

SPECIAL EDUCATION REVIEW COMMISSION

April 16, 2007

The Honorable Jon S. Corzine
Office of the Governor
PO Box 001
Trenton, NJ 08625

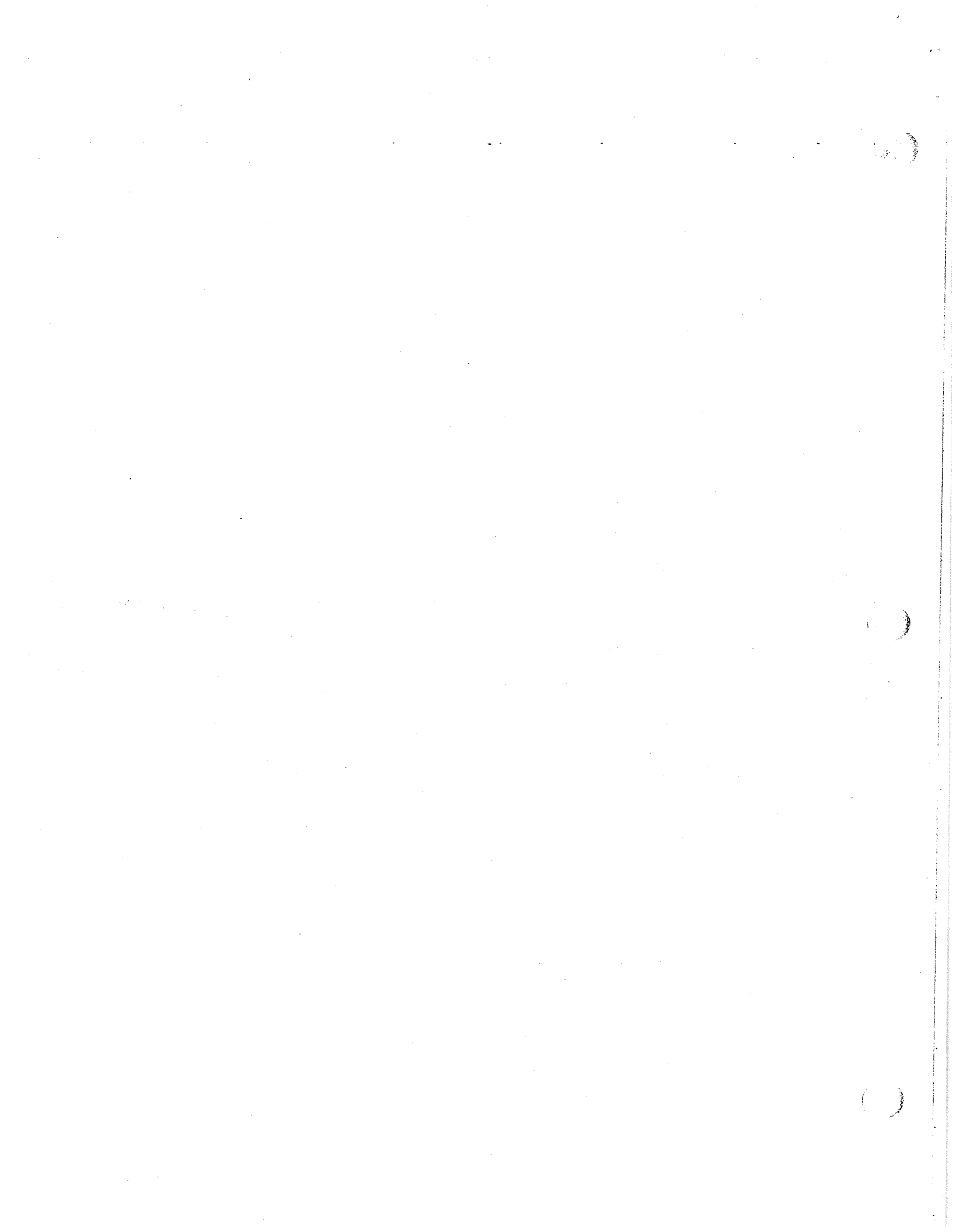
Dear Governor Corzine,

The Special Education Review Commission was formed in late July, 2006, to address the issues put forth in P.L. 2005, Chapter 339 (January 12, 2006). The Commissioners elected Joyce Powell, NJEA President, as Chair and Art Ball, Director of Government Affairs for COSAC, as Vice Chair. Two sub committees were formed; one to address the issues of funding and costs and the other to address the quality and delivery of services.

The Commissioners believe the issues brought forth in this Legislative Act, sponsored by Senators John Adler and Shirley Turner and Assemblymen Craig Stanley and Joseph Vas, have been addressed.

COMMISSIONERS:

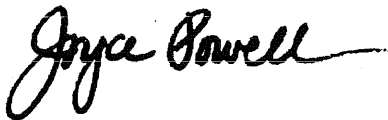
Joyce Powell, Chair, NJEA President (Special Education Department Chair VHS 11/12, Vineland Public Schools)
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Joan M. Applebaum, Public Member
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Blanche E. Harris, Supervisor, Passaic City Schools – Public Member
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Carol Kaufman, designee of Lucille E. Davy, Commissioner of Education
Donna M. Kaye, Esq., New Jersey School Boards Association
Frederick Keating, Superintendent, Gloucester County Special Services School District – Public Member



Stephanie Kramer, The ARC of New Jersey
Assemblywoman Pamela Lampitt
Dr. Steven Morse, ASAH (private schools and agencies for students with disabilities)
Ari Daniel Ne'eman, Public Member
Philip Nisonoff, New Jersey Association of School Business Officials
Gloria Rodriguez, designee of Dr. Fred M. Jacobs, Commissioner of Health and Senior Services
Chris Sarandoulis, Council of Private Schools for Children with Special Needs
Bill Sellar, New Jersey Parent-Teacher Association
Dr. Richard Shain, New Jersey Association of School Administrators, Director of Special Services, Millville Public Schools
Debra Stewart, designee of Kevin M. Ryan, Commissioner of Children and Families

I am pleased to present to you the report of the Special Education Review Commission.

Sincerely,



Joyce Powell, Chair
Special Education Review Commission

cc: Senator John Adler
Senator Shirley Turner
Assemblyman Craig Stanley
Assemblyman Joseph Vas
Commissioner of Education Lucille Davy



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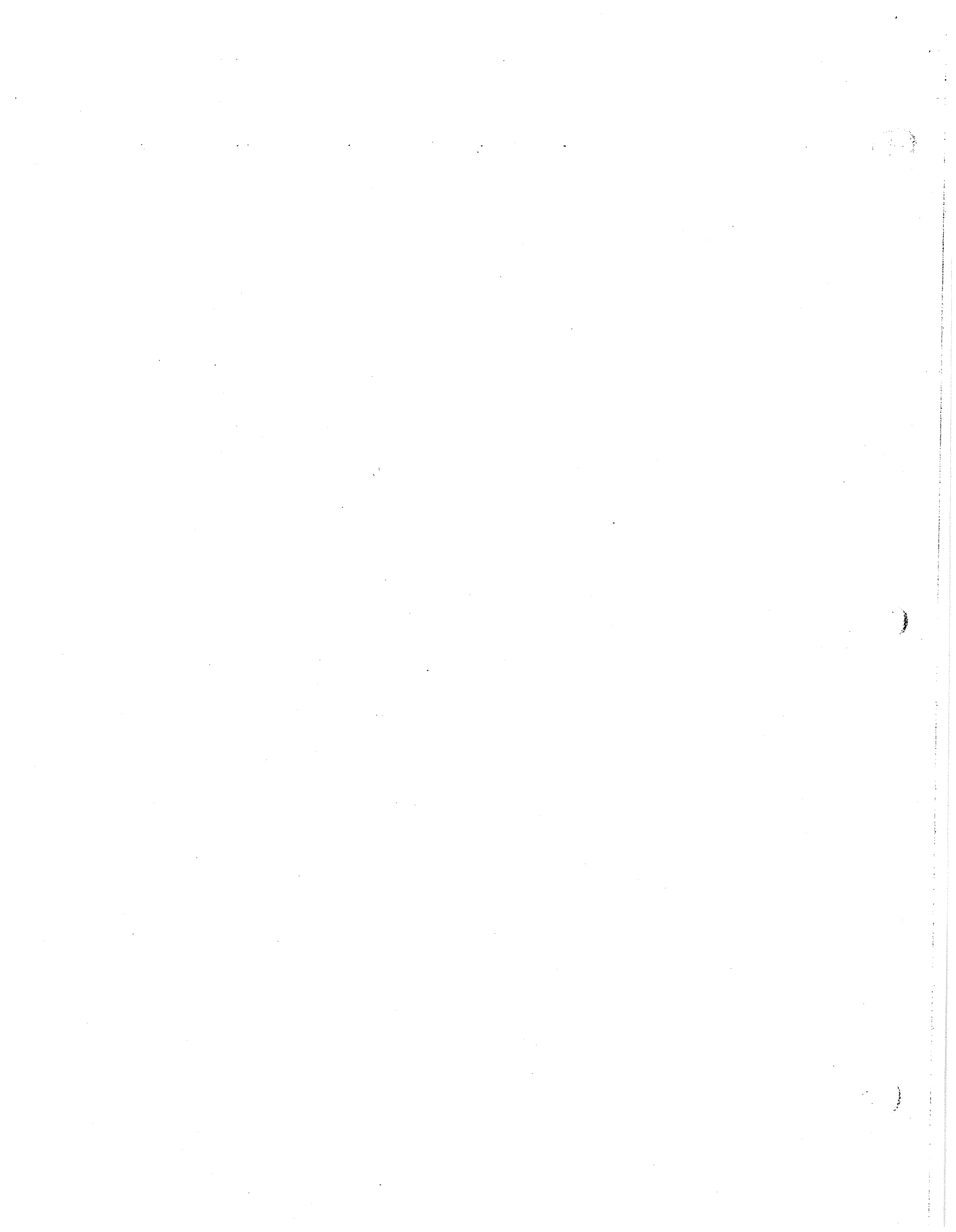
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Executive Summary



Executive Summary

In the language of the law creating this Special Education Review Commission, the Governor and Legislature charged the Commission with:

- reviewing the delivery, quality, and cost of special education services in New Jersey;
- studying the issues associated with the delivery, quality, cost, and funding of special education services for New Jersey students; and
- assessing ways to improve access to available services, reducing duplications of effort, and creating new programming to meet needs not currently being met.

The Commission was authorized to consist of 30 members representing various school, professional and parent organizations, State agencies, and members of the public, including individuals with disabilities and parents of children with disabilities. All participating members have expertise in the area of special education in the State of New Jersey. The Commissioners first met on July 28, 2006 and continued to meet bi-monthly from August through January. A public hearing was held on October 17, 2006 to gain further input on special education issues. Individuals were also invited to submit written testimony prior to the hearing. Additional public hearings to review the initial recommendations by the Commission are scheduled for January 22 & 23, 2007.

The Commission reviewed the following issues:

- the findings and recommendations of the legislatively-established Special Education Task Force report of 1995;
- the clear philosophical shift at the federal level with regard to special education services;
- the reality of growing budget deficits and large debt service within our state budget;
- the current federal, state, and local sources of funding for special education;
- the disproportionate representation of minority students in special education and gifted and talented programs;
- the particular needs of our Gifted and Talented disabled students;
- the current organizational structure within NJ school districts regarding general and special education services;
- the Response to Intervention and early intervening services currently available;
- the full continuum of placement options currently afforded all students;
- the current system to resolve disputes and litigation;
- the process of preparing students for a work environment.

Recommendations from the Report of the New Jersey Legislative Task Force on Special Education, December 22, 1995

1. The Commission notes and supports the recommendation of the 1995 Task Force that fiscal reporting requirements be made consistent across placements to allow for an accurate determination of special education costs on a per pupil basis.
2. The Commission notes and supports the recommendation of the 1995 Task Force that state aid consist of a dedicated flat grant to districts based on total district enrollment. The purpose of such a grant is to enhance the general education program, be responsive to the individual needs of a diverse student body, provide pre-referral intervention services; reimburse for actual special education costs (except for a percentage of local contribution designed to promote cost containment and local accountability) and payment of extraordinary costs.
3. The Commission reiterates the recommendations of the 1995 Task Force regarding transportation, including the recommendation that the New Jersey Department of Education (NJ DOE) examine the benefits of regionalized purchasing of transportation services to reduce costs.
4. The Commission supports the 1995 Task Force recommendation that a statewide network be developed to allow public and private education agencies to purchase and share equipment. The Commission recommends that the Legislature increase opportunities and provide incentives for districts and out-of-district public and private schools to share equipment and assistive technology. The Commission recommends that support be provided to NJ DOE's proposed project to establish an equipment/assistive technology (AT) resource that would disseminate information about existing loan and recirculation equipment and AT centers. In addition this project will provide training, technical assistance, and a lending library.
5. The Commission supports the 1995 Task Force which recommended that the Legislature require the NJ DOE to research incentives and code changes that are likely to result in an increased supply of related service providers. Options to explore could include up-front State funding to universities to implement new programs/expand existing programs; instruction in occupational therapy (OT), physical therapy (PT), and speech-language pathology; student loan programs; and student loan-forgiveness upon completion of a specified number of years of actual public school service.

The Commission recognizes the work of the NJ DOE regarding the implementation of the recommendations of the 1995 Task Force.

2006 Special Session Joint Legislative Committee on Public School Funding Recommendations

1. The Commission supports the Joint Legislative Committee's Recommendation 9 to continue funding for county vocational school aid and transportation aid, but to update cost factors to reflect inflation. However, The Commission urges the Legislature to take further action on these issues.
2. The Commission strongly supports the Joint Legislative Committee's Recommendation 18 calling for the enactment of legislation to facilitate more efficient and effective general education pre-identification services to reduce the rate of [inappropriate] special education classification. The Commission further recommends that such legislation specify a base amount of funding to each district for those services.
3. The Commission endorses the Joint Legislative Committee's Recommendation 19 to promote the inclusion [with appropriate supports and services] of special education students in local school district programs through proposed changes to the school construction law. This would expand capacity in local districts, including requiring districts to consider students who are out of district before building public schools. The Commission further recommends expansion of the New Jersey Department of Education's (NJ DOE) authority to approve, prior to bonding, all applications for buildings solely serving students with disabilities resulting in standards consistent with those of public schools.
4. The Commission supports the Joint Legislative Committee's Recommendation 20 to promote greater coordination of special education services available in local districts at the county level. However, the Commission notes that this coordination will require additional resources and expertise at the county level to make it successful.
5. The Commission also endorses the Joint Legislative Committee's recommendation 20 that the county office serve as a liaison to facilitate shared special education services [when appropriate] within the county, including but not limited to direct services (e.g., specialized evaluations, related service providers, nursing services, counseling services), personnel development, and technical assistance. In addition the Commission endorses the recommendation for the county office to work with districts to develop in-district programs and services and to facilitate training from facilitators with expertise in inclusive education, positive behavior supports, transition to adult life, and parent/professional collaboration.
6. The Commission endorses the Joint Legislative Committee's Recommendation 21 to require the Commissioner of Education to establish a consistent tuition structure for out-of-district placements and an advisory group to review and make recommendations. Further, the Commission recommends that the Legislature

reexamine the model for providing funds for non-public programs (IDEA funds and chapter 193 funds) and direct the Commissioner of Education to implement strategies to improve communication and collaboration between the public and non-public schools with regard to fund allocation and provision of services.

7. The Commission supports the Joint Legislative Committee's Recommendation 22 to reduce the use of due process hearing and litigation to resolve special education disputes. The Commission further recommends increased training and technical assistance regarding effective conflict resolution mechanisms and approaches.
8. The Commission strongly endorses the Joint Legislative Committee's Recommendation 23 to continue the funding of extraordinary special education costs. The Commission supports continued funding for extraordinary aid for all instructional and support costs directly attributable to the services provided to any student with a disability whose special education costs exceed \$40,000 per year. The Commission further recommends that the Legislature fully fund the statutory provisions for extraordinary aid and oppose the proposed increase in the \$40,000 threshold level for extraordinary aid eligibility.
9. The Commission neither supports nor opposes the Joint Legislative Committee's Recommendation 24 that the funding formula include a revenue cap (maximum permitted net budget). However, if such a "cap" is instituted, the Commission strongly recommends that special education costs be outside the revenue cap requirement; if this recommendation is not accepted, the Commission recommends that the Legislature at least maintain the status quo (excess of \$40,000 excluded from "cap").
10. The Commission strongly supports the Joint Legislative Committee's Recommendation 27 for state support for high-quality preschool for all children in district factor groups A&B and for children who qualify for free and reduced price meals in all other districts. This will encourage districts to establish preschool general education programs that can include children with disabilities.

Recommendations of the Special Education Review Commission

Training/Professional Development

1. Training of administrators, special educators, general educators, parents and related service personnel must occur in the following areas:
 - New Jersey Administrative Code 6A:14 and IDEA(2004);
 - IEP development and implementation;
 - Steps to promote self-advocacy;
 - Understanding effective collaboration;
 - Understanding of the terms “free appropriate public education” in the “least restrictive environment”;
 - Availability and use of Assistive Technology (AT);
 - Various disabilities and their characteristics;
 - Intervention and Referral Services and Structured Learning Experiences;
 - Differentiated instruction;
 - Disproportionate representation of minority students in special and gifted education;
 - The theory of learning preferences (i.e., visual, auditory, kinesthetic);
 - Literacy training;
 - Understanding of parent and student perspectives on all aspects of special education;
 - Positive Behavioral Supports;
 - Transition to Adult Life;
 - Availability of community resources.
 - a. Every district must establish a policy for training and must include parent input. There must be on-going, job-embedded professional development and identification of best practices. Training also must use research-based interventions and strategies that facilitate literacy skills.
 - b. The establishment of school-based literacy teams should be encouraged. All educators, special educators and support personnel and general educators, should be encouraged to undergo literacy training.
2. Teacher preparation courses should include training in special education teaching strategies and special education teachers should be required to take a language development course. All educators must be trained in provision of effective direct instruction, differentiated instruction, and should be trained in the utilization of effective literacy techniques.
3. The New Jersey Department of Education (NJ DOE) must assess the need for related-service providers in all New Jersey schools and develop a plan to help fill the need for these professionals within school districts and non-public schools.

