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# *Committee Meeting*

of

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

STATE TAKEOVER SUBCOMMITTEE

*“Commissioner of Education, Dr. Leo Klagholz, will present an update on the status of the State-operated districts of Jersey City, Paterson and Newark”*

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**LOCATION:** Room 319  
State House  
Trenton, New Jersey

**DATE:** February 1, 1999  
10:00 a.m.

**MEMBERS OF SUBCOMMITTEE PRESENT:**

Senator Edward T. O'Connor Jr., Co-Chair  
Assemblyman Kevin J. O'Toole, Co-Chair

**ALSO PRESENT:**

Melanie M. Schulz, Executive Director  
Joint Committee on the Public Schools



*Meeting Recorded and Transcribed by*  
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**SENATOR EDWARD T. O'CONNOR JR. (Co-Chair):** Good morning, ladies and gentlemen. The Joint Committee on the Public Schools -- the State Takeover Subcommittee will now come to order.

My name is Ed O'Connor. I am a State Senator from the 31st Legislative District in Jersey City. We're the home of the oldest of the three State-operated school districts. We're happy this morning to welcome Commissioner Klagholz and members of his staff here.

Basically they will give us an overview of where we are on the State takeover schools, how we got there, how we're doing, and what the prospects are for the future.

Good morning, Commissioner. We look forward to hearing from you.

Assemblyman O'Toole, would you care to make a statement?

**ASSEMBLYMAN KEVIN J. O'TOOLE (Co-Chair):** Sure. Thank you very much, Senator.

Good morning, Commissioner.

**COMMISSIONER LEO F. KLAGHOLZ:** Good morning.

ASSEMBLYMAN O'TOOLE: I want to thank you for taking your time. I know you've had a difficult couple of weeks. I certainly appreciate you coming here today and talking about this very serious issue that is confronting all of us.

I look forward to serving with the Senator from Jersey City. We have a common concern, he from Hudson and me from Essex County. We are very much concerned about our children here in New Jersey and the future

that the State takeover districts have for them whether it be in Jersey City, Paterson, or in Newark.

I look forward to working with you, your staff, working with this Committee, and members of the public so that we can see that all of our children get a very quality education and, hopefully, within time, find the State withdrawing their support and guidelines and having local control resume at some point in time.

COMMISSIONER KLAGHOLZ: Well, thank you Senator O'Connor and Assemblyman O'Toole. We appreciate having this opportunity to discuss the State operation of failing school districts. Accompanying me this morning are Douglas Groff, to my left, your right. He is Assistant Commissioner for Executive Services. And then Ron Brady, to my right, is Director of the Office of State Operated School Districts.

There have been significant developments in the State operation of school districts over the past several years. Those developments have led the State Board of Education's Committee on State-operated School Districts to begin working on a plan for returning the Jersey City School District to local control. Given those developments, I believe that the way I can be most helpful this morning is to use Jersey City to illustrate the events that brought us to this point and to identify major issues as they relate to the existing statute.

I will begin by talking about the progress and status of the Jersey City district.

As Senator O'Connor mentioned, Jersey City was the first to be taken over by the State in 1989. At the time, corruption and mismanagement

in the district's central office was well documented in the State's investigative report. The district was routinely used as a source of unnecessary, noneducational jobs and illicit financing by the municipal government, which was entangled politically with the district's administration and its teachers union. The updated copy that you'll get in a few minutes will have attached to it an excerpt from that investigative report.

At the time of State takeover, the district met only 37 percent of the State's certification standards -- the requirements for accreditation. Its student test scores ranked at or near the bottom statewide and among the largest of the State's urban districts. Its dropout and attendance rates were consistently below State standards.

From 1990 to 1994, the State-appointed district leadership focused on addressing the immediate causes of the takeover. That was central office corruption and mismanagement. Reorganized and freed from corrupt local influences, the district management, under State supervision, then implemented several districtwide educational improvement initiatives. However, we reported in 1994 that while important and necessary, those efforts had not alone produced adequate improvements in student performance indicators, that is, test scores, attendance rates, or dropout rates.

