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1 NEW JERSEY SENATE EDUCATION COMMITTEE TENURE HEARING

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Thursday, December 9, 2010

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Trenton, New Jersey

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7 **PANEL PRESENT:**

SENATOR M. TERESA RUIZ, Chairwoman

8 SENATOR JIM WHALEN, Vice Chairman

SENATOR THOMAS H. KEAN Jr.

9 SENATOR DIANE B. ALLEN

10 **ALSO PRESENT:**

CHRISTINE SHIPLEY, Republican Staff

11 SARAH HAIMOWITZ, Committee Aide

ANITA M. SAYNISCH, Committee Aide

12 OSOMO THOMAS, Democratic Staff

13 HELD AT: State House Annex

Committee Room 6

14 Trenton, New Jersey

15 REPORTED BY:

Renée Helmar, Shorthand Reporter

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TESTIFIER

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3 NEW JERSEY DEPARTMENT OF EDUCATION

CHRISTOPHER EMIGHOLZ, Director of Legislative

4 Affairs and

KATHLEEN DUNCAN, Director of Controversies and

5 Disputes and

ERIC TAYLOR, Director of Statute

6 and Code Review

7 SENATOR MICHAEL JOHNSTON, Colorado State Senator

8 DANIEL WEISBERG, Vice President, Information Technology, the New Teacher

Project

9

NEW JERSEY EDUCATION ASSOCIATION, BARBARA A.

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1 (Whereupon, the proceedings
2 began at approximately 10:10
3 a.m.)
4 **SENATOR M. TERESA RUIZ (Chair):** Good morning, everyone, and
5 welcome to the December 9th Education Committee Tenure
6 Hearing.
7 Before I present my opening remarks -- roll call.
8 MS. SAYNISCH: Senator Kean?
9 SENATOR KEAN: Here.
10 MS. SAYNISCH: Senator Allen will be arriving
11 shortly.
12 Senator Turner? (no response.)
13 Senator Whalen?
14 SENATOR WHELAN: Here.
15 MS. SAYNISCH: Senator Ruiz?
16 SENATOR RUIZ: Here.
17 Good morning, everyone. I just want to take this
18 opportunity to thank all of the individuals that, up to this
19 process, have really helped to create what we will see today
20 unfold in a conversation about change, a conversation that
21 will ensure that our children come first.
22 In 1909, New Jersey passed the first tenure bill
23 system. And while several amendments have been made
24 throughout this century, there is still one cry of call,
25 whether you are a practitioner, whether you're a student,
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1 whether you're a principal, whether you're a union, whether
2 you're a parent -- it's that something needs to change.
3 And that certainly today we have brought together
4 experts from all levels -- whether from inside of the
5 classroom or from advocacy groups -- that will share with us
6 tenure through their eyes: the obstacles, the pitfalls, the
7 challenges, and how that we can use today's Committee
8 hearing as my launching pad to create a tenure process that
9 will put our students first.
10 When we talk about a teacher in a classroom, I
11 always say that it is the most important career in any way,
12 shape or fashion. We are creating the foundation for the
13 future.
14 And it doesn't matter where you're from -- a
15 suburban region or an urban region, if you're a parent, if
16 you're an advocate or if you're a student, we always point
17 to one solid thing, a good teacher, a good leader makes
18 great change.
19 And that without question, if we all come together
20 and coalesce that one single promise, we can create some
21 dramatic, positive change, because certainly this is about a

22 positive conversation. It's about supporting and respecting
23 teachers across the board. It's about looking at good
24 leaders and good principals from all walks, whether they are
25 traditional charter schools or in public schools, or in the
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1 private sector and saying that, "We're here to support the
2 work that you do."

3 And as I look out into the audience, I see
4 friends who really have watched me grow up, and educators
5 and leaders like Mike Pallante, who has had tremendous
6 experience in both worlds of both the charter and
7 public schools, and really creating effective change. And a
8 man, who, without question, is synonymous with
9 putting education forward, and that's Steve Aduvato.

10 And we would not be here today if it wasn't for
11 the work of people like Osomo Thomas and Mary and Kathleen,
12 and all the members and staff in my office who really are
13 energized about the possibilities that we have before us.

14 So that being said, I look forward to rolling up
15 my sleeves after the hearing. I look forward to learning.

16 I wish I was an expert in this. I wish I had the
17 answer today. I don't. But I do know one thing, that
18 something's got to change, and that our students can't wait
19 any longer.

20 Without further ado, I would like to invite the
21 Department of Education for their testimony.

22 **CHRISTOPHER EMIGHOLZ:** Good morning, Chairwoman Ruiz.
23 Thank you very much for the invitation to testify.

24 And I wanted to start, on behalf of the New Jersey
25 Department of Education, to just say thank you. We think you
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1 and this entire Committee deserve a ton of credit for pushing
2 this very important discussion forward. As you said, it's a
3 necessary discussion. Something needs to change.

4 Many people in the room might have different ideas
5 on what needs to change, but we need to start working on
6 what that change will be. So we appreciate this hearing.
7 We think it will be a great step forward.

8 We believe tenure reform is necessary for our
9 children -- to make education and educational people involved
10 in the profession focused on effectiveness. We believe it
11 is necessary for our taxpayers. We believe it's necessary for
12 our state and our nation to compete more effectively with other
13 states, other nations.

14 As we get into tenure reform, I do not want to
15 forget that there are many excellent educators throughout
16 the state. And when we talk about tenure reform, we're not
17 saying that we don't have excellent educators, we're not
18 saying that we should ignore them. I think tenure reform
19 actually recognizes them. I think tenure reform will
20 actually encourage them to stay in the classroom, encourage
21 them to-- We're embracing their effectiveness, we're
22 embracing the good things that they do and just hope that more
23 people can get to that level, and we can't forget that. We
24 would be remiss if we forget about the excellent educators
25 that we do have.

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1 But we do all know that not every educator is
2 excellent. And if there is any educator that is impeding or
3 slowing or delaying the growth and potential of any student
4 in New Jersey, we need to address that. And I don't think
5 the State's been vigorous and aggressive enough in
6 addressing the ineffective educators that we have in this
7 state.

8 An example of that is some research that we've
9 done. In the year 2008, the State of New Jersey had 35
10 tenure cases open. That is approximately-- That is,
11 out of approximately 230,000 public school employees in the
12 State of New Jersey, there were 35 tenure cases opened.
13 That's 0.015 percent, or less than 2 in every 10,000
14 educators where tenure charges or dismissal was sought.
15 Think about that again: Two -- less than 2 in every 10,000
16 educators where a school district sought their dismissal.

17 I don't think that you're going to see that in any
18 profession anywhere. And I know that we can't say that 9,998
19 of those 10,000 educators are doing an excellent job and are
20 letting all their students reach their growth or reach their
21 potential. So we know something -- again, just as the
23 Chairwoman said at the beginning, something needs to change.

24 The one thing we really want to change is, we need
25 to make the system more based on effectiveness.

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1 One thing that is startling -- and you're going
2 to hear from Kathy Duncan and Eric Taylor in a little
3 bit -- but going through the Department of Education, we've
4 heard that it's very, very rare to see cases -- in the
5 tenure parlance it's *inefficiency*. Most tenure cases
6 are about conduct unbecoming or basically poor behavior.
7 But probably about one a year is inefficiency or
8 ineffectiveness.

9 So one teacher a year a school district seeks to
10 dismiss because they're not effective at teaching their
11 students; one a year. We need to do more because we know
12 there are teachers out there that are not effective. I
13 wouldn't say it's the majority. I think we need to do a
14 better job to figure out who is effective, but we know it's
15 more than one a year in the entire state that's doing a less
16 than effective job with their students.

17 So the Governor wants to address this. On
18 September 28 he announced plans to address educator
19 effectiveness.

20 The key part of his plan is, he wants to-- He has
21 created an Education Effectiveness Task Force, a nine-member
22 panel that's going to be looking at, how do you properly
23 evaluate teachers? That is their mission. They're not
24 looking at all the other things that may be discussed today,
25 it's how do you properly evaluate educators?

0010

1 The reason that is the first step, the reason that
2 may be the most important step, because I don't think a lot
3 of the other things that we're looking at today, and a lot
4 of the other things about tenure reform can happen until you

5 know how to evaluate teachers, until you know how to do it
6 properly, until you give those excellent teachers the credit
7 they deserve, and until you can figure out who are the ones
8 that are doing a disservice to their students.

10 So number one, how do you evaluate teachers?

11 Then number two, the Governor wants to make effectiveness
12 the critical point.

13 And so effectiveness will be what drives
14 compensation, not the years in the classroom, not the amount
15 of degrees that you have. And that effectiveness will also
16 create a career ladder opportunity for teachers, for
17 principals, for educators where they can have a chance to
18 become master teachers, can have a chance to become master
19 principals, have a chance to move up within their
20 profession, but maybe not leave the classroom that they're
21 excellent at, or the principal position that they're
22 excellent at.

23 But I don't want to take too much time talking
24 about the Governor's agenda; I don't want to take too much
25 time more about the need for tenure; what I want to do today
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1 is offer the DOE up as a resource for you. And I've worked
2 with you before, but I am not the expert or the resource
3 that you deserve, but I brought two people today, and I'd
4 like for them to introduce themselves, and then one of them,
5 Kathy, to quickly go through one of the attachments that
6 we've provided you.

7 But Kathy Duncan and Eric Taylor can help you with
8 any questions you may have about the legal aspects of
9 tenure, the process, the DOE's role in tenure. And I want
10 you to ask away, -- ask as many questions as you have, and to
11 help a little bit going forward is the testimony that we
12 provided. There are three attachments.

13 One is a statutory timeline of how tenure works;
14 one is a description of the Office of Controversies and
15 Disputes at the DOE, which is where the tenure cases go
16 through as well as all Office of Administrative Law cases,
17 OAL cases; and the third one is that 2008 summary of tenure
18 cases that I pointed out to you and how those 35 cases were
19 resolved. And I thought those would be a good resource to
20 start with.

21 But I now want to turn it over to Kathy and Eric
22 to answer your questions and to talk a little bit about how
23 tenure works.

24 And I would like to start, I think, with Kathy and
25 Eric introducing themselves, and then Kathy going through
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1 maybe that tenure timeline that is in your attachments.

2 So Kathy and Eric.

3 SENATOR RUIZ: Kathy, if you'll just, for a
4 moment -- I just want to encourage the Committee members, that
5 throughout today's testimony and at any point in time, this
6 is about a true conversation, so jump in with questions,
7 with any comments so that we can really, really begin to
8 engage in a conversation about change.

9 **KATHLEEN DUNCAN, ESQ.** Good morning. My name is Kathy

10 Duncan; I'm the director of the Office of Controversies and
11 Disputes at the Department of Education.
12 I've been a lawyer in New Jersey for 35 years,
13 all of which have involved education law in one way or another:
14 first as a private practice attorney, then as a deputy attorney
15 general assigned to represent the Department of Education,
16 then as an administrative law judge where I heard lots of
17 education cases, and now as the Director.

18 Before I went to law school, I was an
19 elementary school teacher for three years, so I know a
20 little bit about education.

21 Having been a teacher, I prepared a couple of
22 handouts for you. If you want to take a look at the one that says
23 Controversies and Disputes at the top, that will give
24 you a brief summary of my office and what it does.

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1 The kinds of cases that are within the
2 Commissioner's Controversies and Disputes jurisdiction
3 are listed in the first paragraph. I won't go through them; you can read them. They
5 start there with student discipline and go on to the end
6 of that paragraph.

7 At the bottom I've listed for you the number
8 of cases that have been opened by Controversies and
9 Disputes since 2002. The number's in parenthesis. Those
10 represent tenure charges.

11 The other handout that I prepared is called
12 Timeline for Tenure Charges.

13 The first six paragraphs there, the first six
14 boxes -- those all happen before the charges are certified
15 to the Commissioner of Education. Those all happen at the
16 district level. The timelines are all statutory, or in
17 some cases regulatory, to implement the statutory directives.

18 The first paragraph where the Commissioner
19 gets involved is the seventh one down, where the statute
20 provides that upon certification of any charge to the
21 Commissioner, the Board may suspend the person against whom
22 such charge is made, with or without pay, but if the
23 determination of the charge by the Commissioner is not made
24 within 120 calendar days after certification of the charges,
25 excluding all delays which are granted at the request of such

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1 person, then the full salary, except for the 120 days of such
2 person, shall be paid beginning on the 121st day.

3 This is one thing that makes prosecuting tenure
4 charges expensive because, if they're not completed within
5 120 days of certification to the Commissioner -- which they
6 almost never are -- then the person starts getting paid again
7 their regular salary, and that continues until the commissioner
8 issues his or her final determination.

9 SENATOR RUIZ: Kathy, if I could just -- right
10 there -- and if you would put your mic closer to you, because
11 it is difficult to hear.

12 Within that 120-day time frame, could you give a
13 -- a kind of a general analysis as to how many cases get
14 summed up within that time frame?

15 MS. DUNCAN: The ones that settle -- that's it.

16 And of those 2008 cases that Chris mentioned to
17 you earlier, 15 of those were settlements, 15 out of 35.

18 So really, that's the only practical way to get
19 the case completed within the 120-day time frame.

20 After the charges are certified to the commissioner,
21 the respondent -- the teaching staff member, or in some cases,
22 a secretary or a custodian, because they have tenure under the
23 statute -- also has 15 days to file an answer to the charges.

24 After the answer is filed, the commissioner has
25 15 days to review the charges and the answer and make a
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1 determination concerning whether if the charges are true,
2 they would warrant removal of tenure or a diminution in
3 salary. The Commissioner never takes those 15 days. We have
4 those reviewed and pretty much out of the Department of
5 Education over to the Office of Administrative Law within a
6 couple of days. So there's no delay there.

7 We have 10 days after the determination is made
8 by the Commissioner about the sufficiency of the charges to
9 then transmit them to OAL. And as I said, that doesn't happen.
10 That whole process takes place within a couple of days after the
11 answer comes in.

12 So now we're up to the 10th paragraph and that's where
13 the Department of Education loses jurisdiction for awhile.

14 Once the cases are at the Office of Administrative
15 Law, the commissioner has no jurisdiction over them.

16 The statute and the regulations require that the
17 Office of Administrative Law conduct a prehearing conference
18 within 30 days of when they get the charges. And the first
19 discovery requests are required to be issued within 30
20 days after the commissioner transmits the charges.

21 Then there is a discovery period, which was
22 within the control of the Administrative Law Judge, which
23 usually is about 60 days. It's 30, but then it can be
24 extended for another 30 for a good cause, because tenure
25 charges are complex and because they involve the teacher's
0016

1 livelihood. Frequently the discovery period
2 is extended.

3 Then the hearing is supposed to commence within 30
4 days of the close of the discovery period. The hearings,
5 depending upon the complexity of the charges, can take a few
6 days or maybe as much as 25 or 30 days of testimony.

7 After the conclusion of the hearing, the
8 parties have 15 days to produce the transcripts to the judge
9 if they wish to do that.

10 It's hard to produce the transcripts within 15
11 days, because you really have to order expedited transcripts
12 if that's going to happen, and they cost a lot of money.

13 Then they have 30 days after they get the transcripts
14 to prepare and file their briefs with the Administrative Law Judge.

15 The Administrative Law Judge, at the close of the
16 record, has 45 days to issue a decision, which isn't really
17 a long period of time for the judge, because the judge is
18 hearing all sorts of other cases in those 45-day period --
19 in that 45-day period, and must write an initial decision

20 for every single case which is heard.

21 So they have 45 days to write an initial
22 decision, which is really a recommendation of Findings of
23 Fact and Conclusions of Law to the Commissioner, and then it
24 comes back to the Department of Education.

25 So now we're back down to oh, I think, paragraph
0017

1 16. After the receipt of the Administrative Law Judge's
2 recommendations, the commissioner has 45 days to issue a
3 final decision.

4 We try very hard not to take more than 45 days.
5 You can get an extension for good cause.

6 SENATOR RUIZ: At this point in time, and
7 forgive me, because I just keep hearing segments of days -- so
8 at this point the 120 days have already expired, you passed
9 it, so now the person who is in the process of being heard in
10 -- in their fair hearing is back on the payroll?

11 MS. DUNCAN: On the 121st day -- except for any time
12 that was a delay caused at their request -- you can subtract
13 that and not pay them for that.

14 So yes, we are well beyond the 120 days at this
15 point, Senator. We have 45 days from the day that we get the
16 Administrative Law Judge's decision to assist the Commissioner
17 in preparing a final decision. And following that, if the
18 person is unhappy or the district is unhappy, they can appeal
19 to the Appellate Division. And that's basically it.

20 And all those timelines are set forth in the
21 left-hand column there for you with the statute and the
22 regulation that requires them.

23 My concern in this whole process is to ensure that
24 the process remains just and fair. Other than that, I
25 really have no official opinions.

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1 Thank you.

2 SENATOR WHELAN: Madam Chair, just a few
3 questions if I could, Ms. Duncan.

I see in 2010, you have 700 cases.

6 MS. DUNCAN: That's true.

7 SENATOR WHELAN: Which seems to be-- I mean,
8 most of the time you've been around 400, a little above, a
9 little below; and now all of a sudden you're up to 700. Is
10 there any particular reason why we've seen a jump?

11 MS. DUNCAN: Yes. The reductions in force notices
12 that went out because --

13 SENATOR WHELAN: Okay.

14 MS. DUNCAN: -- of the economic situations, anytime
15 a teacher is given a notice that they're not being renewed
16 because of reduction-- Or they're not being offered a contract
17 because of a reduction in force, a case gets filed.

18 Frequently they get resolved quickly because a
19 teacher gets recalled, but, you know, the issue there is,
20 are you violating my tenure and seniority rights? Are you
21 retaining someone else who has less seniority --

22 SENATOR WHELAN: Bumping rights and all that
23 stuff. Right.

24 MS. DUNCAN: -- and tenure? That's what those

25 are.

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1 SENATOR WHELAN: This question
2 may be better for you, Chris, I don't know. But you talk about
3 the -- only 35 tenure cases; are there any statistics or any
4 sense of how many teachers are resigning or retiring from schools,
5 you know, at the suggestion of the administration and not getting
6 caught up in the tenure system?

7 In other words, they don't want to be fired, you
8 know, someone's been there for 30 years, they're burned out,
9 the administration comes and says, "You ought to think about
10 retiring." And they say, "Okay, fine." And they go out the
11 door. Or someone not in a pension situation, but they're just
12 not making the mark and the school -- someone from the school
13 administration goes and says, "Look, we have this problem; this
14 problem; this problem, this problem; you know, we may bring you
15 up on tenure charges." And they say, "Oh, the heck with it, you know,
16 time to move on."

17 Do you have any sense of any numbers on that?

18 MR. EMIGHOLZ: That would be-- That's an
19 excellent point. That would be harder to track, because they
20 don't come through the Department of Education. And that's also-- You
21 would have to rely on districts and you would have to reach out to
22 almost 600 districts that we have in the state and find
23 out if that's happening. I'm sure it is happening.

24 As we talked about many of the tenure cases, once
25 they go there, then there might be a settlement that involves

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1 somebody deciding to just leave or resign.

2 But, yes, unfortunately, we don't have that
3 data because it's a little more cumbersome
6 to get that.

7 SENATOR WHELAN: Thank you.

8 MR. EMIGHOLZ: Thank you.

9 SENATOR RUIZ: In the synopsis of the cases
10 that were being brought forward, you said that
11 I'm not sure if any were brought up because of effectiveness
12 in the classroom.

13 MS. DUNCAN: Well, that comes under the category
14 of Inefficiency, and we get one or two of those a year.
15 They're very hard to prove and they're hard to prepare.

16

17 SENATOR RUIZ: And so you bring-- Okay,
18 because they're hard to prove.

19 And I'm not sure who would be able to answer this
20 question but, why is it, then, that you think that we don't
21 get more of those cases based on what's happening inside of
22 a classroom?

23 MR. EMIGHOLZ: I think it's something that this Committee
24 has heard, members of this Committee have talked about and the
25 Governor has said time and time again is, I don't think that we

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1 have the data that we need in this state to effectively judge
2 effectiveness all the time.

3 And I think there is probably a "smell
4 test" or -- and there's probably principals who walk into a

5 classroom and know that a teacher is a fantastic teacher, and
6 doing everything and hitting everything out of the ballpark.
7 And you could probably walk into a classroom and have a hunch that
8 a teacher might not be so great.

9 But in our current system with our current data,
10 it's harder to get there. That's why the Governor has prioritized
11 having a better data system. We've talked about that over the years.

12 And we're very excited that now as a priority
13 with the Department of Education, NJ SMART System that you've heard
14 about for years, is making great progress.

15 We now have a lot more data in terms of what's going on
16 in schools, what's going on with the students.

17 The link to teachers is coming. We're getting
18 very, very close, and we think that should happen possibly next
19 school year, but we're getting there.

20 SENATOR RUIZ: Can anyone give me, kind of, a
21 cost estimate on one case, or globally for the year:
22 what it costs to conduct a full case from beginning to end --
23 average?

24 MS. DUNCAN: I would think that the attorneys who
25 represent boards would be in a better situation to give you
0022

1 that information.

2 SENATOR RUIZ: Okay; thank you.

3 MS. DUNCAN: I don't know.

4 SENATOR RUIZ: Are there anymore questions or
5 comments from Committee members?

6 (No response.)

7 SENATOR RUIZ: Thank you very much.

8 MS. DUNCAN: Thank you.

9 MR. EMIGHOLZ: Thank you.

10 SENATOR RUIZ: Next, I would like to invite --
11 and freshly off a plane -- is Senator Mike Johnston from Colorado,
12 who I just want to thank you very much for taking the time
13 to come out and lend testimony. And I'll leave it up to you to,
14 kind of, introduce yourself and talk a little bit about what
15 global changes are being done across this nation.

16 **SENATOR MICHAEL JOHNSTON:** Thank you, sir.

17 It's supposed to be a red light?

18 SENATOR RUIZ: Yes, red.

19 SENATOR JOHNSTON: Okay.

20 SENATOR RUIZ: Red means go.

21 SENATOR JOHNSTON: It's good.

22 Well, thank you, Madam Chair; and good morning,
23 members of the Committee. Thank you so much for having me;
24 my name is Mike Johnston. I'm a State Senator from
25 Colorado. Just in my second year in the State Senate
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1 there. Before that I spent the last eight years as a high
2 school teacher and a high school principal, spent the last
3 six years as a principal of two different urban high
4 schools in the Denver Metro area.

5 Our population of kids is about 75 percent of
6 students on free and reduced lunch; about 75 percent of
7 those students are Latinos. So it's a largely immigrant
8 population of families from Mexico and Guatemala and north

9 Denver suburbs.
10 So my career has been in education, and I'm
11 relatively new to the State Senate.
12 But I'm excited to talk to you a little bit about
13 some of the education legislation that we worked out in
14 Colorado, and what I think is part of a national trend
15 towards trying to get better outcomes for kids.
16 As you all probably know, I think there is
17 an overwhelming body of evidence now that demonstrates that
18 the single most important variable affecting the success of
19 students is by far and away the effectiveness of the teacher
20 in that student's classroom. And for many of us, that's a
21 "duh" moment. Of course we probably always believed that
22 and have always seen that, but now I think research shows that
23 overwhelmingly to be the case.
24 And the second most important variable by far is
25 the effectiveness of the principal. So if you look at the combination of a great
2 teacher and a great principal, those two things account for
3 somewhere around 70 percent of the total in school impact on
4 student performance.
5 And so where we started in Colorado was, if we
6 all care about the same things -- which we do -- what do we do
7 to close the achievement gap in Colorado? What do we do to
8 make sure that every student is ready for college or ready
9 for a career when they graduate?
10 If we wanted to make movement on those big issues,
11 the only way to do that is by pulling a lever that has an
12 equally powerful impact.
13 And so we thought the most important place
14 to start was with what do we do to recruit, retain and
15 reward more great teachers and more great principals?
16 And just as an example, when you think of other
17 important education reforms that we've talked about in the
18 past? For instance, class size reductions --and I think that's always a
19 big point of discussion -- the impact of a highly effective teacher is two
20 and a half times greater than the impact of class size
21 reductions.
22 So literally when you talk about other
23 reforms that we debate in chambers like this, most of those
24 reforms will literally be rounding errors on the impact size
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1 of a highly effective teacher.
2 Another common statistic is that you take a student
3 that is multi-grade levels behind in your system -- we know that
4 if we put that student in the classroom of a highly effective
5 teacher for three consecutive years, you've actually entirely
6 closed the achievement gap.
7 The most sure way to do that is to put our lowest
8 performing kids in front of our highest performing teachers
9 for a consecutive number of years.
10 We also know that the opposite is true. You put
11 our lowest performing students in front of our least
12 effective teachers and you actually blow that achievement
13 gap so wide you will probably never close it.
14 So that was the research background,
15 and our own observational background from folks that are out

16 there doing this work every day; that we know the only way to
17 fix this problem is to start with great teachers and great
18 leaders.

19 So the legislation that we looked at in Colorado
20 started by saying, you know, what would it take to
21 fundamentally change the principalship and the teaching
22 profession so that we define success as adults when we
23 were successful with kids?

24 And so we started by saying that, you know, 50
25 percent of every teacher's evaluation and 50 percent of every
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1 principal's evaluation ought to be based on demonstrated impact
2 on student growth, which is, quite simply saying, that whatever
3 a student knows when they walk in the door on September 1st,
4 they ought to know more when they walk out the door on May
5 30th, when the school year's over.

6 And the growth measure is critical here because
7 we're not saying that it's the raw performance, we're not
8 saying it's whatever the student's score is on the state test
9 in May, because we know the students come in with different
10 levels of preparation. That would have the effect of just
11 continually telling us that students in our more affluent
12 suburbs were doing really well, and students in our poorer
13 cities weren't doing well.

14 Instead, because it's all focused on growth, we're
15 only saying, where did the student begin; and what progress
16 did the student make?

17 So it doesn't matter if a student comes into your
18 class three years behind grade level. The question is, at
19 the end of that year are they now only two years behind
20 grade level, or hopefully one and a half years behind grade
21 level?

22 And so the entire metric is focused on growth.

23 And I'm happy to talk about that more if you have questions.

24 And the second part was -- and we agreed in Colorado,
25 I think all parties agreed -- that the current teacher and
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1 principal evaluation system was broken. I think a lot of folks
2 disagreed on how to fix it, but we all agreed it was broken.

3 And so our belief was, that if we are going to
4 build evaluations that were linked to student growth, then
5 those evaluations ought to mean something once we rebuilt
6 them, and they ought to have impact for teachers and impact
7 for principals.

8 And so we decided that, you know, the most
9 significant privileges that we have to give in the teaching
10 profession are in Colorado what we call *non-probationary*
11 *status*, or what most states call *tenure*.

12 And so our belief was, that is a
13 privilege that we want to keep, because we believe that job
14 protections are an important benefit to offer in the teaching
15 profession. We don't yet have \$50,000 signing bonuses to
16 offer teachers, or four-day vacations to Maui in the summer for
17 the top sales rep in the firm.

18 And so one of the things that we do have are
19 our job protections.

20 But we firmly believe that those job protections
21 ought to be earned based on demonstrated performance, and
22 they ought to be kept based on demonstrated performance.

23 And so what we said is, our new state law says
24 that based on these evaluations on effectiveness, a
25 teacher must have three consecutive years of demonstrated
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1 effectiveness to earn tenure.

2 So if you're like me and you come in as a
3 first-year teacher and you're pretty crummy, then it might
4 take you four years, because it might take your second year
5 to get up on your feet, and then your third and your fourth
6 year you would have three consecutive years. If you had two
7 good years and two bad years, it might take you seven. If
8 you were an inconsistent performer throughout your career,
9 you might not ever earn those job protections. But that's
10 exactly the idea, is that those job protections ought to be
11 reserved for those people who truly have earned them by
12 outstanding and consistent performance over time.

13 And the second part of that is, that people ought
14 to continue performing that way to keep those protections.

15 And so anyone in the system who has tenure, if
16 they have two consecutive years of ineffective performance,
17 they lose those tenure protections.

18 And the way we saw it is, that was a way to really
19 make tenure an actual badge of honor. Something that everyone
20 who had it -- people would know, wow, this person is really one
21 of the great practitioners in their field. I think too often it's viewed as something that
23 protects low performers in the field.

24 We're proud to say now that when this law takes
25 effect in the State of Colorado, there is no teacher in our
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1 state who will have those job protections who we know didn't
2 earn it to get them, and doesn't continue to earn them to
3 keep them. So that was the foundation of that.

4 We also realized that there are other parts of
5 the human capital system that were broken, and so you couldn't
6 just change the evaluations and be done.

7 For instance, I think that it's true in our
8 state and in most, that one of the reasons why we don't have a
9 stronger and more effective core of teachers is, that we
10 don't have a stronger and more effective group of school
11 leaders, and that so much of this is about leadership, and so--

13

14 SENATOR WHELAN: Excuse me, Madam Chair.

15 Could we back up? As the Chair has indicated,
16 we're really having a conversation here.

17 You talk about the consecutive years, you're
18 looking at a teacher, they do three consecutive years of
19 growth, or two consecutive years, all right; so they get tenure,
20 and then five years from now they have a couple of bad
21 years in a row. What is the standard that
22 determines -- presumably kids come in September 1,
23 and by the end of the school year there is some growth
24 unless the teacher sat there and read the newspaper all
25 year.

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1 So what's the standard? How much -- I
2 mean, ideally you have at least a year's worth of growth
3 with, you know, the kids are reading on the third-grade
4 level, at the end of the year they're reading on a
5 fourth-grade level. What's the standard that says this
6 is the level of growth that you need to qualify to be
7 eligible for tenure? And, conversely, what's the standard
8 that says this is the level of unacceptable job and that,
9 you know, could someone -- could force someone to lose their
10 tenured status?

11 SENATOR JOHNSTON: Madam-- Do I go through the
12 Chair, Madam Chair? I'm not sure.

13 Thank you, Senator; great question.

14 So those are the two most important and I think the most
15 complicated parts of our bill: how do you define
16 effectiveness; and how do you measure effectiveness? So
17 what are the categories?

18 The bill outlined four categories of effectiveness.
19 So there are some that are highly effective, effective,
20 developing and ineffective.

21 But what-- The timeline we set out is, there
22 is-- We have appointed a governor's council which consists of
23 15 members, which includes teachers and principals and parents
24 and business leaders -- a student is on it.

25 And that group is spending about six months

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1 making recommendations on exactly what your question is.
2 So what would be -- how much growth is enough to
3 put a teacher or a principal in which level of
4 effectiveness? They'll make recommendations to our state
5 board, and the state board will -- will rule make based on
6 those recommendations. It comes back to --

7 SENATOR WHELAN: So we're not there yet?

8 SENATOR JOHNSTON: Correct.

9 SENATOR WHELAN: Okay. We're not there yet.

10 SENATOR JOHNSTON: Those are being built right
11 now.

12 SENATOR WHELAN: And just, you know,
13 parenthetically, perhaps, in this conversation, I'm a
14 teacher also, but I'm a phys ed teacher.

15 SENATOR JOHNSTON: Yes.

16 SENATOR WHELAN: So what do we do with the
17 specialist -- phys ed, art, music, etc. What do we do
18 with the special ed teachers?

19 SENATOR JOHNSTON: Yes.

20 SENATOR WHELAN: How are they factored
21 in? And, again, you may not have an answer, but we'll all
22 continue this dialogue to try to figure out --

23 SENATOR JOHNSTON: Okay.

24 SENATOR WHELAN: -- okay, what --

25 SENATOR JOHNSTON: Okay.

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1 SENATOR WHELAN: -- you know, what is the
2 standard of --

3 SENATOR JOHNSTON: Thank you.

4 And, Madam Chair, and Senator, it's a great,
5 great question.

6 This is the almost important part of the work here --
7 is, we did believe that there is value added in every content
8 area.

9 And, So there were some folks who said that we
10 shouldn't do this for PE and for music and for art, let's
11 just do it in English and math.

12 I spent four years as a principal in an art
13 school, so my belief is, actually, I don't want to see us
14 narrow the curriculum. And so we are saying that we're going to measure
16 growth in all grade levels and all content areas.

17 What we use for the assessments for the untested
18 grades and subjects is part of what that council is
19 determining now. We actually have a full day meeting today. I will
21 say there are a couple of ideas that we're working on.

22 One is, do we bring together a coalition of
23 teachers and educators and curriculum designers from across the
24 state that would build a bank of assessments that could be used
25 for untested grades and subjects?

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1 What we've set up is, that the State Department of Ed
2 will -- has been committed by the legislation to build a
3 bank of assessments that will be available online for free,
4 to all districts. And they could choose to use those if
5 they wanted to. So that will be one option for districts.

6 The other is, many districts do what we call
7 student growth objectives, which is a more
8 localized version where a teacher and a principal would sit
9 down and say, here are my goals for growth for this
10 semester; here's what we're doing in PE for -- for these
11 standards for these six months; here's what I would like to
12 see kids be able to do; here's how I'm going to measure when
13 it's over, and you and I will sit back down and look at how
14 the kids did and decide if we met those goals.