4. Incentives should be provided to state institutions of higher education to establish the required undergraduate and/or graduate programs as needed for Occupational Therapist, Physical Therapist and Speech-Language Pathologist certifications/licensures in order to prepare more professionals to meet the increasing demand. The state should consider these needs when applying for grants.
5. The NJ DOE should enhance a system of reciprocity with regard to accepting certifications from other states for various related-services providers without compromising the educational requirements for those positions or the quality of the services provided.

Reallocation of Resources/Early Intervening Services

6. Districts must enhance strategies for delivering related services to students within the least restrictive environment (LRE). Availability of services must not drive the location of the services.
7. To the maximum extent appropriate, districts should be encouraged to provide more effective programs in general education classes to students with disabilities. Ongoing trainings for special education, general education, and related services providers should occur to facilitate appropriate/collaborative instruction in the least restrictive environment (LRE), as well as the use of research-based programs and techniques.
8. Shared resources may be used by districts to facilitate delivery of appropriate services within an inclusive setting, and whenever appropriate within the home schools of students. When shared resources are used, districts must use appropriate evidence and/or research-based practices.
9. The NJ DOE must ensure that sufficient consultation and planning time (as mandated in IDEA and the N.J.A.C. 6A:14) is provided in order to allow for meaningful instructional coordination between general education teachers and special education support staff.
10. The roles of child study teams, special education teachers, speech-language specialists, and other related service providers' should be enhanced to participate in Early Intervening Service (EIS) and Response to Intervention (RTI) models. In addition, school districts should be monitored for effective use of EIS and RTI to reduce referrals for special education.
 - EIS and RTI should be encouraged for use by the NJ DOE. Workshops, trainings, and consultation should be available when selecting research-based reading programs that utilize small group instruction and designing meaningful interventions.

To address the disproportionate representation of minority students in special education and gifted and talented programs:

11. Early Intervening Services (EIS) and Response to Intervention (RtI) as noted in recommendation 10 above will be particularly useful and must be significantly encouraged to reduce inappropriate referrals and the disproportionate representation of minority students in special education.
12. A state advisory panel should be convened to design the collection of state representative longitudinal data that would allow for a more informed study of the disproportionate representation of minority students in special education and gifted and talented programs. This research should also focus on closing the achievement gap and the under and over representation of minorities.
13. The NJ DOE must assure the provision of multiculturalism/cultural competencies in pre-service coursework, practicum experience, and opportunities for professional development as a vital component of accreditation programs and district professional development plans in order to prepare teachers and related service providers to deliver culturally responsive instruction. More specifically, teachers and related service providers should be familiar with the beliefs, values, cultural practices, discourse styles, and other features of students' lives relative to their culture and environment that may have an impact on classroom participation and success. This information should be used when designing instruction.
14. The NJ DOE, in collaboration with the Division of Children's Behavioral Health Services of the Department of Children and Families (DCF), should initiate a Task Force with representatives from local education agencies to review existing research to determine if a large-scale pilot program to test the plausibility and productivity of positive universal behavior management interventions, early behavior screening, and techniques to work with children at risk for behavior problems is necessary to reduce inappropriate referrals and over identification of minority students for special education services.
15. The NJ DOE must assure students are evaluated in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally and that an assessment of the language needs of a child with limited English proficiency is conducted.
 - The NJ DOE should continually update the list of individuals qualified to conduct assessments in various languages and disseminate this information to local school districts.
 - The NJ DOE must assure local Child Study Team members are properly trained in identifying language needs of limited English proficient students.
16. The NJ DOE should analyze classification patterns and data collected from EIS and RTI to determine if the "Child Find" requirements of IDEA are being fully implemented. A variety of therapeutic models should be considered for classified

students, including individual and small group therapy, as well as consultative and integrated therapy. EIS should be used to support teachers from a variety of subjects and related service areas to work together to make such services meaningful and effective.

- Both pre-service and in-service training models must provide teachers with the techniques to work in collaborative and/or consultative teaching settings. These models can focus on EIS and RTI. All members of the staff should be trained in literacy and positive behavioral techniques as well as other needs that surface as an EIS model emerges. Collection of data will provide teachers with the experience necessary to develop appropriate, measurable goals and objectives.

Parent Rights/Training

17. Every school district, working with their state-mandated Special Education Parent Advisory Group, should create a Parent Training Program. The NJ DOE must develop the guidelines for parent training within the special education system.

Program/Capacity Building

18. Long-range Facility Plans must ensure that necessary space is available to provide needed services. In addition, the appropriate office within the NJ DOE, in consultation with the Office of Special Education Programs (OSEP), must approve all Long-Range Facility plans by districts to ensure that the long-term needs of students with disabilities and future demographic trends are considered.

Accountability

19. The NJ DOE must ensure continuity of services including evaluation of students referred for services and the development of Individualized Education Programs (IEP) on a 12-month basis.
20. The NJ DOE must ensure a stronger connection between general and special education during the monitoring process.
21. School districts should be required to perform a comprehensive annual review of district data in the Special Education Performance Plan, and Strategic Plans should be in place within districts, as appropriate, to address areas requiring improvement. In addition, school districts should be required to conduct follow-up surveys to collect data on the post secondary outcomes of students. This data should be used in the evaluation and ongoing improvement of programs and services.
22. The NJ DOE must investigate the use of the Alternate Proficiency Assessment (APA) to determine if students are appropriately selected to participate in the

APA. The state must also review and revise the APA process and support its implementation.

23. The NJ DOE must expedite the implementation of the statewide student database. The database will enable the state to create an assessment system that will measure annual student growth as well as grade level performance on the NCLB assessments. The NJ DOE must develop a task force to study student achievement and accountability measures and means including the use of a growth model for annual yearly progress (AYP) passage.
24. The Commission recommends a study of districts that have made AYP progress for pupils with disabilities to determine successful strategies that have been implemented. The DOE should develop a clearinghouse for sharing and disseminating this information with districts.

Gifted/Talented Students with Disabilities

25. The NJ DOE must require each district to create a written plan for accommodating students with disabilities in gifted education and include it in the general Gifted and Talented program mandate. This written plan must be available on request for inspection by students, parents, administrators or state officials.
 - Districts must modify existing Gifted and Talented programs to be skill-specific. Entry into gifted programming in any particular topic area should be based upon demonstrated ability in an assessment geared toward that area, rather than single assessment determining access to gifted education in all topic areas. Reasonable accommodations must be allowed.
 - Schools should be required to develop nonverbal intellectual measures for identification of gifts in students with disabilities. Child Find programs should be modified to assess for gifts as well as disabilities and to apply both standard- and alternative-giftedness identification criteria when assessing students with disabilities.
 - Terminology for all students with gifts and/or disabilities should be adjusted to reflect the skill-specific nature of both gifts and disabilities. This should apply to general education students as well.
26. Both the IEP and Transition Plans should include a section noting student gifts, skills, and/or interests to facilitate the best structure of the student's IEP to promote those gifts or skills, with a particular focus on their application for future transition to a post-secondary environment.
 - Students with disabilities and gifts should have goals associated with gifted education needs incorporated into the IEP process. Transition Plans should contain goals that address the need for advanced placement and honors coursework.
 - Extracurricular activities should be incorporated into the IEP and transition discussions. All requirements to make reasonable accommodations for

students with disabilities shall be applicable to extracurricular activities as well as the general education curriculum.

- Opportunities for self-directed learning should be provided for students with disabilities and gifts, focusing on an increase in the proportion of students with IEPs taking Advanced Placement assessments or dual enrollment courses for academic credit in higher education.

27. To assess state progress on improving access to gifted education for students with disabilities, the NJ DOE should collect and publish data on the proportion of students in Gifted and Talented programs and/or Honors/Advanced Placement courses with IEPs, and the proportion of students with IEPs in Gifted and Talented programs and/or Honors/Advanced Placement courses. The Statewide Special Education Advisory Council (SSEAC) should investigate the issue of gifted and disabled students and advise the NJ DOE on ways to increase successful implementation by school districts.

Postsecondary Transition

28. Options for exposing students to work environments while still in high school, including service learning, structured learning experiences, internships, co-op and vocational education programs must be made available to students with disabilities wherever possible. In addition, special effort should be made for students who are interested in work directly after high school to provide opportunities for work-based learning. Each district should note service learning and internship opportunities through credit or transcript recognition for all students.
29. Districts must work to ensure that students with disabilities are afforded full access to guidance counseling and other services available in general education and to any other transition services geared specifically toward students with disabilities. Wherever possible each district must work to provide access to higher education, employment opportunities, and day programming, as appropriate, for students with disabilities.
30. The Legislature and the Department of Higher Education should provide incentives for and identify and remove obstacles to the attendance at college by students with disabilities. Community colleges and other institutions of higher education should be encouraged to offer opportunities for adults with disabilities to continue their education through course offerings which address their continuing education and academic needs. There should additionally be more collaboration between districts and community colleges to provide greater opportunities for students with disabilities to transition into college programs.
31. The Legislature and relevant departments should establish mechanisms to improve cooperation and communication between the various state agencies that serve adults with disabilities. Districts and agencies must collaborate to provide

services to educate students with disabilities regarding the different agencies that provide services to individuals with disabilities, i.e. Division of Developmental Disabilities (DDD) and the Division of Vocational Rehabilitation Services (DVRS).

32. Self-awareness goals should be incorporated into students' IEP, as appropriate, to facilitate self-advocacy and effective transition into post-secondary life. Each district should implement existing processes for a Structured Learning Experience (work-based learning) and develop a mechanism for documenting such experiences through school credits or transcript notation.
33. Students who benefit from assistive technology (AT) while in school should be offered training in the use and maintenance of AT. Districts should provide information to parents on how to obtain AT devices following graduation.
34. Districts should make training available for students and parents to ensure that they are informed about transition services and that best practices are followed.

Age Three Transition

35. The Department of Health and Senior Services (DHSS) must ensure that transition planning is implemented for each child and family according to Part C requirements. The specific set of activities that must occur, include: (1) identification of steps to be taken to prepare the child for service changes and a new setting, (2) preparation of the family (i.e., discussions, training, visitations), and (3) determination of other programs and services for which a child might be eligible.
 - Appropriate monitoring (conducted by the DHSS and the NJ DOE) is an essential component of every individualized family service plan (IFSP) to assure quality and effectiveness of the transition plan. The scheduling of a meeting, with approval of the family, among the lead agency, the educational agency, and the family must occur, at least 90 days prior to the child's third birthday.
36. Transition of children who are not eligible for special education as a preschool child with a disability must include making reasonable efforts to convene a meeting to assist families in obtaining other appropriate community-based services.
 - The transition planning conference should be included in this initial meeting and should also include a review of the child's program options for the period from the child's third birthday through the remainder of the school year and any need for an extended school year.
 - The monitoring process should encompass the quality of the steps to help the child adjust to and function in a new setting, including the requirement that IFSPs include steps for discussions with, and training of, parents

regarding future placements and other matters related to the child's transition.

37. Transition further could be strengthened by the following:

- disseminate the transition procedures outlined in DHSS and NJ DOE Interagency Agreements;
- identify and disseminate the local contacts responsible for transition in the Part C and Part B systems;
- share outcomes of monitoring visits;
- establish a tracking system to notify the local education agencies of the number of children expected to be referred to special education;
- develop mechanisms to ensure that families fully understand transition procedures, special education services, and community services;
- establish clear guidelines in collaboration with NJ DOE to streamline the eligibility determination process between Early Intervention and special education;
- ensure that Early Intervention providers and service coordinators have adequate knowledge of the preschool special education service system or other community services;
- provide system-wide training and technical assistance to families, service coordinators, and personnel from the local education agencies regarding transition.

38. The NJ DOE must ensure all parents of students entering the public school system as three year olds are made aware of inclusive pre-school settings offered in that community and that every district has a full continuum of services for preschool age children with disabilities, including inclusive services and placements.

Assistive Technology

39. The need for assistive technology (AT) must be considered for each student with an IEP in order to maximize the potential of both AT devices and AT services in the individual student's educational process.

- AT must be considered for all students, not just those with more complex disabilities.
- Educational professionals, including the IEP team, through the IEP, must document how they arrived at their decision regarding the need for AT devices and services.
- The NJ DOE should monitor school districts' compliance with IDEA 2004 and NJAC 6A:14-3.4 which require the consideration of AT for all students with disabilities.

40. The NJ DOE should develop and implement Statewide Assistive Technology Guidelines for use in each school district within New Jersey. A state funded and state operated Assistive Technology Center should be developed and maintained.

41. Core competency training in computer technology for educational staff should be developed and implemented so that assistive and educational technologies may be seamlessly applied in the classroom.
42. Consideration should be given to establishing a certification program for AT in order to standardize the skill and knowledge set in this important area. Efforts to implement Universal Design in Learning (UDL) would include both computer-based and environmentally-based UDL features.

Use of Adversives & Restraints

43. The NJ DOE should develop best practices to minimize the use of restraints techniques by encouraging the use of positive behavior supports.
44. The NJ DOE should convene a Task Force to develop a state policy toward understanding what, if any, are considered appropriate restraints, under what circumstances, if any, are they appropriate and if appropriate how they should be administered. This Task Force should include students who have been subject to restraints, parents whose children have been subject to restraints, advocates, school personnel, private and public agency personnel, and independent experts with experience and expertise in the proper use of restraints, restraint reduction, and positive behavior support.
45. The Commission supports the NJ DOE efforts to examine the frequency and nature of aversives, restraints and other behavior intervention techniques used in schools.

Self-Advocacy

46. The NJ DOE should provide specific training to help students with disabilities in the development and use effective self-advocacy skills.
47. The SSEAC should include at least one present or former student with an IEP from the New Jersey school system as a voting member.
48. The NJ DOE should monitor school districts for compliance with the requirement to develop and implement harassment and anti-bullying policies, especially with regard to the vulnerable population of students with disabilities.
49. The Commission recommends that districts provide a section for student input in the IEP, facilitating and documenting input from the student, whenever possible or appropriate. The significance of the IEP and the process used to develop it should be explained to students.

Funding

50. All districts should receive special education funding regardless of their individual ability to pay. The amount of special education funding provided to a district for an individual student should be based on each student's needs, not the district's ability to pay.
51. The legislature must determine a standardized methodology for defining "actual costs" of special education. The NJ DOE should be required to conduct an on-going study to determine the actual costs of providing special education on a statewide and regional basis. Input from major education stakeholders should be sought on costs to ensure all appropriate costs are considered in the definition of "actual costs."
52. The Commission supports the continuation of a four-tiered weighting system based on the extensiveness of student needs. The current four-tiered weighting system must be reviewed and revised to more accurately reflect the costs of students in the four tiers.
53. The Commission strongly endorses the recommendation for more transparency in the process of determining the per pupil weights by requiring that the NJ DOE report publicly on the calculations performed to arrive at the additional per pupil weights for special education, at risk, and limited English proficient (LEP) students.
54. Special education aid should remain a "categorical" aid. The Commission strongly recommends that state special education aid continue to be designated and funded as a categorical aid based on the individual student's special needs no matter where the student resides.
55. The Commission recommends that the Legislature require the NJ DOE review methods for coordinating the provision of special education transportation services, identifying best practices for transporting special needs students, and developing a plan to improve coordination and cost efficiency of transportation.
56. The Commission recommends that the Legislature create incentives and reduce barriers to increase the role of technical and vocational districts in educating special education students and in providing transition services. In addition, oversight is needed to ensure that technical and vocational schools provide equal opportunity for students with disabilities to participate in programs consistent with the requirements of their IEP.
 - The Commission encourages the Legislature to establish a committee to make specific recommendations regarding how technical and vocational schools can more effectively serve students with disabilities, including conducting a comprehensive review of the vocational educational system. NJ DOE should encourage technical and vocational schools to develop

partnerships with the private sector to support effective transition to life programs. NJ DOE must revisit the state's "program completer criteria" to eliminate this as a barrier to acceptance for students with disabilities.

57. The Commission recommends that the Legislature establish a protocol for "special needs construction" (with a fast track approval process), when a district can justify a current need or cost-saving proposal for building, without referendum, to address space and building capacity. The goal of this recommendation is to maintain students in-district or bring students back into district. Examples of a flexible mechanism to accomplish this goal include:
 - Permit districts to enter into 15-year capital short-term borrowing, with NJ DOE approval, for small construction programs
 - Permit transfer of current year's surplus, excess surplus, and capital reserve to offset construction costs for approved special education projects
 - Amend the code to afford districts flexibility with respect to placing portable classrooms on public school property if districts develop a plan to assure their equitable use between general and special education students.
58. The NJ DOE should create, publicize, and maintain a state and district wide database tracking the type and capacity of programs being implemented by each district, as well as the number of students enrolled in each program, types of programs, availability, needs and costs associated. The Commission recommends that this requirement be focused on students in self-contained settings as per the school special register and limited to quarterly data collection.
59. The Commission recommends that the Legislature, where practical, create incentives that result in the collaboration between public, separate public, and private special education schools so that programs run by or assisted by these schools are increasingly located in public school buildings. These programs must be quality programs to facilitate the transition into public school buildings.
60. The Commission urges the Legislature to direct the NJ DOE to survey out-of-district, including out-of-state, placement facilities. The purpose of the survey is to ascertain services provided by those schools that are not provided by public schools and/or schools at the same level of quality in New Jersey. Based on the survey districts must develop a plan to increase their capacity to provide those services and programs in order to alleviate the need to place students in out-of-district and out-of-state schools. In cases where there are out-of-state placements and where in-district public placements may not seem appropriate, plans to increase the capacity of in-state out-of-district placements should be developed.
61. The Commission urges the Legislature to require the NJ DOE to research and survey districts to determine the average and range of hourly fees that districts pay independently contracted Occupational Therapists, Physical Therapists, and Speech Language Specialists. The purpose of such a survey is to identify and

- disseminate the range of what are "reasonable costs" for these related services to districts.
62. The Commission recommends that the NJ DOE study the cost of administering the Alternate Proficiency Assessment. In addition, NJ DOE should study alternative, meaningful, less costly ways of meeting federal requirements for proficiency testing.
 63. The NJ DOE should provide guidelines for the appropriate ratio of Child Study Teams per total population and should encourage school districts to enhance the role of the Child Study Teams within general education.
 64. A portion of the cost of Child Study Teams must be considered a special education cost.