Therefore, we required the State-operated districts, all of them including Jersey City, to engage in a strategic effort to improve these indicators at the school level. This effort involved annually doing the following: identifying low-performing schools; analyzing the problems of each school whether it be leadership, staffing, materials, programming, methodology, and alike; implementing school-level and classroom-level strategies to address each

of the identified problems; analyzing the resultant year-end performance data; and finally, adjusting the strategies for the following year based on the previous year's analysis.

Through this process, the district has progressed steadily over the past three years. This year's report, which was presented last month to the State Board of Education, showed that the district now meets virtually all applicable State certification standards. For the first time in many, many years, it has achieved standards for student attendance and dropout rates.

I'll stop if you want to transition to-- It's Page 2, midway through the third paragraph. (referring to statement)

For the first time in many years, it has achieved standards for student attendance and dropout rates. It also met State standards for student performance, which is 75 percent passing, on the eighth-grade test in reading and math. Although the passing rate in writing dipped below 75 percent this year, it exceeded that requirement in three of the four previous years. The district's current passing rates of 75 percent in reading, 70 percent in math, and 78 percent in writing do not meet State requirements. This is the only area left. However, significant progress in this area is masked by the fact that the rules have been changed since the district was taken over. The difficulty of the content of the twelfth-grade test was increased significantly, and the State standard for proportion of students passing was raised from 75 percent to 85 percent.

Clearly, State operation of the Jersey City School District has succeeded and achieved its intended purposes. Particularly, in contrast to the corruption, mismanagement, and complete educational bankruptcy that

existed before State operation, the magnitude of the improvements made, both in management and education, are unprecedented and nothing short of monumental.

I'd like to talk not about the rationale for beginning to return Jersey City to local control--

The State takeover statute references a presumed period of five years of State operation. After that initial period, the district is returned to local control if it meets applicable State certification standards. If it does not, then the Commissioner of Education must provide the State Board of Education with an annual report on the district's progress. Based on that report, the State Board must determine, each year, whether to continue State operation or reestablish local control. In light of the recent annual report, there are four major reasons to consider restoring local control at this time.

First, the problems that originally caused the State takeover have been corrected. Under the statute, a district may not be taken over simply because it fails to meet State certification standards generally or student performance standards specifically. Indeed, 44 locally operated districts in the state currently do not meet one or more of the State certification standards. State takeover is triggered, instead, by a persistent lack of progress toward meeting standards and a demonstrated inability or unwillingness on the part of district management to foster needed progress. Clearly, the problems that caused the State to takeover the Jersey City School District, persistent lack of progress and an unwillingness to make progress, have been corrected.

Second, although the district was not taken over for failing to meet State certification standards per se, it now meets virtually all of the applicable

standards. Also, where standards are not met, that is on the twelfth-grade test, significant improvement has been made even though State standards have been raised substantially since the district was taken over. Had the test content and standards not been altered, the district would now meet all applicable State certification standards. And even so, other districts in similar circumstances, with respect to the change standard, are conditionally certified by the State.

Third, in order to achieve ultimate success, and that is to provide a thorough and efficient education in the ideal form, the district must be transitioned to a more participatory form of governance and management. Research shows that maximum gains in student achievement require local commitment, initiative, and buy-in, a key principle of whole-school reform. Yet, despite its clear success in Jersey City, State takeover is inherently a top-down and somewhat adversarial approach to improvement. While takeover, obviously, is necessary in cases where the school board of a failing district blatantly and continually disregards children's educational needs, it is not the model of governance and management that will carry the district to ultimate educational success, as I mentioned, a thorough and efficient education. In fact, in its recent *Abbott* decision, the Supreme Court found that such success, defined as students' achievement of the State's core curriculum standards, depends on participatory school-level management and whole-school reform.

Finally, it is inadvisable for the State to maintain full, direct control of a district longer than is necessary. The State must direct its attention proportionally to the problems of all districts. Full State operation of a single district significantly limits our ability to do so, a problem that

cannot be solved simply by increasing the Department's resources, which has actually, occurred. There is a point of diminishing returns at which increased resources produce a large bureaucracy with its own inherent problems of organization and quality control. It is fair to say that, given recent improvements, there are now other locally operated districts in the state performing at a lower level than Jersey City. While it is far from clear that any need to be taken over, they do require more attention.