15 And, So there's a range of more standardized
16 options to more locally designed options, and our council is
17 looking at what package of those makes the most sense.

18 SENATOR WHELAN: Thank you, Madam Chair.

19 SENATOR RUIZ: Thank you, Senator Whelan.

20 In the midst of that, when we are -- when you are
21 assessing the teachers in the process, whether it's at
22 three-year time frame or annually, what kind of support
23 mechanisms are also in place or what kind of professional
24 development structures are there so that if there's someone
25 that is showing great light and leadership, but perhaps

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1 needs some kind of training, what -- how has the state looked
2 at, to also implement that type of resource factor simultaneously
3 so that we're supporting an individual to the best of their
4 capability?

5 SENATOR JOHNSTON: Thank you, Madam Chair.

6 So each year obviously a teacher gets an
7 evaluation. And whenever that teacher's evaluation is found
8 to be ineffective, then that teacher would receive a growth
9 plan. And that growth plan would explicitly link to

10 professional development opportunities for -- for the next
11 year.

12 So this is always about finding ways to improve
13 people's practice.

14 The goal is, that the evaluation actually improves
15 people's practice, not that it identifies people that are
16 low performing and leaves them there.

17 And so there is both a growth plan there also
18 and that operates on that.

19 We also have a structure in the bill that calls
20 for career ladders, which enables us to identify some of the
21 most effective principals and teachers in our state, and
22 then asks, you know -- offer them additional responsibilities
23 and additional pay to document and share their practices for the
24 rest of the field.

25 So for instance, one of the things we --

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1 SENATOR RUIZ: Like a master teacher?

2 SENATOR JOHNSTON: That is exactly right, except for,
3 part of our -- one is a master teacher where, you can imagine,
4 this is almost like the model teachers that teach behind a one-way
5 glass, right, where we open up their classrooms and novice teachers
6 can sign up. You can bring 10 or 15 teachers in three days a week
7 to come and sit in the classroom and watch a great teacher. They
8 have -- they'll have assessment plans, lesson plans where a young
9 teacher can take away and actually see great practice.

10 The other version is, we actually do -- we're working
11 to build an online forum where teachers would agree to share their
12 lesson plan, share their classroom assessments. We would do
13 classroom video of them.

14 So if you're in a more remote or rural part of the
15 state and you're a first-year teacher teaching 7th grade
16 math and struggling, you literally go to our Department
17 of Ed website, click on 7th grade math standard or click
18 the standard that you're teaching, and up would pop profiles
19 of eight of the most effective teachers in the state in your
20 content and grade level, and you can see them literally
21 teaching the content that you're teaching. So it's all
22 about really building a body of practice that supports
23 people and improvement.

24 SENATOR RUIZ: Absolutely, Senator.

25 SENATOR WHELAN: Can I ask one other question?

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1 SENATOR JOHNSTON: Of course.

2 SENATOR WHELAN: And this is a teacher
3 question, Mr. Principal. You have two years of,
4 you know, I've been a teacher for longer than this, but someone's
5 been teaching for ten years, they're in the --

6 SENATOR JOHNSTON: Yes.

7 SENATOR WHELAN: -- you know they've done a
8 good job, they have their -- what do they call it in
9 Colorado?

10 SENATOR JOHNSTON: We call it non-probationary
11 status.

12 SENATOR WHELAN: They're non-probationary and
13 they're going along fine and they hit a couple of, you know,

14 two bad years in a row, and so they lose that status; where
15 does that leave them? Are they then out of work, or are
16 they then -- I mean, you know, in New Jersey --

17 SENATOR JOHNSTON: No.

18 SENATOR WHELAN: -- you're tenured or you're not
19 tenured. At the end of three years your district has to make
20 a decision, okay, we're going to tenure this person, and
21 that provides a level of security, or they're not cutting
22 it, they're out.

23 SENATOR JOHNSTON: Yeah.

24 SENATOR WHELAN: Are you out if you have two
25 bad years, or what -- and what is the threshold to be out?

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1 SENATOR JOHNSTON: Yes. Absolutely not, Senator.
2 And thank you, Madam Chair.

3 Absolutely not, Senator. And I'm so glad that you
4 mentioned it. This is the key point. I think what we found
5 is, the current system generates exactly that terrible
6 decision after year three in our system, which is, after
7 three years you are either up or out; right, because at the
8 end of the third year you either have to tenure someone or
9 you have to release them and they can never work in the
10 district again.

11 And so what we see all the time is, friends of
12 mine who are teachers work for three years with three years
13 of solid evaluations; and then they're non-renewed at the end
14 of the third year because the principal doesn't want to
15 tenure them, right. Or the opposite, you have someone who
16 hasn't got much support, at the end of three years the
17 principal doesn't really know how good they are, but doesn't
18 want to let them go and so tenure's them, and then in year
19 four or year five you discover.

20 So the entire hope of this plan was to avoid that
21 decision where it's possible someone is good in
22 developing and you want to keep them on, but you
23 don't want to have to make an up or out decision.

24 But to your first question, Senator, if
25 someone loses tenure, the key point in our system is, there
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1 is nothing in our bill that ever requires the dismissal of a
2 single teacher or a single principal.

3 So all that happens by state statute is that
4 someone loses tenure and returns to probationary status. So
5 they're still a teacher on -- you know, hired back at that
6 school for the -- for their following year.

7 SENATOR WHELAN: And the local district -- can
8 the local district then make the decision, okay, this guy
9 lost his -- he's now back to his probationary status, we
10 want to get rid of him?

11 SENATOR JOHNSTON: At the end of that year they
12 could, yes.

13 So effectively they would have a third year to
14 try to --

15 SENATOR WHELAN: Okay.

16 SENATOR JOHNSTON: -- and then, of course, they
17 could earn tenure again.

18 So say they lose tenure after those two years,
19 they're back to probationary status, they had a couple of
20 bumps in the road, hard years, whatever happened --

21 SENATOR WHELAN: Okay.

22 SENATOR JOHNSTON: -- now they really recommit
23 to the profession, started improving again, they could,
24 after three years, earn those protections back.

25 And that's designed to-- I was about to talk about
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1 principals, but we've also designed the system so that
2 principals' evaluations are now linked to student growth, but
3 a principal's evaluation is also linked to the percentage of
4 teachers who are effective in her building -- what the percentage of
5 the teachers who are improving in her effectiveness.

6 And so there is now, for the first time, an
7 incentive in our state law for principals actually to do the
8 most important work, which is to be in classrooms supporting
9 teachers to improve their practice.

10 I think for too long people have been able to be a
11 good principal because you show up to football games or you
12 break up fights in the hallways or you know all the parents.
13 And those are good things, but they're not nearly as important
14 as actually being in classrooms supporting teachers.

15 So now, because the principals' effectiveness is
16 tied to their own teachers, the principal now has the
17 incentive to really support and develop those people the
18 same way.

19 The principal might also say, listen, I know, you
20 know, Mr. Smith had 2 bad years, but I've seen him teach for
21 15, I know that he's going to turn it around, and the
22 principal always has that decision whether or not to release her and
23 keep the teacher.

24 SENATOR RUIZ: Senator, do principals have that
25 same kind of evaluation? Do they fall within the same practice?
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1 Does this bill cover administrators? And are they the sole
2 practitioners who do the reviews for their personnel?

3 And in addition to that, how is the hiring done?
4 Is it from a school, you know, hiring this way, or is it top down?

5 SENATOR JOHNSTON: Three great questions. I'll try
6 to get to them all, Madam Chair.

7 And so first, this bill is absolutely about
8 principal evaluations as much as about teachers' evaluations.
9 It's called the Great Teachers and Leaders Bill. It's about
10 both.

11 And, So principals are at-will employees in the
12 State of Colorado all the time. So there are no job
13 protections for principals, and so that remains in case.

14 What we did change is, there was a
15 form of protection for tenures -- which I think was a silly
16 one -- which is: after three years, principals wouldn't earn
17 any job protections, but they would go on a three-year
18 evaluation cycle. So they would only be evaluated every
19 three years.

20 We changed that so now every educator in the State
21 of Colorado is evaluated every year. That means every

22 teacher every year, every principal every year.
23 And so that is a critical component of it,
24 so that we know that if principals aren't performing over those
25 series of years, they're always subject to dismissal.

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1 To your next question about who does the hiring, this
2 is a very important issue in Colorado, and was another part of the
3 bill, which is what we call the Mutual Consent Section of this bill,
4 or a School-Based Hiring, which is-- Previously in Colorado, you would
5 often have the case where if there were teachers that had
6 non-probationary status that didn't have an assignment or didn't
7 have a position, the district would -- would place those teachers
8 wherever there were openings.

9 And so what normally -- what happens
10 historically in our state -- I'm sure it's true in yours,
11 too -- is that when you have those teachers that don't have an
12 assignment, the superintendents or the districts tend to place
13 them in the highest poverty schools and the schools with the
14 highest concentration of kids of color. So I represent Northeast Denver,
15 which is the poorest Senate district in our state, and we have a
16 historically black high school there called Montbello. It
17 has about 80 teachers, and this past year they had 20 --
18 they had 20 openings. And the principal and the team of teachers
19 spent a long time working on hiring who they thought the best
20 candidates were.

21 And then in August the superintendent calls and
22 says, "We have 18 teachers we're going to have to place in
23 your school." Those are 18 teachers who -- those teachers
24 actually don't want that placement. The principal doesn't think
25 they're the best candidates for the job, and they all have

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1 non-probationary status so they can't be removed.

2 And so our belief is, it's disrespectful to
3 teachers to force them into an assignment they don't want,
4 and it's disrespectful to principals to force them to take
5 candidates that they don't choose.

6 So what we have set up now is
7 any teacher that earns a position in the state has to be
8 affirmatively hired by a principal with the involvement of at
9 least two teachers. So we do have a requirement in the statute
10 that teachers have some involvement in the hiring process.

11 At my school, like many, we have a hiring
12 committee that's made up of myself and six teachers. We all
13 make the decision together.

14 I think many, many schools I think that are good
15 ones don't do hiring unless there's deep involvement from
16 the staff. So we decided that we needed to have both.

17 But we've also found in those successful schools,
18 those are places where the adults feel a deep sense of
19 ownership and identity over that building.

20 And when I ran a school, one of the reasons I took
21 over the school was, our superintendent allowed me to have the chance
22 to hire our own staff. And there was one point of which we took a
23 direct placement in our school. And I was not nearly so upset as
24 the teachers were, who had gone through an incredibly, incredibly
25 vigorous process to get hired at our school and to hire

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1 everyone else, and to have someone else who just walks in without
2 clearing any of those bars I think is really demeaning to the morale
3 of the building.
4 SENATOR RUIZ: Any questions? Comments? (no response.)
5 I just want to thank you again
6 for taking the trip and for conveying some actual things
7 that during this process practitioners have expressed -- kind of an
8 ownership of our school buildings and having the flexibility and
9 the opportunities to really create a structure that will benefit
10 the students and the school and just to shed light on what, you know,
11 other states are doing.
12 So I appreciate it. On behalf of the
13 Committee, I want to say thank you.
14 SENATOR JOHNSTON: Thank you.
15 Can I just-- One more thing, Madam
16 Chair -- very quickly?
17 SENATOR RUIZ: Absolutely.
18 SENATOR JOHNSTON: Just the final -- and I can get
19 you the fact sheet on our bill if you're curious -- but the
20 one other component that's in our bill I think is meaningful is,
21 we have, in our state statute, like many states have, a
22 reduction in force policy that says, whenever you have to
23 make layoffs in a district, you must always operate under
24 the last in, first out process, which means, whenever you lay
25 the last in, first out process, which means, whenever you lay
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1 someone off, you have to start with the youngest employee and
2 layoff all the way up regardless of the quality of those employees.
3 And so one of the components that was in our bill was,
4 that we changed the state statute that said, when a district has to
5 make the hard decision of laying off employees, if we are looking to
6 allocate state resources in a way that is best for kids, what we
7 ought to do is keep our most effective teachers and principals and
8 lay off our least effective teachers and principals.
9 And so now, the first criteria that determines
10 how layoffs operate is, that first based on effectiveness,
11 and then second, an important criteria is seniority, but
12 effectiveness is always first.
13 And so if you have a second-year teacher who is
14 highly effective and a fifth-year teacher who is
15 ineffective, for the best interest of kids we would want
16 you, and I think the principal would want you, and the
17 district would want you to keep that more effective
18 second-year teacher.
19 So that was a very important amendment we added
20 with the support of the American Federation of Teachers, who is
21 a very strong advocate and supporter of this bill.
22 And, So that's just another component of the legislation
23 that I think is an important part of the puzzle for us.
24 SENATOR RUIZ: Thank you, Senator.
25 SENATOR JOHNSTON: You bet. Thanks for having me.

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1 SENATOR RUIZ: Next I would like to invite
2 Daniel Weisberg, Vice President of the New Teacher Project.
3 **DANIEL WEISBERG:** Thank you very much, Madam Chair,
4 Senators, ladies and gentlemen; good morning. My name is

5 Daniel Weisberg; I'm a vice president of Policy and General
6 Counsel at the New Teacher Project.

7 By way of introduction about our organization, we are
8 a nonprofit, national nonprofit founded by teachers about 13 years
9 ago. We recruit, train, hire, certify teachers across the country
10 and do policy work identifying the obstacles to teacher effectiveness
11 and closing the achievement gap and recommending solutions to
12 overcoming those obstacles.

13 I also want to commend you, Madam Chair, and members of
14 the Committee for taking on this difficult, sometimes controversial
15 issue, because it is, as Senator Johnston testified, one that is crucial
16 if we're going to solve the problems that all of us want to solve and
17 improve the outcomes for our kids.

18 What I had hoped to do this morning is, very briefly give you some
19 data that I hope you'll find to be valuable as you tackle this issue.

20 So first of all, a little bit of data about the -- the
21 problem. New Jersey, as a state, faces the same sort of issues vis a vis
22 the outcomes we're obtaining for our high need kids, for our
23 kids of color, for our immigrant kids, for our poor kids versus their
24 peers.

25 And you can say -- you can see through this data that's up on
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1 the screen, but all of you Senators should have hard copies of this.
2 If you would prefer, it's probably easier for you to see the hard copy
3 that's on -- on slide two.

4 You can see that the gaps, which are very, very serious,
5 and the outcomes between these two groups of our children are
6 for eighth grade worse in New Jersey than the national
7 average. And the national average is alarming, to say the least.

8 There are states which, overall, get results that are about
9 the same as New Jersey that do a better job at this time of reducing the
10 achievement gap.

11 So in Delaware, Massachusetts, Colorado, Senator Johnston's
12 state, all do somewhat better.

13 So we've got-- We face the same challenges here we face across
14 the country, but I think it's worth noting that these challenges
15 definitely do exist here in the State of New Jersey.

16 As Senator Johnston testified, we know what the solution is,
17 and this is no small thing. We know that effective teachers and
18 effective principals really can solve this very, very dramatic problem.

19 So here's a slide just giving you some graphics from a
20 study that was done several years ago in Texas, but there have been
21 many. You take a group of 3rd graders who are at about an average
22 level and you analyze their performance 3 years later after 5th grade,
23 you look at the kids from that group that had 3 effective
24 teachers in a row, they're in the 77 percentile.

25 These are kids we know statistically are poised for success,
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1 not just in middle school, but in high school. They're very likely --
2 at the end of the fifth grade, we can predict that they are going to
3 graduate on time, their life outcomes are going to be better, their
4 earning capacity is going to be higher.

5 You look at that same group of kids that have the same
6 starting point and look at the kids who had 3 ineffective teachers in
7 a row, they wind up at the end of 5th grade in the 27 percentile.

8 And these, unfortunately, are the kids who are deep in remediation

9 territory.

10 Those of you who have been in the classroom, been in schools,
11 you know these are the kids who are going to get to ninth grade,
12 they're going to be several years behind, they are going to fail some
13 classes and they're going to drop out, basically never to be heard from
14 again.

15 The big variable there was teachers. The teachers
16 that got in front of the classroom. So this is a critical
17 issue.

18 You-- We studied the issue that the Committee is dealing
19 with here. We released a study last year. We started the study
20 just looking at an issue that everybody's talked about for a long,
21 long time -- literally decades. You can find New York Times
22 articles about this issue going back literally to the 1930s,
23 and they don't -- the debate doesn't look that
24 different then than it does now. Why is it that we have so
25 few dismissals of teachers?

0048

1 So what we did is we went out and talked to
2 the teachers themselves. We surveyed over 15,000 teachers in
3 12 districts, in 4 states across the country, very diverse
4 set of states and districts, rural districts,
5 suburban districts, big urban districts like Chicago,
6 very strong union districts, non-collective bargaining districts,
7 districts that have very different evaluation systems. And after
8 surveying 15,000 teachers, looking at 46,000 personnel records,
9 surveying over 2000 principals in these very diverse places, what we
10 found is that they all suffered from basically the same problem.

11 Virtually, all teachers -- and I'll show you a
12 little data on this -- were rated good or great -- virtually
13 all of them. It didn't matter if you were new, if you were a veteran,
14 what school you're teaching in, if the kids were succeeding, if the
15 kids were failing: you're being told on your evaluation you're good
16 or great.

17 What we found from this is that the truly excellent
18 teachers -- and we know in every district those teachers exist -- who
19 are getting incredible results for their kids year after year, their
20 performance is hidden, because everybody is told that they're good or
21 great. So how do you know who the great eighth grade math
22 teachers are? And teachers and principals are very frustrated with
23 this. We heard from them.

24 Professional development -- totally inadequate.

25 One of the things that we would all expect as

0049

1 professionals is for our bosses to tell us, what are we doing well?
2 What are we not doing well? What can we do to get better? Even if
3 we're doing a great job, we want to know what we can do to improve.

4 Teachers are not getting this information. This is
5 what they're telling us.

6 Novice teachers -- those of you in the classroom tell
7 me, as Senator Johnston did, your first couple of years it's very
8 difficult. You're trying to get your sea legs, you're trying to
9 figure out your craft, you need particular help. Well, those novice teachers are being told
right from the

11 get-go they're good, they're great, and they are not getting the help
12 they need to develop their performance.

13 And then, lastly, but certainly not least, poor
14 performance goes unaddressed.

15 And we found a couple of things in
16 surveying teachers and administrators. One issue that
17 I think we settled fairly conclusively is, this is a problem.

18 You will talk to some district administrators, to
19 other folks who will tell you, you don't really have an
20 issue with poor performers in our schools. Anybody who is
21 not doing the job, either they don't get tenure or the --
22 somebody has a tough conversation with them and they're
23 moved out.

24 Well, we know this not to be true after this study. How
25 do we know? Because the people working in the schools with
0050

1 our kids, and I'll show you some data on this, told us that
2 there is poor performance in their schools. And, again,
3 they're quite frustrated about it.

4 We got literally tens of thousands of comments.
5 This is one of the remarkable things of doing the study:
6 it was clear to us that teachers and administrators, people
7 working in the schools, were hungry to talk to us about this
8 issue.

9 We were worried that when we gave out the survey,
10 teachers are very, very busy people, and the administrators are
11 very, very busy people, maybe a lot of them wouldn't take it.
12 Not only did they take the survey, they gave us tens of thousands --
13 if you look on slide six --of these sorts of comments.

14 This from a teacher who happens to teach in Akron, Ohio.
15 "Poorly performing teachers are rated at the same level as the rest
16 of us. This infuriates those of us who do a good job."

17 Which makes a lot of sense.

18 If you look on slide seven, this is what I was talking
19 about before: everybody, virtually everybody being rated good or great.

20 So in Chicago, public schools are a very large district.
21 They're the third largest district in the country; 94 percent of
22 teachers are rated superior or excellent, and almost none are rated
23 unsatisfactory in a district where the graduation rate hovers
24 somewhere around 50 percent.

25 Even in schools that are doing a very poor job -- if
0051

1 you look on slide nine, they're doing a very poor job with our
2 kids, not just having one bad year, but year after year,
3 teachers and administrators are being told through the evaluation
4 system that they're doing a great job.

5 So we have this terrible disparity between the
6 outcomes of our kids and the outcomes of evaluation systems,
7 and nobody thinks that that's a good thing.

8 So if you flip ahead to slide 17, here's what I was
9 referring to before. Teachers and principals generally agree
10 that there are lots of poor performers in our schools.

11 So again, if you look at Chicago, when we asked
12 them are there tenures -- we weren't talking about novice
13 here, because we understand that novices generally are going
14 to have a tougher time than veterans in the classroom -- are
15 there tenured or non-probationary teachers in your school
16 who deliver poor instruction?

17 And Chicago is an example, 58 percent of teachers
18 said yes, 85 percent of principals said yes.

19 When you asked administrators about the percentages,
20 what percentage of veteran teachers are delivering poor
21 instruction? Just as an example, in Chicago, they said about
22 seven and a half percent.

23 So as the representative of the New
24 Jersey Department of Education said, I don't think that
25 anybody would claim that this category encompasses the
0052

1 majority of teachers, but it's a significant percentage. And if you go back to that study that
I cited

3 earlier, the impact of ineffective teachers on kids, and in
4 particular on high need kids, is very, very serious.

5 To that point, we are actually able to
6 disaggregate the data based on the percentage of poor kids
7 in the school. And this was kind of heartbreaking because --
8 what we saw from the educators in these schools is, there
9 was a positive correlation between the percentage of poor kids
10 and the percentage of ineffective educators, at least according
11 to the perception of the principals and the teachers in the school.

12 So we have, at least according to the people
13 on the ground, we have a bigger problem here in high-need schools.

14 Another piece of data that might be
15 counterintuitive, maybe unexpected for some: we asked teachers and
16 principals, is dismissing poorly performing teachers important?
17 Is it a problem we should be focusing on?

18 And in overwhelming percentages, both teachers and
19 principals, said yes. They -- the 68 percent of teachers,
20 91 percent of principals strongly agreed, or agreed that
21 dismissing poorly performing -- again, tenured teachers, not
22 talking about novices here -- tenured teachers is an important
23 part of maintaining a high-quality teaching staff.

24 So the level of agreement across our practitioners
25 out there is striking.

0053

1 SENATOR WHELAN: Madam Chair.

2 SENATOR RUIZ: Senator Whelan.

3 SENATOR WHELAN: This is very interesting and
4 informative information.

5 You have 91 percent of principals agreeing that
6 teachers who are doing a lousy job should be dismissed.
7 Which, on the face it, we should all agree with
8 that.

9 But then you have 94 percent of teachers being
10 evaluated most frequently by principals as excellent. There
11 is a disconnect there.

12 How do we -- What do we do about that, or how do
13 we do something about that?

14 MR. WEISBERG: Yes. No, Senator, it's
15 a tremendous point. That's right. I mean, it's hard to
16 say, you know, we shouldn't use the B word, we shouldn't use
17 the blame word at all, but you certainly can't blame
18 teachers for the fact that, you know, 90-plus
19 percent of them are getting these evaluations which don't
20 help them improve and telling them they're good or great

21 regardless of their actual performance.

22 So we're going to get to that --

24 SENATOR WHELAN: Okay.

25 MR. WEISBERG: -- but, you know, what I would say

0054

1 just to give you a preview, Senator, is, we need a system

2 that's fair and credible to teachers, to principals, to

3 parents, to district officials, to elected officials, that

4 tells us who is doing a great job; who is going a good job;

5 who is doing a fair job; who is doing a poor job.

6 I mean, that will-- I think that's the lynchpin

7 to everything else that we want to do to retain our best

8 teachers, to make sure that our poorest kids, our kids who

9 are in the highest risk category getting great

10 teachers, to developing our teachers and to exiting in some

11 way the chronically poorly performing teachers. You cannot do that

12 without the underpinning of a system that people believe in

13 that tells you who's performing at what levels.

14 But I'll get to that and I would welcome any

15 questions that you have, Senators, as we go -- as we go through

16 it.

17 Just to throw another piece of data at you, and I

18 think Senator Whelan just made this point, very few

19 dismissals are happening across any of these districts.

20 Again, in non-collective bargaining districts,

21 rural districts, suburban districts, urban districts -- when

22 you actually ask, you have this terrible distinction between

23 the educator saying that there were some colleagues that

24 needed to go, and then looking at the number of dismissals,

25 and it's almost non-existent. Most districts dismissed no

0055

1 tenured teachers -- zero -- for performance. The ones that did --

2 like Chicago -- it was a negligible, negligible number. And I

3 think you got some of that -- I don't claim to have any

4 knowledge about this in the State of New Jersey, but it

5 sounds like you have similar statistics here based on the

6 testimony of the New Jersey Department of Education.

7 You know, there is some cause for hope.

8 You heard a lot of testimony about process here in New Jersey.

9 Madam Chair, I know that's something you're

10 interested in and the Committee is interested in. It's a very

11 difficult thing to try to fix this issue just by fixing the

12 tenure process.

13 So here on this slide, slide 21 we have a quote from

14 the president of the American Federation of Teachers, Randi

15 Weingarten, who I think said something that makes a tremendous

16 amount of sense, that due process shouldn't become glacial

17 process. Due process shouldn't take a tremendous amount of time.

18 If you look -- here is a case study from New York

19 City, one that I happen to know of quite well, a teacher who, by

20 all accounts, including, by the way, the account of a peer evaluator

21 who did not work for the Department of Education in New York

22 City, did not work for the principal, who was totally objective, found

23 this particular teacher to be unsatisfactory in spite of that.

24 This case cost \$230,000, took over 40 separate

25 hearing days, and lasted years.

0056

1 So we had a teacher who was dragging kids
2 backwards year after year. The principal had, in this case,
3 done the right thing and evaluated that teacher as being
4 unsatisfactory, called in a peer evaluator who also found
5 that teacher to be unsatisfactory, and then yet at the end
6 of the day we had a \$230,000 bill for one teacher in a
7 particular school, and it took years to remove her,
8 and hearing day after hearing day.

9 So the process is important, but it's, right now,
10 way off from where we need it to be to serve the
11 interest of kids.

12 In terms of the global scope of this problem, this
13 was an interesting study on slide 22. If you look at where
14 we rank against our international competitors now -- and we
15 have been leapfrogged as all of you know, year after year by
16 international competitors -- we're 29th of 41 in math
17 achievement based on 2003 data, and the 2009 data is no
18 different. If all you did was swap out the bottom 6 to 10
20 percent of performers of teachers and not put superstars in
21 there, but replaced them with average teachers, we would
22 jump from 29 to 7 in the world in math performance which, by
23 the way, is where Canada is right now.

24 So solutions. Let's talk for a couple of minutes
25 about solutions.

0057

1 What do we recommend? We recommend, as I was saying to Senator Whelan
earlier,

3 a fair, credible performance evaluation system that tells us whose
4 grade is good, who's fair and who's poor, mainly based on the results
5 that teachers are able to obtain with their -- with their kids.

6 In order to make that a serious, meaningful
7 system, you have to invest heavily in training
8 administrators. It's not going to be a credible system if
9 administrators don't know or don't feel confident in what they're
10 doing. You have to hold administrators -- and as one of the
11 features of the bill that Senator Johnston talked about, which I
12 think is most interesting, that holds principals accountable for
13 their ability to develop their teachers and to retain their best --
14 it has to matter.

15 You can create a great performance evaluation
16 system, and if it doesn't matter for high-stakes decisions
17 around promotion, around pay, around layoff and displacement
18 and around retention, then it's going to die on the vine. Nobody
19 is going to invest the time they need to invest if the outcome
20 doesn't matter. And you do have to do something about that small
21 but critical percentage of teachers who, year after year, are doing
22 a poor job and dragging our kids backwards.

23 We are very pleased to see that across the spectrum, the
24 president of the AFT, the president of the NEA, Secretary Duncan seem
25 to welcome both the data, the conclusions and the recommendations.

0058

1 And we have seen a fair amount of legislative progress -- including
2 in Colorado -- you just heard from Senator Johnston -- but in states that
3 encompass one in four of the students in the country, the legislature
4 -- the legislature has gone and changed the laws to try to improve

5 teacher evaluation. So this is something that can be done.
6 And, then, finally, I want to give you a couple of
7 case studies in New Haven, Connecticut, not very far away
8 from here the -- the local union and the district got together,
9 negotiated a new evaluation, a performance evaluation system. All
10 the information is on the website. It's being implemented in New Haven
11 this year designed to do exactly what I talked about, have a system
12 that, in a fair and reliable way, distinguishes great from good,
13 good from fair, fair from poor, but is going to be aligned to student
14 outcomes.

15 So that terrible slide that I showed you where --
16 about schools with kids that are doing poorly year after
17 year, but all the adults are being told that they're doing a
18 good job -- New Haven is addressing that by saying, our teacher
19 evaluations and our principal evaluations are going to align to student
20 outcomes.

21 In Washington, D.C. the same thing. And they're a little
22 bit further ahead than New Haven because they have implemented this
23 system now in the second year, and they are getting, they are able to
24 distinguish in Washington, D.C. between great, good, fair and poor.
25 There's a very clear rubric; student outcomes are a part of it.

0059

1 It's very clear what the consequences are. There are
2 major rewards for highly effective teachers -- major rewards,
3 significant bonuses in salary increases and abilities to take
4 on teacher/leader positions.

5 If you're minimally effective you do have a period
6 of time to improve your performance. But if you can't
7 improve, then you're going to be exited. And if you're
8 ineffective, you're going to be exited from the system.

9 And, finally, in New York City on the issue of
10 conferring tenure -- which may not be the point of focus here,
11 but it's very important -- New York City was able to put a lot
12 of attention to this issue and take it from a system where
13 literally 99.5 percent of teachers in New York City -- very
14 large district, 7000 teachers, 8000 teachers, each year come
15 up for tenure in New York City, 99.5 percent of those
16 teachers would be given tenure by default. Just given it
17 for being in the classroom and showing up for
18 another year.

19 They have now put in pretty rigorous systems
20 around that -- both support for principals, support for
21 teachers, clear standards -- and that has moved to a situation
22 where now about 11 percent of teachers who are coming up for
23 tenure in New York City are either being denied because they
24 have been given documented notice that they're doing a poor job,
25 or they're getting extended for another year.

0060

1 So this is an issue where we actually -- there
2 are districts, there are states that are making clear,
3 concrete progress. They're doing it by building consensus
4 and focusing on the practicalities of the solution.

5 Thank you very much, and I would be happy to take
6 any questions, Madam Chair.

7 SENATOR RUIZ: I think Senator Whelan had a
8 question. I'm not sure if it was answered during the rest of

9 the-- You did?

10 SENATOR WHELAN: You covered it very
11 thoroughly. Thank you.

12 SENATOR RUIZ: And what I-- Senator
13 Kean.

14 SENATOR KEAN: Thank you, Madam Chair.

15 And it was an extraordinary presentation, and I thought
16 it was very good in tandem with the prior conversation we had with
17 the Senator from Colorado.

18 Obviously, Arne Duncan and the President started the conversation
19 and had a very robust conversation regarding innovation standards,
20 efforts going forward, and we had a couple of rounds. In your analysis,
21 is the Federal DOE going to continue on the type of
22 incentive process -- continual driving of standards?

23 MR. WEISBERG: Every indication is that this is a path that
24 the president and secretary are going to continue. Obviously, Congress will have
something to say

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1 about the extent to which these programs are funded, but it's very
2 clear that the four assurance areas, which have been at the centerpiece
3 of all the programs coming out of the Department of Ed under the Obama
4 Administration are not going to change. And the key
5 is about educator effectiveness.

6 So I think-- I have a very high degree of
7 confidence that the federal government will continue
8 to support and fund efforts to improve effectiveness through better
9 evaluation, through rewards and consequences.

10 SENATOR KEAN: If I may, this may be-- If you can
11 get back to me in writing when you find this, who are the --
12 and this is something else, who are you -- you said the
13 great thinkers of reform, if you're looking to-- Who to
14 read on this? Who is it that comes to mind?

15 MR. WEISBERG: Well, I think a number of people. You
16 just heard from one of them, and I'm not saying that
17 because he happened to be testifying here today -- but both from
18 a substitutive point of view, Senator Johnston is a leading thinker in
19 this area, and also for -- from the legislative point of view, from
20 the dynamics of how you actually get something done. That was quite
21 an achievement in Colorado. So I would certainly point to him.

