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September 10, 1999

David C. Hespe, Commissioner
New Jersey Department of Education
Riverview Plaza, PO Box 500
Trenton, New Jersey 08625-0500

Dave

Dear Commissioner Hespe:

The Summer Work Group on Special Education Funding is pleased to present this report on our findings of issues related to the special education components of the CEIFA. Our group met throughout July and August. On August 2, we met with members of the LEE group, the Garden State Coalition, and a coalition of special education providers and advocates. We reviewed written comments from many individuals and groups as well as data provided by the Department and group members.

Our findings and recommendations are confined to the existing structure of CEIFA. In fact, we believe these recommendations, if accepted, will result in a more effective means of implementing state policy through funding. If you have any questions, or wish to discuss any of these findings or recommendations, please do not hesitate to contact me.

Each of us appreciate your commitment to the improvement of the special education delivery system and your asking us to assist in this important endeavor.

Sincerely,

Mark

H. Mark Stanwood
Chairperson

Attachment – Recommendation

Cc: Members of Subcommittee

Report and Recommendations of the Commissioner's Summer Work Group - Special Education

September 10, 1999

The Comprehensive Educational Improvement and Financing Act (CEIFA) was enacted in 1996 to establish a new method of funding public education in New Jersey. During the past three years of implementation several concerns have been raised about specific provisions of the Act and, the implementation procedures. In the spring of 1999 Commissioner David Hespe appointed a summer work group to examine CEIFA from the perspective of the field practitioner. The summer work group was divided into four sub-committees to study specific areas of concern; pupil transportation, special education, the ability to pay provisions and stabilization aid.

The Special Education sub-committee has prepared the following report and recommendations. This sub-committee met six times at the Department of Education, which also included one public hearing. Members of the sub-committee, appointed by the Commissioner include;

- Mark Stanwood, (Chairman) Superintendent
  Atlantic County Special Services School District
- Bruce Normandia, Superintendent
  Brick Township Public School District
- Robert Peddle, Superintendent
  Pennsville Public School District
- Fred Stokley, Superintendent
  Ridgewood Public School District

Department of Education staff to the sub-committee included:

- Jim Hager, Gloucester County School Business Administrator
  NJ Department of Education
- Yut'se Thomas, Division of Finance
  NJ Department of Education
- Barbara Gantwerk, Office of Special Education
  NJ Department of Education

The funding of special education programs has been plagued with difficulties from its inception in the 1960's. The clear intent of the New Jersey Legislature over the years has been for the state to pay the additional costs of education of a disabled pupil, beyond that which is spent for a regular education program. This policy has been predicated upon the ability of the state to determine both the actual costs of regular education and the excess costs of special education. The historical record of the funding of special education has been theoretically and structurally designed to provide local school districts with state aid to account for the education costs above and beyond regular education. The realities of state budget priorities and fiscal policies have left a perceived gap between the actual costs and the aid provided by the state.

Nonetheless, state and federal special education regulations, backed by numerous court determinations, have required school districts to provide programs and services to the disabled, whether or not adequate state or federal funding was available. Anecdotal reports have suggested tension on the education dollar sometimes resulting in school districts either limiting or reducing resources for regular school programs or to increase local tax levies to raise funds that were philosophically an expressed obligation of the state and federal government.

This dilemma is not unique to New Jersey. Parish, Chambers, and Guarino (1998), report "more than half of the states in the United States have either made, or are seriously considering changes to their funding mechanisms for special education services" (p. 89).

The current CEIFA law has defined its fiscal support for special education with the same commitment to fund those costs of special education programs and services that are beyond the costs of regular education. The law establishes four levels or tiers of service delivery to the disabled and differentially funds those four tiers. Legislative hearings as well as the sub-committee's own hearing reinforced with local district data, the widely held belief that the CEIFA tiers one, three, and four were underfunded.

It is from this perspective that the sub-committee on special education met and discussed issues related to CEIFA and special education. The following findings and recommendations constitute the report of the sub-committee to the Commissioner of Education. The sub-committee greatly appreciates the willingness of the Commissioner to examine the CEIFA law through the eyes of field practitioners and to receive their comments, concerns and recommendations for improvement of this Act.

