

# Supplemental Educational Services

under the No Child Left Behind Act



U.S. COMMISSION ON CIVIL RIGHTS

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JULY 2009

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# **Supplemental Educational Services under the No Child Left Behind Act**

A Briefing Before  
The United States Commission on Civil Rights  
Held in Washington, DC

Briefing Report



## **Letter of Transmittal**



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## Executive Summary

President George W. Bush signed the No Child Left Behind Act (NCLB) into law on January 8, 2002. Under Title I of NCLB,<sup>1</sup> elementary and secondary schools receive Federal funds in order to provide supplemental educational services (SES). The program offers economically disadvantaged students tutoring and remediation outside of the regular school day. A district must offer SES to all low-income students attending a Title I school that for three consecutive years has failed to make adequate yearly progress (AYP) as established and implemented by the state in which the district is located.<sup>2</sup> AYP is attained when a growing proportion of students attain proficient achievement levels on a state's language arts and mathematics assessments, so that by 2014, all students in that state have reached those levels.<sup>3</sup>

Students may receive SES from a variety of organizations. These include non-profit organizations, school districts, public schools, public charter schools, private schools, public or private institutions, and for-profit companies, as well as, private institutions of higher education, faith-based organizations, and educational service agencies. Such organizations require state approval and monitoring before receiving funds. An organization offering SES is monitored and evaluated by the state in which it conducts business.

Since the commission held its briefing on SES on January 26, 2007, new regulations went into effect on November 28, 2008, that address some of the gaps in regulatory requirements raised by the panelists. For example, 34 C.F.R. § 200.37 requires a local educational agency (LEA) to identify to parents those supplemental services providers who are able to service students with disabilities or limited English proficiency (LEP); 34 C.F.R. § 200.39(c)(1) requires an LEA to display information on public school choice and supplemental services on its Web site in a timely manner; 34 C.F.R. §200.47 requires a state educational agency (SEA) to do the same. The use of unspent funds under the Title I, Part A allocation, is addressed by 34 C.F.R. §200.48, which ensures that a significant portion of the funds are spent on SES purposes, rather than other purposes without significant oversight.

At the beginning of the school year, school districts are responsible for notifying parents of their child's eligibility for SES.<sup>4</sup> Parents are then able to select service providers from a state-

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<sup>1</sup> No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended in scattered sections of 20 U.S.C.). Applicable regulations, as amended on Oct. 29, 2008, can be found at 34 C.F.R. Part 200.

<sup>2</sup> U.S. Government Accountability Office, *No Child Left Behind Act: Education Actions Needed to Improve Local Implementation and State Evaluation of Supplemental Educational Services*, August 2006, pp. 1, 9 (hereafter cited as GAO, *No Child Left Behind Act*); *No Child Left Behind Act: Education Actions Needed to Improve Implementation and Evaluation of Supplemental Educational Services*, Sep. 21, 2006, pp. 3-4.

<sup>3</sup> U.S. Government Accountability Office, *No Child Left Behind Act: Assistance from Education Could Help States Better Measure Progress of Students with Limited English Proficiency*, July 2006, p. 2.

<sup>4</sup> U.S. Department of Education, *No Child Left Behind, Supplemental Educational Services Non-Regulatory Guidance*, June 13, 2005, pp. 31-32, <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc> (accessed Dec. 12, 2007). Subsequent changes to the regulations addressed the adequacy of notice: regulations now require, among other things, that the notice include an indication of those providers who are able to serve students with

approved list. In 2006, a Government Accountability Office (GAO) report asserted that some school districts—about 50 percent—did not notify parents in a timely and effective manner, thus possibly preventing them from receiving SES.<sup>5</sup> Certain panelists made the same point at the Commission’s briefing.

At this briefing, the Commission heard from three panels that discussed whether school districts were effectively implementing the SES program or, as some have charged, obstructing the availability of the program to poor children in failing schools. The panels also addressed questions regarding adequate parental notification of the program; performance of SES providers and methods for improving services; funding of SES; and impediments to current and potential SES providers. The focus of these questions was both national and local.

The first panel consisted of parents who voiced their reactions to SES. The second panel consisted of policy advocates who discussed SES adequacy in general terms. Several members of panel two addressed the efforts of school districts to alert parents to the availability of SES, among other issues, on a national level. The third panel consisted of school officials who described their experiences with SES.

Speakers on the first panel included Ms. Sakyibera Fitzgerald, Ms. Nytasha Lee, Mr. Enrique Granados, and Ms. Shelba Woods. They all noted that their school districts failed to notify parents on time or did not notify them at all, and in some cases, the notices were not in the native language of non-English speaking parents. In addition, Ms. Lee claimed that her school district failed to fund SES in a timely manner, which disrupted program availability.

