldn't be what's happening. We don't see it happening," and us telling you something else. And I think that's the strongest message that I personally would like to bring -- to say there are problems. There are definite problems out there. And let's please do something about it right away.

With respect to my topic, if you will, I think it's also a very interesting one. I'm here to talk about cost. And the reason I'm here to talk about cost is because we are assuming here, as advocates -- and probably you, too, are assuming that one of the main reasons that the executive county superintendent is given the role that he or she has is for cost containment. It's a good guess, right? It comes under the fiscal accountability regulations. This should be about cost saving.

Well, in fact-- And, of course, I think what's so disconcerting is that that's not what's being specifically said. We don't really know why the Department of Education is doing what it's doing. But let's assume it's to save money. Let me tell you they are not saving money. And let me tell you why they are not saving money.

As others will testify to in greater detail, one of the problems with the regulations is that the executive county superintendent has no knowledge of the individual child in front of him or her. All the executive county superintendent is provided with is the limited knowledge of the child's disability and the proposed class. So with that kind of information, how accurate a suggestion can the executive county superintendent make?

We've heard about how much the caseload is -- 23,000, using old statistics. There's no reason to think that it's going to be less than that. So we're looking at 23,000 cases. We're looking at timeframes and the idea -- that are very, very tight; that all of you know already from your constituents are constantly not being met by districts. So now it almost doesn't matter what kind of process you're superimposing. Any kind of additional process is going to mean that we are going to have more timeframe problems. It seems to me another obvious guess.

And we have also eliminated the entire pool of options. So we are only going to offer half a loaf of possibilities instead of a whole loaf. Because for some reason -- again, you have to think it's for cost containment -- we have decided that we, as -- the executive county superintendent is not going to say anything about private schools. So with all those problems that others will talk about more, I can say you're going to be getting bad recommendations by an executive county superintendent. That's a very likely scenario. And if you're getting bad recommendations, and bad placements, that's going to cost more money and not less money. And when you're making bad recommendations, and you're putting kids in bad places, what's going to happen? Assuming parents have the wherewithal to do it, they're going to bring more lawsuits. Well, lawsuits cost more money -- more money, not less money.

And just by virtue of eliminating the private school option -- something that Mr. Thiers is going to talk about with his background. His group has authored a study that talks about the, in fact -- the greater cost to the taxpayer of sending children, oftentimes, to the public school rather than the private school. Now, that's counterintuitive, because we all think,

“Oh, it’s a private school. It’s got to cost more money.” And I have a feeling that that’s what the Department did. They banked on that kind of intuitive thought. And therefore they locked out the private school option. But Mr. Thiers will tell -- and he doesn’t tell you off the top of his head. He has done an intensive study -- and he’ll hand it out if he hasn’t already -- to show you that, in fact, oftentimes the cost is far greater in a public school. So are we saving money by locking off the private school? No -- another issue where we’re going to be -- in fact it’s going to cost more money.

Something that we haven’t talked about yet today, and that’s another provision of the regs. We’ve been concentrating primarily on Section 2.7, the role of the executive county superintendent immediately in the IEP team decision-making process. But another thing that advocates are so greatly concerned about is Section 2.3, which authorizes the executive county superintendent to recommend the establishment of additional private school -- excuse me, additional public regional programs.

Do we need more public regional programs? Well, of course, any of these questions are good questions, because we don’t -- as Senator Rice was asking before, we don’t have a lot of this basic data from the Department of Education. But we, as advocates, will tell you, we don’t need more of that. And probably, hopefully, the Department of Education -- if it talks more about its understanding of its obligation to establish more inclusive programs -- would also tell you we don’t have a need for more segregated, expensive, private -- excuse me, public regional programs. So, again, that ability of the ECS to establish more public regional programs is going to cost more money and not save more money.

Final thought on cost is that -- again, to pick up on some of the questions that you have asked -- where is the information about cost? We, as advocates, have been asking for years. The Legislature has been asking the Department of Education to do a cost study. If it doesn't do a cost study, how does it know what is more expensive and what is less expensive? And that's just common sense. And that's what taxpayers have a right to -- that kind of information. Where is that data? If you give us that, if you do your homework, maybe we'll understand the position that says something is going to cost more money or less money. Without that, we're not seeing that.

Very, very briefly -- because I'm sure I'm over time already -- I will point you, in my testimony, to some of the things that I think are real cost-saving matters. And I shouldn't say I, because this comes on behalf of the Education Law Center, it comes on behalf of the Coalition, another group that's speaking here today too -- New Jersey Special Education Practitioners. Our thoughts are that there are things out there. Senator Allen was asking about things before. What could really save money? What could do it?

Here are some of the things: collecting the data, as we said before; coordinating and regionalizing pupil transportation; increasing opportunities for districts to share equipment and assistive technology; facilitating effective general education pre-referral intervention. This is something that Barbara Gantwerk talked about. We are 100 percent on board. There are great issues with that, and that would be a great cost savings. We also say that you should develop a database to track available services.

Can I just step aside for one second? I mean, we sum this all up in one thing. Do we really need that executive county superintendent? What is he or she really doing? What he or she is really doing without the database is anybody's guess. Where on earth is that information coming from, and is that information current? I mean, he or she may know about a school here or a school there. But if you don't have a database, you don't know what's current when you're making recommendations. So without a database, that job is useless.

On the other side, when you have that database -- well, then we don't need that person in the process, do we? Because we just need a database. So if we get the database-- And to tell you the truth, when we sat down at a meeting--

And to answer your question, Senator Rice, when Ms. Gantwerk said we met with them-- Do you know when we met with them, Senator Rice? We met with them after they had put the regulations into effect without our even knowing it. They invited us to come down there, and they said to us, "Oh, by the way, did you know that the regs are in effect already?" Well, how would we know? Because you have to comb through the -- that isn't already clear on their Web site -- to find that information. So that's the meeting.

But at that meeting, there was, it seemed to us, some sort of a sense of agreement on this. And, again, that's why we appreciate you saying to sit down. But we've already sat down with them -- albeit after the fact. But there was some sort of a sense of understanding that, in fact -- that maybe what's really needed is that database. And these were words spoken by the Department at that time -- that if that database is in place, maybe

we really don't need the executive county superintendent. And we strongly support that.

The last thing on my list of cost savers is that there should be a look at facilities -- construction of appropriate facilities, renovation of appropriate facilities. Because more times than not you hear that you cannot place a child in-district in an inclusive setting because you don't have the facilities for it. That's where the money should be placed so that you, in fact, save money by keeping the kids in district.

So that's my piece on cost.

In terms of what we would like to see-- Please, this is-- We are trying so hard to actually have some effect here. And we've been before the Assembly. And did anything happen? Did the Department meet with us, as Senator Rice wants them now to meet with us? No. Have they changed anything? No. Did they change anything meaningful before, based on our comments -- meaningful? No. So what we're asking is-- Once you've heard our testimony, I think it's clear that this is not helping anyone, and this is costing money, and this is costing taxpayer money. So we would like to see -- and this is what we're asking, please.

One is that you tell the Department of Education, "No, those regs don't go. They don't fly. They're not helping anyone. They're hurting people." And in the interim, while they -- you have asked them to change it -- that they must let the public know how these regulations, in fact, should be interpreted so that there is no opportunity for someone to -- like an executive county superintendent -- to misread them. If you look at them, you would misread them too. They are not very well crafted. And if they mean what the Department says, then you know that the county

superintendent does not have a role in usurping the IEP team's job of making decisions. That should be clearly said there. And if it means what they say, that nobody is punished in the district -- as was alluded to here -- by virtue of not doing what the executive county superintendent says, then that should be made clear. So as an interim stopgap measure, we say the Department should give that kind of notice.

And finally, if the Department is not going to change things, we ask that this body -- either the Senate, or the Assembly, or, please, both -- that you write legislation that overrides these regulations that are hurting everyone, helping no one.

And just one final thing, directly to Senator Allen. You may remember, my organization spoke out about the special education funding. All of us did. We are so troubled by that 14.69 percent. And I'm sure it hasn't gone lost on you. When you say your district has 14.69 percent coming in, with 29 percent classified-- And that, of course, is our main concern, because those are kids who are not getting services. But can anybody please explain to me why it is that a district that has less than 14.69 percent of classified students is getting 14.69? I mean, there's nothing else to say other than that's ripping taxpayers off and, let alone, not serving kids.

SENATOR RICE: Madam Chair.

SENATOR ALLEN: I agree.

MS. DEALE LOWENKRON: So we have a lot to say about that, Senator Allen. We have a lot of thoughts on that. And we would love to continue the dialogue on that specific thing.

SENATOR ALLEN: Bravo.

MS. DEALE LOWENKRON: Thank you very much.

ASSEMBLYWOMAN VOSS: Senator.

SENATOR RICE: Let me be clear before you leave. I've been here 23 years. I'm not in the Assembly. I'm not the Assembly Education Chair, or Appropriations. I'm not the Speaker, and I'm not the President. But I've been here 23 years. And I think the people who have been here a little while understand. When I say I want you all to meet, I want you to meet.

Now, I understand you met after the fact. But I think the Department understands that when I say to meet, I expect them to meet before the budget. And I think the Governor understands that too. I'm not beholden to anybody here with my votes but me. And I've proven that over the years.

And I expect them to sit. But I appreciate you coming and bickering. Because I know sometimes the Education Law Center can be very aggressive, like I can be. (laughter) But I want you all to sit down and say, "Here are the concerns we have." And I think if the Education Department is still here, they understand that I said to go over those things again and respond back to us with some answers. They can say, "You know what? We read these points." And you send them to us too so we can see them. And they can say, "We just said no." They can tell me, "We said, 'Go to hell.'" I don't care. But they're going to respond back to me. They always have, and they know I expect it now.

So there are some of us who will disagree with you, and there are some of us who will agree with you. But there is one to hold everybody accountable. I hold everybody accountable. I hold people on this

Committee accountable. If I think they're in the wrong direction, I will tell them. I don't hide that. I hold the President accountable -- the Senate President. If he's wrong, I tell him. I don't hide it. I tell the Governor when he's wrong. And there's many times we've had those conversations. The Department knows how I feel about them -- Education. And I'm expecting you--

Now, if they tell me you never got back to them, then I'm going to hold you accountable. And I'm going to tell you, when I see you up in Newark, "Don't come down here playing with me, and giving us a bunch of bitching, and then you're not going to do what we asked you to do." And then I'm going to tell them, "If I ask you to do something-- I don't care what the Governor said. If the Governor told you not to meet, then, fine, let me know. Then I will deal with the Governor. Then we'll do what we have to do."

Do you understand? That's where I come from.

MS. DEALE LOWENKRON: I absolutely do, Senator.

SENATOR RICE: I don't know how long I'm going to live down here. They've been trying to demise me a long time, but I'll be here to 2011, I think. When is our next election? (laughter) And I also know it takes 21 votes to pass a budget. I have no problem shutting the State down and letting people get mad with me. If I'm the only vote that can move it -- explain to them why I'm doing it. These kids need protection. The politicians don't need protection, the department heads don't need protection. But they have jobs. And I know in those jobs they can go so far until the Governor intervenes, and then they become buffers. So I'm not looking for you to be a buffer. I'm looking for some realities. If you can't

handle it, you better tell the Commissioner to come see me and members of this Committee.

So I want to know that you are meeting. I want you to send us a list of all the things you indicated may be problematic that we should have clarity on. I'm the one who says, when we write legislation, we should say what we mean and mean what we say.

So if we're putting in stuff that's not clear, it's going to create confusion particularly for this population. We want clarity. If you don't know how to get clarity, get with OLS, get with those of us who understand how to do clarity. You don't have to be a lawyer to understand clarity. And keep it in grassroots language so all of us can understand it, not the technical people. Then there's no confusion.

So I just want to be clear on the record. I hate to go off that way, but that's just me. We're in some serious times. The economy is bad. Unemployment rates in these urban cities in particular are much higher than anybody else. They're furloughing people, laying people off, firing people, messing up budget. Nobody is looking at anything, like Assemblywoman Karrow said. And I'm tired of it. Kids cannot be harmed during these bad times or good times -- particularly in these bad times.

I don't know what else to say about it. I'm holding both parties accountable. Don't play with me.

MS. DEALE LOWENKRON: Senator Rice, just to respond. Absolutely. We hear you, and we appreciate that. And we will meet the moment we are reached out to. We, on the other hand, will reach out right away. We will get this meeting together with alacrity. I wanted to just let

you know the history of it. But we hear your strong words, and we thank you for them.

ASSEMBLYWOMAN VOSS: I hope the Department of Education has been really, really listening to all of us who really feel that that section dealing with the jurisdiction of the county super superintendent really has to be addressed and, as far as I'm concerned, should be eliminated completely in terms of the process. Because this is what is causing all kinds of problems for parents and for all of the groups that represent parents and represent children. And I think I brought the question up about whether all of the county super superintendents interpreted this passage in the same way. I personally do not think that that is being done. I think that they read these things-- Because when I read this -- when I read that section of the regulations, I was totally convinced that the superintendent had the end all and be all of where the child was going to be placed. So I think that has to be eliminated. I don't know if we can do it by legislation or whatever. But that really has to be eliminated.

Anyone else have a question? (no response)

Okay. Mr. Thiers.

GERARD M. THIERS: Thank you.

The ASAH speaks for the approved private special education schools. Regulations, as Ruth clearly said, will do the opposite of what the Legislature and the Department would like them to do. The two goals -- of expanding in-district services, including inclusive education and general ed classes; and promoting cost containment -- will not be met.

First, however, I would like to clear up some common misconceptions. State-approved private special ed schools are no more restrictive than public regional special ed programs. From the standpoint of assessing the least restrictive environment, the Federal law does not distinguish self-contained programs operated by public schools from those operated by public -- by private entities. State-approved private special education schools are also no more costly to taxpayers than comparable public regional programs. Actually, they're cheaper, and they do not require large capital investments using taxpayer funds.

I have attached a study conducted a year-and-a-half ago that uses public school data from the New Jersey District Report Card, the tuition rates of public special education receiving schools, and salary information from the NJEA. The study calculated the average, per-student cost of three different types of special ed programs. And the results are as follows -- and this is calculated based on a 180-day school year, so that we have apples to apples.

For approved private schools, it costs us about \$40,500. The county special services program is \$59,300; and for local special ed receiving schools, it's \$54,000. Private school tuition rates cover all costs including facilities, administrative costs, staff salaries, and benefits. Public school tuition rates, on the other hand, exclude certain benefits and facilities expenses. When these costs, which are paid by the State and/or counties, are considered, the per-student cost for public in-district and out-of-district special education programs are actually higher. The study was able to include pension, Social Security, and retiree health costs paid by the State,

but not facilities construction and associated debt service, which would make these programs even more expensive.