Dispute Resolution

65. The Commission recommends an increase in the number of hearing officers in order to resolve cases more quickly. The Commission further recommends that the Office of Administrative Law assure that the hearing officers are specialists in the area of special education, provide them with more intensive training, and assign them exclusively to special education matters.
66. The Commission recommends that the mediation process be expanded and improved to reduce litigation. The NJ DOE should review models in other states to identify cost-effective, less adversarial methods to consider their implementation in New Jersey as appropriate, after consultation with stakeholders.

Special Education Review Commission Report



INTRODUCTION

The Legislature established this Special Education Review Commission based on a number of factors:

- A significant increase in enrollment of students in the most costly Tier IV category of services (179% over the past seven years).
- A great variation between districts in the percentages of local district students receiving special education services (ranging from 5.3% to 32.4% of the total student population).
- No increase in state aid for special education since 2001-02 despite increases in cost factors published in the Biennial Report.
- A significant increase in the number of students whose costs are in excess of \$40,000 (from 946 in 1997-98 to 7,212 in 2003-04).
- The reauthorization of the Elementary and Secondary Education Act (ESEA), which called for the inclusion of students receiving special education services in the statewide assessment and the accountability of the school districts regarding adequate yearly progress for these students, resulting in considerable uncertainty and significant cost implications.

In the language of the law creating this Commission, the Governor and Legislature charged the Commission with:

- reviewing the delivery, quality, and cost of special education services in New Jersey;
- studying the issues associated with the delivery, quality, cost and funding of special education services for New Jersey students; and
- assessing ways to improve access to available services, reducing duplications of effort, and creating new programming to meet those needs that are not currently being met.

The Commission was authorized to consist of 30 members, including representatives of various school, professional, and parent organizations and members of the public, including individuals with disabilities and parents of children with disabilities. All participating members have expertise in the area of special education in the State of New Jersey.

During its deliberations, the Commission reviewed the findings and recommendations of the legislatively-established Special Education Task Force which issued its report in 1995. The Commission acknowledges the contributions of the 1995 Task Force, which had a significant impact on the design and delivery of services to students receiving special education services within the state of New Jersey. The Commission also acknowledges the work of the New Jersey Department of Education to this end.

In the intervening decade we have witnessed a clear philosophical shift at the federal level with regard to special education services, as evidenced by the 1997 & 2004

reauthorizations of the Individuals with Disabilities Act (IDEA). Congress clearly articulated that we have *one* education system that is responsible to educate *all* children. Congress has called for the elimination of the dual system of education services (i.e. the general education program and the special education program) and has mandated to the maximum extent appropriate, children with disabilities are educated with children who are not disabled.¹ Congress has required a clear and definite rationale for the removal of students from the general education program and the general education curriculum. The Commission supports this philosophical shift advanced by the IDEA and 2001 reauthorization of the Elementary and Secondary Education Act calling for services and accountability for all students within the general education system. Supports currently incorporated in the special education program shall become an integral component of support for the general education system. Consideration should be given to the general education class size, the educational needs of individual students within the class, and the supports required for success of all students. Partnerships with other districts, colleges, community agencies, employers, and the private sector should be considered for cost containment.

We are also faced with the reality of growing budget deficits and a large debt service within our state budget. In addition, the federal aid for special education falls significantly below the 40% commitment contained in the IDEA legislation. All of these factors have resulted in an increased tax burden at the local level. We accept Governor Corzine's commitment to New Jersey's taxpayers to "live within our means", and it is our desire to provide student-centered, quality educational services in a fiscally responsible manner.

However, strategies to reduce costs and property taxes should not negatively impact:

- Accountability for outcomes for students with disabilities, in light of the need for all students with disabilities to achieve state standards under NCLB;
- Quality services for students with and without disabilities;
- Compliance with federal requirements, including the right to receive a free, appropriate public education in the least restrictive environment (i.e., to the maximum extent appropriate, with children who are not disabled).

Some specific measures that we recommend toward this end are:

- Removal of special education costs from a school district's budget cap, since these expenditures are mandated by the federal IDEA and state law;

¹ IDEA requires that children with disabilities are removed from the general education environment only when they cannot be educated appropriately in general education classes even with the use of supplementary aids and services. Even when children are removed from the general education classroom, IDEA requires that children with disabilities learn the general education curriculum to the maximum extent possible.

- Increased financial resources and incentives, such as capacity-building funds, to support the education of students with disabilities in-district and in inclusive settings which in turn will lead to less reliance on more costly and/or restrictive options;
- A dedicated flat grant to each district based on total district enrollment to enhance the general education program to be responsive to the individual needs of a diverse student body and to provide pre-referral intervention services; and
- Funding formula that is based on the actual costs of providing special education services.

To achieve our goals, we deemed it necessary to channel our efforts into two workgroups:

Quality and Delivery Issues
Funding and Cost Issues

These groups have focused on the following main concepts:

Quality and Delivery Issues

- Training/Professional Development
- Reallocation of Resources/Early Intervening Services
- Disproportionate representation of minority students in special education and gifted and talented programs and multicultural issues
- Parent rights/training
- Program/capacity building
- Accountability
- Gifted & talented students with disabilities
- Postsecondary transition services
- Turning Three: Transition from Early Intervention Services
- Assistive Technology
- Use of restraints& aversives
- Self advocacy

Funding and Cost Issues

- Pre-intervention/Pre-referral services
- Increasing inclusive services
- Accountability
- Related services
- Transportation
- Shared resources
- Facilities
- Dispute Resolution

The Special Education Review Commission (the Commission) has carefully reviewed the Recommendations of the Joint Legislative Committee on Public School Funding Reform

during our deliberations and study of the funding and cost of special education services in New Jersey. The Commission had the opportunity to share initial recommendations with the Joint Legislative Committee, and appreciates the Joint Legislative Committee's recognition of the many concerns and issues that we raised in those initial comments, which are reflected in their proposals. Our recommendations, including our perspective on the Recommendations of the Joint Legislative Committee on Public School Funding Reform (Joint Legislative Committee) and the recommendations of the Special Education Task Force established in 1995 that have not yet been implemented follow.

Recommendations from the Report of the New Jersey Legislative Task Force on Special Education, December 22, 1995

1. The Commission notes and supports the recommendation of the 1995 Task Force that fiscal reporting requirements be made consistent across placements to allow for an accurate determination of special education costs on a per pupil basis.
2. The Commission notes and supports the recommendation of the 1995 Task Force that state aid consist of a dedicated flat grant to districts based on total district enrollment. The purpose of such a grant is to enhance the general education program, be responsive to the individual needs of a diverse student body, provide pre-referral intervention services; reimburse for actual special education costs (except for a percentage of local contribution designed to promote cost containment and local accountability) and payment of extraordinary costs.
3. The Commission reiterates the recommendations of the 1995 Task Force regarding transportation, including the recommendation that the New Jersey Department of Education (NJ DOE) examine the benefits of regionalized purchasing of transportation services to reduce costs.
4. The Commission supports the 1995 Task Force recommendation that a statewide network be developed to allow public and private education agencies to purchase and share equipment. The Commission recommends that the Legislature increase opportunities and provide incentives for districts and out-of-district public and private schools to share equipment and assistive technology. The Commission recommends that support be provided to NJ DOE's proposed project to establish an equipment/assistive technology (AT) resource that would disseminate information about existing loan and recirculation equipment and AT centers. In addition this project will provide training, technical assistance, and a lending library.
5. The Commission supports the 1995 Task Force which recommended that the Legislature require the NJ DOE to research incentives and code changes that are likely to result in an increased supply of related service providers. Options to explore could include up-front State funding to universities to implement new programs/expand existing programs; instruction in occupational therapy (OT), physical therapy (PT), and speech-language pathology; student loan

programs; and student loan-forgiveness upon completion of a specified number of years of actual public school service.

2006 Special Session Joint Legislative Committee on Public School Funding Recommendations

1. The Commission supports the Joint Legislative Committee's Recommendation 9 to continue funding for county vocational school aid and transportation aid, but to update cost factors to reflect inflation. However, The Commission urges the Legislature to take further action on these issues.
2. The Commission strongly supports the Joint Legislative Committee's Recommendation 18 calling for the enactment of legislation to facilitate more efficient and effective general education pre-identification services to reduce the rate of [inappropriate] special education classification. The Commission further recommends that such legislation specify a base amount of funding to each district for those services.
3. The Commission endorses the Joint Legislative Committee's Recommendation 19 to promote the inclusion [with appropriate supports and services] of special education students in local school district programs through proposed changes to the school construction law. This would expand capacity in local districts, including requiring districts to consider students who are out of district before building public schools. The Commission further recommends expansion of the New Jersey Department of Education's (NJ DOE) authority to approve, prior to bonding, all applications for buildings solely serving students with disabilities resulting in standards consistent with those of public schools.
4. The Commission supports the Joint Legislative Committee's Recommendation 20 to promote greater coordination of special education services available in local districts at the county level. However, the Commission notes that this coordination will require additional resources and expertise at the county level to make it successful.
5. The Commission also endorses the Joint Legislative Committee's Recommendation 20 that the county office serve as a liaison to facilitate shared special education services [when appropriate] within the county, including but not limited to direct services (e.g., specialized evaluations, related service providers, nursing services, counseling services), personnel development, and technical assistance. In addition the Commission endorses the recommendation for the county office to work with districts to develop in-district programs and services and to facilitate training from facilitators with expertise in inclusive education, positive behavior supports, transition to adult life, and parent/professional collaboration.

6. The Commission endorses the Joint Legislative Committee's Recommendation 21 to require the Commissioner of Education to establish a consistent tuition structure for out-of-district placements and an advisory group to review and make recommendations. Further, the Commission recommends that the Legislature reexamine the model for providing funds for non-public programs (IDEA funds and chapter 193 funds) and direct the Commissioner of Education to implement strategies to improve communication and collaboration between the public and non-public schools with regard to fund allocation and provision of services.
7. The Commission supports the Joint Legislative Committee's Recommendation 22 to reduce the use of due process hearing and litigation to resolve special education disputes. The Commission further recommends increased training and technical assistance regarding effective conflict resolution mechanisms and approaches.
8. The Commission strongly endorses the Joint Legislative Committee's Recommendation 23 to continue the funding of extraordinary special education costs. The Commission supports continued funding for extraordinary aid for all instructional and support costs directly attributable to the services provided to any student with a disability whose special education costs exceed \$40,000 per year. The Commission further recommends that the Legislature fully fund the statutory provisions for extraordinary aid and oppose the proposed increase in the \$40,000 threshold level for extraordinary aid eligibility.
9. The Commission neither supports nor opposes the Joint Legislative Committee's Recommendation 24 that the funding formula include a revenue cap (maximum permitted net budget). However, if such a "cap" is instituted, the Commission strongly recommends that special education costs be outside the revenue cap requirement; if this recommendation is not accepted, the Commission recommends that the Legislature at least maintain the status quo (excess of \$40,000 excluded from "cap").
10. The Commission strongly supports the Joint Legislative Committee's Recommendation 27 for state support for high-quality preschool for all children in district factor groups A&B and for children who qualify for free and reduced price meals in all other districts. This will encourage districts to establish preschool general education programs that can include children with disabilities.

Special Education Review Commission Quality and Delivery Issues

A. Training/Professional Development

The heart and soul of any system is the people who actually make it work. Although this is true in virtually every undertaking in manufacturing, business, or government, nowhere may that statement be more true than in our schools. The daily contact the people who teach and administer our schools have with the students in their care can have a

significant influence on those students' lives. The daily combination of skill, creativity, and effort they use in teaching a class or running a school can have a positive and profound effect on each child.

For students in special education, that combination of talents can be a lifelong positive influence, especially when it is joined to an attitude of high expectations – an attitude that says, “no matter what others say you can’t do, I’m here to show you what you can achieve.”

In order for any recommendations proposed by the Special Education Review Commission to succeed, effective ongoing training is a key element. From year to year, research-based study may reveal new aspects about various disabilities, which can point to changes in the most effective ways to teach those students. And with seemingly endless changes in the federal and state mandates regulating special education, it is especially important for those involved in special education to stay abreast of the latest developments in teaching methods and the law.

To be effective, there are certain areas of special education in which all administrators, teachers, Child Study Team members, and related service personnel must be knowledgeable.

Ensure an adequate supply of appropriately trained and certified related service personnel and teachers

New Jersey currently has significant shortages of various professionals needed to provide related services in New Jersey, especially in the areas of Occupational Therapy (OT), Physical Therapy (PT), and Speech-Language Pathology. Even more troubling, however, is the small and declining number of New Jersey schools where students can be trained in these fields. For example, approximately 20 years ago the Speech-Language Pathology program at Douglass College closed and a similar program at another college is currently being phased out. That leaves appropriate graduate programs in Speech-Language Pathology offered in only four New Jersey universities: Seton Hall, William Paterson, Montclair State, and Kean. In a like manner, only three schools offer undergraduate degrees in Occupational Therapy, and just one university in New Jersey offers the graduate degree required for certification in OT. The NJ DOE must take action to help increase programs in higher education to alleviate these shortages and in turn, ensure that all students with disabilities in New Jersey receive a free appropriate education (FAPE).

New Jersey was awarded a federal *Teacher Quality Enhancement Grant* of \$7.9 million. According to the NJ DOE, “This grant has provided the department with much information that will enable educators at all levels to have a clear and consistent view of college teacher preparation courses, the alternate route to certification, and the important role of teacher mentors.” If similar goals for special education teachers are not provided under this grant, perhaps they can be incorporated into it. In the future, needs for similar grants in special education should be considered and sought out.

Training/Professional Development Recommendations

1. Training of administrators, special educators, general educators, parents and related service personnel must occur in the following areas:
 - New Jersey Administrative Code 6A:14 and IDEA(2004);
 - IEP development and implementation;
 - Steps to promote self-advocacy;
 - Understanding effective collaboration;
 - Understanding of the terms “free appropriate public education” in the “least restrictive environment”;
 - Availability and use of Assistive Technology (AT);
 - Various disabilities and their characteristics;
 - Intervention and Referral Services and Structured Learning Experiences;
 - Differentiated instruction;
 - Disproportionate representation of minority students in special and gifted education;
 - The theory of learning preferences (i.e., visual, auditory, kinesthetic);
 - Literacy training;
 - Understanding of parent and student perspectives on all aspects of special education;
 - Positive Behavioral Supports;
 - Transition to Adult Life;
 - Availability of community resources.
 - a. Every district must establish a policy for training and must include parent input. There must be on-going, job-embedded professional development and identification of best practices. Training also must use research-based interventions and strategies that facilitate literacy skills.
 - b. The establishment of school-based literacy teams should be encouraged. All educators, special educators and support personnel and general educators, should be encouraged to undergo literacy training.
2. Teacher preparation courses should include training in special education teaching strategies and special education teachers should be required to take a language development course. All educators must be trained in provision of effective direct instruction, differentiated instruction, and should be trained in the utilization of effective literacy techniques.
3. The New Jersey Department of Education (NJ DOE) must assess the need for related-service providers in all New Jersey schools and develop a plan to help fill the need for these professionals within school districts and non-public schools.
4. Incentives should be provided to state institutions of higher education to establish the required undergraduate and/or graduate programs as needed for Occupational Therapist, Physical Therapist and Speech-Language Pathologist

certifications/licensures in order to prepare more professionals to meet the increasing demand. The state should consider these needs when applying for grants.

5. The NJ DOE should enhance a system of reciprocity with regard to accepting certifications from other states for various related-services providers without compromising the educational requirements for those positions or the quality of the services provided.

B. Reallocation of Resources/Early Intervening Services

Better use of existing resources & use of research-based Early Intervening Services (EIS)

In order for monies appropriated and targeted for special education services to be cost effective a reallocation of resources must take place. In the attempt to teach primarily to the curriculum, children with disabilities are not being provided daily with the strategies/techniques that could address their individual weaknesses, reinforce their learning and facilitate a grasp of the curriculum. Many Individualized Education Programs (IEP) are segmented into subject areas with professionals addressing their individual areas of study (math, language arts, etc.) instead of collaborating to target each child's unique abilities and disabilities and teaching each "whole" child as an individual. The result is often a patchwork of services, with one educator's objectives unrelated to others, rather than a holistic program to help a child be successful in special education.

In order to promote a holistic approach, the establishment of literacy teams and effective Intervention and Referral (I&R) Teams is needed. By truly working as teams, first at the district and then at the school level, educators can pool their knowledge and learn how each professional's individual training and expertise can provide all the tools needed to help students achieve in a variety of subjects and settings. Teams must consist of all individuals who have contact with children, and strategies pertinent to their strengths and needs should be employed throughout each day within all subject areas.