It is worth noting, as we consider restoration of local control, that if the State Board were to restore local control in Jersey City, that would mean, essentially, that the school board members would be selected locally, either by general election or by municipal appointment, rather than being appointed by the Commissioner of Education. It would also mean, at the most basic level, that the local board, rather than the Commissioner, would then hire and supervise the superintendent and approve his or her decisions. The statute requires that when the decision is made to return a district to local control, the local community must decide, through referendum, whether the school board will be elected or appointed.

Concern has been expressed over the possibility that if local control were restored in Jersey City, the district might quickly revert to the same circumstances of corruption and mismanagement that led, originally, to takeover.

It is important to recognize, we think, that the takeover statute provides that the local board shall be elected locally, rather than appointed by the Commissioner, in the fourth year of State operation. Therefore, the Jersey

City School Board is already a locally selected board. Our experiences with the local selection process have provided two important lessons.

First, fears of a reversion to pretakeover problems are not unfounded. Without question, the current municipal administration, unlike its predecessors, has supported and advocated educational reform and improvement, and it has scrupulously avoided interfering with district governance and management. Yet, we are told that the current locally elected board includes some members who won the election with the support of the teachers union which, at times, has shown a willingness to subjugate students' educational interests to other considerations. And I want to say at times because most of the time there has been a considerable effort in the city on the part of all who are participating to improve students' education. To an extent, there is progress to credit -- deserves to be spread around and yet there have been instances where we've seen this. Even the former superintendent, whose failed administration led to takeover and whose removal was a primary consequence of takeover, has been elected to the board through the local political process.

Secondly, though, elections of the current Jersey City School Board have also shown that the local selection process is not the main issue. Indeed, in all likelihood, there is no method of selecting board members that will ensure the appropriations of their future decisions. Instead, the more important issue is the amount of authority the board has and the kinds of checks that are placed on the exercise of that authority.

The current board in Jersey City has no ultimate authority. Although it votes on proposals placed before it, the superintendent, with

administrative approval of the Commissioner, can veto any actions of the board he deems inappropriate. While that kind of blanket check prevents the implementation of inappropriate decisions, it is so sweeping as to constitute a form of State operation, not local control. The challenge of transitioning away from State operation in Jersey City is to devise a system of checks and balances that provide what reasonably might be described as local control while also minimizing the possibility of an accumulation of inappropriate decisions that would amount to the same circumstances that existed prior to, and caused, the State takeover.

The basis for establishing such a system of checks and balances is provided by the Comprehensive Educational Improvement and Financing Act, CEIFA, and the Supreme Court's 1998 *Abbott* decision. CEIFA charges the Commissioner of Education with intervening selectively in the decisions and policies of any district that has three consecutive years of failing test scores. And by selectively -- what the law does is that if the problem is financed in the budget, intervene in the budget. If it's that the teachers need training, intervene in that way, rather than take over the whole thing. The *Abbott* decision assigns to the Commissioner an essential and affirmative role in taking whatever actions are needed to ensure educational success in all of the *Abbott* districts, of which Jersey City is one and so is Newark and Paterson for that matter.

Given CEIFA and *Abbott*, restoring local control in Jersey City would not mean, and could not mean, the same thing today that it would have meant five years ago. Both CEIFA and *Abbott* redefine local control in ways that they themselves discourage the conditions that warrant takeover from

materializing in the first place. They also, therefore, provide the basis for developing and implementing special checks and balances that might be needed to transition a State-operated district back to local control where there are justified fears of a reversion to pretakeover problems.

As I noted at the outset, in view of all these considerations, the State Board of Education's Committee on State-operated School Districts, following its receipt of this year's annual report, has asked us to assist it in developing a plan for transitioning the Jersey City School District to local control. Specifically, the Committee has asked us to propose a timetable and sequence of steps for this gradual transition. It has also requested the identification of the following measures that could be implemented, where necessary, after local control is reestablished: a method by which the Department of Education would continually monitor the actions of the board; a procedure by which the Department could expeditiously overrule any specific future actions of the local board that are considered inappropriate; a procedure by which the Commissioner, with approval of the State Board, might remove or otherwise sanction individual board members; and fourthly, a procedure by which the Commissioner, with approval of the State Board, could expeditiously resume direct control of specific operations, as CEIFA indicates, or areas of functioning of the district central office.