We are not saying that private school placements are preferable to in-district ones -- it's the other way around, and the preference should be for in-district -- or that the county-based programs have no value. Private schools should be one of several options available to child study teams and parents. Many of our schools consult with local districts to help build the districts' capacity to serve students with more complex needs. Some ASAH member schools even operate classes in public school buildings. If the CORE law and fiscal accountability rules are to be successful, it must give districts the tools and resources to develop quality, sustainable programs that help students reach their full potential. New Jersey's approved private schools have the track record and expertise to help districts to start these programs and services, but it appears that the fiscal accountability code has excluded our schools from the system.

We ask that you consider special education goals when passing-- We ask that you consider your special education goals when passing the CORE legislation and compare them to what the fiscal accountability regulations actually do. Getting the executive county superintendents involved in individual placement decisions only intimidates child study teams and increases the risk of inappropriate placements. The students' futures here are at stake. And professionals working in both public and private schools have a very limited amount of time to prepare them. Sections 2.7 -- the area concerning the executive county superintendents involved in the placement process, should be completely repealed.

Also, in Section 2.3, which allows the superintendents to allow the establishment of additional public self-contained programs -- should also be deleted. Without a detailed blueprint for the development of new, in-district programs, many students will end up in county-based programs by default. Some of these children will not progress. And as for the reasons mentioned above, it's not in the interest of New Jersey taxpayers to finance the construction of new and costly public self-contained programs.

If the Department refuses to amend the harmful provisions of the fiscal accountability rules, the Legislature must act and pass legislation that supersedes these regulations. The well-being of a very vulnerable population of students is in the balance.

Thank you.

ASSEMBLYWOMAN VOSS: Thank you.

Does anyone have any questions? (no response)

Ms. Kinsell.

PEG KINSELL: Good afternoon.

On behalf of the Statewide Parent Advocacy Network, New Jersey's federally funded Parent Training and Information Center designated by the U.S. Department of Ed to assist and support families of students with disabilities, thank you for letting us talk to you today.

I'm going to talk briefly about two concerns. The first is the ever-present database, except that database isn't ever present. In fact, there is no database. So our first suggestion is: If we're going to have the executive county superintendent cull from that database placement information in other public schools and for public regional programs, we first should probably form a database.

So we think that this year should be used as a creation year, a year to actually gather the information to create the database. And, in fact, we think the database should be a lot more inclusive of services and not just placement data, so that school districts -- that we really believe want to do the right thing and help support students in districts, but don't always have the expertise on hand -- will have, at their disposal, services that they can cull from other areas -- positive behavior support specialists, speech therapists, and other things on a regional basis -- and bring them in-district to use as supports for their own.

But as Ruth said earlier, and as we know right now, they're not in existence. So we're using an executive county superintendent to cull from a database that isn't there. And we're really right back to that placement issue again. Why we didn't use this year to gather the data to see where we had issues of resources and to try to put together that information and really form -- is a question you'll have to ask the Department of Education.

We know that New Jersey faces significant shortfalls in available service providers; for example, speech providers, positive behavior support specialists, etc. We must use all those available resources to meet our students' needs. Therefore, we are confused why language, again in the CORE bill, that says that the executive county superintendent will work with districts to develop in-district special ed programs and services -- including providing training in inclusive education, positive behavior supports, transition to adult life, and, our favorite, parent professional collaboration -- was not included in the accountability regulations.

Also included in the CORE bill, but not the accountability regulations, is that the executive county superintendent will report, on a regular basis, to the Commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled peers. However, the New Jersey Department of Ed chose to expand the executive county superintendent role in the IEP process, and presume a preference for county-based segregated special ed placements if no public school placement is available -- with most schools focused on fiscal issues -- and yet leave the reporting of the “increase” in students being educated in the least-restrictive environment out of the regulations.

One additional, but perhaps the most crucial, issue with the database is that it must be accessible to more than the executive county superintendent. This is the kind of information that should be shared with the entire IEP team, which includes the parent, for true shared and informed decision-making. If, in fact, the database included the full range of placements and services available, and the IEP team had access to them, once again there’s no need at all to involve the executive county superintendent. The process would rest where it should: at an IEP team that is aware of all available resources in the area.

I have to add, too, those push-in resources. Those therapists have to include not just ed services commission resources. We have private providers who are working hard to help support districts with inclusive supportive services too. We can’t exclude them just because of the way these accountability regulations were written.

We urge you to direct the Department to use this year for a data-gathering process, so that the database can be developed and we can look at the opportunity for real shared, regionalized special ed services that bring supports into general ed classrooms for students with disabilities; not that create incentives or even mandates for additional segregated regional programs that take children with disabilities away from their families, friends, communities, and the opportunity for the inclusion that is their right under special education and civil rights law.

The second issue is one that we've been struggling with and why I'm really thrilled for this opportunity today. SPAN's first and foremost commitment is to ensure that the voice of parents are included in all decisions that affect their children and families. We firmly believe that it's in the best interest of students and the Department of Ed when parents, families, and community members are fully engaged in decision-making processes.

Unfortunately, that is not what is happening here. Families and special ed advocates were not invited into the process. Rather, we were presented with a *fait accompli*. When we sought to share our experience and expertise, we were dismissed as overreacting. When we spelled out the many ways in which the regulations could be interpreted to violate Federal law and State code, we were told, "Trust us. That won't happen." You're going to hear from many families today that it is happening, that it's a recipe for disaster, and -- as you hear from parents today in different places throughout the state -- despite the assurances; and the accusations that we are using scare tactics.

As an organization that always strives to keep the parent/family voice in any conversation affecting them, we are very grateful for the opportunity to voice our concerns to you today. I find it incredible though that we have to go to this length and repeatedly reach out to the Legislature in order for parental concerns to be addressed. The special education community -- the families have felt for a long time that they are an afterthought, that policy is made around them that seriously affects their children, and that they're never brought into the discussion in a meaningful way. These accountability regs are just another glaring example. Whenever government purports to make systems change decision by railroading them past families that are directly affected without their input, the end result is always bad public policy.

Some recent examples cited by families go back as far as the State Board of Education hearings on the special ed code adoption, the School Funding Reform Act, the high school redesign, and assorted other things, where the special ed community feels completely left out of discussions. We have a responsibility to do better.

ASSEMBLYWOMAN VOSS: Thank you.

I think the message is coming out loud and clear that we really have to eliminate the county superintendents from the process, that I think from everything that we heard here it is counterproductive. I think that the testimony that you just heard clearly states that it would be more cost-effective to have the information provided to the parents, to have the parents actively involved in the decision-making. Because if that doesn't happen, lawsuits happen, and lawsuits are extremely costly. So if we're going to be financially prudent and frugal, I think that the Department of

Education really needs to listen very, very carefully to the testimony that we'll be hearing today.

Thank you very much.

SENATOR RICE: Madam Chair.

ASSEMBLYWOMAN VOSS: Yes, Senator.

SENATOR RICE: Have staff take everything that's given in the written testimony -- send it to the Governor. And let the Governor know I requested it be sent and that he needs to take -- slow down a little bit from the campaign and read it to make sure he understands what we requested that his Commissioner, his Education Department look at.

Because oftentimes governors and others get bad raps because they rely on us and the administrative people to give them a summary of what's going on. It doesn't come out right. And that happens in my office. And that's when I tell me staff, "Get the people in." And then when I hear you, I'll say, "Nope. We're not doing it. I don't agree," or "They don't understand," and then my question -- "How come we can't get that resolved?"

We know why we can't get resolutions. The Department is going to go back to the Commissioner. That's her responsibility to take a second look at it if we request it. But the Governor should be aware of what it is, what the concerns really are. So he can't say he didn't at least read the testimony -- that he knows -- and when I do have a dialogue with him in passing, I can tell him, "It's something you need to pay attention to." And that's any governor, etc. Okay?

I just want to at least do that, through the Chair.

ASSEMBLYWOMAN VOSS: And you can add my name to that list too.

Yes.

MS. KINSELL: Madam Chair, I just want to-- On the public comment piece, I just do want to say, when we went to the Assembly and Senate Ed in June, when we got the accountability regs -- that section held -- I spoke at both of those about the public comment section on the Department of Ed's Web site. Because it was one line on the Web site that said "accountability regs," and you had to know to go to that accountability regs -- check on, filter through there, write an e-mail, and know where to send it. Now, everybody that kind of knows their way around it might have known how to do that. Parents and families -- that was not accessible to. That was not the way you reach out to stakeholders that this impacts at a community level.

So I just-- When we talk about it's open for public comment, and that we took a lot of comment from the people it affected, I just wanted to kind of throw that in there.

ASSEMBLYWOMAN VOSS: That's one of the reasons why all of us have so many people coming to our office. Because we are the intermediaries, so to speak.

Senator Allen.

SENATOR ALLEN: I wonder if you all believe that we could put everything that was needed on a one-page, or at most a two-page -- for parents that said, in colloquial English, "This is how you do this. This is where you go for that. And these are your rights here," as opposed to the many different pieces that we are now giving them altogether.

MS. KINSELL: It's difficult, because the PRISE document is a hard document to read. It's not the friendliest document. As one of the organizations -- because the Parent Advocacy Organization is listed as one of the organizations to call -- we get a lot of the calls from the family.

But I think that it's kind of disingenuous to just say, "Well, there's procedural safeguards and there's a complaint process for parents to follow." First of all, the complaint process can take up to 45 days. So for a parent to file an administrative complaint, that could take them 45 days to come to some kind of fruition. And to tell a parent, "Just file mediation or due process," is a heck of a thing for them to have to accomplish, especially a parent that doesn't have resources or a parent that has other limitations. We do a lot of technical assistance over the phone, because that's our job. But it's not quite as easy to just say, "Oh, there's a process for you to follow." It really is a lot more difficult than it was kind of alluded to.

SENATOR ALLEN: Thank you.

ASSEMBLYWOMAN VOSS: Anyone have any other questions? (no response)

Thank you very much for your testimony.

MS. KINSELL: Thank you.

ASSEMBLYWOMAN VOSS: Okay. The next group: Mary Ciccone, Disability Rights New Jersey; Peni MacMeekin, from Rutgers Law Clinic; George Holland, Special Ed Practitioners; Renay Zamloot, Special Ed Leadership Council.

Thank you.

Mary Ciccone, would you like to begin?

MARY A. CICCONE, ESQ.: Good afternoon.

My name is Mary Ciccone. I'm a Managing Attorney with Disability Rights New Jersey. And I appreciate the opportunity to speak with you today about this issue.

You can read my full comments below. But since some people have already said some of the stuff, I just want to respond along what the State Department of Ed said.

Our issue: We're very concerned about the large number of out-of-district placements in this state. Currently it's been about 10 percent of special ed students placed out-of-district. And that number has not gone down in at least over 10 years. It stays pretty constant at 10 percent. The rest of the country averages 3 percent. So we are three times greater than the rest of the country, as far as out-of-district placements.

The CORE bill spoke to this issue and was really trying to encourage the collaboration so that people knew what in-district programs were available. It was to encourage inclusive, in-district programs. However, these particular regulations have gone way beyond that, and now they have drafted them in a way that they favor public out-of-district programs. Public out-of-district programs are as segregated as private out-of-district programs. There is no distinction. They are the same.

Under these regulations -- under 2.3, which-- As I say, the big issue has always been about 2.7. But 2.3 specifically requires the executive county superintendent to recommend additional programs -- meaning out-of-district public programs to be developed -- which will mean more public out-of-district schools being built.

There's already a large proliferation of public out-of-district schools. They continually get built. And every time a new school is built, it

means it has to be filled, especially if it's built on taxpayers' dollars. Middlesex County is building a school that will open in the Fall of 2009. That school is as segregated as a private out-of-district school. These regulations are not designed to really provide inclusive programs and to provide information about inclusive programs. And the way they are written, they are designed to largely increase the use of public out-of-district programs. And we are very concerned about that. We would rather go back to seeing what's more in the CORE bill about inclusive programs and inclusive services than to deal with these particular regulations that deal with public out-of-district programs.

Thank you.

ASSEMBLYWOMAN VOSS: Anyone have any questions? (no response)

Peni MacMeekin. Is that correct?

P E N I M a c M E E K I N: That's correct.

Good afternoon.

My name is Peni MacMeekin. I'm a clinical law student in the Special Education Clinic at Rutgers School of Law, in Newark. The Clinic provides free legal services to indigent parents of children with disabilities in special education matters.

I'm here on behalf of a client who wishes for us to tell her story. She prefers to remain anonymous due to potential repercussions of testifying.

Our client is the parent, for special education purposes, of a 7-year-old child who has been in her care for the last two years in Essex County. The child is classified as multiply disabled. He's in 2nd grade but

functions at the level of a child who is in the early months of Kindergarten. The child's communication skills are so severely impaired that he is unable to verbalize his feelings, needs, and wants. According to school district experts, these deficits are extremely frustrating for him and result in frequent major behavioral outbursts. The child runs from the classroom, throws chairs, and verbally and physically lashes out at teachers. Due to his behavioral problems, the school calls the parent nearly every day to come pick him up.

The parent contacted the Clinic in the hopes of getting assistance in securing an appropriate placement for the child. An IEP meeting was held to review evaluations and to discuss placement options shortly after the new fiscal accountability procedures went into effect. At the meeting, the IEP team agreed that the child needed an out-of-district placement and compiled a list of private schools to which applications were sent. The parent and child interviewed at three schools, all of which ultimately accepted the child. At no time during this two-month period did the district say anything about a county referral or approval process for out-of-district placements.

The district was made aware of the school that the parent preferred for the child. Two weeks later, the district's legal counsel informed the Clinic that the out-of-district placement had to be approved by the executive county superintendent, according to the new fiscal accountability rules. Well, this was a surprise because the new rules make no mention to the need for county approval.

And just as an aside, we were surprised by this also in the Clinic. And we went to the Department's Web site. And at least, according

to what we could tell, the Web site indicated that the rules were not in effect yet.

The district's legal counsel then said the parent might be able to circumvent county approval by signing a legal agreement. When asked what sort of legal agreement, the district's legal counsel said that the parent could agree to give up the right to claim compensatory education for the child in exchange for the out-of-district private placement. In essence, the district was attempting to force the parent to waive a right in order to get around county approval which wasn't even required. The parent felt the district was preying upon her anxiety and desperation to get her child into the proper placement.

The parent refused to waive her right, and the Clinic challenged the district's interpretation that the new rules required county approval of an IEP team decision. Ultimately, the district conceded, and the child's placement was secured.