The report of the *President's Commission on Excellence in Special Education, A New Era: Revitalizing Special Education for Children and Their Families* was published in July 2002. One prominent finding was that the current system focused on evaluation and eligibility determination as opposed to delivering Early Intervening Services (EIS), which the commission found to prevent or ameliorate the impact of disabilities. The Commission cited research showing that early screening resulting in the use of effective interventions prevented the need for special education classification in many students who were at risk, showing deficits and/or behavioral problems (National Research Council, 2002).

The President's Commission recommended against the continued use of the discrepancy model, calling it a wait-to-fail model that robbed students of critical time for intervention and that the use of similar practices to identify students who have speech-language impairments is not necessary for identification of these impairments. The Special Education Review Commission supports the use of EIS and Response to Intervention

(RTI) models as methods to reach children with potential disabilities at the earliest age. Use of EIS and RTI will lead to the creation of in-district programs that can succeed in appropriately educating at-risk students as well as those who will eventually need special education services, and prevent some students from being inappropriately classified as eligible for special services.

In addition the President's Commission noted the great amount of time spent on evaluation by professionals, including psychologists and speech-language pathologists, time that could be better spent providing services and thus, possibly preventing the need for time consuming evaluations. At a time of shortages within professions, it is critical that professionals have the ability to devote their time and expertise to what will benefit students most efficiently and effectively. Provision of EIS should be the responsibility of both general and special educators.

Inherent in the success of EIS and RTI is accountability. To succeed, research-based general education reading and math programs must be employed and professionals must be trained appropriately in the use of these programs. In addition, professionals must become familiar with techniques employed in research-based corrective reading programs in order to implement strategies suggested for individual students. Ongoing training and support must be required to be available.

Another benefit of a team mindset could be the use of shared services among public school districts, commissions and special education school districts. Experts in specific areas can work among various districts to share their knowledge and allow all schools to optimize their teaching techniques and resources.

Training should begin at the college level. Higher education should provide general education teachers with adequate knowledge of and exposure to special education. Special education teachers should be required to take a course in language development since most reading disorders have been found to be language-based and most classified students have language-based reading disorders or language learning disorders. Colleges should introduce/train both special and general education teachers in methods of effective instruction in literacy and in effective ways to collaborate with others in the field of special education.

Reallocation of Resources/Early Intervening Services Recommendations

6. Districts must enhance strategies for delivering related services to students within the least restrictive environment (LRE). Availability of services must not drive the location of the services.
7. To the maximum extent appropriate, districts should be encouraged to provide more effective programs in general education classes to students with disabilities. Ongoing trainings for special education, general education, and related services providers should occur to facilitate appropriate/collaborative instruction in the

least restrictive environment (LRE), as well as the use of research-based programs and techniques.

8. Shared resources may be used by districts to facilitate delivery of appropriate services within an inclusive setting, and whenever appropriate within the home schools of students. When shared resources are used, districts must use appropriate evidence and/or research-based practices.
9. The NJ DOE must ensure that sufficient consultation and planning time (as mandated in IDEA and the N.J.A.C. 6A:14) is provided in order to allow for meaningful instructional coordination between general education teachers and special education support staff.
10. The roles of child study teams, special education teachers, speech-language specialists, and other related service providers should be enhanced to participate in Early Intervening Service (EIS) and Response to Intervention (RTI) models. In addition, school districts should be monitored for effective use of EIS and RTI to reduce referrals for special education.
 - EIS and RTI should be encouraged for use by the NJ DOE. Workshops, trainings, and consultation should be available when selecting research-based reading programs that utilize small group instruction and designing meaningful interventions.

C. Disproportionate representation of minority students in special education and gifted and talented programs and multicultural issues

Recommendations to address the disproportionate representation of minority students in special education and gifted and talented programs:

11. Early Intervening Services (EIS) and Response to Intervention (RtI) as noted in recommendation 10 above will be particularly useful and must be significantly encouraged to reduce inappropriate referrals and the disproportionate representation of minority students in special education.
12. A state advisory panel should be convened to design the collection of state representative longitudinal data that would allow for a more informed study of the disproportionate representation of minority students in special education and gifted and talented programs. This research should also focus on closing the achievement gap and the under and over representation of minorities.
13. The NJ DOE must assure the provision of multiculturalism/cultural competencies in pre-service coursework, practicum experience, and opportunities for professional development as a vital component of accreditation programs and district professional development plans in order to prepare teachers and related service providers to deliver culturally responsive instruction. More specifically, teachers and related service providers should be familiar with the beliefs, values,

cultural practices, discourse styles, and other features of students' lives relative to their culture and environment that may have an impact on classroom participation and success. This information should be used when designing instruction.

14. The NJ DOE, in collaboration with the Division of Children's Behavioral Health Services of the Department of Children and Families (DCF), should initiate a Task Force with representatives from local education agencies to review existing research to determine if a large-scale pilot program to test the plausibility and productivity of positive universal behavior management interventions, early behavior screening, and techniques to work with children at risk for behavior problems is necessary to reduce inappropriate referrals and over identification of minority students for special education services.
15. The NJ DOE must assure students are evaluated in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally and that an assessment of the language needs of a child with limited English proficiency is conducted.
 - The NJ DOE should continually update the list of individuals qualified to conduct assessments in various languages and disseminate this information to local school districts.
 - The NJ DOE must assure local Child Study Team members are properly trained in identifying language needs of limited English proficient students.
16. The NJ DOE should analyze classification patterns and data collected from EIS and RTI to determine if the "Child Find" requirements of IDEA are being fully implemented. A variety of therapeutic models should be considered for classified students, including individual and small group therapy, as well as consultative and integrated therapy. EIS should be used to support teachers from a variety of subjects and related service areas to work together to make such services meaningful and effective.
 - Both pre-service and in-service training models must provide teachers with the techniques to work in collaborative and/or consultative teaching settings. These models can focus on EIS and RTI. All members of the staff should be trained in literacy and positive behavioral techniques as well as other needs that surface as an EIS model emerges. Collection of data will provide teachers with the experience necessary to develop appropriate, measurable goals and objectives.

D. Parent Rights/Training

IDEA and NJAC 6A:14 recognize that collaboration is a key component in the development and implementation of an IEP. The Child Study Team, parents, and child (where appropriate) must work together to ensure that the educational program is individualized, appropriate, and least restrictive. For this to be truly effective, the parties involved need to have an understanding of the process and their individual role in that process. Unfortunately, all too often, many parents feel overwhelmed and intimidated by

the special education system and therefore might not feel like an equal member of the team.

School districts could offer parents some much needed support in this area. The provision of parental rights trainings, collaboration workshops, and the creation of a parent-to-parent support system where families can connect with each other would help to alleviate some of the anxiety and confusion which parents experience. Some byproducts of this approach would be improved relationships between parents and districts, reduction in litigation throughout the state and a reduction in out-of-district placements. Most importantly, research shows that when families and districts collaborate effectively, students perform better.

Districts, with input from their state-mandated Special Education Advisory Group, should provide training opportunities and information to assist parents to better understand the nature of their children's disabilities and their educational, developmental, and transitional needs; communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services and related services; participate in decision-making processes and the development of individualized education programs and/or individualized family service plans; obtain appropriate information about services based on scientifically based research and resources to assist children and families in school and at home; participate in activities at the school level that benefit their children; and participate in school reform activities. Regular education and special education administrators should take an active role in this process to build unity and enable parents to comment directly on the effectiveness of the special education programs.

Parent Rights/Training Recommendations

17. Every school district, working with their state-mandated Special Education Parent Advisory Group, should create a Parent Training Program. The NJ DOE must develop the guidelines for parent training within the special education system.

E. Program/Capacity Building

The Commission supports maintaining the full continuum of placement options for all students and recognizes the need to strengthen the capacity of districts to support students and ensure they receive the appropriate program in the least restrictive environment.

The Commission supports the right of every student with a disability to receive a free appropriate public education in the least restrictive environment. The first key element here is the "least restrictive environment", which means that whenever possible, the student would be educated in the same school he/she would attend if he/she had no disability. The second element is "appropriate" – students with disabilities should have access to educational services that are appropriate for their specific needs. In theory and

in practice, that means there should be a full continuum of services and settings available for all students.

Too often, because of a lack of space or insufficient expertise within local school districts, students with disabilities are sent to out-of-district placements. Reducing out-of-district placements and educating more of our students with disabilities in-district, when appropriate, is one of the goals of the Federal Government and is one of the primary objectives in NJ's state performance plan. Unfortunately, the absence of a coordinated, state-wide effort to achieve this goal leaves New Jersey with a total number of students in out-of-district placements that is approximately three times greater than the national average.

There is no coherent statewide strategy for delivering quality in-district programming for the most significantly disabled and low-incidence disabilities, such as autism, deaf-blind, and severe cognitive impairments. For example, there are quality in-district programs for hearing-impaired students in Bergen, Cumberland and Morris Counties. These programs could serve as a model for building capacity for the school districts within other counties. Also, for students with visual impairments, those with the most severe cognitive disabilities are often sent to private placements or county schools, while those with no other disabilities often remain in-district and receive services from the Commission of the Blind. For students with autism, there has been a move in recent years in larger school districts to create in-district programs, but smaller districts generally continue to send students to separate schools due to the lack of appropriate in-district services and because of space constraints.

Program/Capacity Building Recommendations

18. Long-range Facility Plans must ensure that necessary space is available to provide needed services. In addition, the appropriate office within the NJ DOE, in consultation with the Office of Special Education Programs (OSEP), must approve all Long-Range Facility plans by districts to ensure that the long-term needs of students with disabilities and future demographic trends are considered

F. Accountability

Each School District Superintendent, Principal and Board of Education must assume full responsibility for the appropriate education of all students and be fully accountable for the compliance and quality of general and special education programs and services and the educational outcomes of all students.

District-wide accountability

Many school districts in New Jersey have created a separation within the district organization between general and special education. Responsibility and accountability for the delivery of special education programs and services typically lies with the Director of Special Services, while that of general education lies with the Superintendent

and Principals. Although the Superintendent has ultimate responsibility for Special Education services, generally the monitoring of special education programs and services is delegated to the Director of Special Services.

In this scenario, Special Education accountability can be far removed from the general education administration and left with staff that may have little input into budget and district program planning. Further separation occurs in some districts where the special education teachers report to a Director of Special Services rather than their building principal. In such cases, the Director of Special Services may request student placement in a general education setting or resource room, but the building Principal may not always feel obligated to include students with disabilities within that school building. In many cases, school Principals are not always being assigned responsibility and are not always being held accountable for the quality of special education instruction or the progress and outcomes for students with disabilities.

While districts report the number of college bound students and those entering the military, they do not have data on the actual educational outcomes of students with disabilities who do not fit into one of these categories. Lack of information on the achievement of positive outcomes then becomes an issue for students with disabilities and their families and there are no consequences for failure to appropriately educate students with disabilities and facilitate their success beyond graduation.

Accountability for Each Individual Student

Traditional measures of student achievement may not measure the outcomes that determine success for each student with a disability. For example, students with Asperger's can do well on the Language Arts HSPA assessment yet be unable to engage in normal social interaction, which negatively affects their future employment, while a child with autism may have communication deficits and behavior issues so severe that creating a sound behavior plan is initially more important to parents than succeeding on an English or Math assessment.

While certainly not the only measure of student outcomes, the state-wide assessments are a common accountability system that measures educational performance. Many of the students with disabilities should be able to pass the state-wide assessments with appropriate supports and modifications, yet there is criticism that the current state-wide assessments are not appropriate for some students with disabilities. There is also a concern that some students are not being administered the appropriate assessment from the current assessment options.

As a common accountability system for measuring educational performance, including for students with disabilities, NCLB has brought greater attention and focus on improving the performance of special education students. It is most important that students with disabilities be held to high education standards so that the prejudice of low expectations does not jeopardize their ability to secure a sound education and prepare for a successful life.

The Individualized Education Program (IEP) should define a student's present levels of academic achievement and functional performance in addition to a variety of goals, objectives, accommodations, and supports. While the IEP defines the goals, many parents report that their children's schools do not effectively implement the plan.

To address concerns that parents need greater input on the overall effectiveness of the Special Education System, districts should develop mechanisms for ongoing review of their special education delivery system with opportunities for parent input. The NJ DOE created a Parent Survey to measure opinions in the delivery of Special Education services for their children. This tool can be effective, and it is recommended that it or a locally developed survey based on the information contained within the NJ DOE survey be used annually by all members of the IEP Team.

Accountability Recommendation

19. The NJ DOE must ensure continuity of services including evaluation of students referred for services and the development of Individualized Education Programs (IEP) on a 12-month basis.
20. The NJ DOE must ensure a stronger connection between general and special education during the monitoring process.
21. School districts should be required to perform a comprehensive annual review of district data in the Special Education Performance Plan, and Strategic Plans should be in place within districts, as appropriate, to address areas requiring improvement. In addition, school districts should be required to conduct follow-up surveys to collect data on the post secondary outcomes of students. This data should be used in the evaluation and ongoing improvement of programs and services.
22. The NJ DOE must investigate the use of the Alternate Proficiency Assessment (APA) to determine if students are appropriately selected to participate in the APA. The state must also review and revise the APA process and support its implementation.
23. The NJ DOE must expedite the implementation of the statewide student database. The database will enable the state to create an assessment system that will measure annual student growth as well as grade level performance on the NCLB assessments. The NJ DOE must develop a task force to study student achievement and accountability measures and means including the use of a growth model for annual yearly progress (AYP) passage.
24. The Commission recommends a study of districts that have made AYP progress for pupils with disabilities to determine successful strategies that have been implemented. The DOE should develop a clearinghouse for sharing and disseminating this information with districts.

G. Gifted & Talented Students with Disabilities

The primary misconception related to students with disabilities is that they are incapable of excelling academically. This is not necessarily true, yet many educators do not consider the idea that students with disabilities can equal or outperform their non-disabled peers at any level. State, district and non-governmental organization policies designed to serve students with documented disabilities and those with documented gifts often suffer from a lack of coordination or recognition of the overlap between these two populations.

Professionals do not always recognize that a student's negative pragmatic issues do not diminish his/her gifts. Appropriate related services, social skills programs, and behavioral plans can be the key to enabling gifted students with disabilities to succeed in honors classes or other placements that address his/her gifts.

This Commission rejects the concept that giftedness and disability are in any way mutually exclusive when applied to an individual student. Furthermore, we recognize that descriptions of either gifts or disabilities cannot fully define any individual. As a result, we call upon the NJ DOE to require school districts to recognize the subjective nature of both labels and to avoid categorizing student skills in all topic areas by their abilities in any one area or areas.

Serving the needs of students with gifts and disabilities is particularly important, as the two are often directly related to each other. A blind student may have heightened hearing or tactile skills, while a student on the autism spectrum may possess extraordinary capabilities in math, science or another field. Regardless of whether or not the gifts presented are innate or compensatory, they offer a unique opportunity to improve student outcomes that must not be overlooked.

There are substantial difficulties in identifying gifts that students with disabilities possess because of the inadequacies of the current identification structure. For example, students with hearing disabilities who might not be identified due to the highly auditory nature of many classroom lectures might show giftedness with sign language. Other students with learning disabilities or other cognitive differences, such as the autism spectrum, might fail to be identified due to the style in which the curriculum is taught, and might show signs of giftedness if the curriculum were to be offered in a format conducive to their needs. The structure of the current IEP process also reflects this bias because it does not provide an area for listing gifts and addressing them within IEPs. To better identify and serve the gifted-disabled population, the NJ DOE must develop and promote assessments and teaching models that address the learning styles of a physically and neurologically diverse student body.

IEP-mandated goals and objectives addressing issues other than academics and accommodations on testing, method of instruction or in any other area must be provided at every level and still apply in advanced and gifted educational environments.

Gifted & Talented Students with Disabilities Recommendations

25. The NJ DOE must require each district to create a written plan for accommodating students with disabilities in gifted education and include it in the general Gifted and Talented program mandate. This written plan must be available on request for inspection by students, parents, administrators or state officials.
- Districts must modify existing Gifted and Talented programs to be skill-specific. Entry into gifted programming in any particular topic area should be based upon demonstrated ability in an assessment geared toward that area, rather than single assessment determining access to gifted education in all topic areas. Reasonable accommodations must be allowed.
 - Schools should be required to develop nonverbal intellectual measures for identification of gifts in students with disabilities. Child Find programs should be modified to assess for gifts as well as disabilities and to apply both standard- and alternative-giftedness identification criteria when assessing students with disabilities.
 - Terminology for all students with gifts and/or disabilities should be adjusted to reflect the skill-specific nature of both gifts and disabilities. This should apply to general education students as well.
26. Both the IEP and Transition Plans should include a section noting student gifts, skills, and/or interests to facilitate the best structure of the student's IEP to promote those gifts or skills, with a particular focus on their application for future transition to a post-secondary environment.
- Students with disabilities and gifts should have goals associated with gifted education needs incorporated into the IEP process. Transition Plans should contain goals that address the need for advanced placement and honors coursework.
 - Extracurricular activities should be incorporated into the IEP and transition discussions. All requirements to make reasonable accommodations for students with disabilities shall be applicable to extracurricular activities as well as the general education curriculum.
 - Opportunities for self-directed learning should be provided for students with disabilities and gifts, focusing on an increase in the proportion of students with IEPs taking Advanced Placement assessments or dual enrollment courses for academic credit in higher education.
27. To assess state progress on improving access to gifted education for students with disabilities, the NJ DOE should collect and publish data on the proportion of students in Gifted and Talented programs and/or Honors/Advanced Placement courses with IEPs, and the proportion of students with IEPs in Gifted and Talented programs and/or Honors/Advanced Placement courses. The Statewide Special Education Advisory Council (SSEAC) should investigate the issue of gifted and disabled students and advise the NJ DOE on ways to increase successful implementation by school districts.