Speakers on the second panel included Mr. Derrell Bradford, Ms. Ernestine Francies, Ms. Maite Acre, Mr. Harrison Blackmond, Jr., Dr. Eugene W. Hickok, and Mr. Joel Packer. Mr. Bradford asserted that school districts of Camden and Newark, New Jersey, protect their financial interests by deliberately denying parents’ access to SES. He charged that the Newark Public Schools (NPS) invalidated all of the applications collected from parents because the incorrect form was used. The rationale, he claimed, was that NPS did not wish to compete against private providers in offering SES, and invalidation allowed them to still retain SES funds.

Ms. Ernestine Francies cited several means used by Passaic (NJ) County Schools (PCS) to ensure that parents were informed of SES. These included mailing the publication, *Parents Guide to SES*; sending a letter from the superintendent explaining SES; and conducting vendor fairs that allowed parents to meet with providers and inquire about services. PCS also

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disabilities or limited English-proficiency. See 34 C.F.R. § 200.37(b)(5)(ii), effective Nov. 28, 2008. The district must also post promptly on its website a list of available schools for transfer purposes. See 34 C.F.R. § 200.39(c)(1)(iv), effective Nov. 28, 2008. See also 34 C.F.R. §200.47 and §200.48 that addresses funding and program quality.

<sup>5</sup> U.S. Government Accountability Office, *No Child Left Behind Act: Education Actions Needed to Improve Local Implementation and State Evaluation of Supplemental Educational Services*, August 2006, pp. 1, 3, 10–11 (hereafter cited as *GAO, No Child Left Behind Act*).

provided information on SES in Spanish and English, and conducted a survey to identify parental concerns regarding the program.

Ms. Maite Arce explained how difficult it was for the Hispanic Council for Reform and Educational Options (Hispanic CREO), to assist a child from Camden Public Schools in obtaining tutoring services under SES.

Mr. Harrison Blackmond, Jr., informed the Commission that the SES program in Detroit was poorly publicized. According to him, about half of the parent population is illiterate, and thus mailing home written information was not the most effective way to inform them about the program. He contended that the Detroit School District was aware of better approaches, because the district advertised on television when faced with a low student enrollment rate.

Dr. Eugene W. Hickok stated that despite the clear intent of NCLB, school districts such as Newark, Detroit, and Dallas limit access to student tutoring intentionally. In his view, some school systems were more concerned with capturing SES funding for their own uses than for maximizing the educational achievement of the students. This was evidenced, he said, by the fact that virtually all states have unspent SES-allocated funds available at the end of their fiscal years. As a result, the potential benefits provided by NCLB have been squandered.

Mr. Joel Packer presented eight areas of SES that the National Education Association (NEA) identified as problematic:

1. SES should not be taking from funds provided for Title I;
2. The Department of Education's (ED's) regulations implementing NCLB do not designate SES providers as recipients of federal funds;
3. Under NCLB, SES providers are not required to serve eligible students with disabilities or students with language barriers;
4. States must be allowed to require providers to use only highly qualified teachers as instructors;
5. The methods for ensuring that SES programs are offering high quality service must be strengthened;
6. SES should be aimed at students in specific subgroups that do not meet AYP;
7. School districts that are in "need of improvement" status should be permitted to provide SES as long as they offer a high quality program;
8. SES should be offered before allowing students to transfer to another school.

Speakers on the third panel included Ms. Marion A. Bolden, Mr. Reginald Felton, Dr. Leonard Fitts, Ms. Kimberly Hood, and Dr. Christine Krenicki. Ms. Bolden acknowledged that in principle, SES could have aided in closing the achievement gap in NPS; however, she recommended that measuring the effectiveness of SES providers should be undertaken. She also noted that NPS used a variety of methods to notify parents about SES including letters, television advertisements, fairs, and parent advisory councils.

Mr. Reginald Felton indicated that the National School Boards Association supported NCLB and its reauthorization, and provided 42 recommendations for improving the law. Many of the concerns school districts have about SES were among the recommendations, including improving funding and parental notification. He also noted that no conclusive evidence has been found that SES significantly improves student achievement.

Dr. Leonard Fitts stated that the Camden School District (CSD), supported NCLB and would comply with the law fully.<sup>6</sup> He noted that many of the best practices used by CSD had been addressed by other panelists. Dr. Fitts also noted that the work of SES providers was only part of the solution because his staff must be able to support that work. Therefore, he emphasized his commitment to ensuring that his staff was equipped to address the needs of students by dedicating substantial funds to professional development. Dr. Fitts suggested that the federal government specify more clearly how school districts should implement SES and what results it expects.

Ms. Kimberly Hood noted the improvement in student achievement in the District of Columbia Public Schools (DCPS), since the implementation of SES; however, she conceded that it was not possible for DCPS to measure SES's effectiveness, because it was part of a comprehensive improvement strategy. She indicated that DCPS has implemented a Web-based management system (Webstars), to track student performance and coordinate services more effectively. This system enables DCPS to support the operations of SES, track service delivery, and ensure that providers work with students to develop individual service plans.