If the parent had not had an attorney, however, she would not have known that the county approval of out-of-district placements is not required. She also would not have known that she could refuse the district's attempt to get her to waive compensatory education. It may be that the district was using the claim of county approval as a tactic to avoid placement. It may be that the district genuinely misunderstood the rules, or it may be that the district felt intimidated by having to submit to the county a rationale for choosing a noncounty-recommended placement.

Regardless of the reasoning, the same detrimental outcome could have resulted, for this child, in the denial of an appropriate placement agreed upon by the IEP team. Thankfully, that was not the result here.

However, for those families without an advocate, it is critical to determine why districts are telling parents that county approval of out-of-district placements is required, and even more critical to reinforce Federal law which vests the IEP team with the sole authority to determine educational programs and placements for children with disabilities.

Thank you.

ASSEMBLYWOMAN VOSS: Thank you. Because that is almost verbatim what I had read at the beginning -- the concerns of the parents are the same, regardless of where they are located in the State of New Jersey. So thank you very much.

I'm sorry.

George Holland.

GEORGE HOLLAND, ESQ.: Yes. Good afternoon.

Thank you for giving me the opportunity to speak today. I'm here today testifying on behalf of the New Jersey Special Education Practitioners, an association of private attorneys and public attorneys, as well as non-attorney advocates. I happen to be a partner in a small law firm in West Orange, New Jersey.

I'm here today to specifically give testimony -- and I'll try to keep it brief -- with respect to the actual effect of the regulations. As was just stated, the real effect of the regulations is that they give veto power for all purposes. In essence, an agreement is reached, presumably, between a school district's team and a parent, legal guardian, or whoever is advocating on behalf of the child. And if it's an adult student with a disability, it could be the student themselves who is in agreement with the school district. And this third party, in essence, has veto power over those decisions.

The issue came to light personally for me when I was contacted by a parent who said to me that the IEP team had recommended a private school placement that she was in agreement with but, “The county will not let us place the child.” And that is verbatim what this client told me. And, in essence, she was-- In this particular case, I didn’t -- I don’t believe she felt the district was preying on her or anything else in that regard. I think the district genuinely felt that it could not make the placement, period. I don’t think there was any-- Honestly, the team met, it made the recommendation, and as in your case they sent out the records and all that. So clearly there was an agreement.

The important thing to realize is that under the IDEA, Individuals with Disabilities Education Act, as well as the Federal and State regulations pertaining to the same, there are really only two parties to the decision-making for the disabled child. And that is the school district; the child study team, IEP team, which IEP team includes the parents -- the school district; and the parent, legal guardian, or whoever is advocating on behalf of the student, or the student himself. It’s those two entities. There is no third entity. And the reason that this is important for a lawyer such as myself is that a legal proceeding can be filed when there is disagreement with a local school district.

However, what happens when the source of the dispute is the county? In essence, there’s no legal mechanism to bring this party in. And what I’ve said here is that I envision a case in which we’re all sitting in the courtroom. We’re in the judge’s chambers, and the party that’s responsible for the dispute isn’t there. And how on earth is that dispute ever going to be adjudicated or resolved amicably, as in the case of many legal disputes,

hopefully; whereby the judge really doesn't -- has two parties here, and it's the third party that's the cause of the dispute?

For all the foregoing reasons, I am asking that appropriate action just be taken in such a way that students with disabilities will not only be protected, but that the matter -- that their disputes are handled in a way that's fair.

But lastly, in accordance with law, I just can't stress enough that this is just an affront to the IDEA.

I have nothing else. Thank you.

ASSEMBLYWOMAN VOSS: Thank you very much.

Anyone have any questions?

Okay. Renay Zamloot.

RENAY ZAMLOOT: Good afternoon.

I want to give you a little bit of a description about my background so you understand how broad-based my perspective is.

First of all, I'm the parent of three children with disabilities. Professionally, I'm an Education Advocate who assists parents at more than 300 IEP meetings per year in every county in the state. I'm also President of the Special Education Leadership Council, which is an organization comprised of parent support group and parent advisory group leaders throughout the state. As a SPAN Resource Parent, I provide technical support to parents, on a volunteer basis, who are struggling with the IEP process. As a surrogate educational parent, I attend IEP meetings on behalf of students served by the Department of Human Services. Additionally, I conduct approximately 30 presentations and workshops per year on the IEP

process for school districts, universities, parent groups, and disability-specific organizations. I'm in contact with hundreds of parents per month.

I'd like to begin by thanking the Joint Committee on the Public Schools for this opportunity to speak on the impact, that I'm seeing on an almost daily basis, of the fiscal accountability regulations on the IEP process.

I'm just going to start out by telling you a little bit about the process from the parental perspective or from the parents that I work with.

The IEP process is very difficult for most parents. Despite the fact that, by law, parents are considered as equal members of the IEP team, in order to be successful, they have to have a clear understanding of their rights in the process, be able to make sense of complicated evaluation reports, have the ability to redirect counter-productive dialogue, remain calm and unemotional, and have superior verbal and written communication skills. In other words, they have to have the skills of an attorney, a medical doctor, a psychologist, a learning consultant, and a mediator. Many of the parents I work with are grappling with new and often devastating diagnoses. Some are of very limited resources. Some are single parents. Others do not have a good command of the English language. But regardless of their individual circumstances, they all have one thing in common. They have been unable to participate effectively in the IEP process and require support to be successful.

During the course of the past several months, effective participation in the IEP process has become even more difficult for parents. At IEP meetings where parents propose out-of-district placement or are merely trying to explore the full continuum of placement options, they are

receiving the following responses from either child study team members or school administrators. And I want to make it clear that I have been present at these meetings and have heard these statements being made personally.

Number one: "We can longer make out-of-district placement decisions at IEP meetings. All such decisions must be made by the executive county superintendent as a result of the new law that has gone into effect." Number two: "School districts are no longer allowed to place students out-of-district, period," completely shutting down the discussion. Number three: "Based on the new law, districts can only consider public school programs when making out-of-district placement decisions." To the unassisted parent, to the parent who doesn't have someone there speaking on their behalf, that is a conversation stopper. All of them are.

And since my testimony before the Assembly Education Committee six weeks ago, I have new concerns that I'm hearing that I would like to share with you.

The first one is: districts are reporting-- And this is only happening -- I want to clarify. This first one is only happening in Monmouth County currently. But it's been my experience that these things have a tendency to blossom. I see them in one part of the state, and suddenly they crop up in other parts.

This is what was being said in Monmouth County, and this has been relayed by school administrators. "We have been informed by the executive county superintendent that we are no longer required to use the word *draft* on IEP documents we prepare in advance of IEP meetings. We have been instructed to come to IEP meetings and present our proposal." What that does is, it completely -- or nearly completely -- eliminates

parental input from the process. Because, by law, that IEP document has to be created at the table with the full and informed participation of the parent or guardian. The district is saying now that they can walk in with their proposal prepared in advance. They don't even have to put the word *draft* on the document any longer.

The second thing that has cropped up since the six weeks that have elapsed is: Parents are being informed at IEP meetings that instructional assistance, paraprofessionals, individual or shared aides can no longer be stipulated in IEPs due to a mandate issued by the executive county superintendent to reduce the number of such professionals in the district. This has resulted in needed supports being unilaterally removed from IEPs.

Now, you can see -- and I can provide examples, to anyone who would like to see them, of local newspaper articles that talk about the budget cuts that are coming down. You can look at the budget presentations, as I have -- and I'd be happy to share them with you -- that are just saying *X* number of paraprofessionals are being eliminated from the school budget.

Now, some districts are saying that these are nonmandated paraprofessionals. But how that's playing out in reality in the IEP process is: Parents are going to IEP meetings and being told that their child no longer needs a paraprofessional or that draft document is appearing with the paraprofessional removed. It's a fait accompli before the parent even enters into the process. So they may be nonmandated after all of the annual review meetings have come to pass. But they were required at some point in time.

These statements and actions run contrary to Federal and State law. And despite the reassurances you've been given by the Department of Education, information concerning these regulations is being misrepresented by child study teams and school administrators throughout the entire state, and is absolutely interfering with the IEP process.

When asked by parents to explain or produce a copy of this new law that's being used as an excuse to deny consideration of a complete range of placement options at IEP meetings, or to discontinue needed support services, district representatives are unable to do so. They're not even able to name the new law. This completely shuts down the parent's ability to participate as an equal member of the team and subverts the entire process.

If the aim of this section of the fiscal accountability regulations is to save money, denying parents their rights in the IEP process is not the way to accomplish this goal and will most likely result in a significant increase in litigation costs.

Thank you very much.

ASSEMBLYWOMAN VOSS: Thank you very much.

I have to say that I have so many parents calling my office and asking for assistance. And I have to tell you, I refer them. I have a sheet that I made up of all of the groups that assist parents, because they really have nowhere to go. And then I fax it to them, because they need an advocate. Because they're not in the position. They do not have the information.

And here again, I have to reinforce this idea that the super superintendent should not be involved in this. Because there is a

misinterpretation of their role. And this has got to be clarified, because it's really causing a tremendous disservice to so many of our children.

So thank you very much for your advocacy.

Senator Allen.

SENATOR ALLEN: Thank you.

We spoke earlier about fiscal pressure being felt and how it was evidenced.

I guess my question is this: Do you feel that the teams are saying these things because they've been pressured to, and that they would be working in the best interest of the child if they thought that they were allowed to? When you see these kinds of things come up, is it pressure from the county superintendent, is it pressure from the district, or have -- I'll use this word -- have the teams been *subverted*? Where is it coming from? How far down the chain is this problem, or misapprehension, or misunderstanding?

MS. ZAMLOOT: The misinformation is definitely trickling down from above. Where that above begins is difficult to pinpoint sometimes. But oftentimes the financial pressure is mentioned overtly at the IEP meeting, even though these things, as you know, aren't supposed to be discussed. And they talk about -- I hear about the increase in property taxes and, "We can't do this, because we don't have the money to do it." I hear it constantly. So where it's absolutely beginning is difficult to pinpoint, but I hear it at IEP meetings routinely.

SENATOR ALLEN: Thank you.

MR. HOLLAND: I would say that most parents with disabled children rarely speak to administrators. They surely don't speak to board

members. They normally speak to a case manager who has been assigned to their case. So that's the last-- So they really don't know where these decisions are coming from. And the case manager, in turn, may be given the information from the director of special services who, in turn, may be getting it from some other place.

But I just want to stress that parents aren't addressing boards of education directly, nor are they speaking to, usually, principals, superintendents, or any -- or much less the directors.

SENATOR ALLEN: So things are kind of whispered down the lane. And where we've ended up is so different from where we at least were told it is supposed to be.

MS. ZAMLOOT: And sometimes it's stated at IEP meetings that the team cannot make a decision until they consult with the director of special services. Meetings have even been adjourned for that reason, and that's completely inappropriate. If the director of special services needs to be there for decision-making purposes, he or she should become part of the IEP team and participate in the process.

SENATOR ALLEN: So it would sound like IEP teams really don't have good information right now. Would that be accurate? Is that fairly across the board or is it just a few places?

MS. ZAMLOOT: I see it across the state.

MR. HOLLAND: That's what I wanted to stress in my particular contacts with clients. I felt that genuinely the districts were not using this as some sort of way to get out of making a placement. On the contrary, they were making it clear that they were supporting the placement but were not allowed to do it.

SENATOR ALLEN: So would it be appropriate for the State to contact the teams at every school and say, "The superintendent only has these roles. Your role is this. You don't have to talk to these people. You need to do that," or whatever it might be?

MS. CICCONE: Yes. I mean, I think it would be -- I mean, that would definitely be helpful if they would actually contact each individual director of special services; instead of just going to the county executive superintendent, go down to the actual district level. I mean, that would seem to me it would make sense.

MS. ZAMLOOT: I think uniform written guidance would be helpful so that the information is clearly and uniformly disseminated.

SENATOR ALLEN: Madam Chair, or Mr. Chair, if I could, just for the moment, speak again to the folks from the Department of Education and ask if you think that would be something that we could expect to see you do in the very near future -- something very -- definitely from the Department that goes to every school, perhaps, that's very, very clear; that says, in fact, there have been problems, there have been -- people are misunderstanding the different roles and where we are. Can I understand-- And I would like to have a copy come to all of the members of this Committee as well, so we can see what went out and also to find out how quickly it occurred.

Thank you.

SENATOR RICE: Excuse me. Could you just step up here and put your response -- we're being recorded at this meeting -- your name and your response? This way, in case you forget, we have something to remind you. (laughter)

ASSISTANT COMMISSIONER GANTWERK: I won't forget.

SENATOR ALLEN: I apologize. That's my fault.

And so the question is: Could the Department of Education put something out to every school that makes very clear what everybody's job is, who has what authority, what's changed, what hasn't changed, who should be involved, and so on, and also to have it sent to every member of this Committee?

SENATOR RICE: State your name for the record.

ASSISTANT COMMISSIONER GANTWERK: Barbara Gantwerk, Assistant Commissioner, Department of Education.

And I assure you that we will do that very quickly.

SENATOR ALLEN: Thank you very much.

ASSISTANT COMMISSIONER GANTWERK: You're welcome.

ASSEMBLYWOMAN VOSS: Does anyone have any questions? (no response)

Thank you very much.

MR. HOLLAND: Thank you very much.

ASSEMBLYWOMAN VOSS: And now we have parents: Cindy Lee Parker, from Ocean County; Betsy Yard, from Burlington County; and Bruny Carlo. I don't know what county Bruny is from.

Cindy Lee, we'll start with you.

CINDY LEE PARKER: First, I would like to thank everyone for letting me have this opportunity to tell my tale of my son Jake.

On February 2, I didn't know that my problem had a name. And the name is the Fiscal Accountability Regulation Act. I was just told, "Sorry, we're not going to provide you with any transition services or any--"

ASSEMBLYWOMAN VOSS: Push your mike. The red button has to be on. (referring to PA microphone)

Okay. Good.

MS. PARKER: "We can't provide you with any additional services, or transitional services, or any type of new services for your son, because there is a new law that states he has to be schooled in his closest district." My son does attend a private school in Monmouth County.

I was, I have to tell you, really blindsided, because he's 14. So we are in a very big transitional period of his life. We're making some very big life decisions. And I was just flabbergasted. She brought no paperwork with her, she brought no reports with her. There was nothing. It was, "Sign this release to send your son to the closest public school district, because the State will provide us with no aid concerning his education if you don't."

So I have to tell you, it got very emotional and very volatile, because you're talking about the future of my son. And then it got-- I felt pity for her, because I felt she was being used as a scapegoat. She was my case manager. She was totally blindsided. I asked her a million questions concerning the law. She had no data to back it up. She couldn't even give me the name of it. It was just that, "The State will give us no funding."