22 I think Randi Weingarten, the president of the
23 American Federation of Teachers, has done some good thinking
24 and has been constructive in many areas. The AFT was
25 a partner in the Washington, D.C. contract that allowed for

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1 a lot of the progress that talked about -- I think that Joel Klein,
2 who is about to step down as chancellor in New York City, and full
3 disclosure, I worked for him for six years, so you can take that
4 with whatever grain of salt you wish, is certainly an important
5 thinker. And there are a number of state superintendents who have
6 made tremendous strides in this issue. One is Dwight Jones, who is
7 actually just stepping down to take the superintendent job in Las Vegas
8 from Colorado -- Paul Pasterak in Louisiana, I think has been a courageous
9 leader on this issue; Deborah Gist from Rhode Island is another state
10 chief who I think has made some tremendous strides in this issue. There
11 are others, and I'm happy to talk about it, but the good news is,
12 that list, Senator, is a much longer list now than I would have been

13 able to give you even two years ago.
14 SENATOR KEAN: Thank you.
15 Thank you, Madam Chair.
16 SENATOR RUIZ: You gave us a lot of
17 information, and I would imagine, that as we
18 hear everyone who comes up to give testimony, we're going to
19 hear elements that will be echoed time and time again.
20 And so we recognize what the significant
21 things of importance are, and it's just a matter of how we're all
22 going to get there on the same page.
23 So I want to thank you on behalf of this
24 Committee for providing this information, and I know that I
25 will be leaning on you in future conversations as I move
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1 forward to develop a strategic plan for this state.
2 MR. WEISBERG: Thank you very much, Madam Chair.
3 SENATOR RUIZ: Thank you very much. Thank
4 you.

5 MR. WEISBERG: Thank you. And please feel free to
6 call on me for whatever support I can provide.

7 SENATOR RUIZ: Thank you.

8 Next I'd like to welcome President Barbara
9 Keshishian, and from the New Jersey Education Association,
10 Mr. Vince Giordano and Michael Cohan.

11 Good morning.

12 **BARBARA A. KESHISHIAN:** Good morning, Senator.

13 **VINCENT E. GIORDANO:** Good morning.

14 MS. KESHISHIAN: And good morning to everyone,
15 and thank you very much for this opportunity to testify
16 today on this issue -- an issue, of course, that is at the
17 core of what NJEA believes in, and that is the importance
18 of having an excellent teacher in every classroom.

19 Now, let me begin by saying that New Jersey
20 already does an excellent job in this area. Our teachers
21 are by far among the finest anywhere, because our standards
22 and our expectations are among the highest. Despite the
23 picture painted by some public education detractors, our
24 teachers do an outstanding job, and that is reflected in the
25 success of our public schools. And that did not happen by
0064

1 accident.

2 It happened because we have a system in place that
3 helps ensure that our teachers are well trained, that they
4 are capable, and that they are successful. New Jersey's
5 Professional Standards for Teachers are high standards, and
6 indeed as they need to be. And teachers spend their entire
7 careers living up to those standards.

8 It begins with the training that our teachers
9 receive before they ever step into a classroom of their own; NJEA supports high
standards for entry into the

11 profession, including New Jersey's requirement that teacher
12 preparation programs meet or exceed the standards of the
13 National Council for Accreditation of Teacher Evaluation, or
14 NCATE.

15 We have consistently opposed attempts by the
16 Department of Education to lower the GPA requirements for

17 teacher candidates.

18 That commitment to quality continues with a
19 rigorous evaluation system for both tenured and non-tenured
20 teachers. Every teacher in New Jersey participates in a
21 minimum of 12 evaluations and conferences before receiving
22 tenure. And every teacher, tenured or not, has both regular
23 evaluations and ongoing targeted professional development.

24 In fact, NJEA helped to craft this state's
25 professional development requirements.

0065

1 A strong framework is in place to ensure that the
2 teachers who enter the system are exceptional, and that
3 those who remain are the best of the best.

4 In instances where a teacher is not living up to
5 those standards and efforts to improve his or her
6 performance are not successful, the system allows for the
7 teacher to be removed.

8 During the first three years of employment in a
9 district, removal requires nothing more than a determination
10 by the district that a teacher's performance does not merit
11 continued employment. Districts have very broad discretion
12 in those cases.

13 Beginning in the fourth year of employment, when a
14 teacher has earned tenure, the district must show just cause
15 in order to dismiss that teacher. And that certainly is
16 only fair. The tenure statute provides the criteria for
17 bringing charges. They are inefficiency, incapacity, conduct
19 unbecoming or other just cause.

20 If a district believes a tenured teacher's
21 performance is unacceptable and cannot be improved through
22 remediation or professional development, that district has
23 the option to bring tenure charges under the law.

24 That is the system that exists, and it has helped
25 New Jersey build an excellent public school system staffed

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1 by excellent teachers. But while the system is, in large
2 measure, and has worked, we believe that it could be
3 improved.

4 First, the state should mandate and fund
5 mentoring for teachers during the first two years of their
6 careers. Guidance from an experienced, accomplished peer is
7 always invaluable to teachers beginning their professional
8 careers. Such mentoring, alongside the current evaluation
9 process, would help new teachers improve their skills and
10 practice, and would also help lower the burnout and
11 resulting turnover that we see among early-career teachers.

12 Second, we believe the process for dismissing a
13 tenured teacher can be made more efficient and less costly
14 without sacrificing the fairness standards that protect both
15 teachers and our schools from unwarranted political
16 interference in employment decisions.

17 We propose taking tenure cases out of the court
18 system and putting them into the hands of arbitrators.

19 Under our proposal, if a district believes that a
20 teacher should be removed due to poor performance, it would
21 be able to move quickly, and at minimal cost, providing it

22 was able to demonstrate that the removal was justified on
23 the grounds of inefficiency, incapacity, conduct unbecoming
24 or other just cause.

25 In effect, our proposal takes away the argument
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1 that tenure removals are time or cost prohibitive and leaves
2 it to the districts to demonstrate the removal is justified
3 for any of those reasons.

4 A critical element of making this reform work,
5 however, will be to have a strong evaluation system in
6 place, one that looks at multiple measures of both student
7 achievement and teacher effectiveness. It is equally
8 critical that the supervisors and the administrators charged
9 with conducting these evaluations be well trained in the
10 assessment frameworks and standards of performance that
11 should be the foundation of this evaluation system.

12 We, of course, are very concerned with some
13 proposals that we have heard discussed that would place
14 undue weight on student test scores, making them the primary
15 component of evaluation.

16 Ladies and gentlemen, the research on that issue
17 is clear: that is the wrong way to approach teacher
18 evaluation. It is both unreliable and likely to lead to
19 negative educational outcomes for students.

20 I urge this Committee, as you consider the issues,
21 including teacher preparation, mentoring, and tenure, to keep
22 in mind the importance of having a comprehensive,
23 research-based approach to teacher evaluation so that we
24 make critical decisions based on the best information, not
25 just on the information that is the easiest to find.

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1 Thank you very much for your time, and we'll be
2 happy to take any questions that you have.

3 MR. GIORDANO: Yes, Senator, if I may? On the tenure issue, the tenure
dismissal component of it -- at least, right?

5 I've been around awhile -- some think
6 too long -- but there's always been an undercurrent, sometimes
7 on the surface -- concern about the tenure process and what some
8 people don't like about it, and the general concerns we
9 have always heard are, that it takes too long and that it is
10 too costly. And I think I heard some of those references
11 even here earlier today.

12 If you follow the litany of steps in the
13 process that the Department of Education representative went
14 through earlier in the presentation, I was trying to keep a
15 quick scorecard it's no wonder with all those handoffs,
16 if they were the New York Giants or Jets, they wouldn't win a
17 lot of games because there's too many places for fumbles.
18 It goes from one party to the other, then it goes back to the
19 same party, and then there is a decision, then there's an appeal.

20 So that whole process, the reason we're seeking
21 to put it into arbitration is -- we think if you put this in
22 the hands of one person, it goes to the Commissioner who
23 determines that there are some grounds to have a further
24 investigation, give it to a trained arbitrator who deals
25 with employment matters as a regular part of their expertise,

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1 and let that arbitrator conduct a timely hearing.
2 And we would suggest-- If we were to suggest
3 a bill -- make a hearing 60 days, there will always be some
4 exceptions and some extensions. It's the nature of the
5 process. And then put a time limit in for a decision, you know,
6 30 days or something to that effect, again, understanding there
7 are going to be some areas of leeway.

8 The current process that I think upsets the public
9 and upsets legislators and, frankly, concerns us is, that
10 the process does take too long.

11 If a case takes 2 to 3 years, or what it currently
12 averages, by the way, which is about -- between 9 and 12
13 months, that's too long from the point at which it was given
14 to an Administrative Law Judge.

15 Our suggestion would be, give it to an arbitrator,
16 let that arbitrator conduct a quick and efficient
17 hearing, and a fair hearing, render a decision and be done
18 with it within a 60 to 90-day period of time.

19 And we would also suggest that we remove the
20 current appeal steps in the process and we allow only that --
21 an arbitrator's decision is subject to appeal for the grounds
22 set forth in the statute to (a) which is to indicate that the
23 arbitrator's decision was rendered for improper reasons.

24 And I don't know if you want to take time, but
25 there are specific -- corruption, a lack of partiality,

0070

1 misconduct that's seated to perfect the code that
2 arbitrators function under.

3 And that would be the grounds for appeal.
4 We wouldn't have another whole set of appeal steps to take.

5 If those are not the major concerns, we have been
6 given a lot of misdirection over a long period of time.

7 The other one that I hear, if I may add, it's
8 a lifetime job guarantee. Well, of course it's not. Our members are not
10 appointed to the United States Supreme Court, they're
11 teaching in our public schools. So they don't have anything
12 called lifetime protection.

13 And we've heard everybody say there is a process.
14 Whether that process is properly utilized today, I think
15 this Committee should really zero in on and focus on.

16 And I don't know if the numbers of cases -- because
17 they are not at a higher rate means that somebody is not
18 doing their job or that the system is broken. Maybe most of
19 our teachers are exceptional and outstanding teachers.

20 But if, for the moment for argument's sake, there
21 are some who should be brought up on tenure charges, let's
22 find a system which does not allow the Board of Administration
23 to say, the reason we didn't take this tenure case is, it was --
24 it would be too expensive, several hundred thousand dollars,
25 or it would take a year or two years. Let's find a system that

0071

1 cuts those costs.

2 I can answer part of your earlier question. Our
3 cost-- If we represent a member in a tenure case, our legal
4 fees are approximately \$25,000 to represent a tenured teacher

5 in a tenure case -- our attorney's fees. I have no idea --
6 SENATOR RUIZ: For one individual? For one
7 case?
8 MR. GIORDANO: Excuse me?
9 SENATOR RUIZ: For one case?
10 MR. GIORDANO: For one case, right.
11 I have no idea -- and those cases, by the way,
12 today, are taking somewhere closer to nine months. This --
13 from the point at which it is given to the Administrative
14 Law Judge.
15 This process that we would prefer would take something
16 closer to three months with some variation in terms of
17 extensions. If people get extensions there is no way to tell
18 how much time. There are no time limits in the current ALJ
19 process. There's no time by which a decision necessarily has to
20 be rendered, because these exceptions are granted and the
21 number of days -- I totaled up here, I kind of lost track of how
22 long it takes.
23 SENATOR RUIZ: Can I --
24 MR. GIORDANO: It takes too long.
25 SENATOR RUIZ: Can I just, and it's not to --
0072
1 I'd like for you to continue the presentation --
2 MR. GIORDANO: Sure.
3 SENATOR RUIZ: -- but I just have a question.
4 In your experience from, kind of, the other side as
5 the presentation from the DOE, and in that sense from a
6 practitioner's perspective, how many cases have come before
7 you for tenure on ineffectiveness in a classroom as compared
8 to some of the other reasons for dismissal? If you have
9 that.
10 MR. GIORDANO: Okay.
11 **MICHAEL P. COHAN:** If I may? I looked at
12 last year -- the 2009 year -- with our attorney who handles
13 these matters, and all we have data for is our cases that
14 would involve our members. There were 26 or 27 tenure cases
15 that went to full hearing. There were something like 125 or 135
16 cases filed. As you heard, a lot of those are settled
17 along the way.
18 So is that-- What's your specific question now?
19 SENATOR RUIZ: How many were brought up
20 because of ineffectiveness?
21 MR. COHAN: A handful. I don't have an exact number,
22 but probably three or four of those were for the inefficiency --
23 SENATOR RUIZ: Inefficiency.
24 MR. COHAN: -- is technically the definition.
25 SENATOR RUIZ: And so then my question is --
0073
1 because I think it's something that I should probably --
2 I'll start to ask all the practitioners across the board in
3 the state as to why is that number so small?
4 MR. GIORDANO: Hmm. You're going to have to ask
5 other people that to get a very specific answer, I think.
6 I think that in some instances people are not
7 aggressively pursuing the current tools they may have available
8 in terms of the evaluation processes that the state has in

9 place and that are in place in local districts.
10 I don't -- I can't answer your question. I mean,
11 we certainly don't want more tenure cases from our
12 perspective.
13 SENATOR RUIZ: I don't think anybody wants
14 it, but I think that this Committee wants to put something
15 in place, that we'll never see an ineffective or inefficient
16 leader. Nobody is trying to develop something that will
17 just pinpoint to that.
18 It's just-- When you just talk to people across
19 the board, as well -- you shared that sentiment is that we
20 don't understand why. And it could be because precisely
21 what you have said -- perhaps people are not using, and I'll
22 speak to the Committee members and to everyone -- while
23 we were in the process of engaging practitioners and
24 listening to them, in some districts it's very
25 involving and time consuming in a way where deadlines have
0074

1 to be met at a certain time.
2 So it almost becomes, in a sense, cyclical in a
3 sense.
4 So I'm to evaluate; I'm supposed to evaluate you;
5 right? I -- and -- there isn't that support mechanism in
6 place to do so. I'm supposed to do it within a certain
7 timeline. I guess if I -- if I file that late, then I also
8 will get a bad evaluation from my top head.
9 So it becomes this revolving kind of
10 process because of the length, because of the time and
11 because of, quite frankly, particularly in certain
12 districts, the extraordinary responsibilities that
13 individuals have to, you know, stand up for.
14 So it's just a question that I'll be asking of
15 all of our practitioners moving forward throughout
16 the hearing as to -- so that I can, kind of, hear through
17 everyone's eyes as to why is it that they think it is what
18 it is today.
19 MR. GIORDANO: Yes. Let me just add this. I
20 think somewhat in defense of our school administrators and
21 principals, it may be that there are just too many things that
22 are expected of a school principal, that in terms of running
23 a whole school and doing everything else that's involved and
24 getting into the budgetary stuff and the work with
25 the parents and everything else. And maybe we need some middle
0075

1 level of certified staff that would also be involved with the
2 evaluation of teachers. As long as that person went through
3 whatever the standards would be and the certification for being
4 able to be a supervisor and do those evaluations, there may be
5 some way to add some extra hands to the process.
6 The other thing I don't think you can
7 escape here is that if districts are not taking more cases
8 and there are cases to be taken, I think
9 it's because I've heard over and over and over, it takes too
10 long, or it's too expensive, so we'll just work it out some
11 other way. That is not good.
12 We don't want that teacher in our ranks.

13 Nobody wants to be working next door to someone who is not
14 carrying their load. It's no different in any other line of
15 work, etc.

16 So we would welcome discussions in that regard.

17 And, particularly, also on the evaluation area, we
18 can't deal with the suggestions that were made by the
19 gentleman from Colorado. In New Jersey, dealing with
20 criteria and standards for what constitutes appropriate
21 evaluation is an illegal subject. So it is not a term and
22 condition which is negotiable as apparently it may be in
23 that state. You can only negotiate procedural steps
24 in New Jersey.

25 So someone would have to look at the law and say,
0076

1 if we really want to do this, and we're not just doing sound
2 bites, we need to also say, we're going to open the door
3 there; we're going to welcome in the teaching profession and
4 make them a part of that whole process. Right now it's something
5 that we can't even legally do in a negotiation setting.

6 MR. COHAN: Madam Chair, if I might, just to
7 extend the point being made about effective evaluation. I
8 would make the case for you and your colleagues on the Committee
9 and all of your colleagues in the Legislature, that one of the
10 things that you would do well to insist upon is the application
11 of existing statutes and -- Administrative Code that describe
12 effective teaching and effective operation in schools, because
13 there is already existing requirements for mentoring and, frankly,
14 it's a paper tiger.

15 Every new teacher is supposed to be mentored for
16 their first year. And there's very often a mentor assigned,
17 but districts don't support the kinds of activities that are
18 going to make that -- that interaction and that experience
19 meaningful for a novice teacher.

20 There's also a requirement for ongoing
21 professional development. And the code requires that there
22 be conversations at the school level among teachers about
23 what they do; how they do it; and why they do it on behalf
24 of instruction for kids. It's very, very clear that the
25 Professional Development Standards and Code ask teachers to
0077

1 plan their own professional learning at the school
2 level and submit a plan for that professional development to
3 the district, which eventually is approved at the county
4 level; and it is supposed to be targeted by virtue of the
5 language in the Professional Development Standards to
6 enhance the professional learning of practitioners to
7 advance student learning. That's the language in every
8 single Professional Development Standard.

9 So these are the procedures that exist, and yet I
10 can tell you, I'm going to Sussex County this afternoon to
11 work with a group of educators, and their frustration, along
12 with colleagues all over the state -- because I've been in
13 many other places -- their frustration is that they're not
14 supported by the school district, by their school
15 administration or just by the culture of the school --
16 that kind of professional learning is not valued in a way

17 that can help make a difference.

18 So in order for us to make certain for all of
19 these frameworks that exist in code and statute already, we
20 need to make sure that there is leadership, and we would
21 provide that leadership and try to do so all the time. We
22 need to make sure that there's resource support.

23 As difficult as the economic conditions may be
24 right now, what would be most valuable is to make certain
25 that we direct the most important resources to the most

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1 important outcomes.

2 And, then, finally, we've heard before from
3 previous speakers about how important teachers are in the
4 classroom, in the school, to enhance student outcomes.
5 And we would certainly acknowledge that. The impact
6 of educators in schools are the most important in school
7 factor. But we cannot discount community factors; we cannot
8 discount the socioeconomic impact that communities have
9 on children and their ability to learn; and we cannot discount
10 parental involvement. All of those things come together to
11 make for a successful and effective school. There's no secret
12 about what makes for an effective school. We just need to make
13 sure that all of those factors are given attention, support,
14 and that we all work together to try to make sure that we
15 advance that cause.

16 SENATOR RUIZ: Senator Kean.

17 SENATOR KEAN: Thank you. Thank you, Madam
18 Chair.

19 And through you -- is it your testimony that today's
20 current system of evaluation of successful or failing teachers,
21 then, is not working?

22 MS. KESHISHIAN: Are you asking for our assessment
23 of the current evaluation system?

24 SENATOR KEAN: Well, given Mr. Giordano's comments
25 moments ago when we said why -- in response to the Chairwoman's

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1 comments, the -- announces why there was only one or six individuals
2 brought up for ineffective -- were inefficient learning, and
3 testimony presented before this Committee was such that the
4 structures in place -- that you can't even identify individuals,
5 much less bring analysis before any boards or commissions.

6 SENATOR RUIZ: This was your comment, too.

7 SENATOR KEAN: So the question that I got for you
8 is, given that testimony, are -- do we need to completely
9 reevaluate the analysis so we know who is doing the job well
10 and not well on behalf of our children?

11 MR. GIORDANO: Yes. Since you referenced it to
12 me, Senator, I think we have a lot of the pieces that are
13 necessary already in place in terms of doing the evaluation of
14 teaching staff that is required.

15 I think we don't do that as efficiently, and we
16 don't do that as well as we might all do that. I don't think
17 that we need to go out and invent or find new ways to evaluate
18 teaching staff. There are volumes of code requirements for
19 evaluation, there are local procedures for evaluation.

20 Barbara referenced the fact that

21 non-tenure teachers, in particular, are subject to an
22 extensive and exhaustive evaluation process.

23 I think, basically, the fact that it may not be as
24 -- it may not be implemented and utilized in as aggressive a
25 way in terms of assisting teachers and then subsequently, if
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1 necessary, identifying deficiencies would be the problem.

2 I'm sure there may be some things that could
3 be added to the current system that would enhance it.

4 Unfortunately, we have not been asked to
5 participate in that state group that is looking at
6 evaluation, but I hope that they do look at some of those
7 things and we'll have an open mind and an open ear,
8 certainly, from NJEA's point of view to -- to engage in
9 meaningful and productive conversation.

10 I think that's the best answer I can give you.

11 SENATOR KEAN: If -- in -- but in these standards,
12 you're saying some version of student performance.

13 I know when my daughter's report card comes home,
14 there is a number in the top center that has her identification
15 number pursuant to QSAC and other reforms, you know, to
16 identify standards, and it seems to me, that where we didn't
17 have 10 years ago, we have the ability to track student
18 performance versus themselves versus their peers in a way
19 that we didn't have a decade ago. And given that we've got this
20 type of information where you could say to individuals coming
21 from disparate grade schools into one middle school or a
22 couple middle schools into a high school, where you can really
23 center into each year of cumulative learning and now -- and
24 create an analysis that would, therefore, identify consistently
25 poor performers from a -- this metric, shall we say, comparing
0081

1 how kids are performing against themselves versus, you know,
2 their year-over-year performance, as well as their peers in
3 other classrooms -- why isn't that a potential tool to
4 measure their ability to keep up with their peers in grade
5 level? It would seem to be an independent variable that would
6 add value to the conversation, but you don't want
7 that type of an analysis to be involved in teacher performance;
8 is that an accurate assessment -- question?

9 MR. COHAN: Senator, I think that the key question
10 here is, what are those criteria that will be used
11 for the assessment? And then, who's going to be the user of
12 that data? Because assessment of learning is most valuable
13 when it's in the hand of practitioners.

14 When practitioners can assess the outcomes of
15 their efforts, sit down in a reflective way, perhaps talk
16 with colleagues about the array of outcomes that have
17 taken place across a grade level, perhaps, and talk about
18 their classroom practice, they can start to understand what might
19 happen differently on behalf of particular students.

20 But if you're talking about -- and I always bristle
21 at this, I've been in the profession for over 30 years -- and
22 I always bristle at the assumptions that are made when test
23 scores are published in a newspaper. That's not the purpose
24 of testing.

25 The purpose of testing is to understand learning
0082

1 outcomes. And the people that are -- that need to
2 understand the learning outcomes, most importantly, are the
3 classroom practitioners.

4 So I -- and what the research suggests is, that
5 policy makers such as yourselves, should be very
6 cautious about implementing a system that would solely use
7 test outcomes as the indicator of what's happening in a
8 classroom. As I point out before, there's lots of other factors.

9 SENATOR KEAN: I don't
10 think anybody on this, if I may be so direct -- I don't think
11 anybody on this Panel is saying that classroom or student
12 performance is the only indicator, but given the Colorado
13 analysis where teachers are involved in both the hiring --
14 in all aspects of the hiring decision according to the
15 testimony previously put in having student performance,
16 because it's one of the metrics by which you measure success,
17 why isn't that not part of the analysis? Why shouldn't it
18 be part of the analysis?

19 MS. KESHISHIAN: We would -- Senator, if I may?
20 We would have no problem with it being part of multiple
21 measures that would go towards a teacher's evaluation.
22 It already is part of the teacher's evaluation.

23 We want there to be multiple measures not based
24 upon evaluating a teacher attached to a test score. If it
25 is to become part of the mix, along with the other things
0083

1 that are important in teaching, then we have no problem with
2 that, and we certainly would like the opportunity to be able
3 to sit down and have a discussion about what we believe are
4 the best criteria to go into evaluation for teachers. But
5 we're obviously not being given that opportunity to sit on
6 the nine-member panel that's going to determine teacher
7 evaluation in the state.

8 SENATOR KEAN: One final question on --

9 SENATOR RUIZ: I just wanted to jump in.

10 SENATOR KEAN: Okay. I'm sorry. Go ahead, Madam Chair.
11 It's your prerogative.

12 SENATOR RUIZ: I think that we would all
13 say that the measure of progress will not be just left alone
14 to a test score. A teacher who's in a classroom that takes
15 a student body who, perhaps, is two years behind grade level
16 and brings them to grade level and beyond -- the progress
17 that individual has made in the class undoubtedly
18 should be measured, because the student now is where they
19 should be and above in a time frame that's expected.
20 There is shown great leadership in that classroom.

21 So I think we all welcome that.

22 But, of course, there have to be different
23 variables that get addressed in the whole equation, I guess,
24 at the end, which is what is Senator Kean's point.

25 SENATOR KEAN: Yes. Thank you.

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1 And one other issue that I've got is, you stated
2 earlier in your testimony that you have stood up against

3 lowering GPA standards for entering -- individuals entering
4 the teaching profession.
5 MS. KESHISHIAN: That's correct.
6 SENATOR KEAN: But is your-- Aside from that GPA
7 level, do you think the various standards of the teaching
8 profession are too high right now, meaning, that individuals
9 who go into a variety of professions, whether it be professional
10 football players, whether it be stockbrokers, whether it be a
11 whole host of other professions that have interactions and
12 significant -- and career paths, you don't have to enter into
13 specific careers. I mean or specific educational achievements
14 to make those -- to enter those careers -- and if so this is
15 an issue that the State's discussed over the last several
16 decades -- alternate route may be another way to phrase that--
17 Would you be willing to engage in a conversation on those,
18 where you're bringing an individual into a teaching profession,
19 and maybe they were doing another career for two or three or four
20 years, and then they say, "I just can't take time out of my career
21 for a year to do -- to pursue a master's at this juncture," but a
22 more rigorous alternate route entering the process so that
23 individuals who are economists or anything else can enter
24 into the public education teaching profession with
25 appropriate supervision over time?

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1 MS. KESHISHIAN: Well, I'm assuming that you know
2 that we already do have an alternate route --
3 SENATOR KEAN: Yes.
4 MS. KESHISHIAN: -- available.
5 SENATOR KEAN: Yes.
6 MS. KESHISHIAN: So what is it that you're --
7 SENATOR KEAN: So I'm asking, would you like
8 change -- would you support further -- will you be willing
9 to engage in conversations to make that a much more robust
10 alternate route?
11 MS. KESHISHIAN: Senator, we would be willing to
12 engage in any conversation involving anything dealing with
13 education.
14 SENATOR KEAN: Thank you. Thank, Madam Chair.
15 MR. GIORDANO: Madam Chair, can I -- if you would be
16 patient with me. Just on the use of test scores, I want to
17 be clear, because you -- you, kind of, spoke for the whole
18 panel up there and I want to speak to this panel on this
19 same point. We have never objected to the use of student
20 performance data, test scores, even standardized test scores,
21 as part of the overall assessment that would be made about a
22 teacher's performance. The current code allows for that.
23 We have never sought to change that or lobby against that,
24 et cetera.
25 Where we do find some difficulty is where someone

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1 just grabs out of the air a number like 50 or 51 percent
2 with no research, no data, no basis upon which that
3 magically becomes the amount of use of test scores and
4 student data that should determine a teacher's evaluation.
5 We think that is better left to the practitioners
6 and the people in the field to determine in their

7 circumstances and their district and their environment -- how
8 -- the weight that they want to put on the test scores versus
9 the classroom activities versus what the senator mentioned
10 earlier about bringing that class forward, et cetera,
11 to come up with any arbitrary number. I'll go this far,
12 maybe the number should be 60 percent, okay. Who made it 50
13 or 51 percent? That's where we get into our differences of
14 opinion, not over whether that is some -- not part of the
15 overall thing that somebody ought to look at. But trying to
16 quantify that specifically -- and like somebody did a scientific
17 study is where we part company on that.

18 I want just to be clear on that, NJEA's point of view.

19 Thank you.

20 SENATOR RUIZ: Senator Allen.

21 SENATOR ALLEN: Thank you.

22 I appreciate your coming before us with some ideas on
23 how to make some changes, I think that's excellent. And I hear you
24 having said a number of times that you've not been invited to be
25 part of an evaluation process. I'd like to invite you to give us,
0087

1 on this panel, exactly what you think that process might be
2 moving forward.

3 We hear about teachers being -- so many of them being
4 told that they're excellent or just really, really good, and
5 most of them are, I'm convinced of it, but surely there are
6 some who are being told that they're excellent that aren't, and
7 that need that extra help or, perhaps, need to find another
8 job.

9 How can we better evaluate so we know? And
10 how can we make sure that those really wonderful teachers
11 who are the ones that can be the great mentors for the new
12 teachers coming in who can, as the gentleman from Colorado,
13 I think, mentioned, show others, or do modules that can be
14 looked at, or perhaps you even do that, I don't know.
15 But those sorts of things ring true for me as -- as a way to
16 get better by watching how somebody else does something.

17 So at the beginning of that long list of
18 things was, would you (a) give us your list of how you think
19 teachers should better be evaluated; and, secondly, comment
20 on how we can better utilize the skills of the best
21 teachers so that we can move other teachers into a
22 higher plane?

23 MS. KESHISHIAN: We can certainly work on that
24 for you, and perhaps be able to meet with
25 either all of you or a smaller group, and we'd certainly be
0088

1 glad to discuss those things, certainly.

2 SENATOR ALLEN: That would be great. Thank you.

3 MR. GIORDANO: And we may be able to put something
4 together at least to share with you and then have some
5 further conversation. That's a terrific question.

6 MS. KESHISHIAN: And we appreciate the offer.

7 Thank you.

8 MR. GIORDANO: Thank you.

9 SENATOR RUIZ: Respectfully through the
10 Chair, just all the information to disseminate to the

11 members.

12 I want to thank you for engaging in the conversation,
13 and not once, not the first time that we've had this, and I
14 look forward to, as we start hearing from all the stakeholders,
15 that as Senator Allen stated, that people are bringing about
16 ideas and concepts. At the end of this process, I hope, I
17 know that I will have a bill with grand -- with input
18 and with very responsible measures of time and commitment,
19 not with sound bites, that will take New Jersey to a level that
20 will ensure that we have great leaders. And I know that, that's
21 what everyone in this room wants.

22 Thank you.

23 MR. GIORDANO: Knowing you in your role and how
24 you handle things, we are confident of that. Thank you very
25 much.

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1 SENATOR RUIZ: Thank you very much.

2 One question before you go, and maybe, Michael,
3 this -- and perhaps later we can engage in this, with the --
4 the students who are coming out of our institutions,
5 do you feel that they're -- they're coming out fully
6 prepared, and do you have recommendations? Because I think
7 this is-- We're looking at different slivers of the pie of
8 public education reform. So we certainly recognize that all
9 these variables have to go hand in hand to create success.
10 Today, obviously, we're focusing on one thing.

11 We have dynamic universities in the State of New
12 Jersey that have been highlighted on a national note --
13 level for producing educational leaders.

14 In the NJEA's estimation, do you think that
15 they're at that pre-process, not after, because we're
16 talking about professional development and resources, are we
17 on a curriculum level -- both the four years and masters and
18 doctorates -- where we should be to ensure that we're producing
19 the appropriate individuals; if you can answer it?

20 MR. COHAN: Well, I would only point out that I
21 think the same thing can be said for teacher preparation
22 programs in higher ed institutions as could be said for
23 school districts across the state, K-12 school districts.
24 There are some that have a deeper commitment and a greater
25 focus on the outcomes of their program, and others that

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1 certainly have teacher preparation programs, but don't devote
2 the same level of resources.

3 So the standards are the same. The standards for
4 teachers are supposed to guide the pre-service education of all
5 of the teacher programs.

6 And I think that would bear some further
7 discussion on the part of the Committee with the higher ed
8 institutions, because we can certainly work together with
9 them to make sure that when their candidates come into our
10 schools with a strong mentoring program, that we're just
11 enhancing and extending the kind of pre-service experience
12 that they have.

13 SENATOR RUIZ: Senator Whelan.

14 SENATOR WHELAN: Just one quick question, and

15 I want to add my congratulations to (a) your being here;
16 and, also frankly, you put something on the table in terms
17 of really streamlining the tenure hearing process.

18 We made reference to the Colorado situation,
19 and one of the realities now is, tenure is -- pardon the
20 analogy, but it's life or death. Either you have it or you
21 don't have it. You have a job or you don't have a job.

22 In Colorado it appears that you can be a tenured
23 teacher. That's not the term they use, and you could slide
24 back to the probationary status, and if you don't improve,
25 you eventually are shown the door, but if you do improve
0091

1 you can regain your tenured status, if you will -- is that
2 something that should be part of this discussion, and
3 if we have someone who's been a teacher for ten years and
4 maybe running into difficulty for whatever reasons, personal
5 reasons, in their life; they have a sick child and they're
6 not able to tend to their duties and, okay, they go on to--
7 Is that something that you think should be part of the
8 discussion as opposed to just as, sort of, either or, you know,
9 you're in or you're out?

10 MR. GIORDANO: Senator, may I? A knee-jerk
11 reaction to that is, it doesn't sound like a system that
12 would work very well or that we would have great interest in
13 it. It seems like people would, kind of, always be off
14 balance somehow in terms of what their status.

15 But I would say this, and I was just asked this
16 question on a radio show that I happened to find myself on,
17 and that the other individual said, "Well, what about these
18 five-year renewable contracts instead of the current tenure
19 system?" And I said, "Well, right now you have an annual
20 renewable contract, even when you get tenure." They don't--
21 the district does not have to continue that employment.
22 They do have to go through a fair process to remove
23 you.