The letter from the Chairman of the Board's SOSD Committee is attached to the testimony saying, essentially, those things.

Based on information that we will supply to the SOSD Committee, the Committee will formulate a recommendation for consideration by the full board as to whether the Jersey City School District should be returned to local

control and, if so, through what process and under what conditions. We expect to respond to the Committee by mid-March. We'd like to keep this Subcommittee informed of our report and our recommendations as we develop them.

And again I appreciate the opportunity to provide this important update, and I would be very pleased to discuss these matters with you at this time.

ASSEMBLYMAN O'TOOLE: Just a couple of questions, Commissioner. I certainly appreciate your report.

Other than the inability of the State or Jersey City to attain success in the twelfth-grade testing-- I know the standards have changed a little bit. Have we failed to meet or have we met the other standards? You see, virtually all other applicable State certification standards have been met other than that twelfth-grade test that you spoke about. Are there any other tests that we're talking about that we've failed to meet the appropriate standards?

COMMISSIONER KLAGHOLZ: Just-- On the EWT-- The district was meeting the EWT writing standard for three years. And then this year it met, finally, reading and math, but it was slightly below on EWT. So that's the only other one.

And then, finally, facilities is the other one, but the statute doesn't allow the State to take over facility problems because they're largely not the problem -- a problem the district has within its wherewithal to solve. So that, too, is not met but is not applicable to this alone.

ASSEMBLYMAN O'TOOLE: Follow-up question-- It's really a global policy question.

What really brings about the starting of this withdrawal from Jersey City? Is it really based on the economies of what your office can do? There are other priorities throughout the State. Do you really believe, at this time, that you've achieved such a level of success and this law of diminishing returns has come into play that there is not much more you can do?

COMMISSIONER KLAGHOLZ: Yeah, I think that's right at the heart of it. What the statute says is that if, after five years, the district has achieved -- met all State standards, they go back. If they haven't, then it's up to the State Board to make a judgement call as to whether to give them back the four reasons that we think it's worth considering. And that's where we are with it. It's worth considering.

One is that the problems that led to the takeover have been solved, the central office problem.

Secondly, although State certification standards -- failing to meet them didn't cause takeover, they are, practically, all met, not on the HSPT, but it is very close even there. And that is despite the fact that we changed the standards.

And then the other two reasons are-- When we went through the whole *Abbott* process with the Supreme Court where they asked us to present research on what works in improving urban districts, one of the things that the research said and the Court accepted was that you can't do it in a top-down way. Eventually, you've got to build this involvement school by school by school by school. You'll get to a point without doing that-- But if people are standing on the sidelines either apathetic or, even worse, resisting what you're

trying to do, it's not going to go the distance. So, at some point, you've got to transition to that.

And then the final one is the one you mentioned. There are many districts in the state that require attention. I mentioned 44 that don't meet one or another standard. I say that in response to the point that we've heard sometimes, "What's the harm, why don't you stay in forever?" I've heard literally that, "Stay in forever." The harm is that once the district is to the point that you've exhausted it and the model that is needed now is participatory, there is harm in continuing to pursue the same State takeover approach, both to the district that could benefit from participatory involvement and to all other districts that have problems that might get the attention that we could give them.

ASSEMBLYMAN O'TOOLE: Commissioner, the last question I have and, obviously, the most troubling that we have to face in the future is that if and when this goes to local control, how do we protect against the problems of the past?

You talk about what the *Abbott* decision -- and CEIFA gives you the tool by having the essential and affirmative role in doing whatever action is necessary. I am just curious-- What, exactly, does that mean? Because I will tell you that I am troubled if we have to return to the days that we've seen in Newark and Jersey City and Paterson when it was a pay-to-play in purchasing. You had principals being made on what was given -- money under the table -- all kinds of allocations that we've heard that were outrageous at the expense of the education of our children.

So how do we protect against those dangers in the future?