So I then came home and contacted everyone I could think of to get information on this Act that I still did not know the name of. And I came in contact with a bunch of wonderful people who have guided me

tremendously. And I am now in due process. My court date is April 28. I've been -- had to incur phenomenal amounts of monetary payments that I just don't have. I tapped into my husband's pension plan. That's what we're using to fund my legal battle.

And I just think that it isn't right to be able to say, "Oh, this person has that power over my child." He doesn't know my child. He's never met my child. He's never seen the data that I've collected since August of 2005, where my son's behavior is so profoundly horrible. He had 20 aggressions a day with an intensity level of 5 -- which is the highest it can be -- the duration of 15 minutes. So if you add that all up, my son's entire day of education was nothing but a tantrum.

Having said all that, as of January 2009, collecting all the data, getting all my ducks in a row, he's down to 1.34 aggressions a day with an intensity level of 3.44 and a duration of seven minutes. So in my opinion, that is success. We are seeing a successful young man make a transition. He's getting coping skills. He's getting through. But that doesn't matter, because according to my school district in Ocean County, they can no longer fund the program that he's in. He needs to come to the closest public school district in my county.

So as a parent, I say to myself, what can I do to make sure that this doesn't happen to my son? Who do I call? Where do I go? And I was lucky enough to meet the New Jersey -- Autism New Jersey representative, Deb Charette, who has given me the name of the Fiscal Accountability Act and basically said, "These things just can't be in place anymore." They are affecting the future of my son. They're affecting the future of my family.

They are affecting everyday life. The anxiety level is paramount. It's just not a nice thing to have to go through right now.

I'm going to go up against one of the roughest attorneys in the field. And I feel that my school district is just going to continually browbeat me until I succumb. And I am here to tell you, I'm not easily browbeaten. (laughter) I will not-- I will go to as far as I need to go. My left arm may have gone, but my spirit will keep going.

I'm asking-- I would-- As Assemblywoman Voss said, elimination of this bill, I think, is just what needs to happen. And then if it's a clearinghouse that you want, then a clearinghouse you make. But you can't come in and make decisions about children whose lives are already uncertain. We don't know whether he's going to be in an institution, or in a developmental center, or in a group home. That is to be told. But we should be given the right to fight for him to be in the least restrictive environment, not in an institution, not in a group home. He should be able to live where he is capable of living. And that's my goal as a mother -- is to say, "Guess what? This is just not acceptable."

I truly believe that elimination is the only way. I mean, you can sit here, and we can look and ask you to repeal this, and add this, and change this. But I think you're just going to tweak another problem, and open up another can of worms, and you'll just have another set of parents before you.

So while I am very passionate and extremely overwhelmed, I am very honored to be able to be here today, to sit and give you my piece of mind on why this is so detrimental to one 14-year-old boy who truly is the central nerve of our family. He makes us laugh, he makes us cry, he brings

us joy, he brings us pain. But, guess what? That's what-- As a parent, my job is to fight for what's best for him, as I do for my other children. They're all going to college. My daughter is a cheerleader. I do all the right things for them as I am going to do for him.

ASSEMBLYWOMAN VOSS: Thank you very much.

Senator.

SENATOR RICE: It's not one 14-year-old. There are many others out there, names unknown to us.

Have you been in touch with-- First of all, you're from Ocean County?

MS. PARKER: Yes, I am.

SENATOR RICE: Have you been in touch with your legislators down there?

MS. PARKER: Actually, I believe I have a call out to-- Because I didn't know what this was called. So, no, I don't. But I have an attorney now who is guiding me.

SENATOR RICE: Every time I go to Ocean County and try to help people, I wind up getting beat up by the people I'm trying to help, but that's all right. (laughter)

MS. PARKER: I'm sorry. I'm not one of them.

SENATOR RICE: I know. I still go. I've been to Whiting, New Jersey and every place.

But have you been-- Have you ever had conversations, in terms of your individual case now, with the Public Advocate since we brought him back on board.

MS. PARKER: Yes, I did call the child protective agency. And I actually didn't bring it with me -- I have a letter saying that they truly cannot help me. I have her name. I can provide you with that.

SENATOR RICE: Well, the reason I raise that is because the public advocates are supposed to be "in, and of, and independent." That's why we brought them back. Unfortunately, the Public Advocate took over the office of child whatever--

MS. PARKER: Yes. Correct.

SENATOR RICE: Which I never thought was a good office in the first place. They're like DYFS. And then what you're going through now is what people go through with DYFS. Believe me -- and no one is listening.

So I'm going to suggest that we do what we have to do, in terms of testimony, working with the Department of Education in terms of this whole (indiscernible) and these regs.

But I'm going to ask staff, through you, Madam Chair, that you connect this testimony, some kind of way, to Public Advocate Ron Chen, and suggest to him that he personally meet with this party to review her case, even though we know it's in litigation. That does not preclude him from looking. Because once he looks at it, it may become clear to him that he needs to come in front of the court, just as he does with eminent domain and other things.

Because this 14-year-old represents one of several, names unknown.

MS. PARKER: This is true. Thank you.

ASSEMBLYWOMAN VOSS: You should not be putting your family's finances in jeopardy. And the Public Advocate should be one that you reach out to, as Senator Rice said. And there has to be attorneys that will take your case without sapping all of your resources -- I mean, I would think there would be.

MS. PARKER: You know, it truly isn't all about the attorney's part. I have to hire an expert to prove that my son is as disabled as he is. I just sent out -- and I will give you the dollar amount. I had to spend \$3,500 on an expert witness to come in and view my son to say, "Yes, he's pretty profoundly autistic. This is his space." And I'm forced to do that, because as I sit here, my word is not valid, my word is not heeded, my word is not valued. So in order to get my value, to get my point across, I truly have to put my family's finances in the hole.

ASSEMBLYWOMAN VOSS: And I'm so surprised, because I was in your situation 25 years ago. And I got-- Somebody gave me the name of a public advocate, and it was at no charge. And she was amazing. And I got the proper placement for my child. But I am just appalled at the fact that your family's finances are at risk.

MS. PARKER: Me too.

ASSEMBLYWOMAN VOSS: Well, we have to do something about that.

MS. PARKER: Thank you.

ASSEMBLYWOMAN VOSS: I'd like to call up Bobbie Gallagher, because I didn't get an opportunity to include her on the panel. Is she here? (affirmative response)

While she is coming up, Betsy Yard.

ELIZABETH YARD: Good afternoon.

My name is Elizabeth Yard.

My family resides in Burlington Township, Burlington County, New Jersey.

ASSEMBLYWOMAN VOSS: Is your red light on? (referring to PA microphone)

MS. YARD: Yes.

ASSEMBLYWOMAN VOSS: Okay.

MS. YARD: My son Jonathan is 14 years old. Jon was diagnosed at 18 months with autism. He has since been diagnosed with a rare disorder known as Kabuki Syndrome. He has been nonverbal since birth. He attends a self-contained autism class in my home district.

I have always been a staunch advocate for inclusion of students with disabilities in the least restrictive environment possible. I have worked with individuals with autism for the last 19 years.

After cuts, which occurred last Summer, globally, in extended school year programs across Burlington County, including Jon's, he suffered greatly, not only academically, but behaviorally. Even though my son had become aggressive to the point that I had to seek medical attention on two occasions, my school district ignored my request for help.

When he returned to school in September, district employees held a meeting without notifying my husband nor I. Their solution to his behavior in school was to hire a second staff person to physically restrain him. It was apparent to me that they had no idea of what to do except to use restraint procedures.

In December, I hired an outside agency to help me, in-home, to develop a behavior plan, including positive behavior supports. It has been an eye-opening experience. And I began to question whether his in-district placement was the right setting for Jon.

In February 2009, I made a request of my district, through my son's case manager, to forward his records to just two schools so that I may visit. And they were both within a 30-minute drive. A couple of days later she, the case manager, responded and refused my request stating, "The district is not intending on sending Jon to the schools you are interested in," and went on to say, "but we could discuss what other options may be closer to home." I responded by questioning that I thought, by law, the placement was determined by the IEP team at an IEP meeting; and that I felt an appropriate educational setting should not be determined based on where it is physically located, but by whether it could meet a student's individual needs.

I went on to request in my letter: "Who has already made this determination?" The letter was copied to the child study team director and superintendent. No member of my school district has ever responded to any of my questions. All I wanted was an opportunity to go and look at placements prior to his upcoming IEP meeting.

Jon is a young man who is currently on DDD's Priority 1 waiting list. The school records-- Sometimes there are private schools or county schools -- you can send your school records. You could go in and visit freely. Other schools request that the district contact them. So some of the schools that I wanted to look -- the district had to make the contact.

So the few times I've made that request in the past it was always honored. Why now could I not even look at other options? Given the extent of his regression, I never thought my request would be denied.

A few days later, I ran into an associate, a public school employee in Burlington County on a more supervisory level. And I questioned them, asking, "What is going on in Burlington County?" The employee's response was that child study team directors throughout Burlington County have been told by the County Supervisor to, "Get the kids back in-district and not to let any out. The county programs should be the only option offered." The remarks made to me in writing from my school are all very clear to me now.

I have spoken to many parents, advocates, educators, State employees, and physicians throughout Burlington County. They all tell me the same story. They all know of students who are being impacted, and changes which have occurred by the direction of just that one person. I do not know the County Supervisor. This person has never met my son. I will never know what opportunities he may have had regarding options to placement, because he wasn't given the opportunity.

ASSEMBLYWOMAN VOSS: Thank you.

Does anyone have any questions.

SENATOR ALLEN: Oh, I do. (laughter)

SENATOR RICE: This is a quick question, because I'm always interested in who represents who. They can take it for what it's (indiscernible). Have you been to your representatives on the State issue? Since we have to learn to go -- at least go and attempt to deal with our State on the State, and Federal on Federal, because (indiscernible) don't count --

they get away with a lot of stuff sometimes, depending on where you are. Then some of them stay so busy even though they represent you.

But have you been to any officials that represent your district at the State level?

MS. YARD: No.

SENATOR RICE: Okay. And the reason I'm raising that is not to put anybody down. I'm not sure who represents Burlington. In fact, Assemblyman Conaway may be that--

SENATOR ALLEN: Oh, that might be me. (laughter)

SENATOR RICE: Oh, okay. Is Herb Conaway in your area too? Does he cross over?

And the reason being-- Well, if it's this Senator -- that's why I asked -- she responds. In fact, I've just finished dealing with some stuff from David Lyons -- Councilman Lyons, from my district, that she got into my hands. And then there are sometimes-- See, we don't know what's going on sometimes, but we take a bad rap representing people, because they don't get in touch -- and we could at least try. At least if we try, and we fail, you know we're trying.

That's important. Because I don't know who these superintendents are. And these superintendents are being appointed by the Governor. But what we did was-- Initially, the Governor was going to have all the weight, and I said no. We amended the bill, if you recall, that we get some courtesy. And the idea was to make certain that if there was someone who may be questionable, at least we can call them into the community and have the community talk to them.

But I'm just trying to keep some clarity on the record here, based on this Committee, because we're all over the state. And I hear a lot of things that our colleagues don't get an opportunity to hear who actually represent the districts.

This Senator is good. So I'm glad that you came with her here. I wasn't sure who represented Burlington. I thought that on the Assembly side it may be Conaway, and I'll talk to him.

But go ahead. I'm sorry, Senator.

SENATOR ALLEN: We've heard similar things, and I've been dealing with the county superintendent. And I would love to, rather than take the time of this Committee hearing, talk with you in my office. We're in Burlington City. We're right on West Broad Street. And if you could give me your information before you leave -- and I'll give you ours -- we can get together and see if we can't get to the bottom of this for you individually. But it will also be instructive for me as we move forward on this.

MS. YARD: Okay.

If I can tell you what I have been doing: I have complaints stacked on my table -- my dining room table; I have had an outside agency come in who has determined what was missing from my son's plan; and I have requested IEP meetings to get restraints out to start teaching this young man positive behavior support. And it's just-- You'd have to visit my house to know what goes on to keep this young man together at this point. Which is a great concern to me -- that if it can't be done in a public school -- and I have concerns for those other children in that school. He is a big young man. And if they do not have the professionals in the district

to do -- and I've paid to bring them in to help them. If they don't have the people there, and they are not willing to hire anybody or bring anybody else in -- and I've asked them to do it, and they haven't. I've done it to put my life back together. And it is across settings. This is going on in my home, and this is going on in the school. And to not even be able to go out and look at a program -- to visit a program for consideration, that may be more appropriate, is pretty sad.

SENATOR ALLEN: It's inappropriate, no question.

MS. YARD: Completely. Thank you.

SENATOR ALLEN: And I look forward to working with you on this.

MS. YARD: Thank you.

SENATOR RICE: Madam Chair, quick question.

ASSEMBLYWOMAN VOSS: Yes.

SENATOR RICE: Did I hear in your testimony you say that -- I thought you said the board or someone got in touch with -- but never got back to you. Who was that? Was that the board?

MS. YARD: Oh, I've written to everybody in my school district. They all know me. I'm sure they have a nice name for me too.

SENATOR RICE: But you said you wrote someone or something -- I forget -- information, and to this date no one ever got back. I'm trying to find out what--

MS. YARD: The child study team, case manager, the child study team director, and the superintendent.

SENATOR RICE: Okay. The reason I raised that is because-- See, the problem I have with all these school districts is not that there are

so many school districts, it's who works for whom, etc. And the bottom line is, at the end of the rainbow, to still oversee education -- public education.

And we need to make sure that these superintendents, these board members, and all these other folks at least have the decency to get back in touch with people. I have the same problem with State agencies. And that's why I insist when I write, I want a disposition. I want something telling me you received it, telling me to go to hell, I don't care. But that's what hurts our citizens the most, at least from my perspective up there in the State. People don't even have the decency to contact somebody. Put a form letter in there and say, "I received this," so at least you know they got it. And they can beat you up later.

But that bothers me. And I think that they should have gotten back. I'm sure Senator Allen is going to address some of those things. And I'm going to support her in what she has to do down there. I know she's a good Senator, and I know she's very passionate about this stuff. But it just gets me the way these people complain and nobody gets back.

MS. YARD: Thank you.

ASSEMBLYWOMAN VOSS: Once again, I want to say-- I don't mean to be repetitive, but this is something that has to be repeated over and over again. Here in Ocean County you have a superintendent who misunderstood the regulation. Here you have, in Burlington County, a superintendent who misread the-- And look at the problems that this is causing.

I mean, I know that the testimonies were given -- was that this was just sort of a little oversight of things. And this is not the way these superintendents are interpreting this, and this is absolutely-- I mean, my

heart breaks for the people that we're hearing, because of the fact that they're being told -- they're denied the access to the kind of education their child needs. And I can't get passionate enough about this. And I will be a real pain in the neck when it comes to talking about what has to be done with these super superintendents.