H. Postsecondary Transition Services

At the public hearing on October 17, 2006, one speaker asked about the outcome of a quality education and stated that we still lack sufficient and appropriate outcome data. "We want data to show more students with disabilities participating in and scoring well on standardized tests. These data are important, but they measure the special education process. The product can only be measured AFTER the student leaves the school. The outcome we need to measure is meaningful engagement in adult life."

That is exactly what transition services in New Jersey schools are designed to foster for each student with a disability by paving the way to desirable outcomes.

The term "transition services" means a coordinated set of activities for a student with a disability designed to facilitate that child's move from school to post-school activities. All students in public or private education begin their transition to a post-secondary environments, either in middle school or upon entering high school with a structured set of courses, activities, internships, etc., designed to help all students go on to higher education or enter the workforce.

For students with disabilities, there are also many possible options after graduation: postsecondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult services; and independent living or community participation. In order to give each student with a disability the best chance for success, support and planning toward a clear and well-defined outcome that best suits the individual's needs and desires must begin as soon as possible. Because of the barriers that confront students with disabilities, they are particularly in need of transition services.

Student and Parent Training

One of the primary obstacles to successful transitions for students with disabilities is the lack of knowledge about the post-school legal systems that serve individuals with disabilities. IDEA is designed to provide entitlements, whereas Section 504 of the Rehabilitation Act and the Americans with Disabilities Act are focused on providing accommodations that will facilitate access. Students and parents must be made aware of post-secondary options for students and the differences in structure that students will need to be aware of after they leave high school. In addition, because various government services can have very different eligibility criteria and are often subject to available funding, students must be taught the skills to navigate this post-secondary environment and effectively advocate for themselves within it.

In response to this need for transition information, a law was enacted in New Jersey in August 2006 (P.L. 206, Chapter 62) requiring the NJ DOE to include information in the Parental Rights in Special Education (PRISE) booklet on state agencies that serve adults with disabilities. It also contained a mandate that one staff member be designated in each school district to serve as a "disability services resource for parents."

Many students with disabilities exit high school with little to no self-awareness of their disability and its implications. Students with learning disabilities are particularly susceptible to this problem. Schools must work to develop increased self-awareness programs to educate students about the exact nature of their disability and potential coping strategies that can be applied effectively post-school.

Furthermore, the various agencies that provide services for individuals with disabilities are uncoordinated. Efforts must be made to streamline these services in order to more effectively provide for the needs of individuals with disabilities. For students who will require day programs after graduation, access to opportunities for community participation and involvement in post school life are the most important goals of an effective transition.

Guidance

Regular school guidance departments provide students of all types with advice on the college admissions process or with counseling them on other options for successful student transition. Unfortunately, many students with disabilities do not get to take advantage of this service offered by school guidance departments because of a preoccupation with the services and processes specific to special education. It is necessary that students with disabilities be offered basic guidance counseling services and, where appropriate, college admissions preparations offered to other students without disabilities, in addition to special education transition planning and services.

Work

It is important to begin the process of preparing students for a work environment as soon as possible. The National Longitudinal Transition Study, funded by the US Department of Education, found increased employment outcomes for youth with disabilities that experienced work-based learning while in high school programs. There are many options for exposing students to work environments while still in high school, including service learning, structured learning experiences, internships, co-op and vocational education programs. These options must be made available to students with disabilities wherever possible. In addition, special effort should be made for students who are interested in work directly after high school to provide opportunities to them for work-based learning. At the same time, each district should offer service learning and internship credit or transcript recognition opportunities for all students – with and without disabilities – to allow students of all achievement levels to pursue opportunities in a work-based environment. For college-bound students, internships or service learning experiences can be valuable in the increasingly competitive college admissions process. For other students, they afford an opportunity to learn important life and work skills that increase opportunities for employment.

Higher Education

Students with disabilities must be afforded every opportunity to pursue higher education opportunities, wherever possible. In addition to ensuring that guidance department services are accessible by students with disabilities, districts must educate students about higher education possibilities: a four year college, community college technical school, or any other option. Students who express an interest in higher education opportunities should have those goals and all necessary steps to achieve them incorporated into the IEP.

Postsecondary Transition Services Recommendations

28. Options for exposing students to work environments while still in high school, including service learning, structured learning experiences, internships, co-op and vocational education programs must be made available to students with disabilities wherever possible. In addition, special effort should be made for students who are interested in work directly after high school to provide opportunities for work-based learning. Each district should note service learning and internship opportunities through credit or transcript recognition for all students.
29. Districts must work to ensure that students with disabilities are afforded full access to guidance counseling and other services available in general education and to any other transition services geared specifically toward students with disabilities. Wherever possible each district must work to provide access to higher education, employment opportunities, and day programming, as appropriate, for students with disabilities.
30. The Legislature and the Department of Higher Education should provide incentives for and identify and remove obstacles to the attendance at college by students with disabilities. Community colleges and other institutions of higher education should be encouraged to offer opportunities for adults with disabilities to continue their education through course offerings which address their continuing education and academic needs. There should additionally be more collaboration between districts and community colleges to provide greater opportunities for students with disabilities to transition into college programs.
31. The Legislature and relevant departments should establish mechanisms to improve cooperation and communication between the various state agencies that serve adults with disabilities. Districts and agencies must collaborate to provide services to educate students with disabilities regarding the different agencies that provide services to individuals with disabilities, i.e. Division of Developmental Disabilities (DDD) and the Division of Vocational Rehabilitation Services (DVRS).

32. Self-awareness goals should be incorporated into students' IEP, as appropriate, to facilitate self-advocacy and effective transition into post-secondary life. Each district should implement existing processes for a Structured Learning Experience (work-based learning) and develop a mechanism for documenting such experiences through school credits or transcript notation.
33. Students who benefit from assistive technology (AT) while in school should be offered training in the use and maintenance of AT. Districts should provide information to parents on how to obtain AT devices following graduation.
34. Districts should make training available for students and parents to ensure that they are informed about transition services and that best practices are followed.

I. Turning Three: Transition from Early Intervention Services

According to research, comprehensive early intervention programs can positively affect the progress of children with developmental delays and children at risk of having a disability (GAO-06-26). Part C of the Individuals with Disabilities Education Act (IDEA) was established to ensure that infants and toddlers with disabilities, from birth to age 3, and their families, receive appropriate early intervention services in a natural environment, such as the home.

Part C focuses on enhancing the development of infants and toddlers by providing services such as speech language therapy, physical therapy, occupational therapy and family supports such as home visits. Part B of IDEA, which covers children from ages 3 to 21, aims to ensure that children with disabilities have access to a free appropriate public education. The focus shifts in emphasis from the family toward the educational needs of the child.

Part C of IDEA requires that if eligible for Part B, children with disabilities exiting Early Intervention services have a smooth and effective transition. Ideally, this transition is a multifaceted process to prepare the child and the child's family to leave Early Intervention services. Coordination and cooperation between the educational agency and the early intervention system is crucial if eligible preschool children and their families are to be provided a smooth and seamless transition.

Although DHSS and DOE staff have worked diligently toward building an effective collaborative relationship to improve transition practices through communication and joint technical assistance activities, smooth transitions are not occurring for children and families in all areas of the State.

Turning Three: Transition from Early Intervention Services Recommendations

35. The Department of Health and Senior Services (DHSS) must ensure that transition planning is implemented for each child and family according to Part C requirements. The specific set of activities that must occur, include: (1)

identification of steps to be taken to prepare the child for service changes and a new setting, (2) preparation of the family (i.e., discussions, training, visitations), and (3) determination of other programs and services for which a child might be eligible.

- Appropriate monitoring (conducted by the DHSS and the NJ DOE) is an essential component of every individualized family service plan (IFSP) to assure quality and effectiveness of the transition plan. The scheduling of a meeting, with approval of the family, among the lead agency, the educational agency, and the family must occur, at least 90 days prior to the child's third birthday.

36. Transition of children who are not eligible for special education as a preschool child with a disability must include making reasonable efforts to convene a meeting to assist families in obtaining other appropriate community-based services.

- The transition planning conference should be included in this initial meeting and should also include a review of the child's program options for the period from the child's third birthday through the remainder of the school year and any need for an extended school year.
- The monitoring process should encompass the quality of the steps to help the child adjust to and function in a new setting, including the requirement that IFSPs include steps for discussions with, and training of, parents regarding future placements and other matters related to the child's transition.

37. Transition further could be strengthened by the following:

- disseminate the transition procedures outlined in DHSS and NJ DOE Interagency Agreements;
- identify and disseminate the local contacts responsible for transition in the Part C and Part B systems;
- share outcomes of monitoring visits;
- establish a tracking system to notify the local education agencies of the number of children expected to be referred to special education;
- develop mechanisms to ensure that families fully understand transition procedures, special education services, and community services;
- establish clear guidelines in collaboration with NJ DOE to streamline the eligibility determination process between Early Intervention and special education;
- ensure that Early Intervention providers and service coordinators have adequate knowledge of the preschool special education service system or other community services;
- provide system-wide training and technical assistance to families, service coordinators, and personnel from the local education agencies regarding transition.

38. The NJ DOE must ensure all parents of students entering the public school system as three year olds are made aware of inclusive pre-school settings offered in that community and that every district has a full continuum of services for preschool age children with disabilities, including inclusive services and placements.

J. Assistive Technology and Educational Technology

Assistive Technology (AT) is any device, item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of an individual with a disability.

Assistive Technology was first defined in the Technology Related Assistance Act of 1988. Initially, AT primarily addressed the needs of students with significant physical disabilities (e.g., spinal cord injuries, cerebral palsy, traumatic brain injury, etc.) with adaptive computers enabling students to communicate and/or control certain aspects of their environments. AT has broadened its reach to include devices and services for a greater population of students including those classified with high-incidence disabilities, such as specific learning disabilities, autism, and other sensory-based disabilities.

In recent years the AT industry has transferred various concepts and products to the larger general education population, arguing that some of the educational benefits experienced by students with severe disabilities could also be experienced by students with high incidence type disabilities.

This encompasses the idea of Universal Design in Learning (UDL), an offshoot of the more general concept of universal design that was first coined in reference to the benefits in making all places in our society accessible by all types of people. For example, curb cuts at street intersections were developed specifically for persons using wheelchairs, yet the benefit has been enjoyed by parents pushing strollers, shopping carts, and bicyclists.

The intent of UDL is to maximize each student's growth and individual success by meeting each student where he or she is, and assisting in the learning process. UDL merges the features of educational technology and assistive technology to meet the largest group of students' educational needs within the general educational classroom. The concept of UDL has faded the line between educational technology for the general education population and AT for the students with disabilities.

While the need for considering AT during the development of a student's IEP has been part of IDEA since 1997, only recently have efforts been made to fully interpret this portion of IDEA for educators and provide these professionals with a means of complying with the intent of the law. Up until this point, information on AT has been fragmented and generally focused more on individual AT devices and products as opposed to a framework for deciding when, where and how AT may benefit the individual students.

School districts throughout the state vary remarkably in all aspects of AT. This may be due in part to the district's understanding of the legal definition of AT devices and services. For example, some districts have stated that AT is only for students with severe and multiple disabilities. Others have stated that AT only applies to computer-based equipment. Neither of these positions is correct according to the Individuals with Disabilities Education Act (IDEA) or New Jersey Administration Code. Additionally, the skill and knowledge of staff who deliver AT services varies widely; staff members with interest or aptitude tend to find their way to this area within a school district.

Assistive Technology Recommendations

39. The need for assistive technology (AT) must be considered for each student with an IEP in order to maximize the potential of both AT devices and AT services in the individual student's educational process.
 - AT must be considered for all students, not just those with more complex disabilities.
 - Educational professionals, including the IEP team, through the IEP, must document how they arrived at their decision regarding the need for AT devices and services.
 - The NJ DOE should monitor school districts' compliance with IDEA 2004 and NJAC 6A:14-3.4 which require the consideration of AT for all students with disabilities.
40. The NJ DOE should develop and implement Statewide Assistive Technology Guidelines for use in each school district within New Jersey. A state funded and state operated Assistive Technology Center should be developed and maintained.
41. Core competency training in computer technology for educational staff should be developed and implemented so that assistive and educational technologies may be seamlessly applied in the classroom.
42. Consideration should be given to establishing a certification program for AT in order to standardize the skill and knowledge set in this important area. Efforts to implement Universal Design in Learning (UDL) would include both computer-based and environmentally-based UDL features.

K. Restraints and Aversives

The New Jersey Department of Human Services (NJ DHS) has extensive regulations and guidelines regarding how physical restraints, mechanical restraints, or aversive techniques can be used in all settings in which NJ DHS clients are served. The guidelines govern the use of Personal Control Techniques, Mechanical Restraints, Safeguarding Equipment, Behavior Modification Programming, Aversive Techniques, etc. A recurring theme throughout the guidelines is that restraint should never be used for punishment, for the convenience of staff, or as a substitute for programming.

Unfortunately, no guidelines exist that regulate the use of these techniques in school settings in New Jersey. In fact, in the absence of regulations to the contrary, the unmonitored use of any of these techniques is allowed in all school settings except for NJDHS-sponsored school facilities.

The NJ DOE must adopt clear legal guidelines on proper restraint use in all school settings and engage in efforts to standardize training in the use of restraints among all training providers serving New Jersey facilities, schools or placements. Furthermore, all requirements on usage, reporting and de-briefing must be applied equally to all private and public facilities, including public schools and special services school districts. Finally, efforts must also be made to offer training to parents who serve as long-term care providers for students with severe developmental disabilities in emergency restraint use and restraint reduction strategies, such as de-escalation techniques. Additional efforts must also be made to engage leadership of schools and facilities in restraint reduction.

Reporting, Accountability and Enforcement

There is currently insufficient data available on the use of restraints in New Jersey. There is a need for a statewide study on restraint use documenting all instances of restraint use disaggregated by school or facility. Efforts are needed towards reporting and accountability within schools or facilities. Any emergency use of restraint should be followed by a full and comprehensive de-briefing and discussion including the leadership of the facility or school in question, all personnel involved, parents or guardian and, whenever at all possible, the individual student.

The NJ DOE must develop effective investigation capacities to ensure that all necessary legal protections are being given to students with disabilities. In the event that improper restraint use is reported and injury or death occurs as a result, mechanisms must exist to apply criminal responsibility to those responsible and, in the event of recurring abuses, to the leadership of the school or facility where these abuses occur. Efforts must be made to rectify these and other obstacles to full and effective prosecution of all those who violate the law in restraint use.

Use of Restraints & Adversives Recommendations

43. The NJ DOE should develop best practices to minimize the use of restraints techniques by encouraging the use of positive behavior supports.
44. The NJ DOE should convene a Task Force to develop a state policy toward understanding what, if any, are considered appropriate restraints, under what circumstances, if any, are they appropriate and if appropriate how they should be administered. This Task Force should include students who have been subject to restraints, parents whose children have been subject to restraints, advocates, school personnel, private and public agency personnel, and independent experts with experience and expertise in the proper use of restraints, restraint reduction, and positive behavior support.

45. The Commission supports the NJ DOE efforts to examine the frequency and nature of aversives, restraints, and other behavior intervention techniques used in schools.

L. Self Advocacy

Encouraging students to advocate for their own interests can have positive effects on future opportunities; it helps prepare students to take ownership of their own educational or vocational futures. Reasonable investments in this area could improve results for students with disabilities and could reduce future expenses for districts and state service provider agencies. Non-self-directed students may require more services and higher expenses in the future than students with effective self-advocacy skills. Opportunities for successful employment and higher education can also improve through self-advocacy programs.

Program models that connect middle and high school students with disabilities to successful college students and adults with disabilities to help teach effective self-advocacy and transition skills would be beneficial. Particular focus should be placed on reaching students from low-income and urban backgrounds to participate in these models.

Safety

School safety is an issue of paramount importance. Students cannot be expected to learn without an assurance of security for both their physical and mental health in school. For students with disabilities, who may be particularly vulnerable to bullying or other forms of physical and/or emotional abuse, this is essential. Schools must anticipate that students with disabilities are more likely to be targeted for bullying and harassment than other students. School districts must take steps to bring themselves in line with current anti-bullying legislation and court decisions.

Representation

Because students with disabilities are the most important stakeholders in their own education, their input should be sought in the development and implementation of policies on special education. Although parents and/or other family members can adequately represent their children in policy bodies, in many cases there is no substitute for individuals with disabilities serving on these bodies themselves. Opportunities should be created to give students with disabilities a greater voice in the special education system.

IEP Process

Given the importance of the IEP to a student's educational program, students should be afforded every appropriate opportunity to help determine the substance of the IEP. Students will be better prepared to create their own plans for educational success and

seek their own accommodations where necessary if they start doing so well before they leave the system. The IEP process should require student input, wherever possible. Furthermore, all necessary steps should be taken to ensure that the student is fully aware of the significance of the IEP meeting and the substance of the IEP prior to it being approved.

Self-Advocacy Recommendations

46. The NJ DOE should provide specific training to help students with disabilities in the development and use effective self-advocacy skills.
47. The SSEAC should include at least one present or former student with an IEP from the New Jersey school system as a voting member.
48. The NJ DOE should monitor school districts for compliance with the requirement to develop and implement harassment and anti-bullying policies, especially with regard to the vulnerable population of students with disabilities.
49. The Commission recommends that districts provide a section for student input in the IEP, facilitating and documenting input from the student, whenever possible or appropriate. The significance of the IEP and the process used to develop it should be explained to students.

Special Education Review Commission Cost and Funding Report

Current Sources of Funding for Special Education

There are three current sources of funding for special education: federal, state and local.