COMMISSIONER KLAGHOLZ: I think they're wrong, but the boards -- school boards in all 28 *Abbott* districts, given the Court's decision and our implementation of it, have been saying they've been left out of the process. While I don't think that's true, it's not entirely false. Because what the Court said to us is that, "Just as funding of urban education is the State's responsibility, so is everything else the State's responsibility. And if it is working, it is okay to delegate it to the local school board, but if it is not, it is not okay. And without going through this whole takeover thing, Commissioner, you've got to keep tabs on this and make sure the right thing gets done in each and every case."

Well, what local control-- We can say, for example, that East Orange is under local control and Newark is not, but the differences between those two things, given *Abbott*, have been dissolved to a large degree.

And so, our responsibility for all 28 is just that, very close involvement. We're deferring, as long as there is latitude for judgement that does no harm, but if we see harm we're going to say, "That's not the decision. This is the decision."

ASSEMBLYMAN O'TOOLE: Well, I look forward to those recommendations in the middle of March.

That is all I have, Senator.

COMMISSIONER KLAGHOLZ: Thank you.

SENATOR O'CONNOR: All right.

Commissioner, it seems that when we enacted the State takeover legislation, we spent a lot of time and there was a lot of detail given to the criteria and all in terms of when the State should come in and take over

districts. Yet, it seems that one of the areas that we were really deficient on was this whole area now that we're paying attention to of what you have to do to get yourself out of a district that you've taken over.

This is going to take legislation, I take it. And that's what you're going to be recommending to the Committee.

COMMISSIONER KLAGHOLZ: I think, ultimately-- My feeling on this one, for your consideration-- My recommendation would be to let this Jersey City thing complete the first cycle where we go, under the current statute, from takeover to restoration of local control. And predicated on that, then we would make recommendations to you as to how to adjust the statute. If you ask me now, my answer will be less informed than it will be in two months when we've refined some of this.

SENATOR O'CONNOR: What about the other two districts? Where are they in terms of their eventual conclusion as State-operated districts?

COMMISSIONER KLAGHOLZ: Paterson is not as far along as Jersey City but further along than Newark. So there appears to be, on the surface examination at least, a relationship between the length of time the district has been under State operation.

But Paterson-- There is clear progress. It's interesting because it is somewhat different from Jersey City's in that-- Jersey City made across-the-board progress, and Paterson started making progress in the lower grade first and then the middle grades and needs to show more progress at the high school level. I don't know that one is better than the other, but there are two different approaches.

I'm optimistic, though, given what we've -- what's occurred in Jersey City that if we follow a similar course in Paterson and Newark, I'm confident in the leaders in both of those districts that we'll get there.

SENATOR O'CONNOR: When the Jersey City district was taken over, it was the first district in the entire country that had ever been taken over by a state. Have other states followed New Jersey's lead in this area?

COMMISSIONER KLAGHOLZ: Yes, they have. Ohio is a good example where they have, but others have, as well. In fact, I attended a conference this winter of the -- last month, I believe, of the Education Commission of the States, which is all the governors and education commissioners and state boards. I was asked to talk about State takeover because, virtually, all states are considering that as one of the options that they have to consider.

SENATOR O'CONNOR: Is the New Jersey experience, then, looked at in a positive light, nationally?

COMMISSIONER KLAGHOLZ: Well, not entirely. There is, obviously, just as in this state, resistance to the idea and, I think, a distaste for it. Yet, the recognition that sometimes this may be necessary-- And when it's necessary is not just when-- If you have a district management and board that's trying to do the right thing and not succeeding, what they need, mainly, is help. But if you -- in those few instances where the lack of progress is really -- can be shown in a court, in effect, is due to an unwillingness of the board to even try because they are engaged in other things, I think there is a recognition in that extreme circumstance that you -- that that action is needed by the State, not because the State has the answers -- I think no one has the answers,

or we wouldn't have these problems across the country -- but because of the State's constitutional responsibility.

SENATOR O'CONNOR: Well, like Assemblyman O'Toole, we look forward to working with you as we get into this process, and we'll, certainly, welcome your recommendations when they arrive.

COMMISSIONER KLAGHOLZ: We should present them in a couple of months I would say.

Thank you very much.

MS. SCHULZ (Executive Director): Thank you, Commissioner.

**(MEETING CONCLUDED)**