I don't mean to be nasty, but sometimes-- When they created this whole concept of the super superintendents -- which I was not in favor of -- I have to be very frank about that. It seems to me that sometimes additional jurisdiction was given to them to make it look as if they were really super superintendents. And that's not good for our kids.

SENATOR RICE: Exactly.

ASSEMBLYWOMAN VOSS: Sorry to digress, but this is really serious.

Bruny Carlo.

B R U N Y C A R L O: Good afternoon.

It's a pleasure to be here today. Thank you so much for giving us the opportunity to share such an important topic as it relates to the special education needs of our children.

Assemblywoman Voss, Ms. Jasey, Ms. Schulz, thank you for inviting me. Senators, thank you very, very much.

My name is Bruny Carlo. I'm the mother of a severely autistic 14-year-old son also, who has limited receptive and expressive communication skills. Actually, my son Brian is here today. He's the handsome young man in the white autism T-shirt. As you can see, he's a very well-behaved little guy. Despite the severity of his disability, he does have the ability to learn.

Whenever Brian participated in an appropriate program that followed the specifications of the IEP, he did make significant gains. On the other hand, whenever Brian was put in a program that didn't meet his individual needs, he regressed. And, of course, this was very, very upsetting to us, because it takes such a long time for Brian to learn anything.

Brian's greatest achievements are the results of a proactive and collaborative relationship between myself and the school, throughout the school year. This begins with an individualized education program that reflects a collaborative effort between the school and myself: a team of individuals who personally know Brian and has worked with him long enough to know what works for him in order for him to achieve his very best.

Up until this past year, our experience has always been very positive. The fiscal accountability regulations currently on the table can have an adverse impact in securing a free and appropriate education based upon the individual needs of our children, as this new education -- as this new regulation will empower the executive county superintendent to make decisions on school placements whenever the child study team makes recommendations to place children out-of-district.

Having the executive county superintendent make education decisions for our children is very, very troubling to us parents. Is it possible that an executive county superintendent can make the appropriate recommendations for our children without having any knowledge whatsoever about them other than their age, their class, and possibly a brief overview of our background, as Ruth discussed from the Education Law Center? Is it possible that the executive county superintendent can

effectively make recommendations on a timely basis, within the timelines mandated in the IEP process, to review and approve over 23,000 students who are currently out-of-district?

And if this regulation is, in fact, implemented, how is it possible that when compiling a list of appropriate schools that not all of our options are made available to us? Private schools are off the table. It is not an option for our disabled children. And this is a travesty. How is it possible when these schools, who have a proven track record of achieving success with helping children overcome their disabilities-- How can they possibly not be included in the process?

Jeff -- I forget what agency he's from. I always thought that an out-of-district placement was not possible because it was very expensive. In fact, I'm going to share with you something that will probably be very shocking to you, which was not part of what I wanted to say. But I think it's important to say.

I had gone to a member of the child study team, and I had asked for a placement based upon a very sensitive issue that occurred at school and based upon the severity of my son. I was told by that person that the day I can open up my checkbook and write a check to place my child in the education I wanted to, that was the day I could make that decision. A statement like that, coming from an education professional, is disgraceful.

At one point at an IEP meeting -- a recorded IEP meeting that was held in January -- again, this was not part of the script, but as I hear these parents, I'm compelled to share it with you -- I was told that if, for whatever reason, I was not happy with the placement of my child, I had the

option of taking him out of school at the age of 16. That is deplorable. My child needs an education. He deserves to be educated, just like any other child. Especially him. We are looking to help Brian achieve independence and to be able to contribute to his community. Making a statement like that to a concerned parent who went to him for help is unacceptable.

I am-- My son is currently placed at a mainstream high school. This mainstream high school has over 3,000 students, faculty, and staff. A placement like that is overwhelming for a typical teenager. Could you imagine what it would be like for a severely autistic child who took years to overcome sensory issues? It's very sad. He goes to the high school that my other son goes to. And he and friends who go to that high school have reported to me that they've seen my son walking throughout the campus covering his ears, covering his ears in the cafeteria. Clearly, the environment is overwhelming. I've expressed this concern. There was no feedback.

I had the opportunity to observe my son in a classroom. He's in a classroom with students who are way above his education level. The autistic students in his class can read, they can write, they can use the computer, they can walk independently -- alone in this huge campus. I observed my son in a classroom setting -- and I've shared this story with some of you before. They were discussing, "What is it that you see in the hospital, and who do you meet in the hospital?" The children in that class were raising their hands, they were interacting. Clearly it was an appropriate program for them. But my child had nothing to add. Throughout the time that my child was in that classroom, all he did was look around, and smile, and stim his hands, and rock back and forth.

Eventually, the teacher came to my son with a card and asked him to repeat the word *X-ray*. My son repeated that word, and that was the extent of his contribution throughout that whole session.

I recognize and know that the staff is spread very thin, and I'm not blaming the teachers or the staff. I have tremendous respect for them. However, you have to think: What's the problem? Is this an appropriate program for my son or not? Are they spread thin? I'm getting the impression that they are. And I'd just like to share with you just a couple of incidents whereby it shows that they really don't have the ability to address my child's individual needs.

My son cannot speak. He was given a communication board last year. I've never received a communication board, which is a critical piece for him to be able to communicate. In January, I finally received one. I respectfully requested that the speech therapist give me some time before school, after school. I'd even go during the day so I could observe. The response that I received was, "Mrs. Carlo, you observed it in December," which was before I got it. "And by the way, I'm very busy. I won't be able to speak to you or show you how to do it until the Spring." It is now April 16. I have never heard once as to when that can be rescheduled. Clearly, this gifted speech therapist is spread very thin. At one point she did send me instructions on how to do it via an e-mail. However, as you know, there is a big difference between actually getting the guidance from someone directly and reading instructions.

The last thing that I want to say is, it's sad that my son, who made tremendous gains last year, actually in an in-district program -- to the credit of the education system-- We had a wonderful teacher last year.

But, of course, we were moved to the high school this year. I had concerns, based upon written communication that was sent to me from the school that clearly reflected that my son was regressing. Some of his programs were put on hold. Some of his programs -- I had no idea what was going on.

I requested communication via e-mail for feedback. I received nothing. The only feedback I received was that he was adjusting great into the high school, that he was doing great in gym class and great in music. When I persisted to request information, I finally received information that he had regressed. I requested, on March 11, to have a meeting with the teacher. No response. After three e-mails, I finally received a response. On April 2, I finally met with them. Of course, by that time there are so many issues there just wasn't enough time to cover everything.

As you know, April is Autism Awareness Month. How appropriate that we have an opportunity to discuss an issue such as this. And with that said, I do want to revert back to the fiscal accountability regulations and respectfully request that the Legislature must ensure that the Department repeals Section 2.1, Section 8.3, Section I of the fiscal accountability regulations in their entirety. I respectfully request that it amend Section 2.3; Section 5, Subsection 3 to delete the ability of the executive county superintendent to recommend the establishment of additional self-contained programs. In the interim, we respectfully request that the Legislature ensure that the Department provides clarification to all districts, advising that the superintendent's role is only to provide information on available placements and programs, and only the IEP team -- which, by the way, includes us -- can make placement decisions for our students with disabilities.

When it came time for recommendations for a high school for our son, I respectfully requested to allow me to see other programs. I was told in an e-mail -- and I save all of my e-mails -- that the recommendation for Brian was the high school with over 3,000 people on campus.

We respectfully request that the executive county superintendent's involvement in the IEP process may not delay the IEP determinations. We request that the districts will not be deemed inefficient or otherwise penalized if their IEP teams do not utilize placements suggested by the executive county superintendent. What child study team member would ever want to go against the grain? Of course they're going to be intimidated to recommend anything other than what their superiors are asking them to do.

If the Department refuses to appropriately amend the unlawful special education provisions of the accountability regulations, the legislators must adopt legislation that supersedes those provisions.

And just one more thing, if I can add, with regard to the complaint process that was spoken about earlier today. That is a very intimidating process. I'm not shy to speak, as you can see. But because my child is nonverbal, I'm always walking on eggshells when it comes to dealing with them, because I want to make sure that there's never any repercussions as a result of me speaking out.

So on behalf of all of the parents who are here today, and those who couldn't be here, thank you so much for giving us the opportunity to speak. Hopefully you can give me a public advocate that I can speak to also.

And to the Department of Education, I do want to say thank you so much for the contributions and efforts that you've made to implement programs in-district, because there are effective programs in-district. However, I will say that, as I mentioned in February, one size does not fit all. And we are respectfully requesting your support in ensuring that parents are a part of the IEP process and that there is a collaborative and proactive effort in ensuring that our sons and daughters receive an appropriate education.

SENATOR RICE: Madam Chair.

MS. CARLO: If I could just say one last thing -- I'm sorry.

For all of the advocates and organizations that are here today -- SPAN, Disability Rights of New Jersey, (indiscernible), Education Law Center, and all of the advocates that are here, thank you so much for never giving up on our children. Thank you for your relentless hard work and efforts to make sure that the rights of our children are never compromised, and that they are assuredly receiving a free and appropriate education based upon their individual needs. Their futures and ours depend on it.

ASSEMBLYWOMAN VOSS: Thank you very much for your very, very articulate presentation. And I just would like to know what county you come from. Because that is--

MS. CARLO: Somerset County.

ASSEMBLYWOMAN VOSS: Somerset County. And just as a point, you are not receiving any acknowledgements or responses to your--

Now, it was my impression that special ed teachers have a very limited number of children in the class -- usually five to eight, depending on the severity of their learning issues. And I can't imagine that the teachers

did not respond to you, or the head of the child study team didn't respond to you -- and particularly because of the autism that your son has. To put him in an environment with 3,000 children, knowing all of the issues that we're aware of -- you know, light, and sensory, and hearing, and all of the things. How could anybody, in conscience, put your child in a school of that size? I just don't understand that.

MS. CARLO: I'm so delighted that this is recorded, because you're absolutely right about that.

My son is actually in a classroom with three students. He's the fourth student. He has one teacher and two aides. And despite that type of support, because their education is so diverse -- that their educational abilities are so diverse -- it's very difficult to have an effective classroom environment for them.

Just to give you an idea: Because my son can't speak, I have respectfully requested on many, many occasions that I receive daily communication. Did my son eat? Was he okay? And I was told that he just doesn't have the time.

ASSEMBLYWOMAN VOSS: With four students?

MS. CARLO: With four students.

ASSEMBLYWOMAN VOSS: There was a time I had 200 students in a day. And believe me, I made sure that if their parents called me up, they got what they wanted. (laughter)

MS. CARLO: And I even created a template. And still, with that -- they won't allow it. We've received it all along up until maybe November, when I started to have challenges.

My son goes to a school. I can call his teacher who has 250 students, and receive a call within 24 hours. I have a younger son. If I have any issues or questions, I receive a call by the next morning. And these are people who have anywhere between 20-plus students to over 250 students. I don't understand why. I really don't.

ASSEMBLYWOMAN VOSS: This is outrageous, just outrageous.

Senator, did you have a question? I didn't mean to interrupt.

SENATOR RICE: No, one of them was answered.

It's obvious this is a problem throughout the state. That's why we ask about the counties. Because traditionally, when you come in with education nightmares, it's normally "urban" cities -- urban cities are spending too much, we're not doing things, and we have this problem. And then these are the silent pieces that go -- that we hear, but our colleagues don't hear.

Now, have you spoke to representatives in your county?

MS. CARLO: I've spoken to the Director of Student Services and asked for his help. And I have e-mails that are this thick.

SENATOR RICE: What about legislators? Who is your rep?

MS. CARLO: I haven't gone to my legislator.

SENATOR RICE: See, we have to take advantage of-- If we're going to elect them, make them work. (laughter)

MS. CARLO: When you say *legislator*, you mean our Senators or Congressmen?

SENATOR RICE: Yes, and Assembly people. All of them.

Because the thing is, they make me work. No. But the point is that if we know -- because sometimes, let's say-- And by the way the issue I wanted to raise--

Could you leave a copy of your testimony? Because the Department needs to understand that if they don't start to work these things out -- and my preference is to fast-track and work it out. But if not, I have no problem introducing legislation -- and if the legislation becomes a barrier to what they're trying to accomplish, then so be it. But sometimes the only way you can make the administration move is via legislation. So we need to have those points that you raise.

But by the same token, you need to talk to your legislators, because we'll put a bill in.

MS. CARLO: Oh, that would be wonderful.

SENATOR RICE: We all may support it.

I mean, I understand (indiscernible) in this room. We put it in, and then we're going to people who oppose the bill, not even knowing in their own district they have the problem, because no one is going to them. They go to Senator Allen, they go to me, they go to the Assemblywoman. And we're like fighting like crazy, and saying, "But you have a problem." "Well, we don't know it." Then it takes 10 years to pass something after we've been destroyed in our districts because of their lack of knowledge. Okay? And so just make sure you bring your testimony to your legislative -- our colleagues (indiscernible). If you don't know who they are, call the office. We'll figure it out for you.

But we need a copy of your testimony. That's really what I wanted.

ASSEMBLYWOMAN VOSS: Well, it's in the record.

But one of the things that -- because I was a history teacher, I'm constantly amazed that people do not know that there are 40 legislative districts in the State of New Jersey -- that are State: one Senator, two Assembly people. Most people don't know who their State representatives -- their State Senator and their two Assembly people -- are. We, because we're very outspoken about special needs, and education in general, get-- I mean, I get calls from Ocean County, Atlantic County, all over the place, because they know I have a big mouth and that I will say something. (laughter)

But you need to get in touch with your legislators. Because I want to echo what the Senate said. We sometimes put a bill in, and our colleagues are clueless about what it is that we're avid about. So you really need to do that.

You also have Federal representatives: Congressmen, and two Senators to the Federal government. And I know people very often call my office and say, "I want you to get Senator Menendez to support your bill." "Well, gee, if I was in Congress, it would be great. I'd love to have him do that. (laughter) But unfortunately I'm only on the State level." And so not only do we need to educate the public about access to us, but we also need to -- and I'll go back on my educational stand -- we need to educate our children while they're in school about government. Because I get calls from kids in college who are writing papers on different things. And they will preface their remarks with, "I really don't understand anything about government." And boy, that is so prevalent in our society.

The squeaky wheel gets the oil, as you are well-aware of. And we're all squeaking, but we've got to get more squeaks until something gets done.

Pardon my soapbox, but it's important.

Bobbie Gallagher.

B O B B I E J. G A L L A G H E R: Yes. Hi, and good afternoon. And thank you for the opportunity to be here.

I speak to you today both as a professional, who has been qualified as an expert by the Office of Administrative Law in the field of autism, as well as parent of three children total, two with autism -- a boy and a girl, 16 and 18 years old. My son has experienced many of the same difficulties that the women on this panel here have expressed.