Federal Funds: As stated in the Individuals with Disabilities Education Act of 2004 (IDEA), while States and local educational agencies are primarily responsible for the education of all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law. IDEA provides states with federal fiscal support for special education. The majority of these funds flow through the state to local school districts. When legislation regarding the education of students with disabilities was initially enacted in 1974, the federal government was authorized to fund 40 percent of the average cost of special education. While these funds have increased significantly, the level of funding remains significantly below that amount. Currently, federal special education funding through IDEA provides about 18% of the national average per pupil cost of special education.

Local school districts are eligible for two IDEA entitlement grant awards. The basic award provides funds for students with disabilities ages three through 21. The preschool special education award funds programs serving children with disabilities ages three

through five. These entitlement funds flow through the state to the local districts and are distributed on a mandated formula basis. The preschool funds from the federal government have actually decreased since 2000 despite significant increases in the number of preschoolers with disabilities served and the cost of providing a free, appropriate public education to such students. In an effort to assist districts in meeting the needs of our students with educational disabilities, the New Jersey Department of Education, Office of Special Education Programs annually distributes significantly more of the IDEA appropriation than required by the federal government.

In addition to IDEA funds, New Jersey school districts serving students with disabilities who are Medicaid-eligible can be reimbursed for a portion of their expenses through the Special Education Medicaid Initiative. (Unlike many other states that return as much as 100% of Medicaid funds to districts, up until recently, New Jersey only returned 15% to local districts, one of the lowest rates in the country. Currently, the return rate is still only 35%).

State Funds

(a) Categorical Aid

To support districts in meeting their obligation to provide a free, appropriate public education for all students with educational disabilities, the state provides close to \$896,420,000 in special education categorical aid through a structure of tiers which are described below. However, since 2003-04 the State categorical aid for special education has been a flat funded at the amount listed above.

Tier I - The number of resident students classified as eligible for special education services which receive related services (excluding those eligible for speech-language services only). Funding is available for each related service up to four related services per student (counseling, occupational therapy, physical therapy, speech-language services and others).

Tier II - The number of resident students, not receiving Tier IV intensive services, who meet the criteria for: specific learning disabled, traumatic brain injury, cognitively impaired-mild, and preschool disabled; and all classified students in shared time vocational schools that do not have a full child study team.

Tier III - The number of resident students, not receiving Tier IV intensive services, who meet the criteria: for cognitively impaired-moderate, orthopedically-impaired, auditorily impaired, communication impaired, emotionally disturbed, multiply disabled, other health impaired, and visually impaired.

Tier IV - The number of resident students who meet the criteria for autistic or cognitively impaired-severe and Tier II or Tier III students receiving one or more of the following intensive services: individual instruction, a student/teacher/aide ratio of 3:1 or less, high level assistive technology, extended school year, intensive related services, interpreter

services, personal aide, residential placement for educational purposes, and/or individual nursing services.

(b) Extraordinary Aid

In addition to state categorical aid for special education, state funds are available through the Comprehensive Educational Improvement and Financing Act's extraordinary aid provision. Districts can apply for reimbursement of costs in excess of \$40,000 for an individual student regardless of that student's placement. (Well over 90% of this aid is used for students placed in out-of-district public or private special education schools.) The state has provided an additional \$52 million each year since 2003-04 in extraordinary special education aid (for per pupil costs in excess of \$40,000). This aid has been flat funded since 2003-2004.

Local Funds:

The responsibility for providing a free, appropriate public education for students with educational disabilities ultimately rests with the resident school district. In order to cover the cost of providing special education programs and services, it is also necessary for school districts to generate local funds to supplement Federal and State funding.

Improve system to reduce the cost and frequency of special education litigation

The current due process system used to resolve special education disputes is costly, time-consuming, and generally creates or solidifies an adversarial relationship between the school district and the parents. Despite the allowances for mediation prior to cases being heard in court, acceptable resolution of these cases does not always take place. This is taxing to the legal system and it causes much wasted time during which children may not be receiving appropriate services. The use of alternate methods of dispute resolution could be a significant positive tool to help reduce the number of times the parties resort to due process hearings.

When cases get as far as the Office of Administrative Law, at various times the hearing officers do not have sufficient background in special education law or regulations.

Funding Recommendations

50. All districts should receive special education funding regardless of their individual ability to pay. The amount of special education funding provided to a district for an individual student should be based on each student's needs, not the district's ability to pay.
51. The legislature must determine a standardized methodology for defining "actual costs" of special education. The NJ DOE should be required to conduct an on-going study to determine the actual costs of providing special education on a statewide and regional basis. Input from major education stakeholders should be

sought on costs to ensure all appropriate costs are considered in the definition of "actual costs."

52. The Commission supports the continuation of a four-tiered weighting system based on the extensiveness of student needs. The current four-tiered weighting system must be reviewed and revised to more accurately reflect the costs of students in the four tiers.
53. The Commission strongly endorses the recommendation for more transparency in the process of determining the per pupil weights by requiring that the NJ DOE report publicly on the calculations performed to arrive at the additional per pupil weights for special education, at risk, and limited English proficient (LEP) students.
54. Special education aid should remain a "categorical" aid. The Commission strongly recommends that state special education aid continue to be designated and funded as a categorical aid based on the individual student's special needs no matter where the student resides.
55. The Commission recommends that the Legislature require the NJ DOE review methods for coordinating the provision of special education transportation services, identifying best practices for transporting special needs students, and developing a plan to improve coordination and cost efficiency of transportation.
56. The Commission recommends that the Legislature create incentives and reduce barriers to increase the role of technical and vocational districts in educating special education students and in providing transition services. In addition, oversight is needed to ensure that technical and vocational schools provide equal opportunity for students with disabilities to participate in programs consistent with the requirements of their IEP.
 - The Commission encourages the Legislature to establish a committee to make specific recommendations regarding how technical and vocational schools can more effectively serve students with disabilities, including conducting a comprehensive review of the vocational educational system. NJ DOE should encourage technical and vocational schools to develop partnerships with the private sector to support effective transition to life programs. NJ DOE must revisit the state's "program completion criteria" to eliminate this as a barrier to acceptance for students with disabilities.
57. The Commission recommends that the Legislature establish a protocol for "special needs construction" (with a fast track approval process), when a district can justify a current need or cost-saving proposal for building, without referendum, to address space and building capacity. The goal of this recommendation is to maintain students in-district or bring students back into district. Examples of a flexible mechanism to accomplish this goal include:

- Permit districts to enter into 15-year capital short-term borrowing, with NJ DOE approval, for small construction programs
 - Permit transfer of current year's surplus, excess surplus, and capital reserve to offset construction costs for approved special education projects
 - Amend the code to afford districts flexibility with respect to placing portable classrooms on public school property if districts develop a plan to assure their equitable use between general and special education students.
58. The NJ DOE should create, publicize, and maintain a state and district wide database tracking the type and capacity of programs being implemented by each district, as well as the number of students enrolled in each program, types of programs, availability, needs and costs associated. The Commission recommends that this requirement be focused on students in self-contained settings as per the school special register and limited to quarterly data collection.
59. The Commission recommends that the Legislature, where practical, create incentives that result in the collaboration between public, separate public, and private special education schools so that programs run by or assisted by these schools are increasingly located in public school buildings. These programs must be quality programs to facilitate the transition into public school buildings.
60. The Commission urges the Legislature to direct the NJ DOE to survey out-of-district, including out-of-state, placement facilities. The purpose of the survey is to ascertain services provided by those schools that are not provided by public schools and/or schools at the same level of quality in New Jersey. Based on the survey districts must develop a plan to increase their capacity to provide those services and programs in order to alleviate the need to place students in out-of-district and out-of-state schools. In cases where there are out-of-state placements and where in-district public placements may not seem appropriate, plans to increase the capacity of in-state out-of-district placements should be developed.
61. The Commission urges the Legislature to require the NJ DOE to research and survey districts to determine the average and range of hourly fees that districts pay independently contracted Occupational Therapists, Physical Therapists, and Speech Language Specialists. The purpose of such a survey is to identify and disseminate the range of what are "reasonable costs" for these related services to districts.
62. The Commission recommends that the NJ DOE study the cost of administering the Alternate Proficiency Assessment. In addition, NJ DOE should study alternative, meaningful, less costly ways of meeting federal requirements for proficiency testing.
63. The NJ DOE should provide guidelines for the appropriate ratio of Child Study Teams per total population and should encourage school districts to enhance the role of the Child Study Teams within general education.

64. A portion of the cost of Child Study Teams must be considered a special education cost.

Dispute Resolution Recommendation

65. The Commission recommends an increase in the number of hearing officers in order to resolve cases more quickly. The Commission further recommends that the Office of Administrative Law assure that the hearing officers are specialists in the area of special education, provide them with more intensive training, and assign them exclusively to special education matters.
66. The Commission recommends that the mediation process be expanded and improved to reduce litigation. The NJ DOE should review models in other states to identify cost-effective, less adversarial methods to consider their implementation in New Jersey as appropriate, after consultation with stakeholders.



Minority Report



February 2, 2007

Mrs. Joyce Powell
NJEA
Box 1211
Trenton, NJ 08607-1211

Dear Joyce:

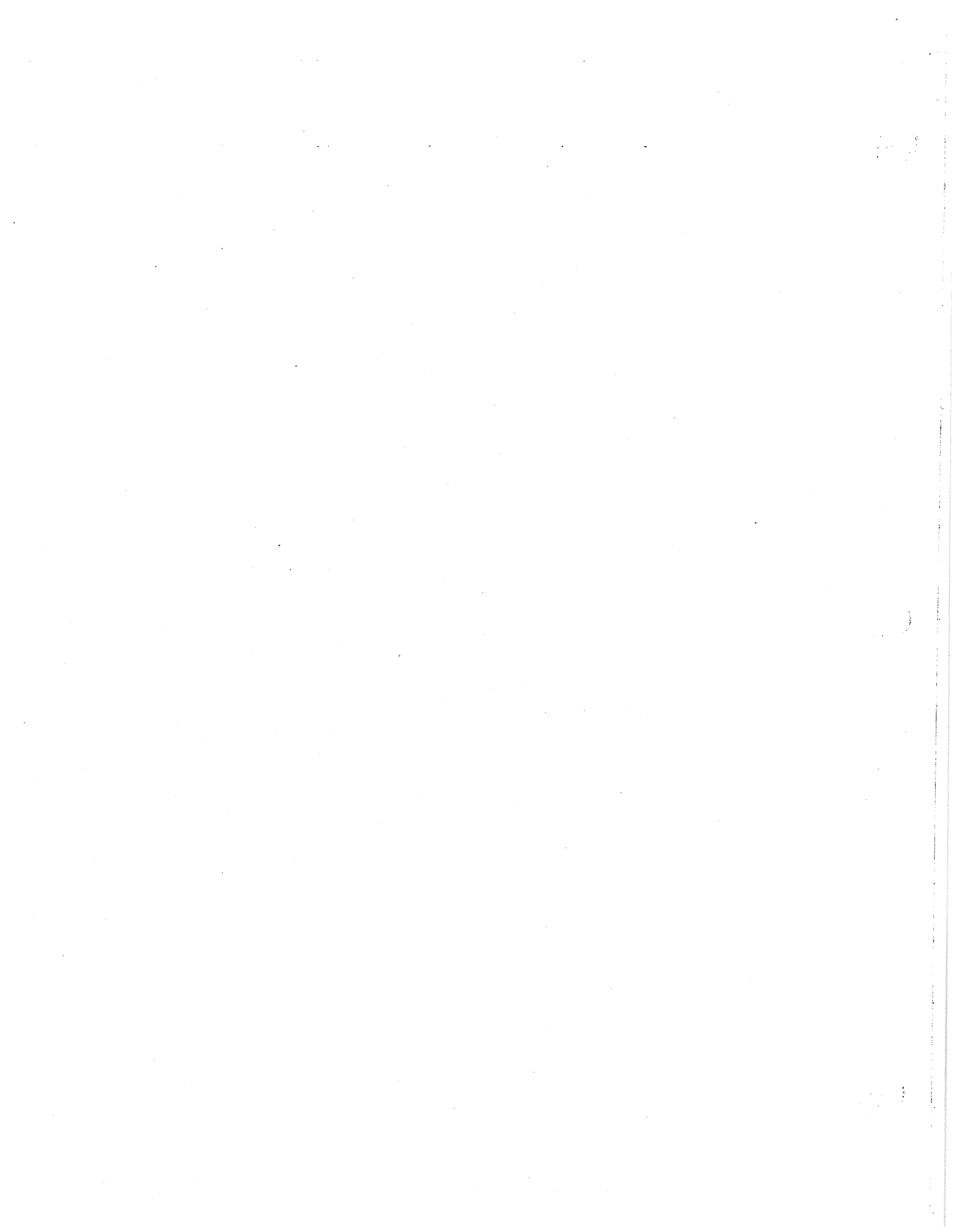
For the past seven months, the members of the Special Education Review Commission have worked admirably and effectively. We have created a report that includes many excellent recommendations on how to improve special education services for students with disabilities in New Jersey. It has been my pleasure to serve on the Commission and I strongly believe that the Commission's recommendations will significantly advance the right of students with disabilities to receive an education of the same quality as their non-disabled peers.

Despite that, there is an area of the report where the Commission has not adequately addressed a vital component of special education programming. This component is the usage of Aversives and Restraints on students with disabilities. The failure to provide appropriate policy guidance in the area of Aversives and Restraints is of sufficient importance that I and several other members of the Commission have decided to exercise our right to file a minority opinion on this issue. While the Commission's report does include a section on this matter, it contains very few actionable recommendations, owing to our decision to only include consensus language in the final document. The report's language fails to provide policy guidance on restraint use, abdicating the Commission's responsibility on that matter to a future policymaking body, and provides no guidance whatsoever on Aversives. The latter is particularly concerning, given that aversive techniques – the infliction of pain or other negative physical stimuli on individuals with disabilities as a means of behavior modification – comes with severe ethical, legal and moral complications. I am joined in these views and the attached document expressing them by Bill Sellar, Special Education Chair of the New Jersey Parent Teacher Association, Diana Autin, Executive Co-Director of the Statewide Parent Advocacy Network and Stephanie Kramer, Director - Education Advocacy for the Arc of New Jersey.

It would have been our preference to find a solution in the main document to this issue. However, owing to numerous compromise proposals having been rejected, including one as basic as requiring parental consent prior to the utilization of these techniques, we feel it incumbent upon us to file a minority opinion to be incorporated as an appendix to the final report submitted to the Legislature. Please consider this correspondence and the attached document as that opinion and include it with the final document.

Sincerely,

Ari Ne'eman

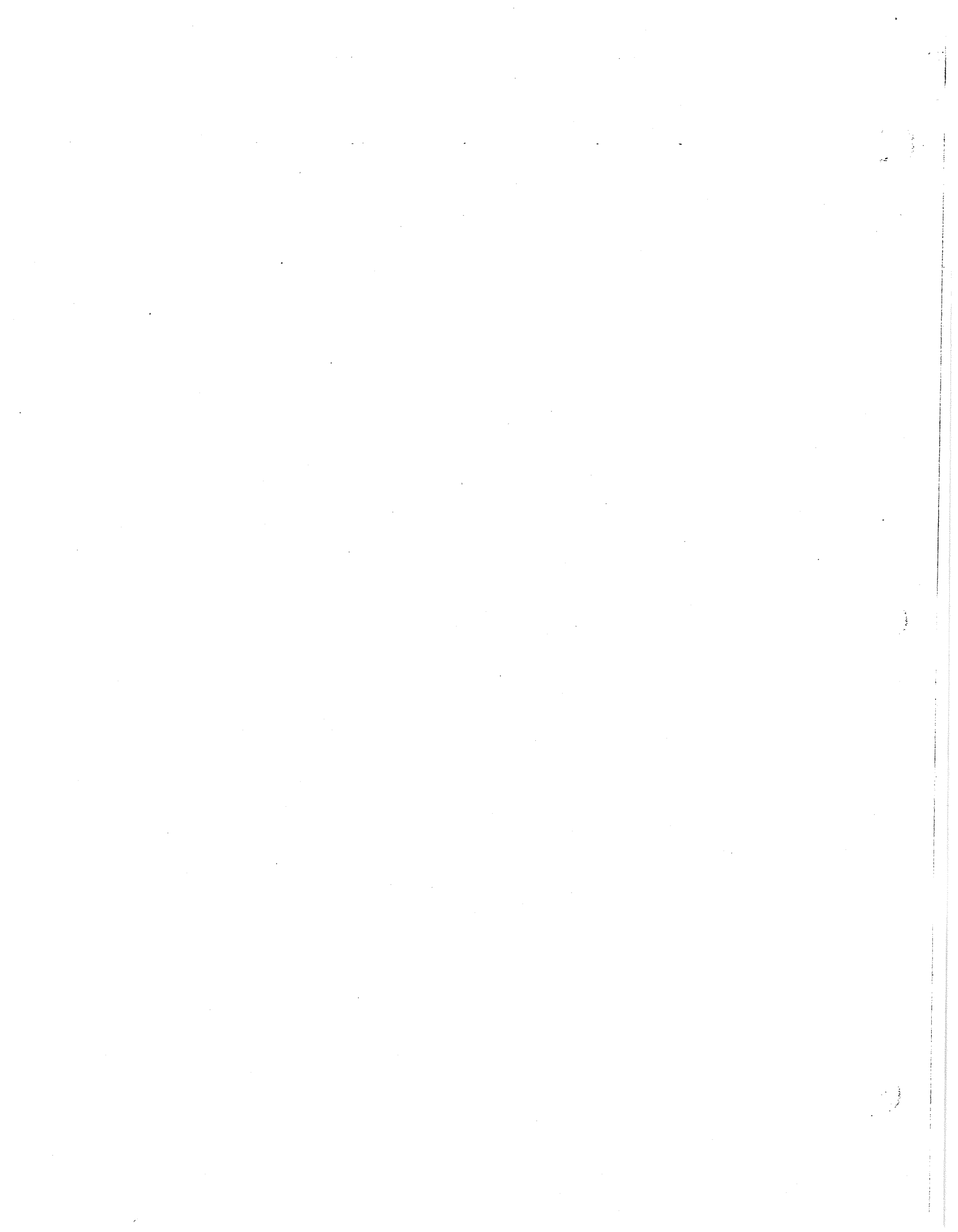


The section of the report entitled "Restraints and Aversives" fails to take adequate action on either of the topics discussed in its title. On the matter of aversives, the report is generally silent, calling for no significant action to regulate aversive techniques in schools. There is a fundamental problem inherent in utilizing pain as a method of treatment for individuals with disabilities. Aversives are ineffective and inhumane as a method of treatment. They encourage a culture of reciprocal violence and, even when they do succeed in temporarily altering behavior, often inflict lasting harm on individuals with disabilities. They also are ineffective in meaningfully teaching new skills compared to positive behavioral techniques.