24 So basically, you -- why would you go to a
25 five-year renewable, when you have an annual renewable?
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1 If we're not happy with that teacher's work, and
2 everyone is doing what they're supposed to do, and we have
3 an evaluation system that everybody gets comfortable with,
4 you have right now the ability to continue or not continue
5 somebody's employment at -- not only at the end of each year,
6 during the course of a year.

7 So I will give you the same answer. That
8 doesn't seem to make sense to me that you go this -- go up
9 to this point and then back up to here and then you go up to
10 this point. It seems a little chaotic.

11 SENATOR WHELAN: Allow me follow up, Madam Chair,
12 if I could.

13 And this is the first that I heard it, also --

14 MR. GIORDANO: Me, too.

15 SENATOR WHELAN: -- So I'm groping with it,
16 you know.

17 Is that something that we should consider for new
18 teachers, which is to say, you know, as we all acknowledge

19 who've been in the field, you know, the first year is --
20 particularly people aren't mentored properly or if they're
21 having difficulty?

22 The school that I teach at is, 95 percent of the
23 kids are on free lunch, So you know, it's a tough school. If
24 you know -- so the first year is almost lost, the second
25 year and the third year you get a new principal and so on;
0093

1 is that something that we should look at for someone who
2 comes up on that third, the end of that third year? And
3 we're not sure, but right now the decision at the end of
4 that third year is either yes or no.

5 Whereas, this model, and I'm just focused on the
6 -- the end of the third year, is that something that maybe we
7 want to think about in the context of that to say, okay,
8 well, you know, we're not going to give you tenure, but
9 we're not going to show you the door, we're going to give
10 you another probationary year or two, whatever it might be.

11 MR. GIORDANO: I think if your question is, is
12 that something that we should have further conversation
13 about, it would be a kind of an extension of the current
14 probationary period?

15 SENATOR WHELAN: Right.

16 MR. GIORDANO: I think we'd have an open mind
17 to some conversation about that kind of a system, sure.

18 SENATOR WHELAN: Thank you, Madam Chair.

19 SENATOR RUIZ: Thank you.

20 MR. GIORDANO: Thank you.

21 SENATOR RUIZ: Next, I would like to invite
22 Mr. Joe Del Grosso President of the Newark Teachers' Union.

23 It's still morning; we're four minutes out from
24 approaching the afternoon -- welcome.

25 **JOSEPH DEL GROSSO:** Okay. I'll be brief.

0094

1 I heard, you know -- I concur with a lot of
2 the testimony that was, you know, that was given, so I'm
3 trying a different topic. My testimony this morning, first
4 of all, I want to thank all of you for the opportunity to
5 discuss this issue. And when we talked about great
6 educational minds, I think we have some right here in New
7 Jersey, also.

8 Senator Kean's father, Tom Kean, comes to mind,
9 who was a great educator and a great educational governor.

10 My name is Joseph Del Grosso; I'm president of
11 the Newark Teachers' Union, Local 481, AFL-CIO since 1995.
12 Prior to being elected president, I was a teacher for 25
13 years. I represent the largest school district in the
14 state, which has 5,000 members.

15 The issues that I find most pressing are
16 student achievement and teacher assessment. The Newark
17 Teachers' Union will recommend to this Committee a method
18 with proven success for decades.

19 I've been invited to testify on the teacher
20 employment tenure and dismissal process, and what
21 improvements can be made in the process whereby highly
22 qualified teachers are rewarded, and those who repeatedly fail

23 students will seek other careers, because children are our
24 most sacred and important asset to the future of America,
25 and every classroom moment must be important if they are to
0095

1 succeed in this competitive world.

2 First, let me say, the teacher unions are not the
3 problem. We act within the parameters of the law, and as
4 established by the legislature.

5 Second, we do not hire teachers. We don'
6 interview teachers for teaching positions, and we
7 do not interview teacher applications. We don't see
8 letters of recommendation, and we don't sit on screening
9 committees or make recommendations for employment or
10 tenure.

11 Just to tell you, when a teacher gets tenure, you
12 don't even get a letter saying that you got tenure.

13 So it may be a very important factor, but it's
14 not treated like an important factor anywhere in -- that I
15 know of, you know. Like I said, they don't even tell you,
16 formally, that you have tenure.

17 In fact, we're not, in any way, shape or form
18 involved in the employment process of our colleagues and
19 peers. Only Boards of Education can bear that
20 responsibility. Unfortunately, too often they do not bear
21 the responsibility for hiring their friends, relatives,
22 friends of their relatives, and the result of hiring -- and
23 the results of that hiring is upon our children. Only we
24 seem to bear the blame.

25 When lawyers seek employment in the private and
0096

1 public sector, they're screened by their peers. When
2 doctors apply to hospitals for internship or positions in
3 professional corporations, they are screened by their peers.

4 So I am suggesting that we have a peer review
5 form of evaluation here in New Jersey.

6 Peer review and assistance must exist for teachers
7 at the initial stage of employment, during the intern stage,
8 during the receipt of the tenure stage, and at the dismissal
9 court stage.

10 The entire employment process of teachers must
11 statutorily be reformed so that an evaluation process has
12 equitable standards, which, if not achieved by a teacher and
13 student, will result in a career change, either voluntary or
14 through a due process procedure.

15 We, here in New Jersey, are not naive, and
16 understand that there is partisan politics that does still
17 exist in education.

18 No good teacher wants to see a student lose out on
19 education.

20 I propose you review what is nationally proven,
21 and it is called the Toledo Plan, which was modeled on the
22 medical profession training program.

23 This successful program has been in effect for 22
24 years, and statistics prove, like in every other profession,
25 that peer assistance and peer contribution and
0097

1 recommendations within the dismissal process have made
2 teachers more accountable and improved education for
3 students, and expedited the dismissal, and what I refer to
4 as a career change.

5 What is the Toledo Plan?

6 The Toledo Plan is a cooperative union/management
7 program of teacher evaluation and mentoring. It's present in
8 Toledo, it's in Rochester, New York, it's in New Haven, it's
9 in San Francisco, it's in many districts.

10 It's an effective teacher performance tool based
11 on peer assistance, coaching and evaluation.

12 The Intern Intervention Evaluation Program uses
13 outstanding, experienced teachers to train, evaluate
14 beginning teachers and to assist experienced teachers whose
15 skills are severely deficient.

16 The underlying assumption of this program was that
17 experienced teachers were in the best position to screen new
18 entrants into the profession.

19 Additionally, experienced teachers were identified
20 at being the most qualified to be consultants and mentors
21 for first-year teachers.

22 What are the goals of the intern program? One:
23 remove from the profession those first-year
24 teachers who can't meet the performance criteria even after
25 extensive mentoring.

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1 Two: provide support and professional development
2 so that other intern-year teachers are able to build a
3 successful classroom career of their own.

4 Areas in which the interns are evaluated include:
5 teaching procedures, classroom management, knowledge of
6 subject, academic preparation -- which includes personal
7 characteristics and professional responsibility.

8 What is the difference between the intern program
9 and the intervention and how are teachers identified to be
10 placed in it?

11 The intern program is designed to provide
12 assistance and evaluation by experienced teachers,
13 consultants for first-year teachers, long-term subs and new
14 teachers. The intern consulting teacher and the intern work
15 cooperatively by establishing mutual goals on the strengths
16 and weaknesses of the intern.

17 The consulting teacher assists in the professional
18 development of the intern through support, advice and
19 guidance. And the consultant must ensure that the intern is
20 fully aware of all the performance standards that must be
21 met or exceeded.

22 The intervention program is designed to assist and
23 evaluate non-probationary teachers, three years and beyond,
24 who have been identified by school staff or principal as
25 performing in a way unsatisfactory, and that termination or

0099

1 improvement is imperative.

2 Often, the difficulties that these teachers are
3 having involve classroom management or an inability to
4 present material clearly.

5 A consultant is assigned to identify teachers, and
6 the goal of the intervention is to improve performance to an
7 acceptable level.

8 Both the principal or union committee may
9 recommend that a teacher should be assigned to intervention.

10 This identification process is designed as a check
11 and balance to prevent or avoid the abuse of the system.
12 Additionally, it assures consistency and fairness
13 in the procedure.

14 Will the Toledo Plan improve the way teachers
15 teach?

16 To date, we can see the outcomes, and I've
17 provided some. Before the implementation of the plan,
18 teachers were evaluated by the building principal.
19 These traditional methods of teacher evaluation
20 proved to be ineffective and burdensome.

21 And I think that you heard that testimony, if
22 there are only 10 teachers in the system that are not
23 cutting it, then I guess we're all great at what we do.
24 I don't share that view. I share the view that this
25 evaluation system, a peer intervention system, would work
0100

1 better when teacher is looking at teacher to see who
2 should remain in the profession.

3 In the Toledo Plan, and I'm moving away
4 from my testimony, because I'm better extemporaneously -- the
5 last five years of the program -- excluding 2009 and '10 --
6 there were 392 interns that were served, 33 interns were not
7 renewed or terminated, veteran teachers, there were 13 in
8 intervention, four of them had to leave the district.

9 The goal -- you know, the goal of it is to -- is
10 to move to a model that is akin to what happens in -- in the
11 private sector. And anywhere in the private sector people
12 will tell you -- business leaders, et cetera -- that probably
13 ten percent of the working force are ineffective, okay. And
14 I think teaching parallels with what happens in the business
15 sector.

16 So if we go in with that, you'll see the
17 statistics here that show that peer review brings that to
18 about that number.

19 Statistics surrounding the Toledo Plan concept
20 evidenced that teachers have no problem in
21 recommending non-employment to those who objectively
22 should seek another career path. There is no shame in that
23 you can't teach, you know. If I wasn't a teacher, I would
24 go into politics.

25 With the adaptation of peer review, the Newark
0101

1 Teachers' Union should be open to using the first year of
2 teaching as an internship year. After the satisfactory
3 completion of that year, the teacher would then go into a
4 tenure track and have an additional three years and a day to
5 achieve tenure.

6 Now, this would take, you know, legislative change
7 and it would take support of universities.

8 What we see, problems in the-- This is the

9 largest city. In Newark, we have the most
10 teachers; we have the greatest student population. What we
11 see, we would have to collaborate as we do. We have parts
12 of this program in Newark now.

13 We have partnered with Seton Hall University over
14 the last three years. The union paid for the cost of this
15 program over the last three years, and the last year we got
16 some grant money that Seton Hall was able to get from the
17 Geraldine Dodge Foundation and other partners. And we began
18 the process of using Seton Hall to go into our schools and
19 mentor the new teachers as well as any teacher that was
20 rated unsatisfactory Seton Hall would go in and mentor
21 them; they would go to courses on a Saturday and they would
22 try to improve.

23 We had 92 teachers in that program last year --
24 veteran and new -- and we saved all but 12 of them; 12
25 were deemed to choose another career path. And we counsel
0102

1 them and we tell them, there is no shame in the fact that
2 you can't teach. There is more shame in staying and trying
3 to remain a teacher than there is in admitting that you're
4 not very good at what you're doing, and you move on. And
5 that's what we want.

6 And collectively, we think tenure is not the most
7 significant problem. And you could even ask the Department
8 of Education, could they provide you with empirical data
9 that shows in what year teachers get the most tenure
10 charges? Is it in the beginning? Is it in mid career? Is
11 it at the end?

12 Our lawyer that's sitting to the left of me, Mr.
13 Liss, he has -- the most tenure cases because in
14 Newark, like I say, by the numbers we have the most
15 teachers. And he informed me that teachers at mid to the
16 end, you know, to senior teachers, are brought up. And I
17 understand that.

18 So that's where peer review would be a very
19 important focal point because, as this program went on in
20 Toledo and spread around the United States, they went
21 through with an initial process that was very difficult. It
22 was difficult for teachers to accept, and it was difficult,
23 you know, to implement. But once it was implemented,
24 teachers became very comfortable with the idea that other
25 teachers were going to be reviewed. And it made a
0103

1 substantial difference.

2 **EUGENE G. LISS, ESQ.:** I would just like to say one point. I
3 have been in education since 1961, as a teacher for 10
4 years and as an attorney from 1971 to the present. Most
5 teachers who receive tenure charges, and -- and we
6 see these statistics in the paper all the time. Only three
7 teachers one year, two teachers another year are brought up
8 on charges of inefficiency.

9 I think if my colleagues who represent teachers
10 throughout the state were here, they would say that many
11 teachers who actually receive inefficiency charges,
12 after they speak to their unions or their associations or

13 their attorneys, they resign. They resign, they
14 retire, they go into other careers. And you don't see those
15 statistics.

16 But I would rest -- I would gather there
17 were hundreds of teachers in the State of New Jersey last
18 year who, upon receipt of tenure charges or had knowledge
19 that tenure charges were going to be brought against them,
20 either retired or resigned. And that's just the
21 statistic that you don't hear. Don't buy into statistics
22 that only two or three teachers a year.

23 MR. DEL GROSSO: No.

24 MR. LISS: Maybe it went to Trenton, maybe three
25 or four went down to Trenton on inefficiency purposes, but
0104

1 many of these teachers who come to us, who are the legal
2 counselors, we sit down with them. And many of them do
3 leave the profession. And you don't hear that statistic.

4 MR. DEL GROSSO: Right. And peer review would
5 make that even more relevant because, you're getting your
6 union, which is on board with the review process, and you're
7 getting management telling you that more than
8 likely, you know, you're not going to succeed in this
9 profession.

10 So if a taxpayer is looking at it and looking at
11 cost, there's your cost saver. And if educators are looking
12 at it, you're asking educators to be accountable to
13 themselves.

14 So let's -- we have to stop something. We can't
15 say that we want to hold teachers accountable, but not give
16 them the ability to sit on the committees that interview new
17 teachers, to sit on the committees that screen them, and to
18 be there to evaluate them.

19 If you want the accountability, we'll give you
20 accountability, but it's time for management to turn the
21 other cheek and say to themselves, that they need the
22 teachers and the leadership of the teachers to be
23 part of the parcel of the partnership.

24 I thank you.

25 Questions?

0105

1 SENATOR RUIZ: Senator Allen.

2 SENATOR ALLEN: I have always been a strong
3 believer that teachers and administrators need to
4 work together very closely, more closely than we generally
5 see.

6 MR. DEL GROSSO: Absolutely.

7 SENATOR ALLEN: And I've had an opportunity
8 over the years to visit many schools that were spectacularly
9 able to move children along, even those schools in the worst
10 neighborhoods.

11 And I'm thinking of a school on the southside of
12 Chicago in the -- in the projects that just was -- the
13 projects are gone now, but it was just the kind of school
14 that one normally would expect to have a very poor
15 outcomes for the kids, because most of the schools in that
16 same area did. And yet this one shining star did so

17 beautifully well and it turned out, as we examined
18 it, that it had a principal who was just all in. Just
19 absolutely everything that needed to occur occurred.
20 She was wonderful with the teachers; she was
21 wonderful with the students.
22 She put a washing machine in her office so if
23 kids that didn't have clean clothes and were embarrassed,
24 she had clothes for them and she'd wash their clothes.
25 I mean, I'm not suggesting that principals should
0106

1 do that in New Jersey, but --
2 MR. DEL GROSSO: We can negotiate it, Senator.
3 SENATOR ALLEN: It's just an example that --
4 that she was -- she'd work 20 hours a day if that's what it
5 took. She wanted to make sure that her kids got everything
6 that they needed.

7 And the teachers either caught that spirit from her,
8 or she had teachers that had that spirit to start with, I'm
9 not sure, although I guess it was probably a combination of
10 the two. And they did wonderful things. But they worked
11 together. Truly it was a collaborative effort. And I --
12 I sense that we don't have that today.

13 And I wonder, as you talk about teachers doing --
14 being part of the committee interviewing when other
15 teachers come in, would those who are doing the interviewing
16 be chosen because they are the best teachers, or how would we --

17 MR. DEL GROSSO: Yes. When you formulate the
18 committee, you formulate it, based upon,
19 present teacher reviews.
20 And, So we're not looking for the average
21 satisfactory teacher, we're looking for someone who went
22 beyond.

23 And the evaluation process that we presently have,
24 we just redid a couple of years ago to be in concept of what
25 we did with Seton Hall. And it is much more stringent.
0107

1 In the beginning we had a lot of resistance, you
2 know. I mean, teachers are members of the union. And when
3 it was presented, we had a lot of resistance, but as we
4 explained it and unfolded it and showed them that it was
5 going to be fair and equitable, that's the most important
6 part. A teacher wants to be evaluated fair. Just because
7 you wash the principal's car doesn't mean that you're the
8 best teacher in the building.

9 SENATOR ALLEN: Well, that's -- that's, of course,
10 my concern, that, you know, if you -- if you want to have a
11 good peer review, you know, bring gifts every Friday.

12 MR. DEL GROSSO: That's correct.

13 SENATOR ALLEN: Whatever it is.

14 MR. DEL GROSSO: That's how I started my career,
15 Senator. That's how I lasted 25 years in Newark.

16 SENATOR ALLEN: We have peer reviews every
17 Election Day, so we're well aware of how that works, and we
18 -- there are too many people for us to give gifts, so we
19 don't have that option.

20 MR. DEL GROSSO: That's right.

21 SENATOR ALLEN: I guess I'd like to know more
22 about this, and I don't know the Toledo Plan, so...
23 MR. DEL GROSSO: I'm going to give you some.
24 SENATOR ALLEN: Do you have some of that
25 information?
0108
1 MR. DEL GROSSO: Yes. I do.
2 SENATOR ALLEN: Perfect.
3 MR. DEL GROSSO: I have some of that material.
4 And you have an astute mind because you're
5 on the money. Where principals act that way, and where
6 principals go that extra mile, where the principal says to
7 the, you know -- where the principal stands in front of the
8 office with his arms folded and says, you're one minute
9 late, you know, you are nothing but a teacher. Remember who
10 I am, I'm the principal. Those schools inevitably fail,
11 and usually that principal goes on to be the
12 superintendent, but that's neither here nor there.
13 SENATOR ALLEN: And gets paid a lot.
14 MR. DEL GROSSO: Yes. Well, no more, which is,
15 you know -- I'm glad about that.
16 SENATOR ALLEN: Let me ask -- let me ask one other
17 question. The school board was also mentioned.
18 MR. DEL GROSSO: Yes.
19 SENATOR ALLEN: And this has always been
20 a concern, so many people who run for school boards do
21 it for the right reason and put in their time --
22 MR. DEL GROSSO: Right.
23 SENATOR ALLEN: -- and try to give their very
24 best, but there are others who either don't have the background
25 knowledge, even though we're looking to have them trained more
0109
1 or are there for the wrong reasons.
2 MR. DEL GROSSO: Exactly.
3 SENATOR ALLEN: How do we, in your estimation, try
4 to deal with that situation, because clearly that -- school
5 boards play a very important role --
6 MR. DEL GROSSO: They do.
7 SENATOR ALLEN: -- and I'm not sure of their
8 oversight? They are volunteers, God bless them for being
9 willing to do that.
10 MR. DEL GROSSO: Yes.
11 SENATOR ALLEN: They are -- we ask a lot of them,
12 and in some cases more maybe than is fair.
13 I mean, what would be your suggestion in how we
14 can make some changes so that school boards can do their job
15 better?
16 MR. DEL GROSSO: Yes. I had the privilege of
17 being a board member, and I was a board member for the
18 Essex County Vocational Schools. I was appointed by our
19 county executive, Mr. DiVincenzo. So I got that
20 perspective. And I went to the NJ -- New Jersey School
21 Boards Association training -- and that was very good.
22 I think the New Jersey School Boards Association
23 does a great job in that area. And I know that we're tight
24 of funding, but I wish they would expand their training,

25 because a lot of board members don't have the right
0110
1 viewpoint, you know. They're policymakers.
2 But in the everyday operation of schools, they're
3 not really supposed to be that involved in it, you know.
4 They are the policymakers.
5 And once you have a superintendent, you have your
6 principals in place and your teachers in place, your job
7 should be to want to succeed at what you're doing, you know.
8 And sometimes that doesn't happen.
9 But as you said, they give up their time, and most
10 of them, I find, you know, are trying to do a very good job.
11 SENATOR RUIZ: Thank you, Joe.
12 I just want to take this opportunity, in the
13 summer we had a great discussion --
14 MR. DEL GROSSO: Yes.
15 SENATOR RUIZ: -- and today your approach is
16 quite the same, very candid, real and open. And the
17 progressive nature of what you've put forth today is
18 appreciated.
19 I just want to thank you for your commitment to
20 our students, specifically in Newark.
21 MR. DEL GROSSO: Thank you.
22 And I just want to close with saying, you know,
23 we had a mayor in Newark, Kenneth Gibson, and Kenneth
24 Gibson, you know, during his tenure made one great
25 statement, he put me in jail -- but that's a discussion for
0111
1 another day -- when I was on strike, but I forgave him, and
2 what Ken said was, that wherever America goes, Newark is
3 going to get there first.
4 And it's my prayer that Newark is
5 going to get there first with reform and show all of you
6 that we have a great school district, and I want to be part
7 of that.
8 SENATOR RUIZ: I'm going to join you in
9 that fight.
10 MR. DEL GROSSO: Yes.
11 SENATOR RUIZ: I believe that Senator Whelan
12 has a question.
13 MR. DEL GROSSO: Yes.
14 SENATOR WHELAN: Yes. Thank you, Madam Chair.
15 And I really appreciate your testimony --
16 MR. DEL GROSSO: Thank you.
17 SENATOR WHELAN: -- and I see that you provided
18 documentation --
19 MR. DEL GROSSO: Yes.
20 SENATOR WHELAN: -- on the Toledo Plan --
21 MR. DEL GROSSO: Yes.
22 SENATOR WHELAN: -- and the peer review makes
23 all -- you know, some used the phrase earlier about a
24 knee-jerk reaction, and, I mean, as a teacher peer review
25 makes all the sense in the world to me --
0112
1 MR. DEL GROSSO: Thank you.
2 SENATOR WHELAN: -- as a knee-jerk reaction.

3 We have a specific idea from NJEA in terms of
4 going to arbitration as opposed to the system that we have
5 now. Do you have any --
6 MR. DEL GROSSO: No. You know, at the end of this
7 system, what could be added -- we can tailor -- we don't
8 have to use exactly the Toledo Plan, you use a hybrid of it
9 like they did in Rochester.
10 But I would say, at the end of this, say you don't
11 agree with the peer review committee, you go to arbitration.
12 SENATOR WHELAN: Okay.
13 MR. DEL GROSSO: And saving the money, you know,
14 it has to be an aspect of it, but I want to see a fair
15 approach to it.
16 SENATOR WHELAN: I mean, I think your approach,
17 really, and the attorney has addressed the --
18 MR. DEL GROSSO: Thank you.
19 SENATOR WHELAN: -- question that I raised
20 earlier is, you know, let's deal with this stuff before we
21 get to the point where --
22 MR. DEL GROSSO: Absolutely.
23 SENATOR WHELAN: -- we're firing people.
24 MR. DEL GROSSO: Absolutely.
25 SENATOR WHELAN: Because that's what you're
0113
1 doing.
2 MR. LISS: We do.
3 MR. DEL GROSSO: And we try.
4 SENATOR WHELAN: So I agree with that
5 approach, but, ultimately, at some point --
6 MR. DEL GROSSO: Yes.
7 SENATOR WHELAN: -- that issue has to be
8 addressed.
9 MR. DEL GROSSO: Definitely.
10 SENATOR WHELAN: You don't have a problem
11 changing the system?
12 MR. DEL GROSSO: Absolutely not.
13 SENATOR WHELAN: Okay. Thank you.
14 MR. DEL GROSSO: Absolutely not. Thank you.
15 SENATOR RUIZ: Thank you very much.
16 MR. DEL GROSSO: You're welcome.
17 SENATOR RUIZ: I would like to call forward
18 Ada Beth Cutler, Dean of the College of Education from
19 Montclair State University; Candace Burns, Dean of the
20 College of Education, William Paterson; Sarah Kern,
21 Associate Dean, School of Education of The College of New
22 Jersey; and Sharon Sherman, Dean, School of Education at
23 Rider University.
24 SENATOR WHELAN: Madam Chairman (sic), if I
25 may, while the deans are taking their seats, and to the
0114
1 others who are going to testify, I'm going to have to leave.
2 We have State Government today, and as much fun as tenure
3 is, we have binding arbitration and civil service reform
4 on the agenda there.
5 So -- and I do apologize that I'm going to have
6 to leave very shortly in the middle of the testimony of

7 our deans here.

8 How come we don't have any men that are deans
9 of --

10 SENATOR RUIZ: And that shows -- Senator
11 Allen, did you hear the comment that Senator Whelan
12 said, that the deans were missing a male
13 representation, and I was about to make a wise comment,
14 but --

15 SENATOR WHELAN: I think the Dean of Rowan is a
16 male; right?

17 **ADA BETH CUTLER, Ed.D.:** No. It's a female.

18 SENATOR WHELAN: Used to be.

19 SENATOR RUIZ: Keep on going.

20 SENATOR WHELAN: Pardon me?

21 DR. CUTLER: Rowan is a female.

22 SENATOR RUIZ: From women we shall learn.

23 SENATOR WHELAN: I never saw that. All right.

24 All right.

25 SENATOR RUIZ: Dean Cutler.

0115

1 SENATOR WHELAN: My principal is a woman
2 as well, so...

3 DR. CUTLER: It's on red. There we go. Okay.

4 Good afternoon, Madam Chair, and Committee
5 members; my name is Ada Beth Cutler, and I am the dean of
6 The College of Education and Human Services at Montclair
7 State University. I appreciate the opportunity to speak to
8 you today about teacher quality, and I will be brief in my
9 remarks, but I will be happy to answer any specific
10 questions you may have.

11 I want to begin by letting you know that Montclair
12 State University's teacher preparation program has garnered
13 national recognition as one of the very best in the nation.

14 Most recently, in 2010, we were named among the
15 top 20 in the country for teacher preparation by US News and
16 World Report, ranked 14th and above Harvard, NYU and
17 University of California at Berkeley, among others. And
18 just last month we won a highly competitive national award
19 from the Council of Great City Schools for significant
20 effects on student achievement in a small set of schools in
21 Newark that we work closely with.

22 One reason for these accolades is the fact that we
23 have one of the strongest and most mature school-university
24 partnerships in the country called the Montclair State
25 University Network for Educational Renewal, with 27 urban

0116

1 and suburban school districts in our area, including Newark,
2 where we have a \$6.3 million Federal Grant to implement an
3 Urban Teacher Residency Program; also Montclair, Elizabeth,
4 Nutley, East Orange and Caldwell-West Caldwell, among
5 others. With these districts, we focus on the simultaneous
6 renewal of the schools and teacher education.

7 These are the districts where our students spend
8 time in their extensive and well-mentored field experiences,
9 and the partnership offers a wide array of professional
10 development activities and opportunities for teachers and

11 principals in these schools.

12 And, in fact, the district pays dues to the
13 partnership because it is so valuable to them.

14 The teachers who host and mentor our students -- our
15 teacher education students -- in these partner schools, are
16 required to take mini courses on mentoring and coaching,
17 teaching for critical thinking, and culturally responsive
18 teaching.

19 Teaching is a clinical profession, and good
20 teacher education must include high quality field
21 experiences threaded throughout candidates' preparation
22 programs.

23 We assess our candidates' growing knowledge and
24 skills as they progress in our program, and we thoroughly
25 assess their performance in the classroom during student
0117

1 teaching, including assessing how they impact student
2 learning in a very beginning way.

3 When we recommend our graduates for state
4 certification, we are confident they are ready to begin
5 teaching.

6 In New Jersey, principals and supervisors tell us
7 they are happy to hire Montclair State graduates because
8 they possess deep knowledge of the subjects they will teach;
9 they understand how children and adolescents learn; and they
10 know how to plan and implement instruction that is rigorous,
11 engaging and tied to standards; they understand and practice
12 culturally responsive teaching; and they know how to develop
13 a classroom community that is caring, safe and conducive to
14 learning.

15 In short, they are excellent beginning teachers.
16 And that is our primary job in teacher preparation,
17 educating excellent beginning teachers.

18 In fact, Mike Pallante and Steve Abudato just
19 told me about one of our graduates they hired this year in
20 Newark, and that he is, in fact, an excellent beginning
21 teacher.

22 But we also recognize that teaching is a complex
23 and demanding profession, and good teachers must continue to
24 learn, develop and improve throughout their careers.

25 Once our teacher graduates leave us, the process
0118

1 of becoming expert teachers is up to them and the schools
2 that hire them.

3 Research shows it takes five to seven years for
4 teachers to reach their full potential in a classroom, and
5 schools must provide the mentoring, meaningful evaluation,
6 and professional development that teachers need.

7 And I'm happy to answer your questions about what
8 that kind of meaningful evaluation should look like.

9 Responsibility for the quality of teachers in New
10 Jersey's public schools does not rest solely with teacher
11 education programs. Good preparation is only the first
12 step. Once teachers are hired, they must be given
13 appropriate assignments -- not the most difficult classrooms
14 that veteran teachers don't want, and they must be properly

15 supported in the first few years of their career.
16 We all know we have a national problem with
17 teacher attrition. One third of teachers leave the
18 profession in the first three years, and in many urban
19 school districts where the need for good teachers is most
20 critical, 50 percent of teachers leave in the first three
21 years.

22 Most teachers who leave the profession say it was
23 because of a lack of administrative support and
24 dissatisfaction with the job of teaching.

25 At Montclair State we not only prepare excellent
0119

1 beginning teachers, we also prepare and work with principals
2 to understand how teachers learn and develop and what their
3 roles are as instructional leaders.

4 Within our school-university partnership, we
5 provide mentor teacher preparation workshops and institutes,
6 and in many schools we collaborate on the development of
7 induction support programs for teachers.

8 Ultimately, the goal for us in teacher
9 preparation -- and I believe for you, too, as members of the
10 Senate Education Committee -- is to assure that New Jersey's
11 public schools have the very best teachers possible for all
12 of New Jersey's students so they can succeed in school and
13 in life.

14 At Montclair State, we are doing our very best to
15 make this goal a reality.

16 I'm happy to answer your questions now about
17 teacher preparation and also about teacher tenure.

18 And please know, Madam Chair, that President Cole
19 has offered the University's full resources and any advice
20 and counsel that you may seek as you move forward in your
21 important work.

22 Thank you.

23 SENATOR RUIZ: You talked a little bit about
24 the timeframe between five and seven years reaching
25 the full potential of a leader in the classroom, if you

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1 could elaborate a little bit on that. And then you
2 suggested that you had a structure or --

3 DR. CUTLER: Some thoughts.

4 SENATOR RUIZ: Right.

5 DR. CUTLER: Some thoughts based on research, yes.
6 Madam Chair, I would be happy to answer that.

7 We all know, as I said, the reason
8 I emphasized that we prepare excellent beginning teachers
9 is, no one could possibly make a claim that a first-year
10 teacher is the best teacher that person can be. It takes
11 time to gain the expertise to truly be a master teacher to
12 accumulate the experience and the repertoire of skills and
13 the time to reflect and to grow.

14 And the research shows that at some point in five
15 to seven years, that teachers can be called master teachers.

16 Interestingly, the research shows that after that
17 there isn't a huge trajectory of growth. That doesn't mean
18 that good teachers don't still continue to learn, because new

19 things, new strategies, new tools come to the forefront. But
20 the change and expertise that's most dramatic is between
21 the first year and the fifth to seventh year.

22 In terms of evaluating teachers, you know, when
23 all of the discussion about student test scores, we need to
24 recognize that approximately two-thirds of teachers are
25 teaching in a grade or a subject that is not a place where
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1 standardized state tests are administered.

2 So we have to look beyond student standardized
3 test scores to evaluate teacher performance.

4 And I talk about a web of evidence. I mean,
5 the Colorado law talks about multiple measures. The
6 Educator Effectiveness Committee here in New Jersey is
7 trying to deliberate on multiple measures of student
8 achievement.

9 Some of those can include, besides standardized
10 test scores, classroom assessments that teachers use, not
11 only to look for the quality of the assessments, but also
12 the quality of the results.

13 There is a methodology called Teacher and Student
14 Work Sampling that has been deemed valid and reliable. It
15 originated at Western Oregon University, and it is a process
16 of looking at and assessing the quality of the work
17 and the assignments teachers give, and the quality of the work
18 and the thinking that students exhibit and the growth they
19 exhibit in their work.

20 We also can look at video analysis of teachers
21 performance in the classroom.

22 The National Board for Professional Teaching
23 Standards -- which gives national board
24 certification to teachers -- does have an entire process
25 of evaluating teacher performance in a very nuanced way.
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1 So there are possibilities beyond the
2 standardized test scores; they certainly are going to be a
3 factor. But, again, they're only even in existence for
4 approximately a third of the teachers who are teaching in
5 our public schools.

6 And we need to look at teacher plans, teacher
7 lesson plans, the ways in which they adapt instruction for
8 English language learners, for students with special needs --
9 these are all factors in students success.