So when-- I just-- My concerns are directed specifically towards the autism community and those who are profoundly affected by the disorder. And as we listen to and discuss fiscal accountability, what I have to comment on is: We can't have fiscal accountability without taking into consideration the student outcomes, their successes, their failures, and the money that is spent in litigation fighting to deny services to the parents.

I work in a field that makes decisions based on science and data. So I have to ask the Department of Education to show me the data that shows that the public school programs are as effective as the private placements for students with autism. Additionally, information should be provided to this Committee on the number of children who are in private placements only after spending years in the public schools that failed them. And so that is primarily my business. Most of my individuals that I care for now, or the families that I help, are students who originally went through

the public school system. It has failed them, generally, on the end of behaviors. And now they have to be placed in private placements.

So we also must be able to compare apples to apples. Although many of the public schools use the same terminology that the private schools use when they're describing their programs, their application of those terms is inferior to the private schools that we have here in the State of New Jersey. So I'm not asking just for you to include the database of private schools in the executive county superintendent -- who is only going to look at written information provided in front of him. I'm saying that people need to go out to see these different programs and what they provide.

The private schools that specialize in students with autism foster a culture within the entire environment. From the administrators, and teachers, and related service providers, to the receptionist out in the front, everyone understands the diagnosis and the role that they play in that student's life. Public schools sending their teachers to workshops, holding in-services, providing some sort of training does not replace an administrator with expertise in the field of autism and the supportive environment that they create. Children with autism should be taught primarily to the discipline of psychology, more specifically applied behavior analysis. And our public school teachers are not equipped. I have a master's degree in special education. I can tell you what went into that: absolutely nothing that had to do with autism.

So I do not have one client in my office that has come from a private placement. All of my clients are from public school programs. My clients are fighting for appropriate services for their children, with nothing

but resistance from their child study teams. Unfortunately, the majority of my clients are families who initially trusted the public school system for their children, only to have that program fail them and leave them with few choices; because there are no more openings that were available at the beginning in the private placements.

So let's not put a façade on this. Our children are costly. But the use of the executive county superintendent is merely adding one more unnecessary level of insulation to keep our children from getting the services that they need. When you look into the cost to educate our children, please include the cost that it took for the families to fight them in litigation, the impact that that litigation had on the child while they wasted time, spending -- trying to fight; and, more importantly, the level of supports those graduating from the public schools will need upon graduation due to an inadequate education. Although the moneys for post-graduation may come from a different pool, it's all the same funding source, the New Jersey taxpayers.

My own son was victim to a school district that was relentless in its fight to take him away from us, to put him into a residential facility against our wishes. The District spent over \$1 million and three-and-a-half years of my son's life engaging in this fight. Our family had to become a one-income family, and we spent \$104,000 in legal fees. Thank goodness for extended family, credit cards, and mortgages. In the end, we won. The District was proven disingenuous in their stance, and the judge ordered above and beyond what we requested. However, that's three-and-a-half years he'll never get back. That's three-and-a-half years his sisters will never

get back, as his mother and father fought every single day to get him what he needed.

So this has never been about the children. This is about the money. Even though others will tell you it's not any more expensive, for some reason this is the stance that the Department of Education will take. This is about insulating our school districts from being accountable for our children's progress. Special services school districts and jointures are in bed with our public schools, creating a wall of insulation that most parents can't fight financially or emotionally.

If the Commissioner wishes to identify a need for programs and services within the counties of New Jersey, she first must look as to why there is a need -- not just because of the sheer number. But why is there an increased need in programs for students with severe behavioral difficulties after the age of 9? I can tell you why in one simple sentence: The services they received prior to that age within their public school programs were inadequate.

When I worked within a public school program, I was asked to forge documents on a child's Alternate Proficiency Assessment in order to show he made progress. I refused, but they found someone who would do it. Through my work I found that this is common practice. So we request data, but we need accurate data. There's no accountability within our public school system to ensure our children are receiving the education promised to them. The IEPs are written without measurable terms, as defined in IDEA, and without consequence from the Department of Education. This only further insulates the districts from showing measurable progress.

I plead with this Committee to not allow the warehousing of our children in special services school districts and jointures, to not permit our public schools to hide behind the diagnosis of our children when they do not meet their expectations, and to ensure the quality education through data. If funding is available to open schools, find a way to offer that funding to those programs that have shown the most success, that have made this state one of the best in the nation to live in with a child with autism -- the Douglass Developmental Disabilities Center, the Eden Institute, SEARCH Day Program, PCDIs, and others. It is this that will keep the cost of special education down.

And so finally, others here may ask you to increase the role and access of information to the executive county superintendent. I am asking you to not put one more wolf in charge of the sheep.

I thank you. (applause)

ASSEMBLYWOMAN VOSS: I have to concur with you, because while you're speaking in the present, I have to speak from the past. And my son has Asperger's. And I had a terrible time getting him put in the placement which would help him. And, of course, it was a private school, and it went out of business because nobody would pay for the children to go there. So then he got transferred to the second school that they had. And that went out of business because they couldn't get the funding. And then he went to a third school. And you know, anybody that's on the spectrum -- any change is absolutely traumatic. And fortunately my son was minimal. But to this day, he still goes for therapy to deal with anger management and issues of that type. So even though he's gainfully employed and on his own, those issues should have been remediated when

he was younger. But they didn't even have a diagnosis when he was younger. So there you go.

So I have to say, I have to empathize with all of you, because I've been there, done that. And it's a daunting situation. And now another roadblock has been set up for you.

MS. GALLAGHER: And I just-- In addition to that three-and-a-half years that the district fought us literally, in litigation -- it was filed in 2003 and not settled until 2006 -- they, of course, took their additional time that they needed in order to appeal that decision, and didn't file the lack -- their decision to not appeal until the last day.

My son also had to go to the Kennedy Krieger Institute, in Baltimore, Maryland, where he had to stay for almost five months because of the education he had received within the public school system, and what they had done to him in an effort to try and keep him from getting the appropriate services that he needed. And to then tell me that the aggressions had reached a level that he was sent home-- My son was home schooled. And the reason that they spent over a million dollars on my son is-- Fortunately for me, a judge at least ordered they had to pay for the home schooling. But truly, he was home schooled for more than four years. And the issue that comes up with that is, when he then -- did find a placement for him, the difficulty he had transitioning from being home for four years, and access to everything that he could possibly want -- to then have to be placed in a school program with other children.

ASSEMBLYWOMAN VOSS: I have to say I thought I had a hard row to hoe, but you guys transcend anything that I've ever experienced. And you certainly have my support in anything we can do.

Does anybody--

Senator.

SENATOR ALLEN: I have a question about forging documents. That is just amazing to me.

MS. GALLAGHER: I have to say that when I was employed by the public school system, and they asked me to do it because they had waited so long to finish the Alternate Proficiency Assessment on the child, all the pictures being taken for documentation were going to be taken in one day. And what they had asked me to do was to write that the child had a sensitivity issue, and he always wore the same clothing, which was completely inaccurate. But that's because the photos were going to show that that's what he had on him. In addition, they asked me to pose him in positions for the photos. I did deny, but I have to tell you that they were successful in other people taking them.

In my field, I do work with families on a regular basis as an educational consultant, evaluating programs for their children. I know the Alternate Proficiency Assessment tests that come back to the family are not accurate, because their children are incapable of doing what those assessments say they can do.

And they are supposed to be able to exhibit being able to do those not only in the school setting, but in multiple environments and across multiple people. These children cannot even do them with their loved ones. So certainly they're not doing them with the other peers in the school. But they are posed to do so in these photos.

SENATOR ALLEN: So we need some sort of-- Well, we need to see this stopped. But my guess is -- and I don't know -- but my guess is

that if somebody did this, and if it were brought to light, that there isn't anything large that would be done to someone who did this.

MS. GALLAGHER: I think one of the biggest problems is, the Alternate Proficiency Assessment is probably a good tool for a lot of children who have other disabilities. For our children -- for them to have to come up with a goal that is one or two grades below their actual grade level when-- Cognitively, my 16-year-old son functions at a 3-year-old level. He is not going to be able to do a sophomore math program. So the teachers, in some way -- I have to give them some sympathy in that they are forced to set up these situations. So the Alternate Proficiency Assessment Exam needs to be changed. You can become exempt from it. But you can only exempt a certain number. I think it's 1 percent or less than 1 percent of the population in special education that can be exempt. So the private schools have a hard time. One percent, in my son and daughter's school-- There are only six children in the whole school -- their section of the school. One percent -- and that's a pretty big portion for them to not submit something.

SENATOR ALLEN: Well, I think this is something that we need to look at. I'm not sure where we need to go with it. But I would appreciate knowing what your data is, as well, so that we can contact you in the future.

MS. GALLAGHER: Absolutely.

SENATOR ALLEN: If we need to.

MS. GALLAGHER: Sure. Absolutely.

SENATOR ALLEN: I'm just blown away by what you've told me.

Thank you.

MS. GALLAGHER: Thank you.

SENATOR RICE: The 1 percent -- that's Federal or State law?

MS. GALLAGHER: I believe it is State, but don't quote me. I believe it's State.

SENATOR RICE: Is that State or Federal?

MS. GALLAGHER: One percent could be--

SENATOR RICE: Excuse me.

That's Federal. (responding to unidentified member of audience)

MS. GALLAGHER: Federal? Okay -- that can be exempt from the testing.

And the issue that we have is, there has to be a way to test our children and their progress, which generally we would think of as progress reports and IEPs. But because the IEPs--

I work in every county in this state with families across every single county. I have not found one IEP that would meet IDEA standards for measurable-- Not one.

SENATOR RICE: Well, through the Chair--

You don't have to be on the mike for this, but is that something the Department is looking at with the Federal government?

ASSISTANT COMMISSIONER GANTWERK: (speaking from audience) The 1 percent?

SENATOR RICE: Yes.

ASSISTANT COMMISSIONER GANTWERK: Is that what you're talking about?

SENATOR RICE: Or if you're (indiscernible) -- are there ways to get around that?

You can come on up. Come on up, through the Chair.

Because it's clear to me from the testimony -- and this is nothing new -- this is like testing African-American and nonAfrican-American -- and from a cultural perspective, we do well or we don't do well. We seem to be in the same boat here -- that we have one piece that's supposed to take care of everybody's environment, and it's just not working. And for us to know, as a State, that it does not work, the Department -- and not just you and this Commissioner, but this is an ongoing process, commissioner after commissioner. I'd like to know what we are doing to try to get somebody to address it.

ASSISTANT COMMISSIONER GANTWERK: Well, the Federal law is -- under No Child Left Behind -- specifies--

SENATOR ALLEN: Give your name, please.

ASSISTANT COMMISSIONER GANTWERK: Oh, I'm sorry, Barbara Gantwerk.

The Federal law specifies that all students must be included in the assessment. It allows students to take-- As a matter of fact, it requires a state to have an alternate assessment for students with severe cognitive difficulties -- disabilities. The Federal law requires that this assessment be aligned to grade-level standards. And there is a peer review process where they have found problems with ours, because they didn't think it was aligned enough to grade level.

The law also allows 1 percent of the total population of the school district -- not the receiving school or where the child is educated if

they're in private school, but if they're in the district -- 1 percent of the students may be determined proficient based on taking the Alternate Assessment. And those proficient scores are then included into the district's requirements for all of the No Child Left Behind requirements for meeting what we call AYP, adequate yearly progress. So those are federally prescribed.

We have written to the Federal government. We have made many comments from the Department as to making that more flexible. We made recommendations when they made changes to the law. We did not see our comments taken and put in the law. But we certainly have made comments for the need for greater flexibility in the assessment of students with disabilities.

SENATOR RICE: Let me ask a question. And I'm going to be brief, because I have a 3:00 meeting.

How long have you been at the Department?

ASSISTANT COMMISSIONER GANTWERK: Me?

SENATOR RICE: Yes. Just approximately.

ASSISTANT COMMISSIONER GANTWERK: Thirty years.

(laughter)

SENATOR RICE: Okay. That's no problem. It's not a bad question.

ASSISTANT COMMISSIONER GANTWERK: Okay.

SENATOR RICE: Because I've been around 23.

SENATOR ALLEN: Right out of high school?

ASSISTANT COMMISSIONER GANTWERK: Right out of high school, she said. I want that heard. (laughter)

SENATOR RICE: I've been around 23. We've gone through a series of commissioners. This problem is not new. Some of the laws have changed. But at what point in time did New Jersey pull our Federal delegation in the room -- right in here -- the way it does us and say, "Look, we don't mind going to Washington. (indiscernible) we do that. But here is our problem," and get Republicans and Democrats to start working? I mean, why are we sending a John Adler, for example, to Congress, or Lenny Lance to Congress, who we know personally -- we've worked with them all these years and not slowed them down? When do we talk to Rodney Frelinghuysen and Don Payne? I mean, if Don Payne -- God bless him -- can get shot at, come out of it smiling -- it seems to me, he would take a few minutes, if we call him -- I know he would (laughter) -- to sit down. I'm being honest.

And so have you ever known that to happen? Because I never hear about us. At what point do we, as legislators -- and our presidents, and speakers, and leadership, and those of us chairing committees -- have a department say, "We need some help. Could you bring the delegations together -- bipartisan delegation? And let's make some noise." Because obviously there are problems throughout the state. And people have representatives who ask them for their votes, and sometimes we don't know what's going on; or they go to the other people, and we think things are happening and they're not happening.

I mean, this can't be. This is one of the most quiet, as well as racist, states in the country. And it bothers me. I don't mind saying what it is. It bothers me, because we have so much -- so many people with such great minds in our government. I'm not talking about commissioners all

the time. They come and go. Have you ever known us to do that? Are we doing that? Are we attempting to do that?

ASSISTANT COMMISSIONER GANTWERK: Well, I know that certainly people in our legislative office have had many contacts with Federal people. I know that we had -- I don't remember -- it was a Kennedy, but not *the* Kennedy -- came to speak to the Legislature about the reauthorization of NCLB, and I think they talked about IDEA. So there are a lot of things that I may not be privy to. So I can't-- I guess I should say I don't know the exact answer to your question. But I know we've had many contacts. I know we've met on a regular basis with Federal people, and I know the Commissioner certainly has.

SENATOR RICE: Thank you.

Madam Chair, through you--

Thank you.

Why don't we do this: Let's get all this testimony together -- and that's why I wanted it, in case something doesn't come out right. And at some point in time -- and I know we're going through all this crazy stuff now. I want this Committee to call every last one of our delegates from the Federal government -- and I'm serious -- into a meeting. We'll invite everybody we can. And we're going to have a public hearing with our delegation. We're going to ask them questions. If it's necessary, we'll put the people up and ask them questions. If they don't want show, that's fine. We'll just put it in the newspaper who didn't show and who came. (laughter) I'm being honest about it.