Furthermore, the use of aversives raises pressing moral and legal questions. In the words of the National Council on Disability, an independent federal agency that makes recommendations to the President and Congress on all issues relevant to individuals with disabilities, "*There are limits to what society can permit in the name of treatment...Students with severe behavioral disabilities are not criminals, and yet present law allows them to be subjected to procedures which cannot be used on the most hardened criminals, or, in some cases, even on animals.*"

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 mandates that both the federal and state governments take action to ensure that public funds are only provided for services that subject "*individuals with developmental disabilities to no greater risk of harm than others in the general population.*" In addition, both the Equal Protection Clause and the prohibition against cruel and unusual punishment in the United States Constitution are relevant to the discussion on aversives. To quote the Supreme Court in *Youngsberg v. Romeo*, "*If it is cruel and unusual punishment to hold convicted criminals in unsafe conditions, it must be unconstitutional to confine the involuntarily committed -- who may not be punished at all -- in unsafe conditions.*" A policy that continues to allow aversives, which include such techniques as electric skin shock and ammonia spray as forms of behavior modification, cannot live up to those standards in the eyes of any reasonable observer.

On the matter of restraints, the report takes certain admirable steps. The creation of a task force to address restraint use in schools is an important opportunity for the State of New Jersey to develop a unified policy on this issue that can serve as a model outside of the education sphere as well. Furthermore, the mandatory inclusion on the task force of students who have been subject to restraints represents an important recognition that those who have personally experienced restraint use *cannot* be left out of the discussion as they possess a unique and vital perspective on how to ensure the proper safeguards. Despite this laudatory progress, the Commission's report on this matter is glaringly incomplete. There is a need for further oversight over the use of restraints in New Jersey schools and other facilities. Authorities ranging from the federal Government Accountability Office (GAO) to the Attorney General's office have raised concerns over documented abuses and severe structural deficiencies in the system of oversight. Furthermore, to quote a 1999 report on this issue by the Government Accountability Office, "*restraint and seclusion are not treatment but rather represent an emergency response to a treatment failure that resulted in an individual's loss of control.*" Appropriate state policy on restraints must recognize this reality, and establish a limitation on restraint use to emergency situations.

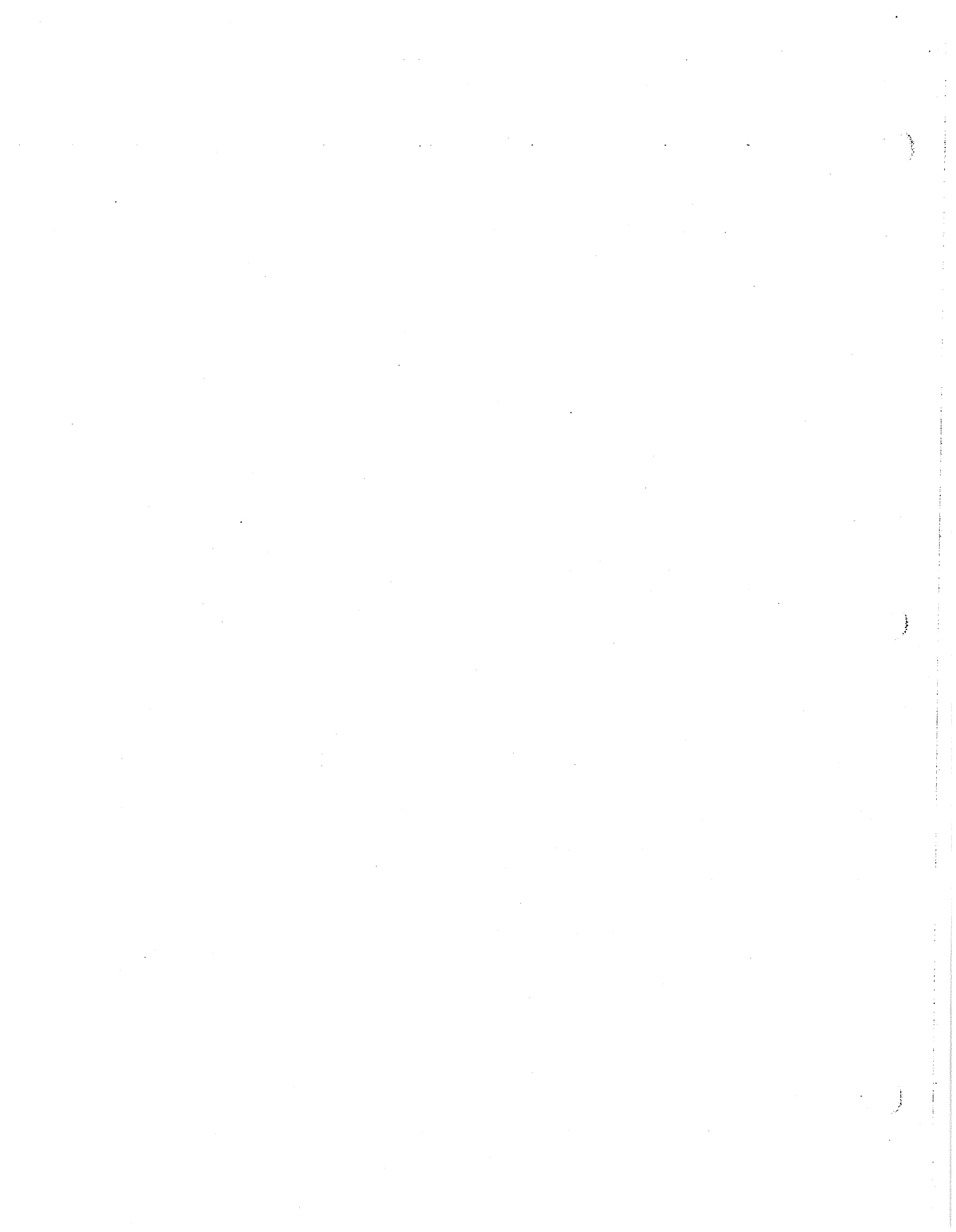


In brief, the following policy priorities should be adopted by the Legislature, the Department of Education and all other appropriate state agencies:

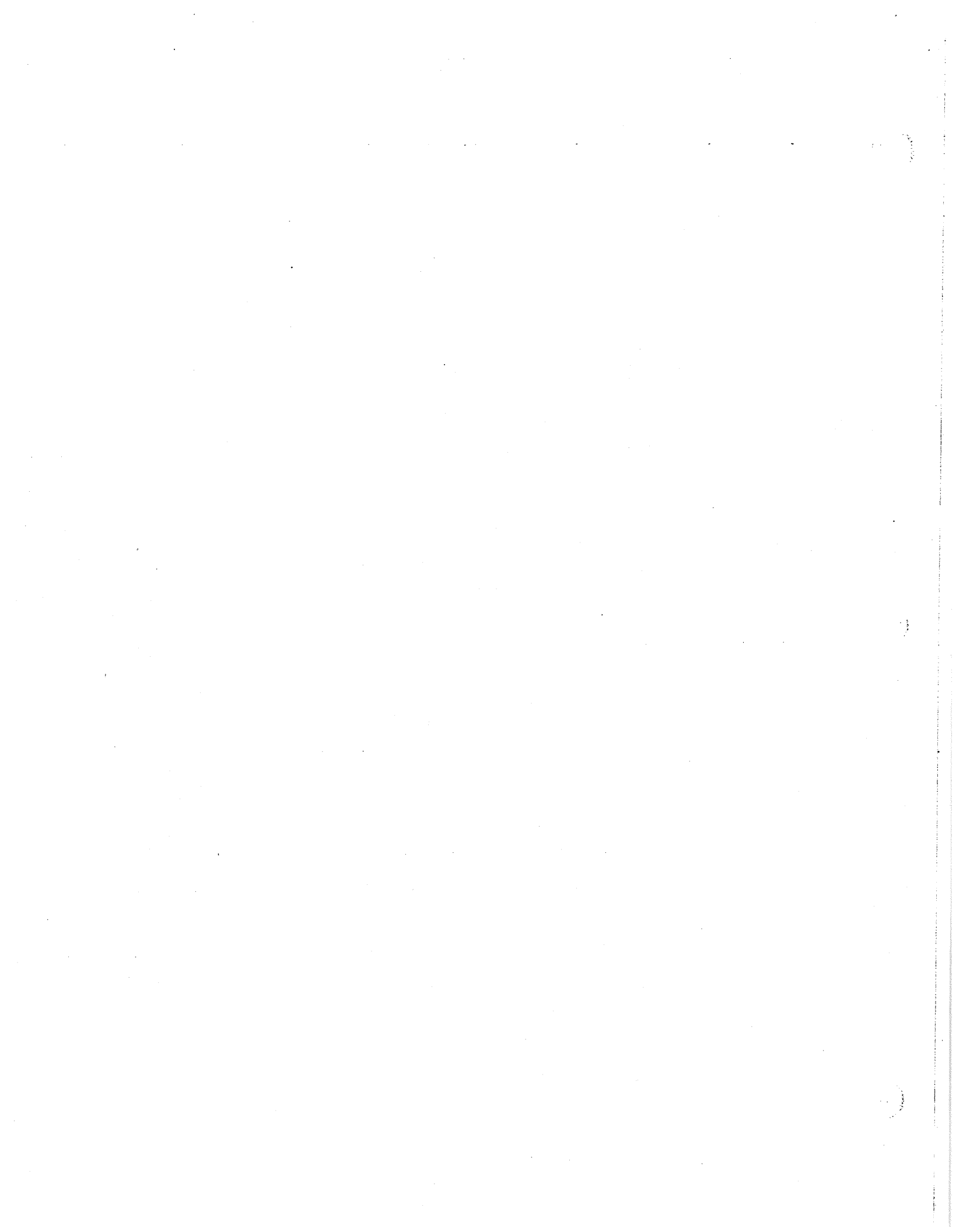
1. A comprehensive ban on the use of aversives in any and all facilities in the State, as well as ban the use of public funds to send New Jersey residents to any facility where these techniques are utilized must be implemented.
2. A restriction on the use of chemical, physical and mechanical restraints limiting their use to imminent emergency situations must be implemented. Restraint usage should only be used with the minimum amount of necessary force and for the smallest period of time necessary to defuse the imminent emergency situation.
3. Parental notification, staff de-briefing requirements and a mandatory meeting of the IEP team following the usage of restraint must be implemented.
4. All instances of restraint use must be reported to a single appropriate state agency which will track restraint use disaggregated by facility.
5. To facilitate criminal prosecution of those who abuse the use of restraints, clear guidelines on the legal and regulatory framework surrounding restraint use and training in the implementation of said guidelines in the context of law enforcement should be provided to coroners, district attorneys and all other relevant law enforcement personnel. Furthermore, all deaths in public or private facilities or schools must be reported, investigated, followed by an autopsy and, where appropriate, prosecuted.
6. An annual report should be made available documenting the incidence of restraint use in New Jersey.
7. Mandatory training requirements in positive behavioral supports and in emergency restraint use (from a list of approved training programs compiled by the Department of Education) must be required for all relevant school or facility personnel.

It is necessary for the relevant policymaking bodies to determine definitions of aversive techniques and the various types of restraints that will be broad enough to fully protect the rights of individuals with disabilities but specific enough to avoid proscribing legitimate treatments outside of the intended scope of the policy recommendations.

We call upon the Legislature, the Department of Education and other relevant policymaking bodies, state agencies and/or task forces to implement these recommendations as part of a comprehensive policy on the use of aversives and restraints in New Jersey.







Glossary of Terms



GLOSSARY OF TERMS

504:

Section 504 of the Rehabilitation Act of 1973.

504 PLAN:

An individualized plan developed for a student with a disability that specifies what accommodations and/or services they will get in school to "level the playing field" so that they may derive as much benefit from their public educational program as their nondisabled peers. The plan follows from the requirements of Section 504 of the Rehabilitation Act of 1973, and also applies to extracurricular activities and non-student situations such as employment. Section 504 applies to all public entities receiving federal monies or federal financial assistance.

ADAPTIVE BEHAVIOR:

In general, behavior that enables the individual to "fit in" with their environment and peers.

AGE APPROPRIATE:

At the right level for the chronological (actual) age of the child/student. The descriptor can be applied to materials, curriculum, modifications for the child, or to the student's behavior.

ASSESSMENT:

Systematic method of obtaining information from tests or other sources; procedures used to determine child's eligibility, identify the child's strengths and needs, and services child needs to meet these needs.

ASSISTIVE TECHNOLOGY:

The application of assistive devices and assistive services to enable the individual with disabilities to function better.

AUDIOLOGY:

"Audiology services" are for children with hearing loss. These services include:

- a) Identification of children with hearing loss;
- b) Determination of the cause and extent of the hearing loss;
- c) Referral to medical or other professionals to improve the child's hearing;
- d) Provision of activities aimed to improve the child's hearing, such as auditory training (treatment to improve a child's hearing or reduce a child's overly sensitive hearing, in order to help him/her learn better, speech reading (lip reading), or hearing evaluation;
- e) Creation and administration of programs to prevent hearing loss;
- f) Counseling and advice for children, parents, and teachers regarding hearing loss; and/or

- g) Selection and fitting of an appropriate hearing aid, and evaluation of the hearing aid's effectiveness.

AUDITORILY IMPAIRED:

A child is classified as "auditorily impaired" if the child is unable to hear within normal limits because s/he has physical problems with his/her hearing or difficulty understanding and processing information through hearing.

- a) Deafness: Deafness is an auditory impairment which is so severe that the child has difficulty processing information through hearing, with or without the use of a hearing aid or other amplification (two make the sounds louder).
- b) Hearing Impairment: Hearing impairment is an auditory impairment which may or may not be permanent.

CHILD WITH A DISABILITY:

A child between the ages of 3-21 with a physical, emotional, learning or cognitive disability, which has a harmful effect on the child's educational performance.

CHILD STUDY TEAM (CST):

The CST is made up of a school psychologist, learning disabilities teacher/consultant, and school social worker, who are all employees of the school district. The CST is responsible for evaluating a child to determine whether she/he is eligible for special education and related services.

CLASSIFICATIONS:

A child is found eligible for special education and related services if s/he has one or more disabilities and the disability has a harmful effect on the child's educational performance.

COGNITIVELY IMPAIRED:

A child is classified as "cognitively impaired" if his/her cognitive functioning and adaptive behavior skills are well below that of other children who are the same age. Cognitive impairment is divided into three categories: Mild (functioning is mildly below age expectations), Moderate (functioning is moderately below age expectations) and Severe (functioning is severely below age expectations).

EARLY INTERVENTION (EI):

Special education and related services provided to children under age of 5.

FREE AND APPROPRIATE PUBLIC EDUCATION:

Every child with a disability has a right to a public education at no cost to the parent. The child's educational program must be individually designed to meet the child's unique needs.

INDIVIDUALIZED EDUCATION PROGRAM (IEP):

A written plan developed at a meeting with the IEP team that serves as the "roadmap" for the child's education. The IEP must state the child's present levels of performance, measurable annual goals and short-term objectives aimed at improving the child's

educational performance, and instructional activities and related services needed for the child to achieve the stated goals and objectives. It also must state the reasons for the child's educational placement. The IEP must be individually designed to meet the child's unique needs.

IEP TEAM:

The IEP Team includes the parent/guardian, the student (if appropriate), the special education teacher, the regular education teacher, a Child Study Team member, the case manager, a representative of the school district, and anyone else the parent/guardian or school district wishes to bring.

LEAST RESTRICTIVE ENVIRONMENTS:

Every child with a disability must be educated with non-disabled children to the maximum extent possible.

LOCAL EDUCATION AGENCY:

A school district, board of education, or other public authority under the supervision of a state educational agency having administrative control and direction of public elementary or secondary schools, or any other public educational institution or agency having administrative control and direction of a vocational education program.

MAINSTREAM:

The usual educational placement of a child, frequently used synonymously with "regular education."

MULTIPLY DISABLED:

A child classified as "multiply disabled" has two or more impairments or disabilities at the same time, not including eligibility for speech-language services. The two or more disabilities cause such severe educational problems that separate programs designed for the separate disabling conditions will not meet the child's educational needs.

OCCUPATIONAL THERAPY:

"Occupational therapy" is a service provided by a qualified occupational therapist and includes:

- a) Improving, developing, or restoring a child's functions that were impaired or lost through illness, injury or deprivation
- b) Improving a child's ability to perform tasks for independent functioning if functions are impaired or lost.
- c) Preventing the onset of an impairment, further impairment or loss of function.

PULL-OUT:

A term applied to services or supports that remove a student with a disability from their regular classroom to a separate class or location to access the service or support.

RELATED SERVICES:

The term "related services" includes a variety of supportive services that help a child with a disability to benefit from special education. Some of the more common "related services" that a child classified as eligible for special education and related services may receive are listed below.