Dr. Christine Krenicki emphasized the importance of close monitoring of the SES program and parental involvement. According to her, PCS has been successful in implementing the SES program because of its commitment to parental involvement and careful monitoring of SES providers to ensure the school district's expectations are met.

During the public comment period, the Commission received a letter from Steven Pines, Executive Director of the Education Industry Association (EIA). Mr. Pines indicated that EIA was the leading professional organization for private providers of education services and suppliers/developers of educational content for students from pre-kindergarten through college. He expressed concern that only 17 percent of eligible children were enrolled in SES programs and that only a fraction of its available federal resources were being spent. In addition, he cited findings of an EIA survey, prepared by the American Institutes of Research, that described SES program barriers, such as lack of parent notification and inadequate access to school facilities.

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<sup>6</sup> Dr. Leonard Fitts is no longer interim superintendent of Camden City Public Schools. The current superintendent of schools is Dr. B. LeFra Young. See "Camden City Public Schools," n.d., <http://www.camden.k12.nj.us/> (accessed Nov. 13, 2008).

## Findings and Recommendations

### Findings

1. Panelists testified that some school districts did a better job of notifying prospective parents about the available SES opportunities than others. Several panelists reported notification problems for Detroit, Michigan and Dallas, Texas school districts. Other panelists reported that the District of Columbia Public Schools and the Passaic, New Jersey school district notified parents in a timely fashion. Both problems and successes in parental notification were reported for the Camden and Newark, New Jersey school districts.

An August, 2006 GAO report stating that 50 percent of school districts did not provide timely parental notification about SES opportunities indicates these problems were likely to be pervasive.

Successful parental notification efforts included:

- Using parent/teachers coordinators to notify parents about SES;
- Partnering with parent and community organizations to assist with notification
- Mailing parents letters explaining the rationale for SES and including a written easy-to-understand guide to SES;
- Conducting SES provider fairs for parents with child care;
- Advertising SES availability on cable television;
- Providing native language notification to parents; and
- Providing parents with a customer satisfaction survey;

The U.S. Department of Education now requires local educational agencies to display information about SES on their Web sites in a timely manner.

[Approved (3-1-4); Chairman Reynolds, Vice Chair Thernstrom and Commissioner Taylor voted in favor. Commissioner Yaki voted against, and the remaining Commissioners abstained.]

2. Many panelists criticized the quality of services offered by both district-managed and private SES providers. These problems included children being tutored by unqualified individuals; a lack of communication between and among parents, teachers, and providers regarding learning goals and strategies; consistent failure by providers to apprise parents of their children's progress; and students in SES programs not meeting their educational requirements.

The U.S. Department of Education now requires local education agencies and schools to more closely monitor the quality and effectiveness of SES services offered by an approved provider including not only educational outcomes but also the parents' evaluations of the services.

[Approved (3-0-5); Chairman Reynolds, Vice Chair Thernstrom and Commissioner Taylor voted in favor, and the remaining Commissioners abstained.]

3. Panelists raised concerns about SES funding. Among the reported problems were:
- SES programs were unavailable because school districts were late in releasing funds;
  - School districts failed to address the lack of SES programs because it was against their financial interests;
  - There were not enough openings in tutoring programs; and
  - Schools and districts were reluctant to fund SES programs because up to 20 percent of schools' Title I money must be diverted from classroom services in order to fund SES services.
  - At the end of the school year, many school districts had funds remaining from their SES allocation.

As of November 28, 2008 the U.S. Department of Education enacted strict new regulations that specify in detail the amount of funds affected schools must set aside for SES and that remove financial incentives for school districts to withhold such funds.

[Approved (3-0-5); Chairman Reynolds, Vice Chair Thernstrom and Commissioner Taylor voted in favor, and the remaining Commissioners abstained.]

4. Several panelists stated that school districts placed unnecessary barriers to existing and prospective SES providers attempting to offer services. Among the problems discussed were:
- Parents reported being pressured by a school district into enrolling their children with a district-managed SES provider instead of a private provider;
  - Districts provided little, if any, assistance to private SES providers while assisting the providers chosen by the districts;
  - School districts were not allowed to use their own teaching staff to provide SES services if no other provider in the area was able to provide services to individual students; and
  - School districts "in need of improvement" were not allowed to use their own teaching staff to provide SES despite evidence that their teaching staff was capable of offering a high quality program.

[Approved (3-0-5); Chairman Reynolds, Vice Chair Thernstrom and Commissioner Taylor voted in favor, and the remaining Commissioners abstained.]

5. A number of panelists pointed out the importance of parental participation in the success of SES programs. Several panelists provided testimony that their school systems make a special effort to involve parents not only in choosing a provider but also in monitoring their children's academic progress. Their testimony suggests that higher parental involvement positively affects their children's academic outcomes in SES programs.