10 SENATOR RUIZ: Senator Allen, do you have a
11 question or did I ask it?

12 SENATOR ALLEN: You answered my primary question.
13 I just want to see -- when you speak about teachers leaving
14 the profession -- it is not going on, so I'm just going to
15 speak very loud. In teaching about -- in talking about --

16 SENATOR RUIZ: Hold on, Senator Allen.

17 If you could turn your mikes off, that might be the
18 problem.

19 SENATOR ALLEN: There we go. Thank you.

20 You say that many leave in the first year, a third
21 in general, and in some of our toughest districts maybe a half
22 leave.

23 My question is, while they say that it's because of
24 lack of support or dissatisfaction with the job of teaching,
25 how much of it is lack of support; and is there also a piece
0123

1 that there might be another family reason?

2 DR. CUTLER: Madam Chair and Senator Allen, there
3 certainly are other factors that enter
4 into it, but the most common reasons that teachers give are
5 lack of administrative support and dissatisfaction with the job
6 of teaching.

7 It also -- sometimes, and in some states, it's low
8 salaries. There are other reasons that teachers give for leaving.

9 But, you know, there is a well documented
10 phenomenon that in the beginning of teaching that's
11 sometimes called trial by fire.

12 We shouldn't be having teachers learn their
13 profession as trials by fire. We need to provide supportive
14 learning processes for teachers as they begin to teach because,
15 as I said, we can only prepare them to be excellent beginning
16 teachers.

17 SENATOR ALLEN: What -- what kind of support does
18 the average teacher get; and what kind should the average
19 teacher get?

20 DR. CUTLER: Well, it varies tremendously from
21 district to district, so I want to be clear about that,
22 Madam Chair, but in -- even though in New Jersey there is a
23 requirement that first-year teachers have mentors -- and I
24 agree, by the way, that it should be two years as it was in
25 the original regulation -- but the quality of the mentoring
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1 is very uneven. In some places there is no preparation,
2 not much of a selection process, and it's done on the fly,
3 mentoring on the fly.

4 SENATOR ALLEN: How do we change that? What
5 should it be?

6 DR.. CUTLER: Ah. It actually should be a required
7 two-year process where mentors are selected carefully.

8 That, first of all, they have to be excellent
9 teachers who get outstanding outcomes with their own
10 students, and then they have to learn how to mentor, because
11 knowing how to teach children is not the same as knowing how
12 to mentor. And then they need to be provided with time to
13 do that.

14 There is a new teacher center in California which
15 has data that shows that when well-prepared and well-selected
16 mentors are taken out of the classroom for a period of time
17 just to mentor a select group of teachers instead of teaching
18 during those initial years, that 95 percent of teachers are
19 retained in the first few years of teaching. It's very
20 compelling data. So mentoring matters. The quality of selection,
21 preparation and the time to do it. And it is an investment, yes.
22 It is certainly an investment, but there is an enormous cost to
23 teacher turnover.

24 I talked to principals who say, I feel like I
25 flush professional development down the toilet, because I am
0125

1 constantly having a turn and a turnover of teachers.
2 So whatever we do there -- they come and they go.
3 So investing in mentoring is a really -- in the
4 end, can be a cost-saving measure.
5 SENATOR ALLEN: You said you had a
6 study that indicated 95 percent of the teachers were
7 retained; could you make that available to --
8 DR. CUTLER: Absolutely. Absolutely.
9 SENATOR ALLEN: -- the Chair and she would then get it
10 out to the rest of us?
11 DR. CUTLER: Yes. From the New Teacher Center.
12 SENATOR ALLEN: We -- you know, we're dealing with
13 no money in the State of New Jersey, and yet we want to see
14 these things, everything that can be done, done; do you see
15 a way to do this with minimal funds? And let me tack on to
16 that, is there -- actually, let me make this a separate
17 question.
18 Is there a role for the universities going forward
19 rather than just, you finish, they get their degree and then
20 they're off? Is there a role for the universities to play
21 with students, with your students, as they become beginning
22 teachers?
23 DR. CUTLER: Absolutely there is a role for
24 us to play. We do stay in close touch with our graduates.
25 We have a computer network that they participate in
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1 with us and we have professional development for them, but
2 it's not the same as site-based mentoring and careful
3 support.
4 There are incremental ways to do this, Madam
5 Chair and Senator Allen. It -- obviously, there is a gold
6 standard, it is expensive. Although, as I say, I think it
7 is an investment that ultimately is cost saving. But there
8 are instrumental ways to do it. And I think requiring that
9 teachers have mentors for two years, that there be some
10 attempts to provide them with time; and some schools they
11 are relieved of some of the duties that teachers have
12 outside the classroom. There can be some creative scheduling
13 so that mentors and mentees have the same preparation periods
14 and can spend time in each other's classrooms. There are
15 ways that it can be done. And there are school districts
16 in New Jersey who are doing it well despite the lack of funding,
17 and even the lack of the regulations that we need.
18 **SHARON SHERMAN:** I would like to add something.
19 I'm Sharon Sherman, Dean of the School of
20 Education at Rider University.
21 Here in New Jersey, about five years ago we
22 received a Teacher Quality Enhancement Effectiveness Grant
23 from the United States Department of Education, and as part
24 of that grant, we created a mentoring tool kit.
25 It's available free for all districts from the New
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1 Jersey Department of Education. And the tool kit, which is
2 actually a big red box if you -- that's, kind of, how it's
3 sent to you -- contains numerous tools that help with
4 the mentoring conversation and give all types of very

5 detailed directions to implement a sound mentoring program.
6 And up until about two years ago, the New Jersey
7 Department of Education did fund mentoring of new teachers.
8 And, unfortunately, due to budget cuts, that money was
9 eliminated. But it was in effect for quite a number of
10 years, and that did help.

11 So if our --

12 SENATOR ALLEN: I have a follow up on that, and
13 I'm not sure exactly where I stand on this, but I ask your
14 opinion for those of us who had careers in the private sector,
15 when we wanted to move forward, we did it on our own. You,
16 you know -- you need to take further classes, you take those
17 classes; you need to go and observe, you do that on your time off.
18 And so you're not being paid to do it, but if
19 you want to move forward in your career, that's the way you
20 move forward in your career.

21 Are we making our beginning teachers understand
22 that it is on their shoulders, that they need to take the
23 prerogative and say, I need this, I need to move forward
24 on this and not expect everything to be given to them? And
25 maybe that's not the case.

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1 But I get the sense that, you know -- I hear from
2 teachers in my office and it's, well, you know, I'd love to
3 be able to do this, but I'm not being paid to do this extra
4 15 minutes.

5 And I worry about that sometimes because, Lord
6 knows that I didn't get paid for all those extra minutes
7 when I was trying to advance my career.

8 DR. SHERMAN: Dedicated teachers work very hard
9 and they are willing to put in extra time. I think, you
10 know, in any field, there are people who are counting the
11 minutes, but I don't think it's most teachers.

12 But a lot of the professional development
13 that teachers need, needs to be collaborative. Teachers
14 working together to look at student work, to look at student
15 data with guidance from experts.

16 In fact, some of the plans in the state for
17 implementing the notion of master teachers who can work with
18 their colleagues on professional development and coaching
19 and mentoring -- this is the place for that.

20 So some of it has to be on the job. But a lot of
21 teachers pursue graduate courses and master's degrees at
22 their -- often at their own expense, some districts have some
23 tuition reimbursement, but most teachers pursue that at their
24 own expense wanting to be better educated. They go to summer
25 institutes.

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1 The teachers in our network and our school
2 university partnership come to summer institutes that we
3 run. They don't get paid for that on the days -- at the
4 first week after school last year, we had 300 teachers on
5 our campus for a week pursuing professional development. No
6 pay. No glory. Just because they wanted to continue to
7 learn and grow.

8 So I think it needs to be a combination, Madam

9 Chair, of what the school provides and what individuals
10 pursue themselves, but it can't all be on the shoulders
11 of individual teachers.
12 SENATOR ALLEN: But when a teacher graduates, does
13 he or she understand that it is not just okay, but really
14 must be from them a pointed decision to say, I need
15 this?
16 **CANDACE BURNS:** I would like to speak to this. I'm
17 Candace Burns; and I'm Dean of the College of Education
18 at William Paterson University.
19 Part of teacher education today emphasizes
20 continuous professional growth and development. It is
21 something that literally they experience on a
22 regular basis throughout their course work.
23 I also want to speak to your question about
24 mentoring and the University's commitment.
25 I have been dean of William Paterson since
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1 July 1st. I was a lucky --
2 SENATOR ALLEN: Congratulations.
3 MS. BURNS: Thank you.
4 I was a lucky recipient of-- We have teacher
5 quality partnership money as well as transition-to-teaching
6 dollars, which we have used, I believe, very well toward
7 mentoring and systematic induction of teachers for the first
8 three years of their career. Not only do we do that, but we
9 have 60 professional development schools, the majority of
10 which we have what we call professors in residence in the
11 schools, who are the eyes and ears in the school on a regular
12 basis -- that we have been able to partly fund through our
13 grants. But schools have liked them so much, they have also
14 provided professors in residence.
15 And so I see teacher induction is something that
16 we have taken responsibility for, but, frankly, we're not
17 going to be funded forever for what I consider model
18 efforts in this regard.
19 So I just wanted to say, like Montclair, we have
20 also won recognition for our innovations in teacher preparation.
21 And also we're very proud and we're carefully
22 following our models in pathways to teaching, to look at which
23 ones produce the most successful teachers who, let me
24 underline this, stay in the schools and make a difference.
25 **SARAH KERN, Ph.D.:** I would -- I'm sorry.

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1 SENATOR RUIZ: No. I was going to ask you to
2 introduce yourself and speak.
3 DR. KERN: Thank you.
4 I'm Sarah Kern, Associate Dean at The College of
5 New Jersey, the School of Education.
6 I would like to speak to Senator Allen's question
7 about, are our students in the School of Education aware that
8 continuing education and professional development really
9 rests on their shoulders as professionals?
10 From the moment our students enter the profession
11 of education as sophomores, because -- actually it is
12 freshmen, they're given intensive content course --

13 foundation, which then they use that deep rigorous
14 information to become better teachers in the classrooms.
15 But from the moment they enter their careers at the College
16 of New Jersey, they are teacher scholars, and they
17 understand the importance of engaging not just in
18 methodology, but in informative research.

19 And this -- these skills of learning, learning to
20 improve their practice, improve their knowledge, improve
21 their skills, is a life-long habit. That's what I
22 call a habit of mind of a teacher. Four years of college is
23 not over, it's just beginning.

24 And I wanted, if I may address the question
25 that seemed everybody spoke to this morning, which is, how
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1 do we know what an effective teacher is?

2 I think-- I'm sure I speak for my
3 colleagues, and I know them and their programs, we work --
4 very hard at researching exactly what we feel will make an
5 effective teacher. And we have very defined assessments,
6 both performance assessments and disposition
7 assessments, throughout the semesters that the students are
8 studying in the college.

9 These assessments, whatever their course work,
10 and the course work is very clearly integrated with
11 clinical practice because, as Dean Cutler has stated, the
12 research is very clear, clinical practice -- this is a
13 clinical profession, and clinical practice prior to becoming
14 a certified teacher is essential.

15 For those courses where students are out in the
16 field as sophomores and juniors and seniors, hundreds of
17 hours they are in the field and mentored and supervised.

18 We assess them. And it is certainly our
19 responsibility, and it happens every semester, that we will
20 counsel students out of the School of Education, because
21 they have not met the standards that we think are necessary
22 to be a highly effective teacher.

23 So I don't think there's an enormous amount of
24 mystery about what a highly effective teacher is. And it
25 does require multiple measures, but we know what it
0133

1 takes.

2 SENATOR ALLEN: Thank you.

3 MS. BURNS: I would like to also add one more thing.
4 When we talked about mentoring teachers, all teachers, I don't
5 care how long they've been in the profession, they need continuous
6 improvement and growth and mentoring, and that's why I think
7 professional development schools are so powerful. It's not
8 only what we think is effective teaching, it's what the schools
9 tell us they need and what the principals tell us and the
10 superintendents. And the teachers every day say they need, in
11 the way of encouragement to help them grow, certain skills that
12 are targeted toward their schools.

13 So we've been really fortunate to partner with
14 schools and we're learning a lot about what is effective and
15 what is necessary.

16 SHARON J. SHERMAN: Madam Chair and members of the

17 Committee, I'd also like to talk about the content
18 preparation of pre-service teachers.
19 Each one of our teachers has two majors, double
20 major. There is a major in a content area such as
21 chemistry or biology or English or history, plus another
22 full major in education and a full course of -- course or
23 full selection of courses in general knowledge in the core
24 content areas. So there is tremendous content knowledge and
25 focus on content knowledge.

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1 And at our NCATE accredited schools, not only do our
2 students pass the state -- the practice test, but we also
3 implement additional tests of content knowledge to be sure
4 that they are solidly grounded in that area, and then they
5 have the pedagogy and the pedagogical content knowledge as
6 well.

7 And, again, all of our programs are field-based,
8 with professors in the field working with the students from
9 the very first course ensuring that they are making progress
10 as they should.

11 Can I -- I would like to say a little bit about
12 our administrator preparation programs as well, because
13 that's been another big part of what we've
14 talked about today.

15 We prepare our administrators in a way that's
16 similar to the way we prepare our teachers.
17 The program is field-based, and all course work
18 and projects are aligned with state and national standards.
19 Within each course, leadership growth projects are
20 assigned, which address all aspects of educational
21 leadership.

22 The program culminates in a 300-hour internship
23 experience where students complete a data-driven action
24 research capstone project.

25 And it is important to know that the whole program

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1 is supervised in the field by experienced mentors.

2 Now, the big question of the day is -- has been,
3 how do we assess teachers? What are the multiple measures?

4 And I'm going to give you the multiple measures
5 we use at Rider University in our Principal Preparation
6 Program.

7 Our candidates are exposed to the use of multiple
8 measures of assessment for teacher evaluation and are keenly
9 aware of the importance of targeted professional
10 development.

11 They learn to assess teacher performance through
12 classroom observations centered on evidence of
13 student learning -- and you've heard a lot about evidence of
14 student learning this morning, district wide or
15 teacher-generated assessments, student performance on
16 high-quality assessments, the high stakes test that we know
17 about, examination of student work. And just as in our
18 teacher preparation programs where our students undergo the
19 teacher work sample, the administrators do the same thing.
20 They look at student involvement in extracurricular

21 activities -- student status after leaving each grade level as
22 well as what happens after they graduate from high school.
23 So those are the multiple measures
24 that we have implemented in our principal preparation
25 program. Through careful analysis, they assess teachers
0136

1 using many of these weighted measures. So they all don't
2 count the same, they're weighted based on importance.

3 Upon completion of the program, our candidates are
4 extremely well prepared to assume a leadership role in a
5 variety of school settings.

6 And, again, as with my colleagues throughout the
7 program, we assess our teacher and our administrator
8 candidates on an ongoing basis very carefully. Not only is
9 this required by our accreditations -- and we are all NCATE
10 Accredited National Council for Accreditation of Teacher
11 Education. Most of our schools have CACREP for the
12 counseling programs.

13 So this is a very well defined, very carefully
14 implemented system.

15 And at Rider University, each semester we
16 aggregate all of the data -- the assessment data -- for all of
17 our programs, and the faculty meet together for a whole day
18 and we look at the data for each program to see if the
19 programs are good enough, and we make changes based on that.

20 So I just wanted to mention a little bit about
21 our administrator programs and as with the other
22 programs, we have our teacher learning community, we have
23 the programs where our cooperating teachers are mentored.

24 And, again, to answer your question, last summer
25 we had -- just as Montclair did, we had a teacher leadership
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1 institute where our teachers came for multiple days, these
2 are teachers who are experienced, no pay, they came day
3 after day after day to learn more. And they can't wait for
4 next summer's program.

5 So thank you for allowing me to make these
6 comments.

7 SENATOR RUIZ: Thank you very much.

8 Senator Allen.

9 SENATOR ALLEN: Thank you for giving us that insight
10 on the teachers that are doing what we assume they all are doing,
11 which is looking to improve themselves. And I am thankful to
12 hear about those great numbers.

13 I have a question on preparing administrators.
14 It seems to me that administrators need to look at their job
15 in a very large way as entrepreneurs; is that something
16 that's encouraged? And I don't know if you can follow what I'm
17 saying, but --

18 DR. SHERMAN: Yes.

19 SENATOR ALLEN: -- their -- to my way of thinking,
20 their school, they're running a small business and they have
21 a product, and they, I mean, not to say the children aren't
22 -- I don't mean to talk about kids as just products, but if
23 they have an entrepreneurial aspect to what they do and they
24 bring the teachers into it and move together, that, I think,

25 is a wonderful way to move everybody forward.

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1 Is that something that is taught --

2 DR. SHERMAN: Yes.

3 SENATOR ALLEN: -- and -- yes. Go ahead.

4 DR. SHERMAN: You want -- we all --

5 DR. KERN: I can certainly speak to that. At the

6 College of New Jersey, our school and leadership program is
7 quite remarkable in that regard.

8 They have one course -- first of all,
9 there is a course on school finance and school law.

10 So immediately all students who, of course,
11 already hold a certification, one certification and a
12 bachelor's degree at least -- these folks are going for a
13 Master's Degree in Education, they're getting -- they not only
14 understand schools, but they're getting the entrepreneurial
15 understanding in terms of what it means law wise, economic
16 wise, finance wise, what's zero-base budgeting.

17 When you get a budget, how do you move those
18 numbers around for the targeted needs of your school?

19 So your -- your student/teacher ratio might be 25
20 to 1, but what does that really mean? Do you need a music
21 teacher instead of a reading recovery teacher? What is the
22 targeted need for your school?

23 And one of the things that this program does is,
24 takes a real district in New Jersey and analyzes the data
25 from top to bottom, the demographics, the student

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1 achievement data, all of the data that's available to them,
2 then they interview the principals and the teachers. What
3 are the needs in this district? And their research during
4 that semester is focused on, how are we going to be problem
5 solvers in the school district?

6 And at the end of the semester they
7 have worked intensely to come up with targeted solutions. They
8 go back to the school district, and, yes, they are
9 prepared to be, at the end of their program not only
10 principals and leaders, educational leaders in the school,
11 but problem solvers. And entrepreneurs should be problem
12 solvers.

13 DR. CUTLER: Madam Chair, another aspect of
14 this is a concept called distributed leadership.

15 It really is impossible for any one human being to
16 do all of the leadership managerial activities that a school
17 needs to accomplish.

18 And the most successful principals understand that
19 good schools practice distributed leadership, where teachers
20 and supervisors and everyone in the school has a role in
21 making sure that things work -- that there are ways of moving
22 ahead, that they're group problem solving.

23 And, So that's a very central feature, I think,
24 of all of our preparation for school leaders. And the
25 assignments that they do in their course work are not

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1 ivory tower; they're all school based, they're all real-life
2 situations that principals face where they need to take

3 creative, innovative approaches to solving the problems
4 that they face.

5 And in terms of entrepreneurial in -- you
6 know, the financial spirit of that word, we also educate
7 our principals to seek -- how to seek grants, because
8 that isn't something that most people know how to do.

9 And yet, there is a lot of grant money still out
10 there that's available school by school and, obviously,
11 district by district. So that's another piece of the
12 entrepreneurial pie.

13 If there's money out there other than the school
14 budget, it's not a lot, but it is possible if you know how
15 to go after it to get it.

16 DR. SHERMAN: Right. And I'd like to add, that at
17 Rider University, our program also focuses on that.

18 We talk about the innovation agenda that
19 a school leader needs to implement, and that includes
20 increasing the value of the education that your students
21 get.

22 Can you take another look at your curriculum; can
23 you renew and revitalize your curriculum; and can you take a
24 look at what's going out -- going on out there in the world
25 and move your school ahead as a business would move ahead?

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1 And, again, through grant funding and keeping up
2 with -- with what's happening in society.

3 MS. BURNS: I also think our administrator
4 programs are excellent at using technology to move
5 things forward.

6 We have an electronic community that is alive
7 and vibrant in our educational administration leadership
8 area.

9 The cohort model that they use has people in
10 constant communication with one another, as well as sharing
11 innovations for schools.

12 And, So we see a lot of best-practice modeling
13 going on with the new emerging leaders. One of the problems
14 is, for them to have the funding to come back and become
15 leaders of -- in the transition from teaching, we have been
16 able to fund a cohort of leaders to come through with a
17 dedication to working in urban school settings, and we're
18 eagerly awaiting their entrance into the schools.

19 SENATOR RUIZ: I want to thank all
20 of you. And I'm sure this is the first meeting on numerous
21 phone calls that I will be having in conversation with all of
22 you for what you're doing and the types of -- I think we could
23 sit here with all of you and talk at length for hours
24 and hours, and I just want to thank everybody for their
25 patience. And I know that it's been a long morning, but

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1 it's certainly a critical and important thing that we
2 are discussing here today. I want to thank you.

3 I want to bring up AFT Representative Jeff Trifara
4 -- Trifari, and then followed after Jeff we'll hear from the
5 New Jersey Association of School Administrators.

6 **JEFF TRIFARI:** Where would you like me to sit?

7 SENATOR RUIZ: Anywhere, sir.
8 And, again, I just want to thank everyone.
9 If anyone is here for the State Government
10 Committee -- I feel like I'm making general announcements. If
11 anyone is here for the State Government Committee Meeting at
12 1:00, it is moved to Committee Room 7.

13 Thank you, Jeff, for your patience.
14 MR. TRIFARI: Thank you. Is this on? Thank
15 you, Honorable Chairwoman, and members of the
16 Committee, for allowing me to discuss with you a couple of
17 things; teacher preparation, evaluation and tenure.

18 My name is Jeff Trifari; I teach at North
19 Bergen High School. I think I'm the only teacher, active
20 teacher, that's on the list for today to speak. I can
21 probably answer a lot of your questions that you've been
22 asking about: what goes on in the classroom today?

23 I'm also a member of the North Bergen
24 Federation of Teachers, and I'm also a vice president of
25 the K through 12 division of the AFT New Jersey State
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1 Federation with no pay. It seems like all my extra
2 jobs are no pay. I'm also happily married with two
3 children who are -- who have benefited from the public
4 education system of New Jersey.

5 As any effective teacher knows, a long speech --
6 the longer the speech, the less attention I get,
7 so I'll try to make my testimony brief as possible.

8 You've heard a lot of things today, and you
9 might think this is surprising coming out of me, but I
10 think that the teacher evaluation system is broken. It
11 needs to be fixed. No group wants this done
12 more than teachers do.

13 The one thing that isn't broken is due process.
14 As a matter of fact, the more that the evaluation
15 system is broken, the more that we need due process.
16 So if you fix the evaluation system, we wouldn't
17 need the due process as much.

18 That doesn't mean that we should keep going
19 as we have, as I will explain.

20 Let me tell you about my first three years,
21 briefly, of teaching; how overwhelming it is as a
22 teacher. Tenure is three years and one day in the state;
23 most other states as well. Many new teachers coming out and
24 coming into the classroom are really unprepared for the
25 effects of a classroom in an urban district, especially
0144

1 with poverty, poor hygiene, poor behavior,
2 overwhelming class size as just a few of the challenges that
3 new teachers are facing today.

4 We are called upon to help students meet their
5 standards. We are also called upon to help students in all
6 aspects of their lives. And after the first three years --
7 actually, after the first year and so on, the first three
8 years, this system, this evaluation system, has really left
9 me to sink or swim.

10 And, fortunately, because I love what I do and I

11 work my butt off, I was able to swim. And each year I feel
12 like I'm improving, even after 20 years of teaching.
13 But this shouldn't be surprising, because all
14 research shows that an experienced teacher is the single
15 strongest and most consistent factor associated with
16 success in student learning.
17 In most districts across the country,
18 teachers can gain tenure after being observed by an
19 administrator that would come in with a piece of paper in their
20 hand and boxes and they check you off. And they
21 do this for three years, a couple times a year, and
22 sometimes they don't even stay the whole class period, and
23 if they are evaluated as doing a satisfactory job after
24 three years and one day, they're granted tenure. This is the way
25 it was 20 years ago when I started, and it still is today.

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1 This is the system, the same system that left me to sink or
2 swim. And needless to say, it doesn't do enough to improve
3 teachers teaching, or students learning.

4 The AFT, which I'm a member, is trying to, and
5 has started to do -- put tools into effect to improve
6 teaching and learning.

7 And one of the things that we need to do is, we
8 need to have expert observation and feedback for teachers
9 for their evaluation.

10 My colleague at the AFT New Jersey State, Donna
11 Chiera, also sits on that evaluation committee that the
12 governor just made up. She'll be part of that evaluation,
13 and as a matter of fact, I've heard nothing but -- so far,
14 good reports from that committee, a lot of good people coming
15 in there, of what little she could say.

16 Here are some of the recommendations that we
17 have from the AFT about teacher evaluations.

18 First of all, evaluation must be linked to a
19 strong, professional development designed to improve
20 teaching and learning. It needs to take into account
21 multiple measures of teacher practice at student learning.
22 Test scores alone do not. And I really emphasize that,
23 do not capture all of the aspects of teaching.

24 The creation of and implementation of lessons that
25 meet the diverse students in the classroom; the

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1 collaboration of parents, teachers and administration; the
2 ability to monitor the instruction and student learning -- and
3 these systems must include a mechanism whereby
4 teachers identified as not meeting teacher's standards are
5 provided opportunity to improve their teaching, such as
6 induction, mentoring and professional learning communities
7 as we've heard from the -- the four deans. I believe
8 they mentioned that.

9 I strongly believe that peer assistance and review
10 is one vehicle to accomplish this.

11 My colleague, Joe Del Grosso from Newark Teachers'
12 Union, testified to that earlier.

13 I -- teachers who are properly evaluated, and after
14 -- after all supports that I've mentioned are given and are

15 still not doing well, well, I got to be honest,
16 they probably won't stay.
17 As a matter of fact, right now in urban school
18 districts, half of new teachers that come in
19 don't make it to year five. It's a -- it's a struggle.
20 It's not an easy profession, especially for new teachers.
21 I have a report here, I can get you copies
22 through my aide -- about -- from Saul Rubinstein, a professor
23 at Rutgers, who did a report highlighting several school
24 districts around the nation about all the success they're
25 having and all the tools that we mentioned before,
0147
1 that I just mentioned prior to this, how -- what they used.
2 And in summary, the labor management cooperation is the key to
3 all of these districts turning successful partnerships into
4 something more than exists on paper, but something real.
5 We need to work as a team. And I don't believe
6 I can state that -- that the state can create a system like
7 this by law.
8 And you were mentioning, Senator Allen, about
9 money. Laws require, for the most part, money. We
10 don't need to do this by law, we could do this by supports.
11 We just need supports. We need community support, we need
12 family support, and we need to work collaboratively
13 -- excuse me, I've been sitting here for awhile.
14 I'd like to end with teacher preparation, which
15 probably is where I should have started. It's very complex
16 work. It can never all be learned inside any teacher
17 preparation program.
18 I think the teachers, the young teachers
19 that I see coming into the field now are very well prepared,
20 they have a lot of information, a lot of great teaching
21 techniques. But what I mentioned before about -- especially
22 in urban districts where I've worked all my life, getting
23 into a classroom and seeing all the poor conditions, in
24 some cases the schools and the children and all of the things
25 that I mentioned before, you can never learn that in a
0148
1 classroom, that has to be learned on the job. And this, if
2 -- they need to be in the classrooms early and often in order to
3 learn this. This will help reduce nearly half of those teachers
4 that leave the profession within the first five years.
5 Additionally, teacher preparation programs need to
6 work hand-in-glove with school districts. We need to align
7 the curriculum from the school to what really
8 goes on in the classroom. We need mentoring and induction
9 programs. We need strong, professional development
10 programs. We need an evaluation system that I described
11 above. We need tools to collaborate with colleagues
12 and family. We need the conditions to ensure student
13 success. And we need the support of the community
14 and the parents.
15 And thank you for this opportunity, and if you
16 have any questions, fire away.
17 SENATOR RUIZ: Thank you very much.
18 Do you have written testimony that you'd like to

19 submit?

20 MR. TRIFARI: I used my own printer and it's
21 very light, so I will --

22 SENATOR RUIZ: If you could just forward it
23 to our -- to my office, thank you very much.

24 I would like to ask Dr. Richard Bozza, from the
25 New Jersey Association of School Administrators, with Miss
0149

1 Geraldine Carroll, Superintendent of Lindenwold Public
2 Schools, and Ronald Lee, Superintendent of Orange Public
3 Schools.

4 Thank you.

5 **RICHARD G. BOZZA, Ed.D.:** Good afternoon. We would like to
6 commend you for undertaking this examination of tenure
7 and, personally, I'd like to commend you on keeping your
8 focus during this long morning and into the afternoon on this
9 important topic.

10 I'd like to paraphrase some of my written
11 comments at the beginning in saying that it's really
12 important to recognize that New Jersey public schools
13 produce excellent results with their students -- actually
14 results that are envied around the country by the various
15 states.

16 And, unfortunately, all of the attention that is
17 given sometimes to the failure detracts from the broader,
18 bigger picture.

19 New Jersey can boast of having some of the best
20 public schools in the world. At the conclusion of every
21 school year, so many New Jersey high school students
22 graduate with honors, with advanced placement courses and
23 international baccalaureate certificates with earned college
24 credits, and they are accepted into some of the best
25 institutions of higher education in the world.

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1 But, also often, unfortunately, we don't hear
2 about those success stories. We hear about the failures, and
3 as a result, teachers are often disrespected and looked upon
4 with suspicion as contributing to these failures.
5 Administrators are regarded as guardians of the
6 status quo and impediments to change. They're perceived as
7 part of the problem, rather than the solution.

8 And so for us it is important to remember that
9 the system of public education, which we seek to reform, is
10 creating success for the overwhelming preponderance of
11 students.

12 This, in no small measure, is due to the work of
13 the great majority of hard working and dedicated New Jersey
14 educators.

15 And certainly that is not to imply that
16 improvement is not needed, because it is. Students must be
17 prepared at higher levels than ever before as we seek to
18 prepare all our children for the internationally
19 competitive flat world economy of the 21st century. We
20 cannot afford to let any of our children fail, but in the
21 pursuit of fixing the 5 percent, let's not disregard the
22 successes of the 95 percent and the good work of the

23 educators in the State of New Jersey.

24 NJASA is in agreement with those who believe that
25 it's time to reform the education tenure system for New
0151

1 Jersey's school employees. We do not believe that it should
2 be abolished.

3 However -- as protections for employees that
4 contribute to a stable learning environment and ensure due
5 process in dismissal proceedings certainly are important.

6 We do believe, however, that lifetime tenure
7 should be replaced with a revised system that will meet the
8 reasonable goals of tenure and also contribute to high
9 standards for employee performance.

10 In our review the following are essential
11 components to implementing a system which is fair to the
12 employees, but importantly, requires continued growth and
13 high performance throughout an educator's career.

14 The first: the probationary period for school
15 employees should be extended from three to five years. This
16 action would provide for a more complete induction and the
17 opportunity for the employee to demonstrate growth and
18 performance at a high level before the granting of tenure.

19 Similarly, the probationary period for an
20 individual who possesses tenure in one position in a school
21 district and is appointed to another requiring a different
22 certification would be required to also complete a five-year
23 probationary period in the new position to achieve tenure.
24 Current law requires only two years when a person in the
25 district takes on a new position.

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1 Once an individual acquires tenure, he would be
2 required to be recertified every five years. This
3 recertification would serve as a condition to maintain the
4 tenure status. Recertification would be based on a number
5 of factors, but primary among these factors would be a
6 demonstrated level of effective performance as documented
7 through the evaluation process and the reports completed for
8 the individual.

9 Other factors to be considered for recertification
10 would include participation in professional activities and
11 continuing education, active and productive participation
12 in the school and district learning community,
13 contributions to the community at large, mentoring
14 activities, and meaningful participation in school
15 activities which compliment the school curriculum.

16 Third, recertification depends heavily then on
17 demonstrated effectiveness in this model. It requires a
18 performance evaluation system with clear standards which
19 contribute to student achievement.

20 Standards upon which educators can be fairly
21 assessed and build employee confidence that the assessment
22 is directly related towards continuous improvement of the
23 educator, and, ultimately, the students under his tutelage
24 or the staff under his direction.

25 To that end, NJASA supports the work of the New
0153

1 Jersey Educator Effectiveness Task Force Committee appointed
2 by Governor Christie.

3 Linking the outcomes of school children to the
4 evaluation and compensation of the adults who work with them
5 is an important undertaking. It is so important that the
6 Federal government selected 13 states and the District of
7 Columbia to receive \$4 billion in Race to the Top grants to
8 develop education reforms.

9 A primary area for research is the
10 recruitment, development, reward and retention of effective
11 teachers and principals, especially where they are needed
12 most.

13 The Bill and Linda Gates Foundation is also
14 funding experiments in teacher evaluation and performance
15 pay. The Pittsburgh School District obtained \$40 million;
16 Los Angeles charter schools, \$60 million; and Memphis
17 schools, \$90 million. The Hillsborough County district in
18 Florida, which includes Tampa, won the biggest grant, \$100
19 million. That's the nation's eighth largest school system,
20 looking to reshape its 15,000-member teaching core by
21 rewarding student achievement instead of teacher seniority.