See, I don't have a problem doing that, because we don't know what they're doing. They may be working on it. And if they are, they can

update us at the public hearing on what they're exactly doing. Because there comes a time when you have to bond like this in government and tell other people throughout the country where they can go. That's what we do here in New Jersey. You know, if it gets too bad in South Jersey, we fight back in North Jersey. (laughter) Right? That's what we do. Republicans and Democrats get together and say, "No. There's going to be some fairness."

And so I think that's important, and I don't think it was ever done. And I know that the Pallones will show up, probably the Frelinghuysen people. We used to work with these people. They come from our ranks. They understand the local stuff. And that's what's bothering me, because we shouldn't have to do it. That's what governors and commissioners should be doing. It shouldn't be the U.S. Senator all the time. There are only two U.S. Senators to make noise.

And so I just want to at least go on record.

Pull this together, Melanie and Sharon, and let me know when you have it together. Then we'll get together and deal with some timeframes, because they're going to tell you they're out of the country, they'll come home on Friday. If need be, we'll do it on a Saturday -- make sure they don't come on Sunday.

Thanks.

ASSEMBLYWOMAN VOSS: Thank you very, very much.

SENATOR ALLEN: Thank you.

ASSEMBLYWOMAN VOSS: It's almost 3:00, and I know that Senator Allen and Senator Rice are going to have to leave.

And when you know me -- and many of you do -- you're preaching to the choir. And there are some people who wish to testify. So if you could keep your remarks very, very brief, because we're going to lose everybody on the Committee except me.

ASSEMBLYWOMAN JASEY: And me.

ASSEMBLYWOMAN VOSS: Oh, I'm sorry, I thought you had left.

So we have the Cherry Hill parents: Christina Silva, Debbie Schmidt, Linda Siracusa, and Lisa Shield. I guess they're all from Cherry Hill.

As I said, you're preaching to the choir, because you know we're all on your side. And I think we have--

If you have something additional that we haven't heard-- We all know how we feel about the super superintendents. (laughter)

SENATOR RICE: Cherry Hill is Adler's district -- is that right -- Senator Adler -- Congressman Adler?

CHRISTINA SILVA: Yes, it is.

SENATOR RICE: Well, we just sent him down there. So get him right away while he's fresh, while he still understands. We don't want him forgetting anything.

ASSEMBLYWOMAN VOSS: I'm sorry. But I have an appointment at 3:00, as well. So if you could keep your comments--

LISA SHIELDS: Why don't we take care of Cherry Hill first? I'm Mercer County.

ASSEMBLYWOMAN VOSS: Okay.

Christina Silva.

Which one is Christina Silva?

MS. SILVA: I'm the parent of two special needs students.

ASSEMBLYWOMAN JASEY: Hit your button. (referring to PA microphone)

ASSEMBLYWOMAN VOSS: The light has to be red.

ASSEMBLYWOMAN JASEY: Red means on.

MS. SILVA: Is that better?

ASSEMBLYWOMAN VOSS: No. Make sure it's red.

MS. SILVA: It is red.

ASSEMBLYWOMAN VOSS: Now you have it.

MS. SILVA: Okay.

I'm the parent of two special needs students in Cherry Hill. I moved to Cherry Hill nine years ago. And I moved there because I heard they had great schools.

When I moved to Cherry Hill, I had no idea that bringing my two children to Cherry Hill would mean that my children would be a burden to the school district and to the township taxpayers.

Within the first few years, I found out that Cherry Hill School District does not have sufficient funding from the State or Federal government.

Both of my children are in transition years this year. The oldest is in transition into high school, and I'm very concerned. Cherry Hill does not have sufficient funding to support his social skills and real-life program. It does not have a transition service program, and the staff is not adequately trained in high-functioning autism or Asperger's disabilities.

In addition, the school district is removing two special education teachers in high school and four regular education teachers in resource rooms, so my son will no longer receive special education support in humanities and science each and every day.

In addition to that, we were told by our administrators that the Cherry Hill School District will be eliminating 35 educational assistants next year, according to county executive mandates.

Now, for my youngest-- My youngest son is 10. He will be transitioning into middle school. And there I also have a problem. Even though there is a program for him in one of our middle schools -- a very good program -- there are more students this year that have applied to that program than there are spots. So therefore the choices for my son -- because he does seem to have more needs than they will be able to support -- the choices will either be a self-contained environment that is not appropriate for him or an exclusionary program that does not provide sufficient support.

Now, that's not to mention that because of the lack of funding in Cherry Hill, for years, in elementary school -- prior to this year -- both of my children were-- Both my children's needs were neglected. One of my sons was educated in the back of the room so that he wouldn't disturb other children. My other son regressed severely in the last two years because he did not have appropriate supports. And he was waiting for an appropriate placement.

Cherry Hill has already invested much of their funding in wonderful programming, like the Barclay Early Childhood Center and the Communication and Pragmatic Skills program in the middle school. But

with the current funding formula, Cherry Hill is being penalized for having these wonderful programs that attract so many special needs families in Cherry Hill. The current formula does not accommodate for the increased numbers of special needs students coming into Cherry Hill. Because of its reputation, Cherry Hill is a magnet school district, but it is grossly underfunded.

Next year, my oldest son will be going to high school. And the district does not have the funding it needs to implement those transition services. So today I'm here to respectfully request that a revision be made to the current funding formula so that my children, and all 2,000 special needs students -- which is 17.4 percent of our students in Cherry Hill -- can receive an appropriate education in the least restrictive environment.

My recommendation to the State is to have the funding follow the child. It is highly unfair to Cherry Hill, a magnet school district, to have the funding that is based on the average special needs population of the state.

ASSEMBLYWOMAN VOSS: I'm sorry to interrupt, but we really have to keep the comments brief, because many of us have to leave. And we want to hear what you have to say, but-- We empathize and realize all of the things that you're bringing to our attention.

MS. SILVA: So my last sentence will be: I would just like the State to revise the funding formula so that Cherry Hill can provide the federally mandated programs and bridge the 10 percent achievement gap between special needs students and regular ed students.

ASSEMBLYWOMAN VOSS: Thank you.

Let's see, Debbie.

And please just--

DEBBIE SCHMIDT: Good afternoon.

I'm actually going to defer -- to not speak, because if you have a moment, my friend Linda here on my left would probably be the best one.

ASSEMBLYWOMAN VOSS: Thank you very much.

MS. SCHMIDT: Thank you.

ASSEMBLYWOMAN VOSS: We appreciate that.

Linda.

LINDA SIRACUSA: Thank you.

I just would like to emphasize the new formula census approach that is based on an average classification rate across the state. It penalizes those districts, including Cherry Hill, which have more than the average number of 14.69. In Cherry Hill, we are already at 2.7 percent above the average classification rate.

Without a change in how this formula is put together, Cherry Hill's special needs students will be discriminated against. They will be getting less money on a per capita basis. That is less money to continue programs that have been successful in the past, less money per student to move into place new programs, based on IEPs, that are needed in our district. The consequence is being felt across the district. It will be felt as IEPs are modified. And the biggest change of all is that all of the new funding, including IDEA, is all facing enhancement at the preschool, and elementary, and middle school levels -- and our high schools are being left to suffer. We've already made an investment in the children who have gone through preschool, elementary, and middle school, essentially leaving them open to failure in high school when they need supports the most.

We have successful programs. We're asking that Cherry Hill be funded at a fair and equitable level for every one of its special needs students, so that we can take the students who are entering high school now and ensure their future success.

Thank you so much for listening.

ASSEMBLYWOMAN VOSS: Thank you very much.

Let's see, Linda.

MS. SIRACUSA: I'm Linda.

ASSEMBLYWOMAN VOSS: Oh, I'm sorry. I beg your pardon.

Lisa.

MS. SHIELDS: This is Mercer County.

Good afternoon.

My name is Lisa Shields, and I, like many of the parents here, have a special needs child.

I have been a writer for most of my life. And when my book was published, I dedicated it to my daughter with these words: "For Desiree Angelique Shields, who taught me more than I dreamed possible about love, determination, and courage."

My daughter was not considered for out-of-district placement until two-and-a-half years after she was considered special needs. We were told things parents should never have to hear. We were told that my daughter would never acquire cursive, that she had no spatial skills, that she was not going to go to college but, "It's okay, Mrs. Shields. College isn't for everyone."

They heard hoof beats, and they assumed horses, only Desi was a zebra. She had something called Dyspraxia and Dysgraphia, which are not common, and unusual, and there are no schools for it in the country. We had to find private schools that could accommodate something that most teachers had never heard of. When we finally came up with a diagnosis after four neurological teams and 18 months of studies, the first comment from the child study team was, “Dys-what?” And then two minutes later they said, “Don’t worry, Mrs. Shields. We’ll take care of it in-district. We know how to deal with this.” I was like, “You can’t spell it.”

Anyway, I guess part of what I’m trying to say here is that I bristle when people say how high the percentage of out-placement is in the State of New Jersey, as if all a parent has to do is ask. You have to jump through hoops. It is a long, grueling, frustrating process. And even when you get there, the hope is that there might be one place, one school that can actually help your child learn.

Now, I’m here because Desi is one of those success stories. She went through tests before we got her placed for muscular dystrophy, Andreuekodystrophy, ataxia, and something called Friedrich’s ataxia. And the good news was: my daughter didn’t die. She’s going to live, she’s going to have a normal life. But the bad news is that she walks differently from other students, she talks differently from other students, and for the rest of her life she will not move quite like anyone else.

Assemblywoman Voss had a chance to meet Desi. She’s kind of different. This was a child, of course, who was not going to have such an easy time.

We got her placed at the High Road School. She immediately improved. Within a year's time, she corrected a three-year deficit in mathematics, writing, you name it. She went from being a student failing every course in one year to the child who, two years later, gave her graduation speech -- the child who had fallen into silence before we got her placed.

She went on to the Center School in Highland Park. She attained academic distinction, winning awards in everything: math, history, writing. She's been an honor student in high school for 15 consecutive semesters and will graduate this June as a member of the National Honor Society. Her grade point average is 3.75. Gym is all that stands between her and 4.0. She will be attending college in the Fall. She started doing stand-up comedy at the local college when she was 15 years old. And her first routine was called "10 Things You Never Knew About Special Education."

So why am I here? Because I know so many of the children will, without the benefits of the appropriate special needs education, attain, at best, a marginal life. With it they can become self-reliant, self-supporting adults who will make contributions to the world that right now no one can imagine.

I'm not here for Desi. I'm here for them. And if you think outplacement is expensive, look ahead to the future at how much it will cost to support the children, as adults, that we fail to teach.

I'm not here to pull your heartstrings. I'm here to ask you to give those kids the best shot they will have to have lives of their own. Assuming all special needs children are pretty much the same or, worse,

thinking that warehousing them educationally -- is what I call *short bus* thinking. I'm aware of the pressures of the day. I am here to ask you to have the wisdom and no less courage and conviction than an 11-year-old girl who was written off six years ago but refused to be defined by her disability.

Desiree is my hero. Please look beyond the simple and the expedient, and allow these children to take your breath away. I promise they will.

Thank you. (applause)

ASSEMBLYWOMAN VOSS: Thank you very much.

Okay.

SENATOR ALLEN: Assemblywoman.

ASSEMBLYWOMAN VOSS: Oh, I'm sorry, Senator Allen.

SENATOR ALLEN: First, Desi is very lucky to have you for a mom.

Secondly, I agree with you all on Cherry Hill and on other towns that have the same issue. It is a bad law. It never should have passed. And as I mentioned before, I didn't support it. And I took a lot of heat for it, but clearly we were right.

ASSEMBLYWOMAN JASEY: I didn't support it either.

SENATOR ALLEN: Thank you.

I apologize to everybody who hasn't spoken yet. I've got to go. I have a 3:00 that I'm clearly late for already. Thank you all for being here. You all have made such a difference, I think, by bringing your stories. And anybody who is speaking -- while those of us who've had to leave -- it is going on the record. We will be able to read it later. So please don't feel

like our not being here means that you're speaking to the wind. You're not. We are going to get that information.

You've made a difference. And I know there will be changes because of it.

Thank you.

ASSEMBLYWOMAN VOSS: Thank you.

Vincent Renda, are you here?

And Katherine--

VINCENT RENDA: Shall I begin?

ASSEMBLYWOMAN VOSS: Yes. Make sure your little red light is on and go for it. (referring to PA microphone)

MR. RENDA: My little red light is on.

ASSEMBLYWOMAN VOSS: Your little red light is on.

MR. RENDA: Thank you.

I am going to be less than brief. These individuals--

I'm sorry. I'm Vincent Renda. I'm the Director of the School for Children, in Eatontown, New Jersey.

Our population is made up of students who are the most severely impaired children in New Jersey. They are students with global developmental disabilities, severe and multiple language issues, severe physical disabilities, and they're among the most critically ill and fragile children in our state. This is a growing population.

There are those who would think that I am here out of self-interest or who would criticize my being here out of self-interest. I can assure you that I am way too old to have any self-interest. (laughter) I am here because I need to speak for children.

I am here because I am also the parent of a young man with multiple disabilities. My young man had incredible opportunities in the State of New Jersey. Though he was once perceived as emotionally disturbed and mentally retarded, he was fully mainstreamed by 6th grade. He left the 8th grade with the faculty achievement award. He graduated from high school with honors and entered college with a soccer and academic scholarship. My son has severe language disabilities and is dyslexic. He's a champion, but he was championed by the educators of New Jersey and particularly by our school district. So that's why I'm here today.

And I'm here also because I think that times have changed. I thank you for the opportunity to speak with you. I have been a special educator for more than 37 years. I've been a parent for about that much time also.

Members of this Joint Committee, those of you who are left, I'm saddened to inform you that the days of mutual cooperation between the Department of Education and all of New Jersey's special education community have ended. Our trust and mutual commitment to the most vulnerable children of New Jersey have been replaced by bureaucratic politics, self-interest, misinformation, and spite.

My point is not to blame but to implore you to encourage our leaders to recreate a climate of trust and cooperation for the sake of our children and our families. Please visit School for Children. Please request that the Department of Education leaders, that the executive county superintendents who make decisions impacting the lives of our children

visit School for Children. Please know our children. Please make informed decisions about our children.

I am not in judgement of the actions of those who lead our State in special education decision-making. But be aware, please, that they are accountable, not the Feds. It is for you to judge them.

I also may not be silent when the sky is falling around us.

Thank you.