RESPONSE TO INTERVENTION (RTI):

RTI involves examining the performance of individuals after an educational intervention (reading tutoring, peer tutoring, phonics interventions) and then collecting data on the changes in performance after these interventions. The RTI model is based on frequent data collection and changes in instruction based on the results of these interventions.

RESOURCE PROGRAMS:

Provide individual or small group instruction to students with disabilities. Resource programs may be provided either in a regular class or in a pull-out program. If the resource program is in-class, the child receives instruction in his/her regular classroom. If the resource program is "pull-out," the child leaves the regular classroom for the time during which s/he receives instruction. A resource program may provide "support" instruction or "replacement" instruction.

a) **Support resource program:**

The child must meet educational requirements for the child's grade or the subject being taught; however, the child receives additional assistance in certain subjects (i.e. reading, writing, spelling, math).

b) **Replacement resource program:**

The child's regular education curriculum and teaching methods may be changed based on the student's IEP. As a result, the child receives instruction in material that, to some degree, "replaces" the material that the child would be learning in a particular subject.

SEPARATE PUBLIC (SE):

A percent of time removed from Reg Education for Special Education.

SPEECH-LANGUAGE SERVICES:

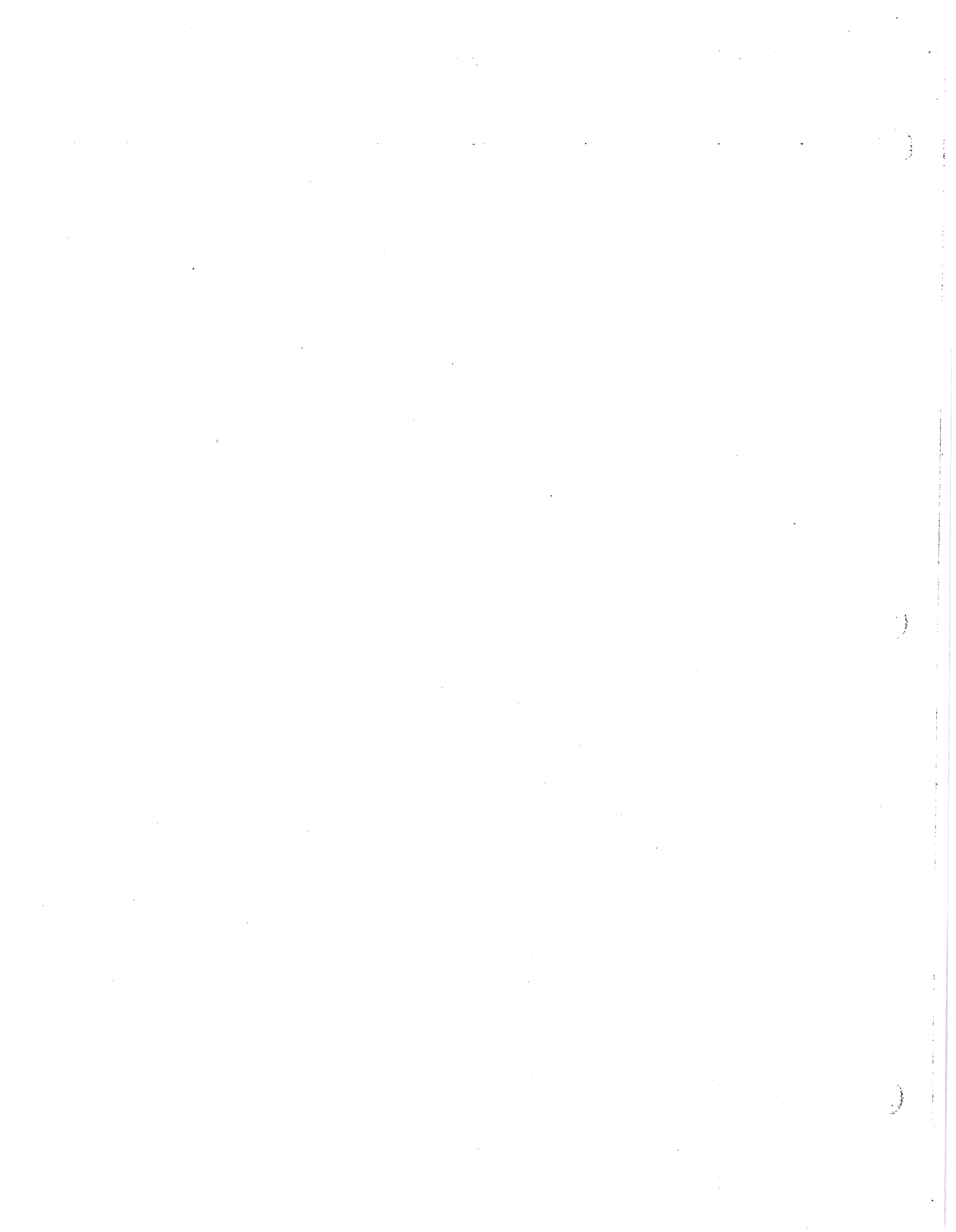
"Speech-language services" may include the following:

- a) Identifying if a child has a speech or language impairment;
- b) Identifying which particular speech or language impairment a child has;
- c) Providing speech and language services to improve a child's existing speech problem or prevent further problems;
- d) Referring the child for medical or other professional attention necessary for improve or remedy the child's speech or language impairment; and/or
- e) Providing counseling and advice to parents, children, and teachers regarding speech and language impairments.

TRANSITION SERVICES:

Coordinated activities and services for a child with a disability that help the child to move from school to post-school activities after graduation. Transition services include

vocational training, life skills training, independent living services, and supported employment services.



Appendix



APPENDIX

The reauthorization of IDEA in 2004 and the subsequent NJAC adopted regulations begin to address allocation of funds and quality and delivery of services. Most noted are the areas of:

- Training
- Early Intervening Services
- Parental Involvement
- Transition Services
 - Early Intervention (birth -3 programs)
 - Post Secondary
- Assistive Technology

Training/Professional Development

IDEA 2004 aligned teacher preparation with the “highly qualified” definition of ESEA. IDEA awards personnel development grants to improve services and results for children with disabilities. Grants are to be awarded to assist with the development of skills in the following training areas in an effort to maintain effectiveness:

- To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children.
- To encourage increased focus on academics and core content areas in special education personnel preparation programs.
- To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.
- To ensure that all special education teachers are highly qualified.
- To ensure that pre-service and in-service personnel preparation programs include training in the use of new technologies; the area of early intervention, educational, and transition services; effectively involving parents; and positive behavioral supports.
- To provide high-quality professional development for principals, superintendents, and other administrators, including training in instructional leadership; behavioral supports in the school and classroom; paperwork reduction; promoting improved collaboration between special education and general education teachers; assessment and accountability; ensuring effective learning environments; and fostering positive relationships with parents.

The Secretary of Education shall support not less than one of the following activities: ...
Developing, evaluating and disseminating innovative models for the recruitment, induction, retention and assessment of new, highly qualified teachers to reduce teacher

shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

IDEA charges the SEA to establish and maintain qualifications to ensure that personnel necessary to carry out Part B are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. IDEA includes qualifications for related services personnel and paraprofessionals that:

- Are consistent with any state-approved or state-recognized certification, licensing, registration or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;
- Ensure that related services personnel who deliver services in their discipline or profession meet the requirements of IDEA and have not had certification or licensure requirements waived on an emergency, temporary or provisional basis; and
- Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation or written policy, in meeting the requirements of Part B to be used to assist in the provision of special education and related services to children with disabilities.

NJAC 6A:14-1.2 recognizes the charge from the Federal Regulations:

The in-service training needs for professional and paraprofessional staff who provide special education, general education or related services are identified and that appropriate in-service training is provided;

The district board of education shall maintain information to demonstrate its efforts to:

- (1) Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities;
- (2) Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of students with disabilities that impedes the learning of students with disabilities and others;
- (3) Acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources and how the district will, if appropriate, adopt promising practices, materials and technology;
- (4) Insure that the in-service training is integrated to the maximum extent possible with other professional development activities; and
- (5) Provide for joint training activities of parents and special education, related services and general education personnel;

NJAC 6A:14-3.1

Child study team members and, to the extent appropriate, specialists in the area of disability:

May provide services to the educational staff with regard to techniques, materials and programs. Services include, but are not limited to, the following:

Consultation with school staff and parents;

Training of school staff; and

The design, implementation and evaluation of techniques addressing academic and behavioral difficulties.

Reallocation of Resources/Early Intervening Services

IDEA 2004:

Adds "early intervening services" to the statute under local education agency (LEA) eligibility.

An LEA may not use more than 15 percent of the amount it receives under IDEA Part B for any fiscal year, to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

Allows activities in implementing coordinated, early intervening services by LEAs.

- Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

Establishes reporting requirements.

Each LEA that develops and maintains coordinated, early intervening services shall annually report to the state education agency (SEA) on:

- The number of students served; and
- The number of students served who subsequently receive special education and related services under IDEA during the preceding two-year period.

Establishes coordination with the *Elementary and Secondary Education Act* (ESEA) of 1965.

Funds made available may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, ESEA if such funds are used to

supplement, and not supplant, funds made available under ESEA for the activities and services.

Permits the use of funds for early intervening services.

Funds provided to the LEA under Part B may be used to develop and implement coordinated, early intervening educational services.

Requires early intervening services in the case of significant disproportionality. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, the state shall require any LEA identified to reserve the maximum amount of funds to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly children in those groups that were significantly over identified.

Disproportionate Representation of Minority Students in Special Education and Gifted and Talented Programs and Multicultural Issues

Disproportionality Regulation in IDEA '97

(a) General. Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State or in the schools operated by the Secretary of the Interior with respect to-

- (1) The identification of children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602 (3) of the Act; and
- (2) The placement in particular educational settings of these children.

34 CFR 300.755

(b) Review and revision of policies, practices, and procedures

In the case of a determination of significantly disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior shall provide for the review and, if appropriate revision of the policies, procedures, and practices comply with the requirements of Part B of the Act.

34 C.F.R. 300.75

Parent Rights/Training

SEC. 671. <<NOTE: 20 USC 1471.>>

(b) (4) assist parents to--

“(A) better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

“(B) communicate effectively and work

collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

“(C) participate in decision making processes and the development of individualized education programs under part B and individualized family service plans under part C;

“(D) obtain appropriate information about the range, type, and quality of--

“(i) options, programs, services, technologies, practices and interventions based on scientifically based research, to the extent practicable; and

“(ii) resources available to assist children with disabilities and their families in school and at home;

“(E) understand the provisions of this title for the education of, and the provision of early intervention services to, children with disabilities;

“(F) participate in activities at the school level that benefit their children; and

“(G) participate in school reform activities;

“SEC. 672. <<NOTE: 20 USC 1472.>> COMMUNITY PARENT RESOURCE CENTERS.

“(a) Program Authorized.--

“(1) In general.--The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support community parent resource centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of limited English proficient children, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities--

“(A) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

“(B) to be prepared to lead productive independent adult lives, to the maximum extent possible.

“(2) Definition of local parent organization.--In this section, the term ‘local parent organization’ means a parent organization, as defined in section 671(a)(2), that--

“(A) has a board of directors the majority of whom are parents of children with disabilities ages birth

through 26 from the community to be served; and
``(B) has as its mission serving parents of children
with disabilities who--
``(i) are ages birth through 26; and
``(ii) have the full range of disabilities
described in section 602(3).

``(b) Required Activities.--Each community parent resource center
assisted under this section shall--

- ``(1) provide training and information that meets the
training and information needs of parents of children with
disabilities proposed to be served by the grant, contract, or
cooperative agreement;
- ``(2) carry out the activities required of parent training
and information centers under paragraphs (2) through (9) of
section 671(b);
- ``(3) establish cooperative partnerships with the parent
training and information centers funded under section 671; and
- ``(4) be designed to meet the specific needs of families who
experience significant isolation from available sources of
information and support.

``SEC. 673. <<NOTE: 20 USC 1473.>> TECHNICAL ASSISTANCE FOR PARENT
TRAINING AND INFORMATION CENTERS.

``(a) Program Authorized.--

``(1) In general.--The Secretary may, directly or through
awards to eligible entities, provide technical assistance for
developing, assisting, and coordinating parent training and
information programs carried out by parent training and
information centers receiving assistance under section 671 and
community parent resource centers receiving assistance under
section 672.

``(2) Definition of eligible entity.--In this section, the
term 'eligible entity' has the meaning given the term in section
661(b).

``(b) Authorized Activities.--The Secretary may provide technical
assistance to a parent training and information center or a community
parent resource center under this section in areas such as--

- ``(1) effective coordination of parent training efforts;
- ``(2) dissemination of scientifically based research and
information;
- ``(3) promotion of the use of technology, including
assistive technology devices and assistive technology services;
- ``(4) reaching underserved populations, including parents of

low-income and limited English proficient children with disabilities;

``(5) including children with disabilities in general education programs;

``(6) facilitation of transitions from--

``(A) early intervention services to preschool;

``(B) preschool to elementary school;

``(C) elementary school to secondary school; and

``(D) secondary school to postsecondary environments; and

``(7) promotion of alternative methods of dispute resolution, including mediation.

``(c) Collaboration With the Resource Centers.--Each eligible entity receiving an award under subsection (a) shall develop collaborative agreements with the geographically appropriate regional resource center and, as appropriate, the regional educational laboratory supported under section 174 of the Education Sciences Reform Act of 2002, to further parent and professional collaboration.

Accountability

IDEA 2004:

Removes the IDEA's reference to "modifications in administration" regarding the assessment of children's academic achievement and functional performance. An individualized education program (IEP) must include a statement of any "appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child," rather than a statement of individual modifications in the administration of state or district wide student assessments.

Adds a reference to *No Child Left Behind* (NCLB).

All children with disabilities are included in all general state and districtwide assessment programs, including assessments of the *Elementary and Secondary Education Act*, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs (IEPs).

Adds specific requirements for state guidelines regarding alternate assessments.

State (or, in the case of a districtwide assessment, the local education agency (LEA)) guidelines developed and implemented must provide for alternate assessments that:

- Are aligned with the state's challenging academic content standards and challenging student academic achievement standards; and
- If the state has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out the ESEA, measure the achievement of children with disabilities against those standards.

The state conducts the alternate assessments described above.

Expands requirements for reporting.

The state education agency (SEA) (or, in the case of a districtwide assessment, the LEA) makes available to the public and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- The numbers of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments;
- The number of children with disabilities participating in alternate assessments that are aligned with the state's challenging academic content standards and challenging student academic achievement standards; and the number of children with disabilities participating in alternate assessments aligned with alternate achievement standards; and
- The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

Includes changes to the individualized education program (IEP).

The IEP must include the following:

- For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives (within the required statement of a child's present levels of academic achievement and functional performance);
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments consistent with IDEA; and
- If the IEP team determines that the child shall take an alternate assessment on a particular state or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment, and the particular alternate assessment selected is appropriate for the child.

Postsecondary Transition Services

IDEA 2004:

Adds "further education" of children with disabilities to the IDEA's purposes.

The purpose of IDEA is to ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.

Changes the definition of "transition services."

The term "transition services" means a coordinated set of activities for a child with a disability that:

- Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult services; independent living or community participation;
- Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Requires changes to performance goals and indicators.

The state has established goals for the performance of children with disabilities in the state that ... address graduation rates and dropout rates, as well as such other factors as the state may determine.

Exception to requirements for evaluation before a change in eligibility.

The evaluation shall not be required before the termination of a child's eligibility under Part B due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law.

For a child whose eligibility under Part B terminates under circumstances described above, an LEA shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

Changes the secondary transition requirements in the individualized education program (IEP).

- Beginning not later than the first IEP to be in effect when the child is 16 and updated annually thereafter, the IEP must include:
 - o Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills;
 - o The transition services (including courses of study) needed to assist the child in reaching those goals; and
 - o Beginning not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights under IDEA, if any, that will transfer to the child on reaching the age of majority.

Turning Three: Transition from Early Intervention Services

Transition of children from the Part C program to preschool programs.
The State must have in effect policies and procedures to ensure that--

- (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act;
- (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with §300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with §300.101(b); and
- (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.

Assistive Technology

APPENDIX G 20 U.S.C. §1401(2)

20 U.S.C. §1401(2)

- (2) Assistive technology service. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—
- (A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
 - (B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;
 - (C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - (E) training or technical assistance for such child, or, where appropriate, the family of such child; and
 - (F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

NJAC 6A:14-3.4

An initial evaluation shall consist of a multi-disciplinary assessment in all areas of suspected disability. Such evaluation shall include at least two assessments and shall be conducted by at least two members of the child study team in those areas in which they have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or as determined necessary. Each evaluation of the student shall:

1. Be conducted in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to do so;

2. Apply standards of validity, reliability and administration for each assessment by trained personnel in accordance with the protocols and instructions of the producer of the assessment;
3. Include, where appropriate, or required, the use of a standardized test(s) which shall be:
 - i. Individually administered;
 - ii. Valid and reliable;
 - iii. Normed on a representative population; and
 - iv. Scored as either standard score with standard deviation or norm referenced scores with a cutoff score;
4. Include a functional assessment of academic performance and, where appropriate, a functional behavioral assessment, an assessment of the language needs of a child with limited English proficiency, assessment of the student's communication needs, and assessment of the need for assistive technology devices and services. Each of the following components shall be completed by at least one evaluator:

NJAC 6A:14-a3.7

Consider whether the student requires assistive technology devices and services.

- i. The district board of education shall ensure that assistive technology devices or assistive technology services, or both, as defined in the IDEA, are made available to a student with a disability if required as part of the student's special education, related services or supplementary aids and services.
- ii. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the IEP team determines that the student needs access to those devices in order to receive a free, appropriate public education;