Still other panelists cited a lack of parental participation as an obstacle to the success of SES programs. Lower income parents, single parents, and non-English speaking parents face special challenges in finding the time and travel resources to participate



in getting their children into SES programs and monitoring their progress. Non-native English speaking parents are often put in the position of having their grade school children try to read and interpret SES notices to them. Parents with limited means of transportation have difficulty attending SES informational events as well as difficulty picking up and dropping off their children for after hours SES programs. Such parents also face difficulty in arranging transportation of their children to other, better performing schools.

[Approved (3-0-4); Chairman Reynolds, Vice Chair Thernstrom, and Commissioner Taylor voted in favor. Commissioner Kirsanow was not present during the voting, and the remaining Commissioners abstained.]

### **Recommendations**

1. All school districts should ensure that the parents of all SES eligible children receive notification about the program. School districts should provide timely notification to parents of SES eligible children so they may make an informed decision concerning their children's participation in the program. To improve their notification efforts, school districts should use methods that have succeeded in other schools.

[Approved (3-0-4); Chairman Reynolds, Vice Chair Thernstrom, and Commissioner Taylor voted in favor. Commissioner Kirsanow was not present during the voting, and the remaining Commissioners abstained.]

2. School districts could benefit from reviewing the "best practices" employed by the Passaic and the District of Columbia Public Schools to improve the quality of SES provider services. Effective methods used by these schools included:
  - Making available student and parent SES provider evaluation forms;
  - Addressing complaints concerning quality of service in a timely manner;
  - Carefully monitoring providers and annually evaluating them; and
  - Using an electronic management system to coordinate SES services.

Services could also be improved if states only certify providers that have proven they can deliver high quality services.

[Approved (3-0-4); Chairman Reynolds, Vice Chair Thernstrom, and Commissioner Taylor voted in favor. Commissioner Kirsanow was not present during the voting, and the remaining Commissioners abstained.]

3. School districts should provide funds for SES in a timely fashion to maximize parental choice and opportunities for their children to benefit from SES. Responsible parties should make certain that all tutoring programs have sufficient capacity to meet projected student enrollment. Sufficient funds should be provided to cover all SES related expenses. School districts should ensure that their SES funds are used effectively and for the benefit of the participating students.

[Approved (3-0-4); Chairman Reynolds, Vice Chair Thernstrom, and Commissioner Taylor voted in favor; and the remaining Commissioners abstained. Commissioner Kirsanow was not present during the voting.]

4. School districts should ensure that parents are able to select an SES provider that best meets the educational needs of their children without regard to whether the SES provider is the school district or a private provider. School districts should also ensure that parents are allowed to evaluate the merits of private SES providers and are allowed to select a private provider for their children if they feel that choice best meet the needs of their children. Districts should not pressure parents to use district-supplied providers nor should districts be allowed to discourage parents from choosing a private provider. Districts that are “in need of improvement” should only be allowed to use their own teaching staff to provide SES if it is determined that their staff is qualified and able to provide a high quality program.

[Approved (2-1-4); Vice Chair Thernstrom, and Commissioner Taylor voted in favor. Commissioner Yaki voted against, Commissioner Kirsanow was not present during the voting, and the remaining Commissioners abstained.]

5. School districts should assess their “parent profiles” and design SES strategies that take into account the particular socioeconomic situation of the students’ parents.

In districts where parents are inclined to be active partners in their children’s SES programs, the focus should be on accommodating and encouraging those parents to participate in the SES program.

In districts where parental participation tends to be low, schools should consider alternate strategies for implementing SES that provide more direct support and encouragement to the students themselves and that are less dependent on the parents’ participation for success.

[Approved (3-0-5); Chairman Reynolds, Vice Chair Thernstrom, and Commissioner Taylor voted in favor, and the remaining Commissioners abstained.]

## Summary of Proceedings

Members of the panels, in scheduled order of presentation, were:

### Panel One (parents):

- Sakyibera Fitzgerald, parent, Newark, New Jersey;
- Ernestine Francies, district parent coordinator, Passaic, New Jersey;
- Juan Granados, parent, Dallas, Texas;
- Nytasha Lee, parent, Camden, New Jersey; and
- Shelba Woods, parent and grandparent, Detroit, Michigan;

### Panel Two (policy experts):

- Derrell Bradford, Deputy Director, Excellent Education for Everyone;
- Eugene Hickok, former Deputy Secretary of Education;
- Maite Arce, Vice President, Hispanic Council for Reform and Educational Options;
- Harrison Blackmond, Jr., President and CEO, Detroit Chapter, Black Alliance for Educational Options; and
- Joel Packer, Director, Education Policy and Practice Department, National Education Association; and

### Panel Three (school administrators):

- Marion Bolden, Superintendent, Newark, New Jersey;
- Reginald M. Felton, Director, Federal Relations, National School Boards Association;
- Leonard Fitts, Interim Superintendent, Camden, New Jersey;
- Kimberly Hood, Executive Director, District of Columbia Public Schools, Office of Local Educational Agency Grants; and
- Christine Krenicki, Supervisor, Department of Testing, Research, and Evaluation, Passaic, New Jersey.<sup>7</sup>

A summary of the panelists' statements and discussion follow. A transcript of the briefing is available on the Commission's Web site, [www.usccr.gov](http://www.usccr.gov), and by written request to the Commission's Robert S. Rankin National Civil Rights Library, 624 Ninth Street, NW, Room 600, Washington, DC, 20425; by phone at (202) 376-8128; or by e-mail at [publications@usccr.gov](mailto:publications@usccr.gov).