22 New Jersey, which notoriously did not obtain the
23 Race to the Top funding, is headed in the same direction,
24 but on a different path. The budget established for the
25 Educator Effectiveness Task Force is nothing other than the
0154

1 unspecified support from the Department of Education.

2 This work is critical. We need to pursue
3 information that informs educational practice and provides
4 opportunities for educators to modify their work based on
5 solid data about student performance.

6 True accountability provides the student, teacher
7 and school leader with feedback about performance throughout
8 the year, allowing each to modify his work and the learning
9 program for students to achieve success. Performance
10 evaluations should reflect how students are progressing, but
11 within a system designed for success, not embarrassment.

12 We should understand that meaningful improvement
13 won't be made by adopting shortsighted goals and
14 accountability systems, and we should have the patience and
15 the prudence to learn from the emerging experience of those
16 states and systems that have secured significantly greater
17 resources to accomplish the same goals as New Jersey's task
18 force. We must recognize that it would report -- its
19 report, rather, will be a beginning, not the conclusion of
20 this critical work.

21 Fourth, we need to ensure that the programs which
22 prepare our teachers, supervisors, administrators and
23 support professionals embody the standards which ultimately
24 are adopted as key indicators for effective performance and
25 evaluation in their training, practicum and mentoring
0155

1 programs. We heard quite a bit about that from the
2 representatives just a few minutes ago.

3 That, however, will create a continuum and a
4 training program which is more aligned with this new

5 induction and recertification program, which we are
6 recommending for adoption.
7 Even though recertification would be a condition
8 for an employee to maintain tenure status, a system which
9 adjudicates tenure charges during the employment of a
10 tenured employee certainly will be required. The current system must be streamlined to
eliminate undue
12 expense and delay, the obstacles that are so often presented
13 by school boards and administrators, as I'm sure you
14 have heard today during this testimony. This system can be
15 made to work within 180 days, and this should be a priority.

16 Finally, we believe that it's time to reinstate
17 tenure for school superintendents, the only professionals in
18 the New Jersey public school system who do not qualify for
19 tenure. Given the all too frequent turnover of school
20 superintendents, and the greater instability in this
21 position which will be created by the current
22 administration's policy proposals, a tenure program for all
23 school personnel as we propose here today will create an
24 environment which will promote great stability and longer
25 service by the state's Chief Education Officers.

0156

1 We appreciate the opportunity to present these
2 recommendations and we look forward to a continuing
3 opportunity to have dialogue and input.

4 Thank you.

5 **GERALDINE CARROLL:** Senator Ruiz and members of the
6 Education Committee, ladies and gentlemen, thank you for
7 this opportunity to meet with you to provide feedback on the
8 important issues of teacher and administrator preparation
9 evaluation and tenure.

10 Both research and experience show that the most
11 significant factor in improving student performance is
12 quality teaching, and the most significant factor in
13 improving teachers is strong educational leadership.
14 Therefore, these discussions will have great impact on
15 preparing New Jersey students to be successful and
16 competitive in the global community of the 21st Century.

17 As you all know, tenure was developed for the
18 purpose of guaranteeing academic freedom and ensuring
19 schools and classrooms were not subject to political whims
20 and undue pressure and micromanagement by parents,
21 community, local government and school officials. It
22 provides continuity of instructional programs and
23 initiatives that are costly to implement, sustain
24 school culture and ongoing relationships between educators
25 and families, all of these being very valuable. With

0157

1 changes in preparation, certification and monitoring, many
2 of these concerns have been alleviated, except in some
3 isolated cases, possibly in urban districts.

4 Tenure, as it is currently structured, has
5 outlasted its usefulness and has created obstacles to
6 ensuring that only the most effective educators remain in
7 the classrooms and offices of our schools, and that we are
8 able to retain less senior teachers and administrators who

9 might be more effective.

10 However, simply abolishing tenure is not the
11 answer to educational improvement. Systemic change in
12 preparation, professional development, and ongoing evaluation
13 must take place as well.

14 Currently, teacher preparation programs provide
15 for one semester of student teaching in a school setting
16 where, in some cases, there is little or no connection
17 between the university mentor and the cooperating teacher or
18 administrator with regard to the instructional initiatives
19 and curriculum of the assigned school. It's even worse for
20 administrators preparation as, along with their classes,
21 they may only complete a brief internship of 100 to 150
22 hours, in some cases often during their prep periods
23 while still classroom teachers, leaving little time to
24 reflect on and gain a deep understanding of the
25 organizational improvement -- I'm sorry, of the
0158

1 -- organizational structure and skill set necessary
2 to both properly manage a building and lead educational
3 improvement. Both preparation programs should be lengthier
4 and more clinical with aligned teams comprised of university
5 and district-based educators who can provide sustained,
6 embedded experiences and feedback that would properly
7 prepare teachers and administrators.

8 While some of these experiences are provided
9 during the first year or two, possibly by a district or peer
10 mentor, in many cases mentorship is focused on the
11 day-to-day administrivia or procedures of a school, rather
12 than on the best instructional practices, including ongoing
13 planning and preparation, the establishment of an effective
14 classroom environment, and professional responsibilities to
15 colleagues and the school community.

16 Greater consistency and ongoing clinical
17 experiences, much like internship residency in grand rounds, in the
18 medical model would ensure a growth of quality teachers
19 and administrators over time.

20 Additionally, a longer probationary period,
21 possibly five rather than three years, would allow potential
22 educators a greater opportunity to hone their craft before a
23 final employment decision is made.

24 In the words of one of my own principals who, by
25 the way, is paying tuition to send her child to our school
0159

1 district, I have three years to decide whether the teacher
2 is good enough for me to have my child in his or her class.

3 With research showing that 50 percent of all new
4 teachers leave the profession within 5 years, often in urban
5 schools, it is clear that greater emphasis needs to be
6 placed on preparation and support to ensure that we have a
7 well prepared, first-rate teaching force to place in front
8 of our students.

9 Similarly, teacher and administrator evaluation
10 should be tailored to the needs of the professional rather
11 than one-size-fits-all for both the novice and veteran at
12 every grade level and in all content areas.

13 Current regulation requiring three formal
14 evaluations for non-tenured educators and one formal
15 evaluation for those who are tenured do not differentiate
16 truly effective staff -- those who need specific interventions
17 and those who have major issues.

18 Allowing evaluation in the form of informal
19 walk-throughs, portfolios, projects, videotapes, intensive
20 supervision, learning walks, professional learning
21 communities, et cetera, based on an individualized plan for
22 each staff member would be much more effective.

23 More importantly, in keeping with the purpose of
24 schools as learning communities, evaluation should be
25 designed to improve instruction and performance, not as
0160

1 simply a "gotcha."

2 We walk into a classroom for a classroom
3 observation, anyone can perform for 40 minutes. We need
4 ongoing experiences, including student performance data --
5 would certainly give some indication of the teacher's or
6 administrator's effectiveness.

7 However, using only percentage passage on a
8 high-stakes standardized test is not accurate and not
9 reflective of either what students have learned or the
10 quality of instruction that has been delivered to all
11 students. More appropriate data would be to measure student
12 growth or value added using multiple measures, particularly
13 in urban schools where there is high mobility.

14 In my district where mobility tops 50 percent --
15 that is every other student, for example -- this mobility
16 interrupts sustained cohesive instruction, not only for the
17 students moving in and out, but also for the students who
18 are staying in our school.

19 And just to give you a visual, last June I
20 graduated six students of my entire graduating class who had
21 been with my school district from kindergarten.

22 With 72 percent poverty -- and education is not
23 viewed as the solution by some of our students and families,
24 often resulting in poor attendance, drop-out rates and poor
25 student study habits and engagement.

0161

1 Other challenges faced in districts where there
2 are higher percentages of special education students or
3 English language learners, instruction is, again, disrupted
4 and very difficult.

5 So standardized tests don't necessarily measure
6 what's going on.

7 To clarify that, a 16-year-old male student
8 arrived on the doorstep of my high school this September
9 from Guatemala, having never attended a day of school in his
10 life and not speaking a word of English. In an urban
11 district, this is not uncommon.

12 Although he has no pre-requisite skills, few would
13 argue that a 16 year old should be placed in an elementary
14 or middle school aged -- or with those elementary or middle
15 school-aged children. So we placed him in the high school;
16 it was the appropriate place to put a 16 year old.

17 Over the past three and a half months he has
18 learned some English and is beginning to read and do basic
19 math. And I feel very confident that if he remains for
21 the 4 years until he is 20 years old and ages out, that the
22 value that the school and his teachers have added to his
23 life will be dramatic.

24 However, it is unlikely that he will, with only
25 four years of education, pass the Algebra I End of Course
0162

1 Test or the High School Proficiency Assessment, or that he
2 will earn sufficient academic credits for high school
3 diploma. He will likely be considered a drop out, and his
4 teachers and administrators, if judged by the current
5 standards, would be considered ineffective as well.

6 While this may seem an extreme example, it
7 emphasizes that the one-size-fits all evaluation of
8 students, teachers or administrators based on high
9 standardized -- high stakes testing is -- is not
10 appropriate.

11 Changes to observation/evaluation procedures would
12 provide valuable tools to ensure that the best and the
13 brightest not only enter the education profession, but also
14 effectively remain.

15 In large urban school districts this is
16 particularly important, as the cost in both dollars and time
17 of recruiting excellent staff that wish to and can
18 successfully work with our most needy population is
19 enormous.

20 As an example, over the last month I've spent over
21 \$10,000 in advertising, in the various newspapers in addition
22 to the free sources, in order to recruit staff for my school.

23 Using these tools, school districts could retain
24 and help their professional staff continue to grow and
25 change with the changing global economy, demographics of
0163

1 communities, student needs, and the ever-evolving knowledge
2 base we have about teaching, learning, organizational
3 management, and instructional leadership. But that is not
4 enough to solve the issue of lifetime tenure and the cost in
5 time, resources, and damage to students that results from an
6 ineffective teacher or administrator who has not done
7 something sufficiently egregious to fit current definitions
8 of inefficiency, incapacity, or unbecoming conduct, but who
9 is simply not performing at a level necessary for the
10 students and staff to do their best.

11 Under current law, the charges are difficult, time
12 consuming, and very costly to prove, and rarely result in
13 the removal of the teacher or administrator, leaving the
14 district with a large bill, a poor employee, and the
15 perception among staff, students, and the community that
16 poor performance is acceptable.

17 What would be more effect -- a more effective
18 model would be contractual tenure or recertification every
19 five years. This would allow for continuity, ongoing
21 implementation of newly developed instructional strategies,
22 organizational history and stability, and no fear of

23 micromanagement or outside political pressure to make
24 arbitrary employment decisions purely based on age, cost,
25 longevity of the employee or other external factors. In other words, taking all of the good things
of

2 tenure, but not imposing some of the challenges.

3 Educational improvement would be dynamic and
4 responsive to innovative practice, changing students and
5 communities, and the evolving mission of public schools.

6 Teachers and administrators would be accountable
7 for meeting the needs of the students that come to them in
8 the future, rather than sustaining unsuccessful programs and
9 staff because they are too difficult to change.

10 Non-renewal of staff would be based on performance
11 and effective evaluation over a five-year period much as the
12 initial employment of novice non-tenured employees or some
13 form of the Colorado model that was described here today,
14 which, frankly, I'm very excited to hear more about.

15 In summary, educating our students for the 21st
16 Century is not something that can be relegated to those
who graduate from college with the thought,
18 that I can always teach if I don't find something else to
19 do, or what can they do to me once I have tenure?

20 Research-based, best instructional practice and
21 effective instructional leadership are far more
22 sophisticated, complex and costly than when I began my
23 career, and certainly more so than when I was a student.

24 Investing in high-quality, sustained and
25 articulated pre-service, a longer probationary period,
0165

1 sustained systemic professional development, ongoing
2 differentiated evaluation including measurable, value added
3 accountability -- to develop and maintain the best and
4 brightest educators -- and finite contractual tenure, although
5 expensive, is far less so than the cost of the consequences
6 we face by providing our students with a second-rate
7 education.

8 On a personal note, I should say that I'm a
9 30-year career educator certified in New York, California,
10 Pennsylvania and New Jersey, and I've never had tenure due
11 to moving around for my family and moving from the classroom
12 to administration. I've been a superintendent in two
13 districts for 18 years, and I can only say that my success
14 as an educator is due to my commitment to students and their
15 growth, not to tenure or merit pay. And I would say that
16 about most of my staff. We continue to strive to make all
17 of our staff fit into that category.

18 I thank you for your time and consideration,
19 and welcome any questions you might have.

20 SENATOR RUIZ: Thank you.

21 **RONALD C. LEE:** My name is Ronald Lee; I am
22 Superintendent of Orange Public Schools.

23 SENATOR RUIZ: Your mic, Ron. Okay.

24 MR. LEE: Yes. My name is Ronald Lee; I am a
25 Superintendent of the Orange Public Schools. Again, I would
0166

1 like to thank the Committee and the Chairperson for giving

2 me this opportunity to provide testimony as part of your
3 consideration to changes in the New Jersey State Tenure Laws.

4 I've held the position of superintendent for
5 approximately 18 months, and prior to that I was the school
6 business administrator and CFO with the Newark Public
7 Schools for 7 years, and the school business administrator
8 for Orange Public Schools for 12 years prior to that. And
9 prior to entering the educational arena, I worked nine years
10 as a certified public accountant in the business industry.

11 Let me first state by starting that there is no
12 more noble profession than that of a teacher. The service and
13 contribution to the success of mankind can be attributed
14 and traced directly and indirectly to a teacher. A teacher
15 is vital to everything and anything. The role played by
16 teachers becomes a very important component, specifically in
17 urban areas where the homes and their parental support is
18 lacking and not where it needs to be.

19 In fact, it can be said that teachers, in a
20 way, are our nation's builders.

21 We, unfortunately, in this country -- unlike other
22 countries -- don't value the importance that a good teacher
23 can play in the lives of our children. While in today's society, we revere the athletes
25 and the entertainer, however, we hold in contempt the
0167

1 teacher in public schools for all of society's ills.

2 If we, in this country, are to truly change the
3 achievement results in education, then we must place the
4 teaching profession on a pedestal, as they do in other
5 countries, and create educational organizations that employ
6 only the best.

7 Tenure laws are one of the many obstacles that
8 preclude school districts from ensuring that only the best
9 teaching and staff members are employed. And I think we've
10 heard some of those today.

11 Although the original intent of tenure was to
12 provide due process to ensure that a teacher is not
13 dismissed for personal or political reasons -- but what it has
14 morphed into in this country is a system that almost
15 guarantees, whether perceived or real, a job for life.

16 Under current New Jersey tenure law, a teaching
17 staff member must successfully complete three years of
18 employment in which during this probationary period, the
19 teaching staff member is evaluated at least four times a
20 year. During this period, employees are "at will" and
21 districts may terminate their employment without requirement
22 to give a reason. The underlying flaw in most tenure law is
23 the assumption that the level of competency and commitment
24 that a teacher staff demonstrates in years one through three
25 will always be evident throughout a person's career.

0168

1 Under New Jersey's law, once a teacher staff
2 member attains tenure, he or she can only be dismissed for
3 inefficiencies, incapacity, conduct unbecoming, and other
4 just cause.

5 Many school administrators and boards have found
6 that these categories are narrow in scope, subjective and

7 ambiguous.

8 Tenure charges filed with the Commissioner of
9 Education and defended in court before Administrative Law
10 judges are often unsuccessful.

11 Cases are lost by school districts because we are
12 told that we didn't give the employee ample opportunity to
13 improve their performance. It often takes a district two to three years to
15 build a case against an employee before they can file a
16 successful tenure case. We must first show at least one to two years of
18 incremental withholdings along with evaluations,
19 professional improvement plans, write-ups and documentations
20 for a successful case.

21 Once filed with the Commissioner, it can take as
22 long as a year to complete the tenure case. And when you
23 add up all of the time to terminate a tenured employee who
24 is poorly performing, it may be three to four years or more.
25 And I have some actual examples.

0169

1 We filed a tenure charge against an employee
2 for poor performance after seven years of attendance
3 problems, where the employee actually exceeded their
4 occasional absences, and four of those years were docked
5 because they went over their bank. A secretary -- poor
6 interpersonal skills, blatantly insubordinate, curt, and
7 evaluations and observations that were noted for a long
8 time. Tenure charges were filed against an employee for
9 inefficiency. Employee was given a detailed 90-day
10 improvement plan with assistance. After this period of
11 time, the district filed charges. The district lost the
12 case; had to pay back \$29,518 which represented the 120 days
13 that the employee was not paid, and reinstated to his former
14 position.

15 It should be also noted that the employee was on a
16 paid suspension while the case was litigated.

17 And I have case four, tenure charges were filed
18 against an employee for Conduct Unbecoming a Teaching Staff
19 Member.

20 One, the employee engaged in a physical altercation
21 with another teaching staff member; two, on several
22 occasions during a school year, the employee used expletives
23 and displayed unprofessional and inappropriate conduct
24 directed at staff members, students and parents. The
25 employee used the "N" word to describe a teaching staff member

0170

1 in front of students. On several occasions during the
2 school year, the employee exercised poor judgment and displayed
3 inappropriate conduct in the classroom. Specifically, as a
4 career ed teacher, employee asked a student to draw what he
5 wanted to be, which he said was a porn star. The student
6 drew a graphic picture, which the teacher shared with the
7 students in the classroom.

8 And, lastly, the employee engaged in a physical
9 altercation with a student.

10 Over a five-year period, while the employee
11 engaged in all the aforementioned, the employee was on a
12 paid suspension for 563 days while we filed charges, and

13 then the tenure charges resulted in the ALJ only suspending
14 the employee for 30 days.

15 Filing tenure charges against an employee is a
16 very expensive process to undertake for school districts.
17 Many filed cases can take more than a year to resolve,
18 during which time the employee receives full pay
19 after the first 120 days. The costs to school districts are
20 not only the legal fees, which may be over \$100,000, but
21 also the additional cost to pay a replacement teacher to
22 teach a class.

23 Often while filing tenure charges, districts find themselves paying for two employees in one
25 district position.

0171

1 During the three to four years needed to collect
2 the documentation needed for a successful tenure case, the
3 question is, who suffers? It's the students. The students
4 sitting in classrooms with poor performing teachers are not
5 being provided with the high quality education they so
6 richly deserve. When students are subjected to poor
7 performing teachers, research has shown that those students
8 not only lose ground on their peers, but they may never be
9 able to make up the achievement gap lost. And I think we were --
10 there was testimony prior to that today.

11 However, the majority number of teachers -- the
12 majority number of teachers will never have to invoke the
13 tenure right protection because they will always provide
14 excellent job performance. Good teachers are to be highly
15 regarded and held in high esteem. It is the small minority
16 of poorly performing teachers and staff that seek the cloak
17 of protection under tenure law.

18 So that begs the question, does tenure really
19 protect teachers from favoritism and politics, or does it
20 protect ineffective and less competent teachers?

21 If we don't change our current tenure laws and
22 stop protecting incompetence, when do we put the children
23 first and protect their rights?

24 SENATOR RUIZ: Thank you very much for all of
25 your testimony, in particularly in making some -- really

0172

1 drawing a full grasp of a picture of what happens in some
2 instances. And certainly indicating that it's -- it could
3 be a small group but precisely that, that when we engage in
4 these conversations, it is about supporting the great
5 teachers.

6 Thank you very much.

7 MR. LEE: Thank you.

8 SENATOR RUIZ: Next, I would like to invite
9 Mr. Patrick McGuinn, Associate Professor of Political
10 Science from Drew University; he will be followed by New
11 Jersey Principals and Supervisors Association.

12 And, again, I want to thank everybody for their
13 patience, I know that it's been a long morning and
14 afternoon.

15 And, Senator Allen, I know this was an added
16 person to speaker, and respect to you and also as to Drew
17 alum, we welcome your testimony.

18 **PATRICK McGUINN:** Thank you, Madam Chairwoman,
19 you just stole my thunder there, I was going to note your
20 affiliation with Drew, we are very proud of that. Thank
21 you very much for the opportunity to testify before the
22 Committee today.

23 My comments are drawn from a report I prepared
24 for the Center for American Progress earlier this year
25 that surveyed the challenges surrounding existing teacher
0173

1 evaluation and tenure processes and state efforts to
2 reform them around the country. I've submitted the complete
3 report for your review.

4 First bit of background. Obviously
5 as has been mentioned today, tenure was first instituted in our
6 own great State of New Jersey in 1909, and these tenure
7 systems established a set of guidelines to protect teachers
8 from the arbitrary, unfair, and often discriminatory
9 dismissal practices that were common in local schools.
10 While some due process protections remain necessary today,
11 their expansion over time has made it so difficult and
12 costly for districts to dismiss tenured teachers that they
13 now rarely attempt to do So even when serious concerns
14 about a teacher's effectiveness arise.

15 Data from the U.S. Department of Education's 2007-
16 2008 Schools and Staffing Survey revealed, that on average,
17 districts nationwide and here in New Jersey dismiss or
18 decline to renew only a handful of teachers
19 for poor performance each year. The extremely low rates of
20 dismissal for tenured teachers, and the fact that dismissal
21 is generally pursued for egregious conduct violations rather
22 than performance, mean the tenured teachers in most states
23 enjoy the functional equivalence of employment for life.

24 The norm across the country today is for teachers
25 to be given tenure automatically after three years in the
0174

1 classroom, with no meaningful evaluation of their teaching
2 effectiveness, and they are extremely unlikely to be fired
3 during their career no matter how ineffective they are.
4 This is the case in New Jersey as well.

5 In 2009, the National Council on Teacher Quality,
6 which is really the leading organization that studies these
7 questions in the country, gave the State of New Jersey a
8 grade of D plus for its policies on identifying and exiting
9 ineffective teachers.

10 Their analysis found that New Jersey "fails to
11 make evidence of student learning the preponderant criterion
12 in teacher evaluations, does not require any meaningful
13 process to evaluate cumulative effectiveness in the
14 classroom before teachers are awarded tenure, and lacks an
15 efficient termination process for ineffective teachers."

16 The failure to develop more effective
17 teacher-evaluation and improvement programs, or to remove
18 ineffective teachers from the classroom, has hampered the
19 quest to improve academic performance and reduce racial and
20 socioeconomic achievement gaps.

21 A 2006 Brookings Institution report, for example,

22 concluded that, "schools could substantially increase
23 student achievement by denying tenure to the least effective
24 teachers."

25 And because our least effective teachers are
0175

1 concentrated in our high poverty schools, the cost of
2 leaving them in the classroom has been borne
3 disproportionately by our most disadvantaged students.

4 So what might be some policy alternatives to the
5 current statute for the Committee to consider?

6 Well, the past year has witnessed a wide variety
7 of teacher evaluation and tenure reforms around the country
8 inspired in part by the Obama administration's Race to the
9 Top grant competition.

10 Recent changes in Colorado, which we heard about
11 earlier, Ohio, Delaware, and Washington, D.C. deserve
12 particular attention.

13 The following list highlights a number of policy
14 alternatives that have emerged from both the scholarly
15 research and the efforts in other states.

16 First, improve the teacher evaluation system.
17 This has been a recurring theme today.

18 To function effectively in identifying poorly
19 performing teachers, both the tenure-granting and
20 tenure-revocation processes ultimately depend on the
21 underlying district teacher-evaluation systems, but these
22 are also deeply flawed as the 2009 New Teacher Project
23 report, *The Widget Effect*, documented. Again, we heard
24 about that earlier.

25 The State must establish a more meaningful teacher
0176

1 evaluation system based on a clear definition of teacher
2 effectiveness and provide resources to develop school
3 districts' technical capacity to collect and analyze teacher
4 effectiveness data.

5 In the absence of such a system it is very
6 difficult for school officials to identify ineffective
7 teachers, let alone assist them in improving or justify
8 their dismissal.

9 Another option would be to improve teacher
10 observational measures. Brief classroom observations by principals are
12 currently the primary mechanism for evaluating teachers. But even AFT President Randi
Weingarten has

14 acknowledged that these systems are, in her words, "a
15 perfunctory waste of time."

16 One promising new approach is the DC Impact
17 System, which created a teaching and learning framework that
18 consists of a set of 5 observational measures -- 3 by a
19 building administrator and 2 by an outside master evaluator
20 who is a subject-matter expert -- that scores teachers in 22
21 areas across 9 different categories. They've really
22 systematized that process and made it more meaningful.

23 In addition, the State should look to
24 explicitly link teacher evaluation and tenure to
25 effectiveness in its statute. The teacher retention and

0177

1 dismissal decisions should incorporate teacher effectiveness
2 data. Teacher effectiveness should be gauged through a
4 multi-method, multi-measure process that incorporates
5 student achievement information.

6 There is, as you've heard, considerable
7 disagreement about the best way to measure student and
8 teacher performance and, in particular, how much weight
9 should be given to student scores on standardized
10 achievement tests. But several states, notably Tennessee, have
12 developed value-added or growth models that devote about
13 half of the teacher effectiveness rating to student test
14 scores.

15 Extend the length of the probationary period: The current time to tenure in New Jersey is
16 three
17 years, but research has indicated that this is an
18 insufficient amount of time to gauge teacher effectiveness. The National Center for Teacher
19 Quality recommends
20 a minimum of five years, while Ohio recently moved to a
21 seven-year timetable.

22 Enhanced mentoring and professional development: It's important to recognize that there
23 are two
24 very different ways to improve teacher quality: making
25 ineffective teachers more effective and replacing ineffective teachers with more effective ones.

Information from new evaluations should be used to
3 identify teachers' particular strengths and weaknesses and
4 develop more individualized and effective professional
5 development programs. Ohio, for example, recently created a new
7 four-year teacher residency program and multi-tiered
8 licensing process with performance monitoring and mentoring
9 by veteran teachers.

10 You've heard a lot about professional development
11 here, but there are very different kinds of professional
12 development, and I think the key to improving it is that it
13 be data driven.

14 Streamline teacher dismissal process: The NJEA recently proposed moving teacher
15 dismissal cases from Administrative Law judges to
16 arbitrators, as Massachusetts has done.

17 A reduction in the cost and duration of the
18 teacher dismissal process, even absent under other changes,
19 might make school leaders more willing to seek the removal
20 of ineffective teachers than is currently the case.

21 However, this step alone would not address the
22 more fundamental problems in state teacher evaluation and
23 tenure processes that make it difficult for school
24 administrators to identify and document ineffective
25 teachers.

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1 teachers.
2 Expand evaluation and accountability after tenure: Recent changes in Colorado and
3 Delaware require that tenured teachers continue to receive effective ratings
4 or risk dismissal. Another way to do this is to make demonstration of
5 effectiveness a condition for the granting and renewal of a
6 state teaching license.
7

8 Finally, connect to comprehensive teacher quality
9 reforms: Improving the state's teacher evaluation and
10 tenure processes are important steps, but enhancing teacher
11 quality requires a broader reassessment of the way the state
12
13

14 recruits, trains, mentors, compensates and distributes
15 teachers. Removing ineffective teachers without developing
16 an expanded pool of effective teachers to replace them is
17 unlikely to deliver desired improvements in education,
18 particularly in the state's high poverty schools which
19 already face staffing challenges.

20 In conclusion, I would like to say that the
21 establishment of annual standardized-testing and
22 data-collection systems at the school, district and state
23 levels in recent years has created an opportunity for
24 policymakers to link teacher evaluations and tenure
25 decisions to student performance in a way that previously

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1 was not possible.

2 Policymakers should seize this moment to revisit
3 teacher evaluation and tenure processes as part of a broader
4 push to improve teacher quality and classroom instruction.
5 Without such changes, the tremendous energy being invested
6 in school reform here and across the country is likely to
7 yield only limited gains in educational achievement.

8 Thank you very much.

9 SENATOR ALLEN: Just a quick thank you for
10 coming down here.

11 I was told by someone involved in the teaching
12 profession that yours -- or the National Center on Teacher
13 Policies -- now where was it that you printed this? I'm
14 sorry. The main piece that you printed out and have given
15 us that I was able to locate on the Web just gave us so much
16 information.

17 And -- exactly. And your coming here and, kind
18 of, putting everything in a more concise form -- very, very
19 helpful, and I really appreciate your doing this.

20 MR. McGUINN: Happy to be here. Thank you very
21 much.

22 SENATOR RUIZ: I, too, want to thank you for
23 taking the time and spending your morning and the afternoon
24 and for just, again, walking us through when we're having
25 this conversation. I think that what has been most

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1 important today is that we're just not talking about it.
2 People are presenting actual conclusions and presenting
3 tangible ways where we can begin to, for me specifically,
4 start forming the outline for improvement in the tenure
5 process.

6 So I just want to say thank you for sharing that.
7 And I'm sure that many of us here on the Committee will be
8 reaching out as well to continue our discussions as we move
9 forward.

10 MR. McGUINN: Thank you, and I'm happy to provide any
11 support I can to help. Thank you.

12 SENATOR RUIZ: Thank you.

13 Next, we'll hear from New Jersey Principals
14 and Supervisors Association, followed by Garden State
15 Coalition of Schools.

16 Thank you so much.

17 **JoANN D. BARTOLETTI:** Good afternoon.

18 I was going to say morning, but good afternoon,
19 Chairwoman Ruiz and members of the Senate Education
20 Committee. I am JoAnn Bartoletti; I am the executive
21 director of the New Jersey Principals and Supervisors
22 Association, a former teacher, assistant principal -- and was
23 principal at West Windsor Plainsboro High School.

24 With me today is Tim O'Halloran, who is the
25 principal of Somerville High School, and David Nash, who is
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1 an NJPSA staff attorney.

2 Thank you for really being part of what is a
3 conversation today. We truly appreciate that.

4 NJPSA represents school leaders who are
5 principals, assistant principals, supervisors across New
6 Jersey, and it's our responsibility to observe and evaluate
7 effectiveness of teachers and other school staff in our
8 buildings. Actually, we are where the rubber meets the
9 road.

10 We share this Committee's goals of ensuring
11 teacher and leader quality in all New Jersey schools. And
12 it's with that goal in mind that we share our perspective
13 on the purpose and role and impact on the State's tenure laws.

14 Attached to our testimony is some background
15 information about certification requirements for teachers
16 and principals -- our tenure laws as well as our
17 recommendations for some reform.

18 In 1909 -- you've heard this before -- the Legislature
19 recognized the need to take local politics out of the
20 employment aspects of education to ensure that educational
21 needs, not political goals, were the basis of educational
22 decision making. Tenure rights for certified school
23 employees were established. The fair dismissal protections
24 of tenure empower principals to make the difficult
25 choices in staff evaluation, policies and school vision
0183

1 necessary to achieve a long-term goal of school reform and
2 achievement that we all share.

3 In our view, the pressures that led to the need
4 for tenure are as prevalent today, and the need for these
5 employment safeguards as strong.

6 What needs to change in the education world of
7 2010 are the quality, focus, responsiveness of our
8 employment evaluation processes and the timelines of our
9 tenure dismissal process -- two reform areas that we'll focus
10 on today.

11 Tenure is a legal right to due process. And after
12 earning the due process rights, the employee is entitled to
13 a fair dismissal process, including a hearing if he or she
14 is threatened with dismissal or non-renewal of a contract
15 for cause.

16 Generally speaking, if the case does not settle in
17 advance of a hearing, the tenure hearing process takes 10
18 to 12 months. In practice, because of the serious ramifications
20 that may result from tenure charges, including the loss
21 of or suspension of certification, the vast majority of
22 matters that may rise to the level of tenure charges are

23 resolved before the charges are filed.

24 The Governor-elect Chris Christie's Transition
25 Committee on Education wrote in January of 2010, that, and I
0184

1 quote, "Rigorous, periodic post-tenure review should be
2 standard, and the process of removal from tenure should be
3 streamlined. Balancing employee protections and the need to
4 ensure quality of instruction in schools, and there should
5 be strict adherence to the six-month time frame for
6 resolution of tenure charges from certification to a
7 commissioner's decision."

8 The transition committee did not recommend
9 eliminating tenure, but improving the process. Our association believes that this process can be
11 further streamlined to promptly remove ineffective staff,
12 and David Nash will briefly address that issue.

13 The attainment of tenure rights does not mean that
14 the employee is no longer accountable for performance.
15 School leaders have the responsibility of holding employees
16 accountable for their performance, and we do this through
17 annual performance evaluations, professional improvement
18 plans, and mandatory, multi-year professional growth plans.
19 Teachers and school leaders are held responsible for school
20 level achievement through local performance standards
21 contained in the evaluation process, Federal and State
22 performance monitoring and public reporting requirements.

23 Educators who fail to perform to standard are
24 subject to progressive disciplinary action such as the
25 withholding of increments. As principal of West Windsor-Plainsboro High
2 School, I withheld increments from ineffective teachers to
3 force a change in their performance, and it worked. We acknowledge that such corrective action
does
5 not always occur, but effective management tools are in
6 place and not too difficult to use. In practice, the key to effectiveness of our
8 management and employment structure goes beyond the legal
9 framework of tenure.