ASSEMBLYWOMAN VOSS: I couldn't agree with you more. And I am a parent, as I said before, of a child with -- a man now -- with Asperger's. And if I hadn't gotten all of the help that I possibly could at that point, I don't know where he would be at this point. And so that's why I'm very passionate about what we're doing here today, and how important it is that we make sure that the rest of the Legislature knows about the problems throughout the state. Because when we put -- and I have a couple of bills ready to go. When we put those bills forward, we need for them to be knowledgeable about what we're attempting to do, because it is an extremely serious problem.

MR. RENDA: Thank you. And I am heartened by your response and heartened by this Committee and your commitment.

Thank you.

KATHERINE SOLANA: My name is Katherine Solana, and I'm the Executive Director of the SEARCH Day Program. I share quite a few similarities with my colleague Vince. I've been working at the agency for the last 33 years of its 39-year history. And it was the first specialized 12-month program for autism in the State of New Jersey. And I'm also a

parent of four children, one of which had disabilities, all of which went through the public school system, and all did quite well.

That being said, I think over the years we've come a long way, publics and privates, working together. We've developed really great personal, as well as professional, relationships over those long years together. But first, myself, as a teacher, working with child study team members in those IEP meetings the first 15 years of my career; and then later on, the directors of special services.

And I'm just somewhat concerned also about a lot of what we heard here today. Because we got to a point probably about 10 years ago -- about 25 years into all of this with autism -- where we started to receive, within the private sector, a lot of 3-year-old children, many of who went back successfully, within two to three years, to their public school districts.

Specifically, I remember a set of twins that came to us not that long ago, where the mother was clinically depressed, and the marriage was on the brink, and both children had limited if any eye contact, in diapers, nonverbal. Within three years, they had both been successfully mainstreamed back into their district, and their family is doing quite well. As a matter of fact, the father wrote one of the most heartwarming letters that I've received in the 33 years that I've worked with the organization.

But that being said, many of our children who came in about 10 years ago at age 3 went back successfully to their districts. My concern now is that we're seeing a real shift with a lot of the changes that have been put into place. We're not seeing so many of those 3-year-olds any longer. They're staying in-district. And some of the programs are probably good, and maybe some of those parents even want that. But we're starting to see

that first wave of 9-, 10-, and 11-year-olds that are coming from some of those programs that kept those children in at age 3. And my concern is that, having grown up with this whole evolution of autism, and public and private schools, and great team collaborations that have been fostered over the years -- my concern is that there is a pressure, regardless of where it's coming from -- there's a definite, genuine pressure on these teams. And some of the rookies are actually making comments at the child study team meetings. Some of them are scared. They're new, they're not tenured, they haven't been around for a while. Some of the ones that have been around for 30 years are very comfortable. They're going to make the decisions they're going to make, no matter what parade is being led or what dance is being done at that time.

But my concern is that having been around, pretty much like Vince -- it's a long time, it's been a long ride. We've come so far, publics and privates together, that to see us start to take a slide back is very disturbing to me on so many levels. Pretty much for many of us in the private sector, we eat, breath, and sleep what it is we do. It's who we are. All of my colleagues are pretty much the same way in that sector.

But my concern is that what we're starting to see now -- with this new wave of children that are coming in at 9, 10, and 11 -- is what I saw 30 years ago: children who are extremely aggressive, families that are on the brink of falling apart -- accessing DDD, trying to secure residential placement, battered parents by 10-year-old children. I get my walls repaired regularly, like we did 30 years ago, from fists of kids that are just frustrated. They don't have solid communication skills. Imagine being 10 and not having solid communication skills, and having autism. We're

starting to see a lot of the things we saw 30 years ago. And I feel it's such a discredit to both public and private because we've evolved. New Jersey is in the forefront, especially with autism. And why are we going to go back? Let's keep moving forward. Let's keep those relationships strong.

The private schools aren't just a necessity on their private campuses, but they're an absolute necessity to continue to assist the public schools in those programs that they want to create and establish. I speak from friends who are in public, as well as my own husband who is getting ready to retire from public education. There isn't enough time for many of those educators in the public schools to know everything there is to know about autism that's coming down the pike every second, of every minute, of every hour. That's why they have us in their backyards. And we get along great. We actually have great, enormous respect for one another. And we need to keep going with that.

Thank you very much, all of you, for all your time. And all the stories here today were so heartwarming.

Thank you.

ASSEMBLYWOMAN JASEY: Through the Chair, one of the notes I wrote to myself here is -- a key issue seems to me is: How do we make sure that the public and private schools are able to work together? Because what you're describing sounds to me like it's a good example of how public and private can enhance what each does.

This is really-- I think what you're talking about -- that you're seeing things now that you saw 30 years ago -- that's very disturbing.

MR. RENDA: Many of us-- I'm sorry.

ASSEMBLYWOMAN JASEY: Okay.

MR. RENDA: Many of us are seeing that. And you have to-- You know, it's gone backwards for us. We were partners. We were in it together in the late '60s and early '70s. Those were the days of the giants of special education. And Middletown Township, for example, directors like that -- I'm way too old to remember the names of my colleagues. We worked together, we planned together, we fought together. We had one purpose.

ASSEMBLYWOMAN JASEY: Okay. So the question--

MR. RENDA: And so what I am seeing from the State -- I'm sorry to tell you that there is a systematic disassembling of those relationships. That's what I am experiencing. And at the same time, we have reached out to public school districts. We've had public school districts reach back to us. We formed a partnership with a district in Monmouth County. We made a decision that their mildly and moderately multiply disabled children would not longer attend School For Children, that we would support them, that our staff would support them in maintaining students from their very large preschool program who would normally, after the preschool program, come to us; that we would help them build capacity to sustain mildly and moderately disabled children within the public school setting. We formed a relationship between district, private school, and very worried parents.

ASSEMBLYWOMAN JASEY: Okay.

MR. RENDA: The outcome was spectacular.

ASSEMBLYWOMAN JASEY: And that's good news. Because I guess what I'm sitting here trying to figure out is-- I believe in data-driven decision-making. And so I'm wondering, how do we collect the data to

write the story that you're telling us here so that we can have a conversation with the Department and say, "Look, I get it, in terms of the fact that the State is strapped for money." And while nobody wants to say that money should drive any kind of decision-making, we know that, in fact, it does. And people have been talking all afternoon about the pressure they feel. And I think what they're feeling is financial pressure. They're feeling the pressure to provide services at a more cost-effective rate. But what I'm hearing is that is not actually the case; that we're shortchanging ourselves by eliminating services that we know work. In the future, we're going to end up paying for them in some way -- in human capital and in every other way.

So I'm sitting here trying to figure out how we resolve this. Because rather than just everybody comes, and talks, and everyone feels better because they vented, I'm sitting here thinking, wait a minute: What do we do with all this information, and how do we bring people to the table who need to be there to work this out? Because if you've got partnership experience and examples that work, there's probably a way to quantify some of that and say-- Look, just as Mr. Thiers -- I think it was -- who brought us the information about the cost-effectiveness of private versus public programming -- we need that kind of information so that we can sit down and say we're all working. The child should be in the center of everything that we do. And we need -- we know that we want to and need to provide services for children.

Okay. So who can provide the services? What's the best way to use the money that we have to provide the services that are needed to the children in our care? That's my concern.

And so I don't want to leave today feeling like we have all these stories which illustrate the problems, but we don't have solutions. And I'm trying to figure out how we get to that next step.

MR. RENDA: Look, I think that we have solutions. I think that we need leadership who support us, leadership from the Department of Education who support us. We do have solutions. We've had positive outcomes. I've had positive outcomes with at least one large school district in Monmouth County.

ASSEMBLYWOMAN JASEY: That's what I'm hearing.

MR. RENDA: We don't need to take mildly and moderately multiply disabled students any longer. They were our population. Public schools are becoming interested in supporting those students. There are great possibilities for those students within the public school settings that private schools or self-contained programs can't provide for those children.

ASSEMBLYWOMAN JASEY: With support.

MR. RENDA: Yes. We need some funds. We don't need a lot of funds. I will tell you that with the district, we didn't make any money. We did it for about \$15,000. That's not a lot of money. And that was six months of support in all of the therapies, as well as educator support. That paid for substitute teachers who took on classrooms while our master teachers worked with their public school counterparts. So it's not a lot of money. We are working with the--

ASSEMBLYWOMAN VOSS: Mr. Renda, I'm sorry--

MR. RENDA: We are working with foundations of two banks who are courting our business. And I don't know. My attorney is not here, nor is my accountant. And I'm not doing a quid pro quo. But that

foundation money is intended to decrease the cost for public schools so that we can help them take back our children effectively.

We have a little boy in our program -- a boy with autism. He needs to be in public school. The parents, private school educators agree that he needs to be in public school. So we had an agreement that this child would return to the public district one day a week in a regular -- an age-appropriate regular ed classroom. And the child has returned with a teacher assistant from the private school.

ASSEMBLYWOMAN VOSS: One of the things--

MR. RENDA: Unfortunately, the receiving teacher is not prepared to have a boy with autism in her classroom. She looks at his behaviors, and they're perceived as inappropriate. We say, "Those are Jackson's behaviors. They're not going away. We're not fixing him. It's who he is. We love him just the way he is, and he's progressing just as he is." The teacher is not bad. That primary school principal is not a bad guy, I don't think. We don't have the funds to do it, we don't have the interest, we don't have the encouragement to do it. And it doesn't take a lot of money.

This teacher needs to know that she can make mistakes, that it's okay-- You know, in private schools you will see the doors always open. I had the opportunity to walk through a public school -- the public school where this little boy is -- and the doors are all closed. Private (*sic*) school teachers need to know that, "It's okay to open your door, it's okay to make mistakes. We're not criticizing. We're here to help you. We want this to work. This boy has a phenomenal future ahead of him."

So we want this to work. I will work with you. I will provide you with stories, with information.

ASSEMBLYWOMAN JASEY: We have your contact information?

MR. RENDA: You do on my--

ASSEMBLYWOMAN JASEY: Oh, it's on your testimony. Right.

MR. RENDA: I have a card around, and I'll give it to you before I leave.

ASSEMBLYWOMAN VOSS: No, we have it.

The thing that disturbs me is that there is such a misconception that private schools are so much more expensive. And I think this is what drove this thing, with the super superintendents making-- And there is no data. And this is one of the things I hope you will provide for us. Because we've heard horror stories here today. And I like this idea of the public-private partnership.

Early intervention is absolutely essential for all children who have disabilities. And we've got to make people who are not educators aware of the issues. Because everything seems to be driven by dollars and cents, which is, again, a misconception.

MR. RENDA: And I -- and then I'll be quiet -- but also by misinformation-- I can only speak for my school. We are not in the business of taking children away from public schools. We are, and have been for a very long time, in the business of serving New Jersey's unserved children with disabilities. And if we can support public schools in broadening the base of who they can serve, we'd be pleased to do it.

ASSEMBLYWOMAN VOSS: Katherine, what's your last name? I'm sorry.

MS. SOLANA: Solana, S-O-L-A-N-A.

And our organization has also, like Vince -- and probably like most of the private schools that were here earlier today -- we've worked very closely with our public schools. And like I said earlier, we forged really strong relationships, especially in Monmouth County, although we serve 33 different public school sending districts from our organization, as well as three to four counties, on average a year.

That being said, my concern right now is that there is a misunderstanding or a misinterpretation of what's being said from the State down to the local, which is coming in through case management. And after -- like Vince and I -- after 40 years, you want to collaborate closely. So what happens is, you become friends with those people. We socialize with some of them. So they do share. And there is a definite pressure, and we're hearing that it is about money. And it's a misconception, because many of those case managers were unaware of the cost surveys that were conducted by Mr. Thiers' office. And I think it's important that we get those cost studies out there and that they are shared with the superintendents and with the directors, and that the county have meetings about this so they can understand that this isn't about money. There's no pressure here. You can continue to do what you've been doing so well, which is why New Jersey has such a high, I believe, rate of children with disabilities. It's because we're one of the best. We are the best. And why are we the best? Can we improve? Absolutely. But we certainly don't want to go backwards 10

years or 15 years, which is my biggest fear, which is why I came -- which is one of the reasons why I came here today.

And I'm also very concerned. Vince and I had a conversation before we came up here to talk. And Vince had mentioned how he has noticed a lot of the working-class -- as he said in his statement -- parents who are suffering the most. I'm starting to see some of that also. I had a couple of incidences this past year with single parents, Hispanic, who were told, flat out-- I mean, one parent moved from one district to another, and they actually told us over the phone, "That child is not going there. So I don't know why you want us to come in and see." I said, "This is a highly involved child on the spectrum. He came to us extremely aggressive. The mother was on the brink of collapse. She's now getting remarried. It's a good family. The child is doing great. You need to come and listen." But she ended up losing. She just got in too late with everything she needed. She didn't have the finances. Now she is looking, with this new husband and this beautiful home, to leave and go back in the hopes that she can try to get back into our agency, because her child is already regressing. He doesn't belong in that type of facility.

I think the most important thing today is that we were on a good path. That's why we have so many children with disabilities -- because we're getting it. We're doing a lot of it better than many other states. That needs to get back to the Federal government also. You know that little pie that came out years ago that said we had too many kids going out, so we were at the bottom of the list? I wish somebody would have flipped it around and said, "No, it's because we're at the top of the list. Look at the

outcomes.” It took a lot of years, both public and private, to work together to realize one shoe doesn’t fit all, especially in autism.

Some children may do very well and belong in public school, and others belong in really wrap-around, 24/7 kind of services that we provide. Like Vince, we’ve been working with some of the public schools, helping collaborate on programs and services. We have an inclusion program with about 10 kids -- younger children who are in that -- in the public school that we oversee. And it’s a bridge program. It’s going fabulously. We’re also in some discussion with a public school to set up a little magnet class. But they have a lot of differences -- you know, public-private contracts, the hours of operation.

We were just at a meeting with a public school. It was very interesting. We’ve never done this before. Our school is considering opening up class in the public school, although many private schools have done that. And in that meeting, what was most interesting to me was that it’s such a learning curve for me, having spent my whole life in private -- the differences. Our teachers give out their cell phone numbers. We get called on the weekends. When a parent is in crisis, we go help them. If they can’t get a -- go to a doctor. Our speech therapist goes out and sets up a pitch story on a Saturday afternoon.

For children who are highly involved and have lots of needs, you really have to weigh that out. We were doing that. I hope we go back to that. It was a good model.

And that’s it.

ASSEMBLYWOMAN VOSS: I hate to-- You know, we really have to wrap up, because I assume now that everyone has testified who wishes to testify. And so I've said everything that I need to say.

Assemblywoman Jasey, do you have anything to say?

ASSEMBLYWOMAN JASEY: No.

ASSEMBLYWOMAN VOSS: Okay. That's a wrap. And we'll be working with you.

MS. SOLANA: Thank you.

(MEETING CONCLUDED)