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<sup>7</sup> See chapter on speaker biographies.

## Panel One

### Sakyibera Fitzgerald

Ms. Fitzgerald, a resident of Newark, New Jersey and parent of children in public school, noted that she would have been unaware of SES if not for taking the initiative to review NCLB on her own. Although she believed parents must ensure that they stay informed of the issues affecting their children's education, school districts were still responsible for alerting parents of their rights. She discussed parental notification before the Newark Public Schools Advisory Board on June 15, 2004, and shortly later wrote Marion A. Bolden, superintendent of Newark Public Schools, requesting that the district fulfill its parent notification duties under NCLB. The district claimed it had mailed numerous notification letters, but Ms. Fitzgerald said she obtained only one. According to her, this notification letter was not sent to parents until December 2006, and was only then provided because of a lawsuit on parental notification under NCLB that had been filed against Newark Public Schools.<sup>8</sup>

Since the district allegedly did not inform parents of the available tutorial services consistently, she said that exchanges between individual school staff and parents served as notification of these services. Parents, she claimed, were made aware only of tutoring locations being administered by the district, and her visits to numerous sites revealed little, if any, teaching was occurring at these localities. Ms. Fitzgerald found most disturbing that while other approved providers were available, the district reportedly coerced parents toward district-managed service providers. Compounding the problem, she believed, was that the majority of district-managed providers were the same Newark Public School teachers who already were failing to educate district students. Ms. Fitzgerald further commented that because so many schools in the district were on the "need-to-improve list," and the district did not employ school choice because high performing schools would be overcrowded, parents should be given the option of enrolling their children in tutorial services outside the district.<sup>9</sup>

### Ernestine Francies

Ms. Francies resides in Passaic, New Jersey, and is the District Parent/Teacher Coordinator for the Passaic Board of Education (PBE). In her capacity as coordinator, she is responsible for getting parents actively involved in their children's education. One aspect of this is making them aware of SES. She informed the Commission that Passaic notifies parents of SES in several ways. For example, parents are mailed the booklet *Parents Guide to SES Services*, and every September, the superintendent writes a detailed letter explaining why SES is being offered. The booklet and the letter are provided both in English and Spanish.<sup>10</sup>

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<sup>8</sup> Sakyibera Fitzgerald, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 11–12 (hereafter cited as Fitzgerald Testimony, Briefing Transcript).

<sup>9</sup> Fitzgerald Testimony, Briefing Transcript, pp. 12–13.

<sup>10</sup> Ernestine Francies, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 37, 39, (hereafter cited as Francies Testimony, Briefing Transcript).

Ms. Francies also stated that parents are made further aware of SES through “vendor fairs,”<sup>11</sup> which allow parents to meet with SES providers and inquire about their services. Prior to the fairs, parents receive a list of SES providers who offer local services, and school representatives meet with parents to prepare them in dealing with these vendors.<sup>12</sup>

Ms. Francies also said that after the service period is finished, she issues vendor evaluation forms to both students and parents. According to her, parents had the following complaints about providers:

- lack of communication between students’ classroom teachers and SES tutors
- failure to provide parents with regular progress reports
- teaching students skills below the level of their needs
- providers do homework with children rather than tutor them
- too many students in the class despite initially informing parents that tutoring would be provided one-on-one or include no more than three students per tutor
- failure to notify parents when tutors were absent

Ms. Francies said that if complaints were made to her or to her office, they were addressed immediately.<sup>13</sup>

### **Enrique Granados**

Mr. Granados said that when he first became aware of NCLB, he was very excited about the opportunities it offered parents and children; however, he discovered quickly that school districts informed parents about the availability of SES too late for them to make a decision or provided them with incorrect information. As director for the Hispanic Council for Reform and Educational Options (Hispanic CREO), parents asked him if NCLB was still in effect since school districts were not informing them of the law.<sup>14</sup>

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<sup>11</sup> Francies Testimony, Briefing Transcript, p. 39