1. Because the structure of the CEIFA law commits the state to fund the additional costs of special education, it is essential that a systematic analysis of these costs be conducted. The Legislature intended that the Biennial Report would be a mechanism to provide them and the public with this body of data which would then inform appropriate adjustments to the tiers. Unfortunately, there is no evidence that the first Biennial Report included such a study. Therefore, it is the strongly held opinion of this committee that the Biennial Report for the year 2000 <u>must</u> include a systematic analysis of the actual costs associated with the provision of special education services. This study would be used to determine cost factors which represent the actual additional expenditures for Tiers I through IV. This analysis has not previously been done and is considered by this sub-committee to be an absolutely essential step in addressing the special education funding issue. The data and findings of these Biennial Report studies must be disclosed promptly and completely to the Legislature, news media and the public in order to assure the integrity of the process and instill confidence in the conclusions. The sub-committee would also like to point out that the Department of Education must <u>immediately</u> initiate this cost study in order to meet the timeline requirements of the Biennial Report 2000 (due March 15, 2000).

2. The sub-committee, however, is convinced that a more immediate adjustment to selected tier cost allocations must be taken. Local school district expenditure data collected by a coalition of educational associations and presented to the legislature and this sub-committee, as well as specific school district data prepared by members of the sub-

committee present compelling evidence that the funding of Tier I and Tier III have been significantly understated. The underfunding of these two tiers cannot await the results of the Biennial Report study and need to be addressed in this fiscal year to ensure appropriate programs and services for these pupils. Specifically, the sub-committee recommends that Tier I be increased from $300 to $500 to more closely approximate the actual costs for these services. Further, the sub-committee recommends that Tier III be returned to the 1998-1999 level of $6,104 and increased by the Consumer Price Index (CPI). These minimal steps should be undertaken immediately by the Commissioner and legislature. The almost $2,000 reduction of Tier III was implemented without any research, analysis or data to support such a dramatic turnaround in the state's commitment to these disabled pupils. There have been numerous times when the state has "frozen" its support of the disabled but this is the first time such a severe reduction was made, and done so without any presenting rationale. At a time when state and federal regulations, coupled with the accelerating costs of court determinations, are significantly increasing the costs of disabled programs and services, the sub-committee has concluded that immediate remedy, as described above, is warranted and necessary.

3. Testimony at the public hearing and the unanimous opinion and experience of the sub-committee members confirm that child study teams perform a vast majority of their time in the area of special education. The sub-committee recommends that the Department of Education conduct a study of the percentage of time allocated by child study teams to regular education versus special education and establish, in Biennial Report 2000, a specific percent allocation of these costs. The Department of Education has not recognized these costs in special education cost analyses, thus improperly skewing any analysis of expenses for both general and special education.

4. The CEIFA provides additional aid to local school districts for "extraordinary costs/excessive numbers" associated with special education (section 19b). In order to qualify for this additional aid local districts must apply to the Commissioner and present supporting information regarding costs in excess of $40,000 per pupil and/or an excessive and unanticipated growth in disabled pupil enrollments. The sub-committee believes that the Department of Education's implementation of this provision has frustrated the legislative intent by being overly restrictive. The Department of Education data indicates that most applications were rejected as shown by the low ratio of awards to applicants (about 1:5). The major reason why so many applications were rejected was due to the Department's use of fiscal impact criteria. This sub-committee recommends that fiscal need, ability to pay or estimated surplus <u>not</u> be used as a criteria when implementing this provision. The criteria that the Department does use for awarding these extraordinary costs should be clearly articulated in State Board rules. Further, since the system cannot simply fund all extraordinary cost requests, the Committee recognizes the need for the Department of Education to develop regulations and policies that seek to restrain the higher level costs of out-of-district, private sector placements. Specifically, private schools serving disabled children funded with public tax dollars should be subject tot he same accountability structures as public schools. Examples include implementation of Department of Education GAAP accounting software, tuition calculations and adjustments, school report cards, comparative spending guides, and the Quality

Assurance Annual Report. This is a necessary corollary to the Committee's recommendation to exclude fiscal impact data from this provision.