10 As an association, we acknowledge the real need
11 for reform; the key area of teacher/leader evaluation, since
12 evaluation practices vary widely across the state. With almost 600 operating school districts in
the
14 state, I would venture to say, that there are 600 models for
15 evaluation, all of which are vastly different, from straight
16 and narrative evaluations, which have somewhat -- are
17 somewhat more subjective, to checklist, to a combination, or
18 any other permutation of that. Such evaluations, if properly done, provide the
20 information needed to improve performance or provide the
21 evidence needed to remove ineffective staff within our fair
22 dismissal system.

23 And I eagerly anticipate the recommendation for a
24 new evaluation system that the Governor's Education
25 Evaluation Committee will provide us in March. And I do hope that the recommendations really
2 become part of -- or those recommendations really are part
3 of an ongoing conversation as opposed to a final
4 recommendation.

5 Clearly, New Jersey needs a well-designed
6 evaluation instrument that is fair, linked to best
7 practices, incorporates professional standards, and addresses

8 educator performance data based on growth models. A
9 standardized instrument based on professional practices will
10 set a uniform and high-level standard for how we will view
11 educator effectiveness statewide. This will not only assist
12 us with local performance issues, but also help make
13 decisions on teacher/leader distribution issues. It is the way we evaluate teachers and school
15 leaders that needs reform, not tenure.

16 The Governor's New Jersey Education Evaluation
17 Committee faces challenges. It has to develop a solid
18 evaluation instrument that incorporates performance data
19 that has to be based upon the availability of consistent,
20 timely and reliable data, a challenging -- a challenge that
21 New Jersey has yet to concur.

22 It also must actively and collaboratively engage
23 stakeholder groups who understand good teaching and
24 leadership practices to develop the instrument. No
25 stakeholder groups -- in fact, no school principal -- currently
0187

1 sits on the evaluation committee charged with developing
2 this instrument.

3 It takes time to develop the instrument, to design
4 the data sets, pilot the results and implement it statewide. The Task Force recommendations are
due in March,
6 three short months from now, and we hope the recommendations
7 open up the kind of discourse that you, Senator Ruiz, have
8 initiated today.

9 This really was a conversation today, and I do
10 tell you that I am very appreciative of that. This is a
11 complex undertaking, but worth the time to do it right.

12 We, at PSA, are committed to developing a fair and
13 consistent statewide system evaluation. New Jersey is talking the talk, but we need to
15 walk the walk on this key issue, and we urge the Legislature
16 to have an involvement in this.

17 At this point, I'd like to have Tim O'Halloran
18 talk with you a little bit about how evaluation works in
19 practice at Somerville High School.

20 Tim.

21 **TIM O'HALLORAN:** Good afternoon and thank you.
22 It was kind of fun to be in the back there and listen
23 to all these recommendations coming from everybody across
24 the country and to know that a lot of those recommendations
25 we do in Somerville. And I'll take you through some of our
0188

1 evaluation process, but even some of the things that
2 stretched, too, about shared decision making, about
3 assessment, not just using standardized tests and using
4 -- about using feedback, about looking at teachers'
5 evaluation on performance of their individual students
6 in the classroom, we do. So I'm going to go back and give myself a little
8 pat on the back and go back and tell my teachers and my staff what a
9 great job they're doing.

10 But I would like to thank you for the opportunity
11 to share my experience as principal of Somerville High
12 School on the issue of teacher and leader quality in the
13 context of state tenure laws.

14 During my career, I have served as a teacher,

15 assistant principal both at the middle and high school level,
16 and principal. I've also served as a member and past chair
17 of the Professional Development Advisory Committee for
18 School Leaders, which, basic -- from the beginning, from its
19 inception, when it built the professional growth plan model --
20 and I also have been the past president of NJPSA.

21 But I would like to use my time here to walk you
22 through what we do in Somerville from the moment we
23 hire a new teacher, to grow that teacher into one that you
24 would want your child to have in the classroom. As principal for Somerville for the past 19 years,
0189

1 I have personally -- and I know that I look younger than that,
2 but I have personally hired over 80 percent of our current
3 student -- teaching staff.

4 These teachers do an excellent job in teaching our
5 students. I am proud to say I have not had to pursue
7 tenure charges against a teacher during that time, but I
8 have utilized progressive discipline tools when necessary to
9 improve a teacher's performance.

10 Our district is committed to professional
11 development of our staff at all stages of their career as
12 the best investment we can make in our student's success
13 within the confines of district finances.

14 As principal, I understand the importance
15 of hiring quality candidates and then helping these
16 candidates succeed in the classroom. Recruitment and hiring
17 is a high-stakes decision for my school. I do extensive
18 screening and interviewing before selecting a candidate.
19 And I'd just like to interject, we do use teachers in that
20 process.

21 Once hired, a teacher is immediately involved in
22 training in our curriculum, district policies and the
23 professional practices issued -- issues faced by first-year
24 teachers. We hold an orientation program in the summer
0190

1 focused on classroom management, the use of data in
2 instruction, local policies, grading and lesson design. And
3 those -- that orientation program is, again, done by our
4 teachers and some administration.

5 Once the year begins, Somerville has established a
6 Professional Development Academy where I, and my supervisory
7 staff and teachers, provide ongoing workshops for the
8 first-year teachers. It's a lot of dialogue and a lot of
9 sharing.

10 I do want to interject there, that our -- all our
11 teachers have a common prep period, so our English teachers
12 are all off the same period so they can share. And not
13 just work with the mentor, but all teachers. It's very
14 similar to a middle school model that I instituted about 12
15 years ago. I had some people didn't like it, but --

16 SENATOR RUIZ: Do you have that in the -- in
17 every --

18 MR. O'HALLORAN: Every discipline. Every
19 discipline, yes.

20 We also match up not just the novice teacher
21 to the profession, but all new teachers in the district,

22 regardless of the years of teaching.
23 So if I'm bringing in a new teacher who is
24 experienced, they're still going to get a mentor, because
25 they need to know about the culture of our building

1 and what our practices are, and we support that new
2 teacher in his -- his or her practice.
3 Mentors meet with these teachers on a regular
4 basis during common prep periods and also during that
5 common department meeting as well as after school to
6 answer questions and provide peer feedback.

7 The mentor supervisor director of Curriculum
8 Instruction also reviews a new topic each month during those
9 meetings.

10 I personally oversee this process, and there is a
11 good reason why. I want the best and the brightest teachers working
13 with my students. It takes a real investment of time,
14 experience and training to develop any new teacher in a
15 district, even those who have extensive classroom practice
16 or experience. Additionally, under our state tenure laws, I must
18 make a decision about their continued employment of this
19 teacher into the future.

20 Support does not cease going into the second year.
21 We continue to provide ongoing support and professional
22 development to enhance their skills and achieve school
23 goals.

24 Under our laws, I must observe and evaluate this
25 teacher a minimum of three times a year during the
0192

1 non-tenure period, but I may do more if needed. And we do
2 that. We do what we call walk-throughs, which you've heard
3 earlier, as well as meetings, personal meetings, with me
4 to develop any areas of concern or accommodations.

5 At the end of the year on the job, I must make a
6 recommendation to the superintendent on whether we should
7 continue to employ this teacher. The recommendation becomes
8 even more important by year three, after which they have the
9 right to due process upon dismissal.

10 During my career, there have been many incidents
11 when I have let staff go during this pre-tenured period
12 because they were not providing the education our students
13 deserve. Regardless of whether this occurred within months
14 of hiring or several years, if an individual does not belong
15 in the classroom, I can't and won't allow them to continue
16 to be there. That is my professional, but also my personal
17 responsibility to my students.

18 But in my experience, the current three-year time
19 frame to make this high-stakes decision is appropriate.
20 I've a good sense of whether a teacher has what it takes to
21 be a good teacher after his or her first year on the job. By the end of the second year, I've given
the
23 teacher notice of areas that need improvement, the tools to
24 improve and the chance to do so. By the end of the third year, I am confident in my
0193

1 recommendation. Discussions with my -- with fellow
2 principals indicate that my approach is common practice in

3 our state.

4 Once our teachers attain tenure rights, they
5 continue to be accountable for their performance. Educators
6 have an ongoing responsibility to grow as professionals. It
7 is why we invest in professional learning communities, multi
8 -- mandatory, multi-year professional growth plans,
9 professional improvement plans and annual performance
10 evaluations.

11 I'd just like to interject there, even in our
12 staff development, when we do our staff development, it's
13 building based. Our teachers are taught cross-curricular. I
14 provide that opportunity as well there. Our assessments
15 are not just standardized tests or tests, they're authentic
16 assessments.

17 SENATOR RUIZ: And all this is being done
18 during the school day?

19 MR. O'HALLORAN: The Professional Development
20 opportunities --

21 SENATOR RUIZ: During the day?

22 MR. O'HALLORAN: We also have Professional
23 Development Academy, which we do after school, which is, our
24 teachers teach teachers. We also use train the
25 train model which -- for example, we just had a training
0194

1 after school for two hours on a new program that we're
2 putting in, cross-curricular -- every department was
3 represented -- multi. They're actually going back -- in
4 fact, the greatest experience that I had was when a
5 teacher came to me yesterday and said, Tim, I have an off period, too, would you mind if I met
with this

7 teacher to go over it? And I said, no.

8 So she went -- she wanted to help this teacher,
9 because this teacher was going to be working with her, with
10 these students in a -- in an extension program that we also
11 have for our at-risk students. So it's just -- it's that common collaborative
13 effort.

14 SENATOR RUIZ: Do you have an extended day at
15 the school as well, it sounds like?

16 MR. O'HALLORAN: Yes. Yes.

17 SENATOR RUIZ: A learning extension.

18 MR. O'HALLORAN: We have our media center opened
19 after school for students who want help -- at risk -- if they
20 need it, just to go there to have quiet study time if they
21 don't have it, plus we open a half hour before school, --
22 we call it the homework, where teachers --

23 SENATOR RUIZ: I'm just lobbying for a pitch
24 for longer school day, longer school year.

25 MR. O'HALLORAN: I didn't say that.

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1 SENATOR RUIZ: No. I did.

2 MR. O'HALLORAN: I know.

3 Educators who fail to perform to standards
4 are subject to progressive disciplinary actions, such as the
5 withholding of increments, demotions, suspensions or
6 misconduct, or even removal, if appropriate.

7 As a principal, I've had to threaten the

8 withholding of an increment. I haven't got to that point to
9 force a change in performance, but I'm happy to say we've
10 worked through whatever the issue was and better teaching
11 resulted.

12 Effective management tools are in place and are
13 regularly used. The key is to having the data in order to
14 make an informed decision. I have the benefit of a data management system
16 that provides me up to the minute information on student
17 performance. We can examine student performance data as
18 part of the evaluative process and the observation process,
19 and the process drives performance improvement for
20 our teachers. We have a standard rubric which details
21 indicators for categories which include: instruction,
22 interpersonal skills, professional development and content
23 knowledge. Again, you heard a lot of that today.

25 For tenured teachers that are struggling, I, along
0196

1 with the teacher's supervisor, provide feedback and support
2 on a regular basis. Such a robust evaluation system ensures
3 better educators and better outcomes for kids, and it's what
4 we should have statewide to ensure that our student --
5 teachers receive the support that they need to grow.

6 This type of evaluation system also provides us
7 with comprehensive and ready evidence if an
8 educator remains ineffective and we have to seek dismissal.
9 A statewide education evaluation system is the most critical
10 reform that can be enacted to improve teacher quality and
11 remove ineffective teachers. It is also -- it also
12 appropriately addresses claims about the burdensome nature
13 of filing tenure charges.

14 Under this form of evaluation system,
15 administrators will have an ongoing record of staff
16 performance that is well documented, based on professional
17 standards and performance data, and has provided the
18 individual with notice and the chance to improve. It will
19 be much easier to move forward to formal tenure charges if
20 circumstances warrant it.

21 Thank you.

22 SENATOR RUIZ: Thank you very much.

23 **DAVID NASH, ESQ:** Thank you, Madam Chairperson and
24 members of the Committee; and my name again is David Nash.

25 I'm a staff attorney with the New Jersey Principals and
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1 Supervisors Association, and my primary role with the
2 Association is to represent school administrators when legal
3 matters arise related to their employment. We do have three
4 attorneys on our staff who perform a similar function.

5 I want to begin by stressing that NJPSA, for
6 many years, has supported tenure reform. We were a
7 leader in the movement in the 1990s, to support tenure
8 reform. And in fact, in 1998, New Jersey did enact a
10 reform that improved the process. We recognize that we
11 need further improvements to the process.

12 One of the concerns that we have had since 1998
13 was that the State of New Jersey never fully implemented
14 the reforms that we recommended at that time. Since 1998, we have seen, unfortunately, a

16 decrease in the number of Administrative Law Judges that
17 we have in the State of New Jersey while their workload
18 is increased. We recommended, with the Tenure Reform Act, that
20 New Jersey have Administrative Law Judges who are
21 specialized and focused specifically on hearing tenure
22 cases.

23 We do believe that if that reform were
24 implemented and there is a similar model in place for
25 handling other types of cases, for example, environmental
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1 cases have specialized judges that focus in that area,
2 that that would improve the system and that would allow
3 the process to move faster. We are open to other avenues
4 for streamlining the tenure charge process. We do believe
5 that process does need to be streamlined. We do believe
6 that a major impediment to tenure charges currently being
7 filed is that school districts are concerned about the
8 cost and the time involved in that process. And we
9 welcome the opportunity to explore other avenues for
10 streamlining the process. And you have heard some ideas
11 along those lines.

12 I do want to stress, though, I have seen first
13 hand in my role that there is a critical need to have
14 due process protections in place for both teachers and
15 school administrators.

16 The New Jersey system establishes a process where
17 you have to show either conduct unbecoming, inefficiency,
18 other just cause or incapacity. The New Jersey standard is
19 a standard where all the school district needs to show is a
20 preponderance of the credible evidence. That means, more evidence than not -- 51
22 percent of the evidence to show that the tenure charges are
23 charges that can be supported. We're not in a system where we have a criminal
25 standard where you need to prove beyond a reasonable doubt
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1 in order to have charges sustained. So the legal standard that is established is a
3 reasonable standard of proof that we ask in order to
4 terminate a school professional's career. And we believe
5 that it's appropriate to have a due process standard in
6 place along those lines.

7 Unfortunately, while there are horror stories
8 that we have heard about teachers and others in the schools
9 and the tenure process that needs to be followed,
10 unfortunately, there are also horror stories about tenure
11 charges that were filed that were completely unjustified.
12 And individuals, both teachers and administrators who did
13 nothing wrong and were subjected to tenure charges -- and
14 if there were not a due process system in place, would
15 have been unfairly let go. And we're very concerned that
16 without some due process procedure, we would have that same
17 kind of issue occurring over and over again.

18 New Jersey has in place a School Ethics Act that
19 we put in place in 2001. There have been a significant
20 number of reported cases where there have been real ethical
21 concerns that have been raised. And I can tell you, that there are many cases
23 where nobody is courageous enough to file the School
24 Ethics Complaint. So there are certainly other areas where politics

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1 has entered the process, and there has to be some protection
2 for the employee to make sure that we are making decisions
3 for educational reasons and not for inappropriate reasons.

4 We do share the concern over the lack of a
5 clear, consistent evaluation process. We are very
6 supportive of having the State develop a clear set of
7 evaluation standards that can be implemented statewide.

8 Our belief is that one of the reasons we have
9 not had more tenure cases of inefficiency is that we
10 don't have a clear set of standards for school districts to
11 follow. We have had, really, a changing, shifting sands
12 when it comes to student evaluation.

13 Every couple of years we have some major
14 changes in the student assessment system that have not
15 allowed us to track over time whether students are improving
16 or not, and to use that as one of the measures for
17 improvement for educators in the school system.

18 We have had a system where superintendents
19 are now constantly changing since the elimination of tenure
20 for superintendents. And with those changes and leadership
21 at the top, there are new priorities that come into play,
22 and new evaluation systems that are being put into place in
23 school districts across the state. Having a uniformed
24 approach on that issue, I think, will go a long way.

25 You've heard earlier today from some testifying

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1 that the number of tenure cases that we talked about -- 35 in
2 2008 -- really is a misleading number. The vast majority of cases where there is the
4 potential for tenure charges are resolved prior to the
5 board formally certifying tenure charges. One of the reasons for that, frankly, is, that
7 once tenure charges are certified, it becomes almost
8 impossible to settle a case.

9 The State of New Jersey has set up a system where,
10 if the parties agree to settle a case involving tenure
11 charges, that case still must go to the State Board of
12 Examiners. And in almost every case, we end up having a
13 full hearing anyway. So the parties involved have no real incentive to
15 look to settle these cases once tenure charges are certified.

16 So I would say that it's misleading to think that
17 we don't have these cases being resolved if we corrected
18 that technical flaw in the process. We could, perhaps,
19 resolve some more of those cases before reaching
20 the final resolution.

21 We do have other forms of employee discipline that
22 we also do impose regularly in the State of New Jersey. One of the things that we need to
recognize

24 is, that increment withholding is something that can happen
25 and does happen when you have teachers or administrators who

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1 are performing poorly.

2 And, frankly, the standard is one that is not very
3 difficult for a school district to achieve. If the school
4 district can demonstrate that an employee's performance is not
5 what it should be and the school employee can't prove that
6 the decision was completely arbitrary and capricious, it's

7 upheld. And the increment of an employee is withheld. And
8 that is an effective tool that many school districts do use
9 when they have an employee who is not performing at level.

10 Let me just stress again that we are very open to
11 streamlining and reforming the process. We believe the
12 fundamental flaw is the cost and the time. We did support
13 reforms to begin that process a number of years ago, and we
14 would welcome the chance to further streamline the process.
15 But we do not want to see the loss of some due process protection.

16 SENATOR RUIZ: Thank you.

17 SENATOR ALLEN: Thank you. Mr. Nash, I wanted to ask you, you
18 were saying that you folks suggested at some point in the
19 past, that an Administrative Law Judge would just deal
20 with these issues; what do you think about the NJEA's
21 proposal of having it go to arbitration instead of to a judge?

22 MR. NASH: The proposal for arbitration is an
23 interesting proposal that we, as an association, are in the
24 process of examining. There could be some real potential
25 for streamlining the process, and we are open to looking
0203

1 at other alternatives to streamline the process. So that
2 is certainly one that is worthy of consideration and study.

3 SENATOR ALLEN: Good.

4 And Mr. O'Halloran, you said that -- by the way,
5 I like what you gave us, it sounds like you're very involved
6 and really making a difference, but we've heard from so many
7 people, both here and I think as we go -- have gone around
8 as members of this Committee talking with teachers and so on.
9 I have quite a few of them who've come into my office and spoken
10 to me, that perhaps your approach is not common practice. Now
11 you say you've talked with a lot of principals and you think it
12 is, but I hear from a lot of people that they don't feel like
13 they get the support, that they don't feel like -- that they
14 have somebody who's really doing the same job that
15 you indicate you are doing, and that I think it sounds
16 very good.

17 So I guess my question is, are you just talking
18 to principals who think the way you do? Are you really
19 talking to a wide range of them, or do you think that it
20 is very possible that, in fact, your approach isn't as
21 common a practice as maybe you first thought?

22 MR. O'HALLORAN: I would like to think it's more
23 common than not, yes. I understand those districts -- and
24 it's not for a variety of reasons, maybe it's financial,
25 they can't put -- maybe they've had a change in
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1 administration multiple times, and we know that -- I've
2 been in 19 years, my superintendent who just retired
3 last year was there for 20 years, so we're able to sustain
4 a growth in programs and have a shared vision for our
5 district, but also at our building level.

6 Again, hiring 80 people, to -- 80 percent
7 of the staff, it's a little over that now, because I just
8 hired somebody two days ago -- it also helps, because I've
9 hired people who share my vision, okay, and have --
10 and I worked with them. So we have a commitment to

11 each other.
12 The colleagues I'm talking about, and I
13 serve, as I said, past president of New Jersey Principals
14 and Supervisors Association-- I have been across the state, and
15 I got an opportunity to see a lot of different things. So
16 it's out there -- maybe not to the extent that we're doing it,
17 but components of it. It's -- I don't think it's for a
18 lack of -- of not wanting to do it. I think sometimes
19 there's impediments to it.

20 SENATOR ALLEN: I'm not suggesting that it's for a
21 lack of not wanting to do it, I'm just questioning whether
22 it's really there at the level that you might have
23 indicated.

24 You also said that your teachers work with you
25 when you hire; how prevalent is that?

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1 MR. O'HALLORAN: They sit -- during an
2 interview, I try to get somebody who is in the content area, have the
3 content.

4 I mean, I taught math when I was a high school teacher, but, I mean, obviously, if I have
6 somebody coming in for a French position and I want content,
7 I need to have somebody there that can speak the language. So I do -- I make that a regular
practice.

9 We also do-- One of the staff, we have them go
10 in the classroom of the teacher -- like I had this particular
11 replacement, I could do it right now. I had them go in and
12 teach, do a demonstration lesson.

13 And, so -- and the teacher sat in there and we got
14 feedback from that teacher. I had an administrative intern
15 who is a teacher, who also sat in there as well as the
16 administration and gave us -- and I'm very honest with you,
17 went through the first round of interviews -- some very --
18 on paper they looked great, even in the interview process
19 they talked a good game, but I put them in front of students
20 and it was -- I could just tell, you know, I've been doing
21 this pretty long, and I could just -- you know, that gut
22 feeling, things that they weren't doing -- I just didn't
23 feel they were right for our students. I'm not going to
24 subject my students to that. We'll put an alternative
25 plan in. We're going to have our regular teachers pick

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1 up an extra class just so that we can -- until we can
2 find -- luckily for me, the second-round of interviews, the
3 can -- the finalist, who's now going to assume the
4 position Monday, went in that classroom and was able to
5 demonstrate performance.

6 So I involve the staff as much as possible.
7 Ultimately, it's my decision, you know, and -- but they're
8 part of the process. There's a multi-tier interview
9 process, ultimately, with the superintendent.

10 SENATOR RUIZ: Thank you.

11 MS. BARTOLETTI: Madam Chairperson, if I might, I
12 believe that there are places in New Jersey where principals
13 do not make decisions with regard to teachers that they
14 are -- that are being employed to work in their own schools. So there's a general evaluation, you
know, an

16 interview process, and then teachers are assigned to
17 schools. So in, I think, too many places principals
19 are absent and teachers are absent from that decision-making
20 process, because it's done on another level completely.

21 SENATOR RUIZ: I agree. And there are
22 schools that, whether it's -- they're assigned or unassigned,
23 principals take ownership of the building, and the success
24 that you're talking about, of really accepting the
25 responsibility and going above and beyond even if,
0207

1 per se, it goes outside of policy that they're doing it
2 with the best intentions to hire the best personnel and
3 really have excellence in education.

4 So I just want to thank you.

5 MS. BARTOLETTI: Thank you.

6 MR. NASH: Thank you.

7 SENATOR RUIZ: Next, we'll hear from Lynne
8 Strickland, followed by New Jersey Education Association --
9 oh -- School Board Association, my apologies.

10 And we're almost, almost--

11 Whenever you're ready.

12 **LYNNE STRICKLAND:** Good afternoon; and I am ready
13 and my promise to you --

14 SENATOR RUIZ: Thank you for your patience.

15 MS. STRICKLAND: -- is, that I'll be quick.

16 SENATOR RUIZ: Thank you.

17 MS. STRICKLAND: And I promise the New Jersey
18 School Boards as well, as they've been waiting patiently.

19 At any rate, I also -- my name is Lynne

20 Strickland; I'm executive director of the Garden State
21 Coalition, and I appreciate the opportunity to speak to you
22 all today on this important subject of tenure reform.

23 I did want to tell you that I had Betsy Ginsberg
24 with me, who is a parent and board president of Glen Ridge
25 and on our board. She had to go home. Her testimony is
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1 included with mine, but she was going to speak --

2 SENATOR RUIZ: Thank you, Betsy, if you're
3 listening. Thank you.

4 MS. STRICKLAND: I'll tell her that you said that.

5 Going right to the chase, Garden State Coalition
6 believes that tenure reform is an integral and very
7 important part of moving quality education ahead in New
8 Jersey's public schools.

9 Tenure reform is also complex and we recognize there are
10 many relevant issues. We are pleased that the conversation
11 has begun and we submit our initial thoughts on this
12 important discussion.

13 First off, there is consensus at our table that
14 tenure should be extended to five years plus a day.

15 Many districts make tenure decisions within a
16 two-year window. All parties would benefit from this
17 extension of time to five years and a day.

18 Evaluations are allotted more time, and thus can follow a
19 teacher's progress in depth and in a variety of situations.

20 Teachers are given more time to garner more

21 experience and demonstrate progress as well.

22 The degree of predictability of teachers' long-term
23 prognosis in the profession is directly related to the
24 period of time non-tenured employees work before they're
25 eligible for tenure. The longer an employer has to make this decision,
2 the more information, naturally, becomes available for the
3 employer to factor into the decision.

4 Extending the time frame for tenure could also
5 give the school district the opportunity to see a teacher
6 work in more than one type of instructional venue. And courts have recently upheld tenure for
8 teachers who actually work less time than three years and a
9 day. This has happened when teachers have taken leaves
11 or have been out on worker's compensation.

12 Extending the time to acquire tenure would also
13 give the district greater flexibility in deciding the
14 teacher's eligibility in these kinds of circumstances.

15 Another thing that has come up at our board table
16 and, interestingly enough, there seems to be
17 consensus on this as an alternative -- which is a renewable
18 contract option, which you already heard people speak about.

19 One of the reasons many believe that the five-year
20 contract is a legitimate answer to the question of tenure
21 is because the fair dismissal procedures do not allow
22 discrimination based on age, salary or other criteria.
23 That is not a valiative.

24 Teacher evaluations, obviously -- and you've
25 heard this in depth today as well -- they're critical, and we
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1 believe in that, too, and we believe they need to be based
2 on a range of items, including teacher creativity and
3 student engagement, in subject matter and not just test
4 scores alone.

5 The arbitration question, I just want to mention
6 that for a moment, has a -- I got a bunch of calls as soon
7 as that came out, people are concerned about it. So we believe it needs an in-depth
9 analysis. Others in states where arbitration is the
10 practice are not positive about the results.

11 I mean, I got two phone calls from people who used
12 to be members of Garden State that now work in Pennsylvania.
13 In fact, when you see the results of decisions going the way
14 of 50/50 -- and this is one thing that's occurred in
15 Pennsylvania, it's occurring in Massachusetts as well --
16 we're concerned that the even distribution indicates a
17 system that responds more to job security than to the
18 individual situations that occur in a district.

19 I want to just close with Betsy's words here about
20 any system of tenure and evaluation must provide teachers with
21 enough job security and protection so the bright, creative
22 young people will want to enter the career field.

23 Right now, that is one of the great problems in
24 education. Teaching is often viewed as uninspiring at this
25 time, and now, with the amped up rhetoric, the focus is almost
0211

1 exclusively on "bad teachers," quote, unquote. There is
2 even less incentive for bright students to enter the field.

3 Now is the time to change the tenure and substance

4 of public conversations about teacher tenor and evaluation
5 and address these important subjects in a constructive,
6 non-pejorative way.

7 That's it. Thank you very much.

8 SENATOR RUIZ: Thank you very much. Thank
9 you for spending your day with us.

10 Next, we have New Jersey School Boards Association,
11 President Wiss.

12 Thank you for your patience.

13 **RAYMOND R. WISS:** Madam Chair, Committee members, thank
14 you for putting in a long day on a very, very important issue. I'm
15 Ray Wiss, the president of the New Jersey School Boards
16 Association, and I serve on the Northern Valley Regional
17 Board of Education in Bergen County. I'm a former member
18 of the Old Tappan Board of Education and a former mayor
19 of my community.

20 At the outset, I want to add the Association's
21 commendations to the Committee for taking this amount of
22 time on a very, very important issue. And I think
23 you can tell by both the breadth of the participation and
24 the dialogue that's been engendered, that this is something
25 that is an issue that has long awaited a focus, and there
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1 couldn't be a more critical time, particularly from a school
2 board member's perspective, and hopefully I add that to
3 the dialogue that's taking place here today.

4 I do want to digress for one second to a
5 discussion that arose during the Newark
6 representatives and Senator Allen. I think as school
7 board members, we're very much aware that we are not
8 professional educators. For that reason, your intercession
9 and your assistance in defining a system that can function
10 well and give us the tools that we need to add and then --
11 after all, we are the local voice that adds the community
12 priorities and aspirations to the dialogue and the
13 implementation of the system that you devise.

14 So we're very much dependent on discussions like
15 this, and obviously on the resultant product. And,
16 hopefully, as I go through my comments, I'll explain a
17 little bit about how the current system is not only perplexing,
18 but problematic for a local school board member.

19 With more than 18 years of experience on a local
20 board of education, we agree with some of the comments and
21 would echo the fact that there's nothing more critical
22 to student success than highly qualified and dedicated
23 teachers.

24 In my district, we consist of two Blue Ribbon high
25 schools serving seven communities, and certainly the
0213

1 educational attainment that we've had has been due to the
2 dedication and excellence of our teachers. However, the -- our system, as well as public
4 education in New Jersey, has succeeded in
5 spite of, and not because of the tenure system. In elementary and secondary public education,
7 tenure does not exist to preserve academic freedom or to
8 advance knowledge, it merely serves as lifetime job
9 protection.

10 And I do want to respectfully disagree with our
11 colleagues from NJEA. While the current system may not
12 be de jure protection for life of a job, de facto it is.
13 And I think the statistics you've seen today from many
14 of the people who've testified bear out that fact.

15 Unless we're willing to accept encompassing
16 systemic changes, including eliminating lifetime tenure,
17 the quality of our schools will be difficult to maintain,
18 to say nothing of trying to move ahead, which obviously
19 is the goal of all of us. All elements of our educational
20 community, students, educators, parents and the community
21 that supports us -- and after all -- they're the ones who
22 vote on our school budgets, have much to gain from
23 eliminating a century-old system that has long since
24 outlived its purpose.

25 I think one of the things that perhaps you can
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1 focus on is the fact that the environment that exists
2 today for a teacher is much different than the environment
3 that led to the adoption of tenure more than a century ago. We have a growing body of statutes,
5 regulations, court decisions that have strengthened
6 employees' protections against arbitrary dismissal and
7 discrimination. In addition, the collective bargaining process
9 provides vast protection to our employees in terms of
10 working conditions, disciplinary procedures, and grievance
11 arbitration. And obviously none of that was even a glimmer
12 in the eye of your legislative colleagues a century ago.
13 None of that even existed.

14 More recently, the School Ethics Act, the School
15 District Accountability Act and related regulations have
16 added safeguards against patronage hiring and nepotism. And in spite of these legal and
statutory
18 safeguards, the current system of lifetime tenure makes it
19 difficult, costly and time-consuming to remove an
20 ineffective teacher from the classroom, and it's a level of
21 job security that's unheard of and unparalleled in any other
22 profession, business or occupation.

23 There was a reference -- and I think the Chair had
24 posed this question earlier -- to why so few proceedings?
25 And let me go through that, at least from a board member's
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1 perspective.

2 Statistically -- and I guess it was Mark
3 Twain who said, there are lies, damned lies, and statistics,
4 and obviously you've heard a lot of statistics today, but
5 statistically it does bear out the fact that from January
6 2009 through June of 2010, there are only 29 tenure
7 decisions. And those would be decisions that mean the
8 process has run to its closure. Of these, only one case
9 involves charges of inefficiency.

10 And I think that is a telling statistic. And as
11 was pointed out before, NJEA boasts 129,000 full-time
12 teaching members in New Jersey. One tenure proceeding based
13 on inefficiency that went to closure. I think that one of the reasons that there
15 are so few -- going back to the question that was posed -- is
16 the process itself. And whether the figure is nine

17 months or we would take it more at one year, it is a
18 lengthy, cumbersome procedure.
19 Some suggestions have been made by way of whether
20 a substitution could be made for an arbitrator in lieu of
21 an Administrative Law judge. I think there you're only talking about a change
23 in the decision maker. The key is for you to embrace
24 systemic changes that will expedite the process both in
25 terms of timeline and its economic efficiencies. It
0216

1 isn't ultimately the decision maker that's the problem here;
2 it's the process that leads us to the decision maker. We
3 can't get to him or her early enough or without
4 encompassing very expensive costs. Apart from the fact that
5 it takes a year for the process to reach culmination,
6 the economic impact can be rather stark. The \$100,000
7 case is not the anomaly; it is something that school
8 districts confront, and there is something that has
9 been added to all of our repertoires more recently, and
10 that is the two percent hard cap. So you can guess that this type of an issue
12 is all the more impactful on the local school district in
13 terms of incurring additional attorneys' fees and costs.