<sup>12</sup> Ibid., pp. 40–41

<sup>13</sup> Ibid., pp. 39–41

<sup>14</sup> Enrique Granados, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 14–16, (hereafter cited as Granados Testimony, Briefing Transcript). The panelist did not elaborate on the specific information districts are not providing parents. The Hispanic Council for Reform and Educational Options (Hispanic CREO), according to its Web site, is the “only national public policy Latino organization dedicated solely to K-12 education reform willing to speak out on behalf of parents and children. Hispanic CREO’s mission is to improve educational outcomes for Hispanic children by empowering families through parental choice in education.” Hispanic CREO achieves this by “providing parents with free information and resources,” thus helping “them become self-advocates for their children.” Hispanic CREO is a “non-profit, non-partisan organization. Currently the Board of Trustees is composed of 11 members who are from diverse professional, political, ethnic, and geographic backgrounds. The organization is based in Washington, D.C. Hispanic CREO operates in five key states: Colorado, Florida, New Jersey, and Texas. ‘CREO’ is Spanish for ‘I believe.’” Hispanic Council for Reform and Educational Options, “About Hispanic CREO,” <http://www.hcreo.org/section/about> (accessed Jan. 23, 2009).

Mr. Granados informed the Commission that he had alerted parents about the availability of SES, but that parents claimed they were told by the schools that “it’s not ready yet,”<sup>15</sup> specifically, the lease for the building in which SES was to be provided had not been finalized. When it was ready, parents were told they would receive a letter informing them about this service, yet he claimed that when the letter arrived, parents had only one or two days to make a decision. Moreover, despite specific requirements that the information be furnished in a parent’s native language, Mr. Granados stated that native Spanish speakers received letters written in English.<sup>16</sup>

In addition to the problems encountered in obtaining information, Mr. Granados noted that districts were not providing an array of SES providers from which to choose. Private SES providers attempting to provide services in the districts were receiving nominal, if any, assistance from them, he claimed. However, he continued, districts were readily assisting the providers they had established, which meant that the districts not only had the children during the school day, they also had them in the evenings for SES-services.<sup>17</sup>

### **Nytasha Lee**

Ms. Lee, a lifelong resident of southern New Jersey, and a parent of children in public school, stated that she believed the Camden School System was impeding the SES programs available to students in the Abbot District of Camden. As an example, she cited the Cramer Elementary School tutoring program, which her child attended. According to her, this program was plagued by problems, such as many parents did not receive the fliers in time, or at all, and not all parents could read the fliers in English. According to Ms. Lee, the school system was tardy in providing funds for SES, and 90 percent of SES programs were unavailable by the time funding was provided to Cramer Elementary School.<sup>18</sup>

In addition, she claimed the Camden Board of Education had not selected SES programs that met the curriculum needs of students at Cramer Elementary School. She charged that the SES programs did not reinforce what students learned in school, thus hindering their performance on standardized tests. She blamed this on SES programs being taught by individuals unfamiliar with the school system’s program of study, and because there were more children requiring assistance than there were openings in these tutoring programs.<sup>19</sup>

### **Shelba Woods**

Ms. Woods, of Detroit, Michigan, is a parent and grandparent of children in public school. She said she learned of NCLB last year, with little assistance from the Detroit School District, and found that many teachers were also unfamiliar with NCLB. Despite this, she succeeded in submitting four SES applications for her grandchildren and foster children.

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<sup>15</sup> Granados Testimony, Briefing Transcript, p. 16.

<sup>16</sup> *Ibid.*, pp. 16–18.

<sup>17</sup> *Ibid.*, p. 19.

<sup>18</sup> Nytasha Lee, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 20, 23–24, (hereafter cited as Lee Testimony, Briefing Transcript).

<sup>19</sup> Lee Testimony, Briefing Transcript, pp. 25–27.

Only one child was accepted into the program because she was told the other three applications had not been received. After Ms. Woods applied for SES in 2007, she received a letter from one of the providers, but when she inquired at Mary McCall Bethune Academy about the after-school programs, the principal did not know to what she was referring.<sup>20</sup>

She claimed that the school board had not made an effort to alert parents about SES, and was unsure if this was by design or negligence. After-school programs begin after students take their Michigan Educational Assessment Program (MEAP) test in October, which according to her, means that the after-school programs fail to assist the children in preparing for the MEAP. She would like to see more parents made aware of NCLB.<sup>21</sup>

## **Panel Two**

### **Derrell Bradford**

Mr. Bradford testified that when parents in Camden and Newark, New Jersey, attempted to utilize programs such as SES, the “regulatory entity” informed them that it was not available to them. He contended that the school systems did not provide SES because it “directly confronts their financial interest...”<sup>22</sup> According to him, after one private SES provider visited schools in Newark, met with parents, and informed them of the free tutoring it offered, 800 people signed up for its services. Newark Public Schools invalidated all of the applications, he said, claiming the incorrect form was used. The rationale behind this, Mr. Bradford claimed, was that the school system did not want to compete against private providers. He said the SES provider had to meet with every person again, and as a result, approximately 100 more individuals signed up for its tutoring services.<sup>23</sup>

Turning to Camden, he charged that someone manipulated tests at two elementary schools in order to raise student scores, which in turn would make SES unavailable to these schools. Mr. Bradford concluded by saying that under the current situation, neither Newark nor Camden public schools will address parental concerns about their children’s education because doing so would affect their financial interests negatively.<sup>24</sup>

### **Maite Arce**

Ms. Arce briefly discussed how the Hispanic Council for Reform and Educational Options (Hispanic CREO), assisted the parent of a child in the Camden Public School system to

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<sup>20</sup> Shelba Woods, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 28–30, (hereafter cited as Woods Testimony, Briefing Transcript).