5. About 15,000 disabled children are currently placed out-of-district. These pupils often require specialized programs and services not available in the home district. However, many districts report that there is insufficient space/areas for such pupils due to a lack of appropriate facilities in the home district. The sub-committee urges the Commissioner and Legislature to include a provision in the proposed school facilities legislation, which gives special attention to the needs of disabled pupils. During the course of our hearing and discussions about the high cost of special education, it became quite clear that local districts often place disabled pupils out of district because there is not adequate space for them in the home school. In the long run adequate local facilities will save a great deal of local and state tax dollars now going for these out-of-district placements. The Committee recommends that the new facilities proposal include the following provisions:

- That local districts can apply to a special education facilities fund for supplemental debt service aid to support the expansion of school buildings which would allow districts with large enrollments to "bring home" pupils who are currently in out of district placements.
- That special debt service aid be made available to "partnerships" of local districts and Educational Service Commissions, County Special Service School Districts, for additional school facilities located on local district sites. This would allow the many local districts with only a few such placements to join together with on-site programs operated by county/regional units.

6. The sub-committee heard considerable testimony regarding the inadequacy of the special education Tier definitions and the criteria used to determine Tier IV state support. We strongly recommend that the Department of Education and/or Legislature engage in the public development of revised criteria and definitions either through legislation or State Board of Education regulations. The final adoption of revised definitions and criteria should coincide with the cost studies for the Biennial Report for the year 2000 and, therefore, work should begin immediately.

7. Public testimony frequently cited fiscal tension for local school districts to adequately fund the needs of general education and those of special education, often pitting one obligation against the other. The Committee recognizes that school districts must accommodate special education regulations and policies, both state and federal, which serve to make potentially infinite demands on a finite budget. Further, this finite budget is limited by annual, state imposed spending growth limitations (budget caps) which serve to exacerbate the stress between general and special education fiscal decisions. Therefore, the sub-committee recommends that mandated special education expenditures be removed from the budget growth limitations (caps). The school district can neither control, reduce nor eliminate these expenditures specifically required by state and federal policies and must, therefore, meet the budget caps at the expense of regular education programs. The state policy of budget containment would still be enforced on the remaining budget, minus mandatory special education costs.

8. The sub-committee recommends that the Department of Education remove the current cap on the perceptually impaired (PI). Cognizant of the state's policy to reduce what it considers to be extraordinary numbers of these pupils, the sub-committee recommends that the Department monitor all local school districts for PI counts that exceed normal ranges and work with those districts to assure that the identification, programs and services for these pupils are appropriate.

9. The sub-committee recognizes that even if all of its recommendations are adopted, rising costs of special education can likely continue. Therefore, as many other agencies and groups have done, we recommend that special education cost containment can and must be stabilized through district sharing and consolidation of programs and services. Several regional delivery systems (Educational Service Commissions, County Special Services School Districts) have been established in statute to foster such sharing and, at the request of local districts, to provide programs and services on a voluntary basis. The sub-committee recommends that the Commissioner, State Board of Education and the Legislature take affirmative steps to adopt state policies, which encourage sharing, and provide ongoing incentives to accomplish this end. These policies should support the concept of a continuum of program options and encourage placement of pupils with disabilities in the least restrictive environment. It is particularly important that regional delivery systems be encouraged to assist the development of programs within the regular education facilities.

10. It has been a policy of the state and federal Departments of Education to ensure that more disabled pupils are educated in less restrictive and regular education environments. Both CEIFA and federal laws have structured their funding policies, in part, toward this end. However, it is the belief of this sub-committee that many school districts are cautious and ill prepared to extend programs and services to pupils with severe and complex disabilities. Therefore, the Department should engage in an extensive and positive program of training and technical assistance to local districts in order to build such a capacity. It is essential that this program is not guided by threat and enforcement procedures but, rather, viewed as a collaborative effort to meet the desired objectives. The subcommittee recommends that the Department of Education convene an ongoing advisory committee made up of public school district practitioners to advise the Department on training and technical assistance strategies for this purpose. The Department should also collect and make public data, which identifies desired educational outcomes, actual costs and placement options for severely disabled pupils. Using standard measures of success, programs representing the full continuum of placement options could be identified and incentives for replication made available.

Parish, T.; J. C. Chambers; and Cassandra M. Guarino. (1998). *Funding Special Education.* Thousand Oaks, California: Corwin Press.