14 On top of that, we've got 120 days after
15 which we are -- during which we're making payments and,
16 also we're hiring substitutes, we're incurring costs
17 beyond just the legal expenses and that is problematic
18 in this environment when we're trying to preserve
19 positions and preserve the curriculum. And after
20 all, our product is delivering an education to our students.
21 So this is a very thorny issue for a board of education
22 member. I would dare say that if you asked any local
24 board of education member whether the current process works
25 and is sustainable, the answer would be a resounding no.
0217

1 Let me share something from our perspective
2 in terms of the type of system that we would envision going
3 forward, and I think some of the other speakers have already
4 talked to some of these issues, but I do want to
5 note -- and I guess everyone is, you know, seeking credit
6 for having been aboard this issue earlier -- New Jersey School
7 Boards Association has had published policy on this very
8 issue since the Ford Administration, and it's great, and
9 that's why I said, at the outset, it's great to see this
10 Committee putting its arms around this issue and finally
11 addressing it.

12 From our vantage point, we think that the
13 issues or the elements of the program that
14 will be effective is, that we need to replace lifetime
15 statutory tenure with a system of renewable employment
16 contracts with continuation based only on effective
17 performance. Such a system would enable the local school
19 district to hold staff accountable for ongoing effective
20 performance. And the professional educators have again and
21 again used those terms this morning in describing to you
22 what type of process should be built. We would suggest contract terms of between
24 three and five years, and throughout this period teachers
25 would undergo objective performance evaluations. And obviously, the devil will be in the details

2 as you seek to define what those evaluations are and what is
3 included in that process.

4 And I think you have a host of professional
5 educator resources that you've heard from today. But based
6 on the results, the school administration would recommend
7 continuation of tenure and employment. And that's
8 contractual tenure, cyclical three or five-year contracts.
9 For new employees, contractual tenure would initially be
10 provided upon five years of satisfactory performance.
11 That is a series of five, one-year contracts.

12 And, again, some respectful disagreement with
13 NJEA when it was suggested that right now we have
14 one-year contracts, why do we want five-year contracts?
15 I don't think that they were suggesting that after tenure
16 is afforded to someone, that school district really has a
17 series of one-year contracts. We have a lifetime employee. I mean,
18 that is the fact of the system.

19 The process that I've outlined would ensure
20 the careful consideration of a staff member's performance in
21 decisions that affect his or her employment status. And
22 that's really no different than how employment works in the
23 rest of the world. Technically changing the lifetime tenure system,
25 which has been part of the culture of schools for quite a
0219

1 long time, could be accomplished by your simply passing
2 legislation. And I, for one, am pleased to see that that's not
4 the way the Committee has embarked on this process. A
5 change of this magnitude does require that all work
6 together. It needs the confidence of the teachers who
7 will have to live under the new system it needs the support
8 of the supervisors who will make critical employment
9 recommendations. Therefore, we need to take the process
10 further by creating a very fair evaluative process that
11 accurately measures job performance and can be used in
12 determining the retention of a teacher in making
13 employment decisions. It has to be tied to academic progress of
15 students based on several measures, and we would suggest it
16 has to include test results, but, obviously, it can't be
17 exclusively based on test results. It must also accommodate
18 the goals of a local school district.

19 I think it was mentioned earlier when
20 Senator Whelan was here that our communities are
21 different. There are different priorities; there are
22 different aspirations. And as I said to you before, it's one of the
24 functions that I think that we take most near and dear to
25 our hearts as local school board members -- is factoring in
0220

1 those local priorities into our decision-making process
2 under the rules that you give us.

3 As New Jersey seriously considers this long
4 overdue reform, keep in mind that schools exist for our
5 students, not for the adults who work in them. Eliminating
6 lifetime tenure will ensure that our public school system
7 succeeds in its missions.

8 And I thank you for this opportunity.

9 SENATOR RUIZ: Thank you very much.

10 MR. WISS: And, obviously, the Association is
11 always there as a resource, Senator.

12 SENATOR ALLEN: Who do you think should be
13 involved in hiring the teachers?

14 MR. WISS: I think the collaborative process -- and
15 it is the process that I know in my district works
16 best. What we do is have a combination of the superintendent
17 and the building principal. And you've heard a lot of data
18 about successful schools derive a lot of their success from
19 the principal level. We use the modeling aspect where a
20 perspective hiree comes in, and we have a Department chair
21 format, so the superintendent and principal and the
22 Department chair are all part of the assessment process
23 of a would-be hire. It gives us the broadest opportunity
24 because -- keep in mind, and this goes back to, again, the
25 dialogue with the Newark representatives -- one of school board's
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1 precepts is to make sure that the schools are well run, not
2 to run schools. So accordingly, we have to give, as lay board
4 members, tremendous discretion to our educational
5 professionals in terms of their recommendations to us.

6 So obviously, if that recommendation comes with a
7 broader support and has a broader (indiscernible) participation, it's
8 an easier decision for us to accept and endorse.

9 So I think that my experience tells me that
10 the teacher input, the principal input, the supervisor, the
11 superintendent's input is all very, very important.

12 SENATOR ALLEN: Should the principal have an
13 ultimate yea or nay?

14 MR. WISS: Well, I guess ultimately the way things
15 exist is that the board makes the decisions based
16 on the recommendations we receive. And as I said, that is part of what I think
18 is the difference process.

19 I don't think we've ever had a situation, and
20 it may speak to the level of a candidacy, if a -- if someone
21 was put forward where we had a superintendent saying, no,
22 and a building principal saying yea.

23 Likewise, I think that would be problematic
24 as you assess the tenure prospect, which is why I
25 think that the breadth of participation -- I think this is
0222

1 implicit in your question -- is very, very important, because
2 then, obviously, we know why that recommendation comes to us
3 and who had input into it.

4 And I will say something else that I think relates
5 to the same lines. Certain testimony before talked about
6 the type of recommendations that come to the board based
7 on evaluations. The current process in terms of board-making
8 decisions is very problematic because, when you get
9 recommendations that are subjective in nature rather
10 than objectified and they are by and large good or excellent,
11 it becomes very, very hard for a local decision maker to
12 make a quality decision. If all you get are good or
13 excellent and there is no way of objectively
14 validating that recommendation, while I want to give
15 deference to a decision, if I can't see the bona fides or

16 the pedigree of that decision, it's very hard.

17 SENATOR ALLEN: Thank you.

18 SENATOR RUIZ: Thank you, Mr. Wiss. Thank

19 you very much.

20 And last, but certainly not least, I want to thank

21 both Mr. Wayne Eastman and Superintendent Brian Osborne

22 from the South Orange-Maplewood School District. And for those listening and for Senator Allen

and

24 members of the Committee, South Orange-Maplewood is a

25 unique district in Essex County in the State of New Jersey.

0223

1 They're already a consolidated district. They're a district

2 that has -- or been undergoing very progressive actions, and

3 not from a standpoint of policy driven, but from an

4 administrative-driven course.

5 So I wanted to thank you for spending your entire

6 day with us, and for closing us out on this topic of

7 great magnitude and to really tell us, because I know that

8 there are things that perhaps you will be launching soon

9 because you're looking at doing things from a contractual

10 perspective.

BRIAN OSBORNE: Yes. We're in negotiations right

12 now, so...

13 SENATOR RUIZ: Oh, we're not going to talk

14 about it, then.

15 MR. OSBORNE: That's the one -- that's the one

16 question --

17 SENATOR RUIZ: Okay. We're not going to talk

18 about it.

19 MR. OSBORNE: -- that I can't answer, but we will

20 answer as much as we can, and thanks for having us.

21 Mr. Eastman.

WAYNE EASTMAN: Okay. It's been a long day and I've

23 got an exam to give back in Rutgers Business School in less

24 time than I wish I were scheduled for, so I'm going

25 to try not to take up too much of your time.

0224

1 You know, if we had value it's that we've

2 got a combination here of an elected, you know, official, a

3 school board member. I am here as a volunteer citizen

4 activist who happens to wear a couple other hats, as I'll

5 describe briefly, with our chief administrator, you

6 know. It really can't be one or the other, you know. You

7 need the activists, you need the people who say whether it's

8 activists in public policy, in legislatures, who say, hey,

9 a system is broken, we've got to change it. And then we

10 really also need the good people and the great people

11 within our public schools to make the whole system work

12 to some fair degree. I think that we've got that pride in

13 a lot of the people that we got in public school, in

14 administration and in teaching in New Jersey right now.

15 In other words, if I had a difference of nuance

16 with some of the testimony it might suggest, do we need to

17 take any action on this issue of tenure to get some

18 super-duper statewide mandated system with the exact

19 percentages of this, that and the other thing? No, is my

20 quick answer. You can do a whole lot to open up the system
21 and make it work better.

22 As much as I deeply am sympathetic to, let's say,
23 Senator Johnston's discussion of the elaborate legislation
24 advancing in Colorado relating to percentages, relating to
25 ineffectiveness over certain numbers of years -- and absolutely
0225

1 think that model should be considered along with others
2 by our State. I want to propose a really crisp, short and simple
4 set of legislative changes that are very consistent with the
5 number you've heard already. In other words, it's a big process, but it can
7 also be tackled in a pretty direct way.

8 On this, I've received the assistance of our
9 excellent Board Counsel, Jessica DeKoninck. I know
10 you have excellent drafters here, but, you know, in the nut
11 shell I think of some progress you can make. We got three proposals. One of them we heard a
13 lot about, that is the idea of five years, the South
14 Orange-Maplewood proposal. And, no, it's not unique. Good
15 ideas come from different places. That's the way the world
16 is.

17 SENATOR RUIZ: Hey, I thought maybe that was
18 my proposal, now it's South Orange's.

19 MR. EASTMAN: Oh, it's Senator Ruiz's proposal. I
20 changed the name of it. I changed the name of it. Anyway,
21 Senator Ruiz's proposal.

22 SENATOR RUIZ: No. I don't have a proposal
23 and let's not alert everybody. I don't have anything
24 written.

25 MR. EASTMAN: No -- no prior agenda on the part of
0226

1 the Senators.

2 But we do have an agenda in a sense, that like a
3 number of the people who have spoken, like our counterparts --
4 my counterparts in the School Board Association, that
5 South Orange-Maplewood proposal as drafted by Jessica,
6 backstopped by me based on one of my other hats. I used to
7 be a business lawyer. I teach business law and business
8 ethics at Rutgers Business School.

9 It starts with the idea of five years probationary
10 period, and then no lifetime guarantees. That is what
11 it really is. And I can tell you the war story in a
12 minute if you want to hear it. No lifetime guarantees,
13 five-year renewable. And let's be clear what that means. You know,
15 five-year renewable; at the end of that five years there is
16 no guaranteed hearing the way that you got to have now.
17 It's real, that you got to earn it again. You know, Jessica DeKoninck's language is pretty
19 clear on that, you know.

20 So we're talking real systemic change. That's
21 big, it's real, and it's right.

22 I should say something. By the way, in the
23 interest of full disclosure, am I a tenured professor
24 myself? You bet I am.

25 The legal context is very different. We're
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1 talking K-12, we're talking legislation that applies to
2 K-12. There is a state mandate of tenure, as we all know,

3 for K-12. At the university higher ed level --Rutgers and
5 other schools -- even if you're a state school, it's done, as
6 I understand it, through institutional choice. You know,
7 you have negotiations, you have institutions making their
8 own choices.

9 But that all said, yep. I think that it
10 would be an excellent idea to have me and my colleagues
11 evaluated on a five-year cycle as well. As much as there
12 are many other differences, and as much as we're talking
13 about K-12 -- I just want to be honest about that, you know,
14 because it's a big system. Public K-12 and higher ed go
15 together. We're one team.

16 I'm really proud, as a number of people have said
17 here already, about some of the accomplishments of education
18 in New Jersey and in our country, more broadly. We should really be deeply concerned about
things

20 like the PISA scores that show our students lagging --
21 students in Korea, Singapore, Finland, now the other
22 day Shanghai, yes. We should really be concerned. We
23 should really be concerned about deep, apparently
24 intractable achievement gaps by race and ethnicity. But
25 there are some things to be really proud about
0228

1 in our state and in our country. I think we really do develop in our public
3 schools as well as, yes, the higher ed system that I'm part
4 of that, I grew out of -- New Jersey public education.

5 You know, there is a culture of support for
6 speaking up, for innovating, for looking for new ideas.
7 There are some things that are great about education in this
8 country and in this state. Let's be proud even as, yes,
9 let's change the system.

10 So the big changes are what? Yep, five-year
11 renewable. We should really do it, okay.

12 We have some suggestions of nuance on the issue of
13 administrative tenure. We believe -- our group, our lobbying
14 group on the board -- there really is a difference between
15 teachers and administrators. That is our proposal -- proposes
16 for retention of tenure for teachers with this five year.
17 You know it's for five years, though, not for a lifetime.

18 For administrators, no. I really do think that
19 it's different. You're a high-ranking person.

20 I used to be a labor lawyer, National Labor
21 Relations Board; do you have a right to collectively bargain
22 even if you're a hire/fire high-level manager in the
23 private sector? No way. Our whole setup in education is anomalous in which
25 high level -- and this I fully respect, we're not talking
0229

1 collective bargaining rights, this is about tenure, but the
2 tenure situation for high-level people so our superintendent,
3 you know, your -- that's there. They're your team, but,
4 no, they're not your team under the current set up.

5 I fully respect, by the way, that the proposal
6 made by NJASA would go -- you know, whether, you know, I would
7 differ with them on "tenure" for superintendents. I
8 think it's a bit technical. I don't want to say
9 Superintendent Osborne is going to be with me 100 percent on

10 some of this.

11 MR. OSBORNE: Board member and superintendent. We
12 don't need to agree on every --

13 MR. EASTMAN: Creative tension. Creative tension
14 along with strong teamwork to make things work, policy
15 governs. We respect the superintendent just the way the
16 excellent statement by the NJSBA president indicated, okay.

17 So how is this going to work in terms of, you
18 know, making the system effective?

19 The last point I want to bring up -- I don't want to
20 harp on the tenure for principals and administrators point.
21 I differ from NJASA and what I thought was an excellent
22 presentation otherwise. I think that's pretty technical, because its
23 district and the administrator will be able to enter into a
24 three or five-year just cause contract. Fine. I think
25 that's the appropriate way to do it, not to mandate state
0230

1 tenure for hire/fire bosses my -- you know, and our -- the
2 lobbying group, our opinion.

3 There's a third point that I really wanted to
4 bring forward because nobody has brought it up today, and I
5 think it offers some value added for you to consider.
6 There's been a huge amount of discussion about the time that
7 it takes and the cost, but we've really also got to think about
8 the standard of review.

9 I think there is something really useful here with
10 the analogy of my other field of business law. All the time
11 you get objections raised to the actions of management in
12 litigation, and how does the legal system handle it. In this state and others, it uses an approach
14 called the Business Judgment Rule that could be suitably
15 tailored. We have language work very well.

16 In non-legalize, the way to put it is, hey, look,
17 you have one of these hearings, and what do you really look
18 at? The district would want to show that, you know,
20 its burden, that it's not a political case, there's good
21 faith, okay. No conflict of interest. Assuming that hurdle can be covered -- and
23 overwhelmingly let's say it will be, some it won't be, and
24 then there really should be, close scrutiny. Assuming it's
25 covered, then you say, can the district show that it's a
0231

1 reasonably informed decision? That's basically the Business
2 Judgment Rule. Yep. You got to be able to show that, you
3 know. That shouldn't be a big deal, though.

4 You also should have to show that you have a
5 professional system in place. QSAC Rankings, for instance, could be used for
7 that purpose arguably. That should be pretty straight
8 forward.

9 So if you've got all of that, then you should have a
10 system as in the Business Judgment Rule in which the person
11 deciding -- ALJ, arbitrator, whoever it is -- doesn't look at
12 the facts de novo. I really became convinced -- and the
13 one reason I'm fired up about this issue is -- as you can tell
14 I am -- the experience that I had as a board member, we
15 did try to terminate. This was a teacher who previously had an increment
17 withheld on unrelated matters, so -- and that, you know
18 -- and other things nonpublic that we can't go into.

19 Then it gets to our trying to take away tenure.
20 And the ALJ stipulated, basically -- and let me just make
21 sure, you know, conduct involving a secret e-mail account
22 that the teacher suggested be set up with an opposite sex,
23 minor student of the teacher's, along with other things that
24 there was back and forth on. We thought that warranted termination. We didn't
0232

1 win. We lost. ALJ reduced it 75 days. There was a little
2 war with the commissioner, but then, ultimately, the teacher
3 reinstated. Now, de novo we can all look at
4 things and say, oh, gee, how serious is this; how serious is
5 that?

6 But this is an illustration of how our system is
7 profoundly broken, in my idea. In my notion -- I hope those
8 that everybody is listening -- that is, you make a good faith
9 reasonable judgment. When you -- and we did a lot of work.
10 I don't recall that, you know, the time I was on the board
11 doing all this, but, how many, you know, the years, the
12 dollars. You lose. You lose.

13 And so if that's the substance, then it's just
14 right what our school board's counterpart said. Yep. It
15 really is a guarantee of lifetime employment. That's what
16 we've really got. That's what we really got.

17 The key reform to change it is the five-year
18 renewable, okay. Because tenure, it's over. At the end of the
19 five years you've got to re-earn it. And then, though, within the five years, yeah, I
21 think we should do, in essence, what the South
22 Orange-Maplewood proposal calls for -- that is, have the
23 district have a burden of showing its good faith, of
24 showing its professionalism, and then assuming it does
25 that, the substitutive standard review -- the burden would
0233

1 fall on the employee to show that there are unusual
2 circumstances making the decision grossly unfair.

3 The legalese is the technical stuff that you guys,
4 you know, I would certainly defer to, but I think that's --
5 would go something a lot further.

6 Don't like the arbitration suggestion, by the way.
7 The 50/50 point made by Ms. Strickland I think is an
8 excellent one -- again, based on my private sector NLRB
9 experience, that's the way it works. Let's speed up the
10 process of decision making. That's really important. NJEA
11 is absolutely right about that along with, I think, all of
12 us here.

13 I'm very, very skeptical, though, especially the
14 proposal. If we're going to go with something that is more
15 you know, complicated -- well, like the Business Judgment Rule
16 Standard, but also better -- I think it is better to have
17 legally -- you know, people who care about the law applying
18 it, but let's make them act fast, okay.

19 Very -- you know, I had a whole song and dance
20 here in my statement that I hope that you'll have a chance
21 to read based on much more personal factors.

22 SENATOR RUIZ: This is the abridged version?

23 MR. OSBORNE: Yeah. You didn't just do a whole song and dance?

24 MR. EASTMAN: Okay. No. It's -- it's a personal

25 story, and let me just say it really quickly three sentences.
0234

1 Let me see --

2 MR. OSBORNE: The Senators haven't had lunch yet.

3 SENATOR RUIZ: I hope you're going to give --

4 I hope you're going to give the superintendent some time to
5 speak.

6 MR. EASTMAN: Oh, no. Hey, he's going to speak
7 three times longer than me.

8 MR. OSBORNE: No. No. I won't. I promise.

9 MR. EASTMAN: The enemy -- here's the enemy. I'm
10 a tenured teacher, a New Jersey educator, I come from a
11 family of tenured New Jersey educators. My father retired,
12 okay, my sister, my wife. This is a business. And, you know, the biggest reason I want this
13 system changed is for me and for other educators and our
14 pride, our honor and our self respect.

15 A neighbor of mine -- a little barbed comment the
16 other day, oh, yeah, how many hours are you working this
17 semester? You know, I can go with this defensive stuff
18 about, oh, yeah, academic life, you know, the schedules are
19 different, you know, you trade off pay. And that stuff is
20 true, don't get me wrong, but I want to be able to look my
21 neighbor in the eyes knowing that there is a system there
22 that evaluates all of us educators so we don't have a
23 lifetime guarantee, because that -- to be honest that, to be blunt --
24
25
0235

1 is what we have now. It's just unfair. It's unfair to
2 the junior teachers who bear all of the burden, it's unfair
3 to the vast majority of New Jersey citizens who don't have
4 this guarantee.

5 For our sake, the educators of New Jersey, please
6 change this system.

7 Thanks a lot.

8 SENATOR RUIZ: Thank you very much.

9 MR. OSBORNE: Okay. So you've just learned a little
10 bit of what my life is like as superintendent in South
11 Orange-Maplewood.

12 MR. EASTMAN: This is one of my calmer moments, by
13 the way.

14 MR. OSBORNE: There are eight more of him, by the
15 way, on our board of education.

16 So Madam Chair and Senator Allen, thanks for
17 putting in such a full day. It has actually been a great
18 day. I mean, I applaud your attention span to still
19 be sitting after all the words that you've heard, but this
20 is the key issue, and the fact that it's such a key moment
21 makes the day incredibly exciting.

22 I'm Brian Osborne; I'm superintendent of
23 South Orange-Maplewood Public School District.

24 South Orange-Maplewood is a racially diverse K to
25 12 district. We've got 6500 kids in 1 high school, 2 middle schools and 6 elementary schools.

2 We're an I District, yet 4 of our -- no, 6 of our
3 9 schools, excuse me, are Title I, and we have about 30
4 percent of our students on free and reduced lunch. We enjoy an excellent reputation, because our
6 educators and -- the critical mass of our educators are so
7 good.

8 We have kids that go on into competitive colleges.
9 We are awesome scholastically. Our kids win awards. We win
10 on the field. We -- music and arts to die for. I
11 mean, this is a great place. Everybody should be dying
12 to move to South Orange and Maplewood because our schools
13 are so incredibly good.

14 And while we have these high levels of overall
15 inaggregate scores, we also face an unacceptable and
16 pernicious achievement gap that is too often and too closely
17 correlated to race and class.

18 The gap in quantitative measures is like 30 or
19 40 percentage points on any given standardized test. And in
20 any other measures you look at, AP course taking, graduation
21 rates, college matriculation -- not graduation rates,
22 everybody graduates, college matriculation rates, we have
23 similarly outsized gaps in our system. And we have been
24 working like crazy over the last three years on a
25 multi-strategy -- multi-stranded strategy to do damage to
0237

1 our achievement gap, and we've been making ground. We've
2 got some traction. We have been reducing and narrowing our
3 achievement gap and we've been raising the bar for all of
4 our kids, and we are moving, but we are moving at an
5 incremental pace.

6 So the reason I'm here and stayed all day and
7 listened so closely is that I need the most important lever,
8 and the most important lever to accelerating our progress
9 on the pace of change and the system like ours is a change
10 to the tenure system in New Jersey where tenure acts
11 as a virtual property right.

12 The current system has multiple barriers to
13 -- that amount to too little accountability, too difficult
14 to get culture change and unneeded obstacles to ensuring
15 that every single kid has a quality teacher, superb teacher
16 in every classroom every day. I'm like the chief officer of a \$110 million
18 operation, and tenure constrains my work every day on a
19 daily basis.

20 First, administrative tenure, I've got senior
21 leaders and department heads and division heads, if
22 you think of our schools that way that have tenure. So just imagine, that as senators you couldn't
24 choose your chief of staff because you inherited
25 your chief of staff with tenure. Imagine that the governor
0238

1 couldn't choose his cabinet or the CEO of a corporation
2 couldn't replace division heads. I mean, that's basically
3 what I'm facing.

4 And we're in a business where the
5 stakes could not be higher for our kids. And I'm facing
6 that constraint as a chief officer all the time.

7 Now, look, people who step into these
8 positions, no doubt they're high pressure, high profile
9 positions: principals, assistant superintendents, business
10 administrators. I mean, they do absolutely deserve job
11 protection, especially because the governance system that we
12 exist at the local level, there's elections every single
13 year and the voter turnout is so low that a narrow special

14 interest can get elected if they really want to. And that
15 is a very volatile system and we need protection from the
16 political wings.

17 But as so many put it -- my colleague,
18 Superintendent Carroll, from Lindenwold said, that it's
19 outlasted its usefulness. And that is a complete
20 understatement. It leads to, because the tenure rights
22 overdo it, nobody wants to move.

23 The story that Mr. Eastman shared about what
24 it took to bring tenure charges and the fact that the
25 district lost -- right, I mean, the message that sends
0239

1 to every evaluator and administrator in our system is
2 very clear and very intense: why put in all of the
3 time and effort? There's no stakes at the end anyway. We
4 don't have the levers. Another practical issue is the timing. This
6 is what Senator Johnston called the up and out
7 decisions.

8 So I just want to say -- just a
9 hypothetical example, it's not so hypothetical -- but a
10 teacher's first year, they're in a school, they get
11 evaluated by a principal who is later non-renewed. And part
12 of the reason the principal is non-renewed is that the
13 quality of the observations and evaluations is so poor. The second year there is a new principal,
but the

15 teacher is out on leave. You know, teachers still accrue tenure while
17 they're out on leave. So the teacher is out on leave for a lot of
19 the year -- incomplete evaluations.

20 Third year, still that same new principal in her
21 second year, and a decision's got to be made by May of that
22 year of whether that teacher is coming back. And if that
23 teacher is coming back, they're coming back basically for
24 life, or with the burden of what it takes to bring tenure
25 charges. Whatever the decision, it's going to be
2 based on insufficient information.

3 Just-- The timing problem is going to get
4 more intense if there's not a change, too, because
5 I think that you're going to see a lot of superintendent
6 turnover and administrative turnover, which means that the
7 timing decisions are going to get a lot tougher. We
8 probably are going to face more inexperienced
9 superintendents as well. So superintendent new to a district, principal is
11 in their last year before getting tenure, like, how does
12 that timing -- how does that possibly make for sound
13 decision making and for a process that is good for kids?

14 On the issue of streamlining and timelining, as though
15 it's just the timeline and the cost -- I mean, I just was really
16 resonating with Superintendent Ronald Lee's description.
17 He's in a very, very urban district, but, really, it's no
18 different for us.

19 Currently, the burden of proof is wrongly placed
20 and it's wrongly calibrated. Mountains of evidence and
21 documentation to prove the charges, mountains of evidence
22 and documentation proving progressive discipline and
23 targeted supports have been followed, and it takes years.
24 If the decisions to withdraw tenure are based on

25 multiple measures, and if the district is in pretty good
0241

1 standing, then there should be a presumption that the
2 district is making the right decision in the
3 interest of kids. And that whole burden - - it's not just
4 about timeline and cost, it's about the burden of proof,
5 where it's placed and where the bar is set.

6 Also as Senator Johnston made this point really
7 clearly, the last in, first out has got to change. In the budgets that the districts are going
9 to face over the next couple of years, there's going to be
10 downsizing and layoffs because we're not going to be able to
11 balance our budgets without downsizing.

12 And if you're downsizing -- he used the example,
13 I'll just remind you of, the five-year teacher who's not so
14 effective as a two-year teacher -- a second-year teacher
15 who's extremely effective. And if you have last in, first
16 out rules, that second-year teacher is the one that goes.
17 That's not good for our systems; that's not good for our
18 kids. So to get a better system, one that puts students
20 first, we need changes in the law.

21 And I'm just so incredibly delighted that there even
22 seems to be an open bipartisan window at the moment. It's
23 not just here, it's nationwide. We're a little behind in
24 New Jersey, you know. It's not just Colorado that's gotten
25 there, but a lot of districts in places have gotten there.

0242

1 We're also a little behind, too, in terms of the union's
2 work on this as well. AFT states are, you know, doing
3 much differently than we seem to be doing here. So we need a new system. And if
5 it were enacted tomorrow, it would help.

6 But I just want to bring up two things. One, the
7 evaluation system issues are really real. And, also -- it
8 hasn't been talked about at all today -- the assessment system
9 issues are really real. So just one more minute on what
10 were been.

11 We've been working for the last two years on
12 implementing a robust collective observation evaluation
13 process that is evidence-based. We use our framework
14 for teaching, we're building shared language. We've
15 been investing like crazy in our administrators and
16 supervisors to do this soundly so that we have
17 innovated reliability and good results. That's one
18 thing that we've been doing. And state-level action
19 will certainly help.

20 I really appreciated what Dan Weisberg said, the
21 New Teacher Project policy vice president. He said, you can
22 have the perfect evaluation system, if there is no stakes
23 attached - - his words -- it's going to die on the vine.

24 And right now we're moving towards what I
25 think is a brilliant evaluation system, but if we still

0243

1 can't move on poor performance or the only way we do it
2 is face these incredibly high burdens of tenure
3 charges, then it's going to die on the vine and my ability
4 to sustain people's quality work is going to diminish
5 quite a bit over time.

6 The second area is the assessments and
7 the data systems.

8 To the extent that we're going to quantify
9 some part of the evaluation, and I do think that we heard
10 from -- what -- when NJEA was here and they were speaking
11 about whether it's 50 percent or not, I think that you did
12 hear some willingness to have it be some percentage. So
13 that's a good thing.

14 And to the extent that it can be quantitative and
15 objective, it's got to be based on assessments that we
16 really like, that we really want students to know and be
17 able to do. And I'm not sure that our current assessments,
18 which are only in math and English, language arts, aren't
19 already outdated.

20 I mean, I think they really need to improve.

21 That said, there shouldn't be reasons not to
22 move. If you move now, it would help tremendously. But to
23 make this really good over time, the evaluation system and
24 the assessment systems have to be great. And that needs
25 state-level work as well.

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1 One more thing: As budgets get constrained, the
2 politically expedient thing to do at the local level is to
3 cut administrators. I mean, any typical parents, community
4 members, they think there is too much administration, cut
5 administrators, leave the classrooms alone. But none of
6 this works if we don't have trained, expert instructional
7 managers monitoring and evaluating teaching practice. And if we have too few of them, then the
8 evaluations and observations are going to be watered down,
9 they're going to be formulated -- if they're just going to be
10 compliance driven and they're not going to be real. So I just wanted to make that statement so
11 that

12 as budgets get decreased and districts make tough decisions,
13 we all bear that in mind.

14 So I know -- I mean, I've said things that other people
15 said already, Madam Chair, so my apologies for prolonging
16 it, but I am just really excited. I think that this is a
17 great moment. I applaud your courage and -- both of you --
18 all of you, for hanging in there all day and listening to
19 all these great perspectives.

20 MR. EASTMAN: And if anybody has any questions on
21 any of what we had to say, please.

22 SENATOR ALLEN: I apologize for prolonging, but, I
23 mean, you talked about a person who sounded like he or she
24 was actually a predator, and yet was allowed to continue to

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1 teach, and that scares me.

2 MR. EASTMAN: That was our interpretation, and,
3 obviously, you know, I'm not accusing anybody who made a
4 decision of acting in bad faith or acting wrongly, but I was
5 very, very disturbed that --

6 SENATOR ALLEN: Can you tell me --

7 MR. EASTMAN: -- a good faith, reasonable decision
8 based on --

9 SENATOR ALLEN: Tell me very, very --

10 MR. EASTMAN: -- ample information got overturned.

11 SENATOR ALLEN: -- quickly, on what basis was this
12 person allowed to continue teaching?

13 MR. EASTMAN: Essentially, the conduct that I
14 described, there were other disputed elements -- was stipulated
15 that is agreed to by the ALJ. The ALJ simply has, as the current system
17 operates, essential discretion, that is, to no overview. In other words, you say, hey, no. I think
75 days

19 is appropriate. The district wants to dismiss, I found this
20 fact, but, no. And then it is subject, as was well described
22 earlier with the complex process by DOE a little earlier in
23 today's testimony, to going back to the commissioner which
24 went back and added some days docking for this particular
25 teacher, but upheld the fundamental ruling for the teacher
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1 and against us.

2 The teacher is back in the classroom. I
3 found that unbelievable, particularly given this -- the
4 prior history that I referred to with the public, you know,
5 withholding of an increment separate.

6 It's a really, really bad system, you know. No wonder
7 people don't bring ineffectiveness charges. The deck is so
8 stacked, it's not even funny.

9 SENATOR ALLEN: Thank you very much.

10 SENATOR RUIZ: Thank you, Senator Allen,
11 thank you Superintendent, thank you Mr. Eastman for
12 staying with us the course of the day.

13 I will say that we nearly put in a full school day
14 during this hearing -- that when we talk about public
15 education reform, there are certain different variables that
16 we're going to have to step up to. We're going to have to
17 engage in conversations that, perhaps, are not comfortable
18 in some areas; that we're going to have to look at criteria
19 as a whole from parent participation, school, everything.
20 But that everyone has echoed the same exact variable
21 today when we've spoken about tenure; that's accountability,
22 and that's creating a good leader in a classroom will always
23 put our children first.

24 Thank you. And that concludes the Committee.

25 MR. OSBORNE: All right. Thanks very much.

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1 MR. EASTMAN: Thank you.

2 (Whereupon, the proceeding was
3 adjourned at approximately 3:10
4 p.m.)

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C E R T I F I C A T E

I, RENÉE HELMAR, a Shorthand Reporter, and Notary Public, certify that the foregoing is a true and accurate transcript of the proceedings which were held at the time, place and on the date herein before set forth.
I further certify that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which these proceedings were taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Renée Helmar
Shorthand Reporter