<sup>21</sup> Woods Testimony, Briefing Transcript, pp. 33–35.

<sup>22</sup> Derrell Bradford, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 77–82, (hereafter cited as Bradford Testimony, Briefing Transcript). The panelist’s reference to “regulatory entity” pertained to urban school districts.

<sup>23</sup> Bradford Testimony, Briefing Transcript, p. 82.

<sup>24</sup> *Ibid.*, pp. 81–84.

obtain tutoring services. She stated that it was very difficult for Hispanic CREO to obtain these services for the child.<sup>25</sup>

### **Harrison Blackmond, Jr.**

Mr. Blackmond informed the Commission that in Detroit, the SES program had been poorly communicated to parents. According to him, the Detroit School District mailed to parents information packets about SES, even though half of these targeted residents were illiterate. He contended that there were better communication options, especially considering when the school district faced a low student enrollment rate in September 2006, it advertised on television stations and awarded prizes in order to induce parents to enroll their children in district schools.<sup>26</sup>

### **Eugene W. Hickok**

Dr. Hickok addressed several issues that he believed led the school districts of Detroit, Newark, Dallas, or any of those discussed at the briefing to "... intentionally try to limit access to tutoring" for students.<sup>27</sup> According to him, these issues were money, power, politics, and the existing school system. He complained that in too many instances, school officials were more interested in controlling and funneling funds into the school system, and maintaining the educational status quo, than in educating students.<sup>28</sup>

He disputed claims of insufficient funding for public education in the United States, saying that at the conclusion of the school year, the majority of school districts still have funds allocated for SES. Furthermore, he said that every year, all 50 states report unused federal funds from three years previous. He blamed this on the administration of funds and the failure of school systems to address parental concerns.<sup>29</sup>

Addressing the SES provider evaluation results discussed by Ms. Francies, Dr. Hickok stated that although the parents' concerns were valid, NCLB made states responsible for certifying providers. Accordingly, states should certify only providers that they believe can deliver the quality of service, both in terms of fiscal responsibility and academic results. States and school districts, he said, also have a duty to ensure that service providers are meeting their

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<sup>25</sup> Maite Arce, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, p. 84, (hereafter cited as Arce Testimony, Briefing Transcript). Ms. Arce presented a documentary film of Hispanic CREO's experience in Camden, New Jersey, to enroll a child in an SES program.

<sup>26</sup> Harrison Blackmond, Jr., Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, p. 90, (hereafter cited as Blackmond Testimony, Briefing Transcript).

<sup>27</sup> Eugene W. Hickok, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, p. 91, (hereafter cited as Hickok Testimony, Briefing Transcript).

<sup>28</sup> Hickok Testimony, Briefing Transcript, pp. 91–92. The panelist did not elaborate on the "current educational structure."

<sup>29</sup> *Ibid.*, pp. 92–93.



responsibilities. He indicated that the tools to address ineffective service providers were provided in NCLB.<sup>30</sup>

### Joel Packer

Mr. Packer identified eight SES provisions that the NEA found problematic. First, the NEA contended that funding for SES should not be taken from the funds provided for Title I. Currently, no separate funding exists for SES; instead, school districts are required to use as much as 15 percent of their Title I funds to cover the cost of after-school tutoring services. According to Mr. Packer, Title I funds were slashed during fiscal years 2006 and 2007. Consequently, fewer classroom services were available for students. Second, although NCLB required any entity receiving funds under the act to obey federal civil rights laws, ED's regulations implementing NCLB did not designate SES providers as recipients of federal funds. Specifically, ED viewed SES providers as having "no direct non-discrimination responsibility." As such, providers were generally not covered by the requirements of these laws, he said; the burden of ensuring no discrimination belonged to school districts.<sup>31</sup>

Third, Mr. Packer stated, under ED's NCLB regulations, SES providers were not required to serve eligible students with disabilities or English language learners. When no provider within a school district offers services to such students, the district must do so. However, other ED regulations bar school districts that have been identified as in need of improvement from being SES providers.<sup>32</sup> Fourth, the NEA believed that states must be allowed to require providers to use only highly qualified teachers as instructors. Currently, ED's NCLB regulations do not mandate this, although NCLB requires that all public school teachers meet the new federal definition of highly qualified.

Fifth, raising the point discussed by Ms. Francies and Dr. Hickok, Mr. Packer said that the methods for ensuring that SES programs are offering high quality services must be strengthened. Presently, states find it difficult to measure the quality of SES programs, he said.<sup>33</sup>

Sixth, he said, SES should be aimed at students in specific subgroups (identified by race, poverty, disability status, and English proficiency status),<sup>34</sup> that do not make adequate yearly progress.<sup>35</sup> According to Mr. Packer, the NEA believed that targeting such students would

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<sup>30</sup> Ibid., pp. 94–95. The panelist's reference to "tools" pertains to NCLB's guidance.

<sup>31</sup> Joel Packer, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 100–02, (hereafter cited as Packer Testimony, Briefing Transcript).

<sup>32</sup> U.S. Department of Education, No Child Left Behind, Supplemental Educational Services Non Regulatory Guidance, June 13, 2005, pp. 13–14, <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc> (accessed Dec. 12, 2007).

<sup>33</sup> Packer Testimony, Briefing Transcript, pp. 102–04.

<sup>34</sup> Joel Packer, Written Statement sent to U.S. Commission on Civil Rights [date unknown].

<sup>35</sup> Packer Testimony, Briefing Transcript, p. 104. "Under No Child Left Behind, each state has developed and implemented measurements for determining whether its schools and local educational agencies (LEAs), are making adequate yearly progress (AYP). AYP is an individual state's measure of progress toward the goal of 100 percent of students achieving state academic standards in at least reading/language arts and math. It sets the

solve some of the logistical problems with the program, as well as direct limited federal dollars to where they were needed the most.

Seventh, he continued, school districts that have been designated in “need of improvement” should be permitted to provide SES as long as they offered a high quality program. Lastly, the NEA believed that SES should be offered first before allowing student transfers from school districts designated as “in need of improvement.” Currently, the option of transferring to another school is available before SES is made available. Mr. Packer stated that the Bush Administration supports this proposition.<sup>36</sup>

### **Panel Three**

#### **Marion A. Bolden**

Ms. Bolden, Superintendent of Newark Public Schools (NPS), began by stating that in concept, SES has helped close the achievement gap; however, it must be implemented sensibly, and a way must be developed to measure how effective SES providers are compared with school providers. Assessing the quality of service was very important, she stated, because, although Newark had been singled out by the Government Accountability Office as doing fairly well in notifying parents about SES, parents must be made aware of how providers and the school district have performed.<sup>37</sup>

NPS used a variety of methods to notify parents about SES: letters mailed in a timely fashion; cable television programming; and fairs where parents met and spoke with providers. Ms. Bolden acknowledged that many letters were returned to NPS because of changed addresses, but added that NPS provided parents transportation to the fairs.<sup>38</sup>

Ms. Bolden stated further that a parent advisory council provides feedback on how NPS may better inform parents about SES. This includes making the newsletter NPS produces easier for parents to read. NPS covers the cost of the council, newsletter, and all SES administrative functions using Title I funds, she said. Ms. Bolden stated that NPS spent all of the funds allocated under Title I for 4,400 students, and used New Jersey state funds for the remainder of the 18,000 students required to receive services under NCLB. She added that the majority

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minimum level of proficiency that state school districts and schools must achieve each year on annual tests and related academic indicators. Parents whose children are attending Title I (low-income) schools that do not make AYP over a period of years are given options to transfer their child to another school or obtain free tutoring (supplemental educational services).” U.S. Department of Education, “Adequate Yearly Progress,” Sept. 28, 2006, [http://answers.ed.gov/cgi-bin/education.cfg/php/enduser/std\\_adp.php?p\\_faqid=6&p\\_created=1095256734&p\\_sid=biCz1Gli&p\\_lva=&p\\_s\\_p=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0xMTUmcF9wcm9kcz0mcF9jYXRzPSZwX3B2PSZwX2N2PSZwX3BhZ2U9MQ\\*\\*&p\\_li=&p\\_topview=1](http://answers.ed.gov/cgi-bin/education.cfg/php/enduser/std_adp.php?p_faqid=6&p_created=1095256734&p_sid=biCz1Gli&p_lva=&p_s_p=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0xMTUmcF9wcm9kcz0mcF9jYXRzPSZwX3B2PSZwX2N2PSZwX3BhZ2U9MQ**&p_li=&p_topview=1) (accessed Apr. 25, 2007).

<sup>36</sup> Packer Testimony, Briefing Transcript, pp. 104–05.

<sup>37</sup> Marion A. Bolden, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 150–52, (hereafter cited as Bolden Testimony, Briefing Transcript).

<sup>38</sup> Bolden Testimony, Briefing Transcript, p. 152.

of parents wanted their children to receive SES close to home, which meant NPS had to provide after-school tutoring because other providers were located miles away.<sup>39</sup>

### Reginald Felton

Mr. Felton began his presentation by discussing the National School Boards Association's (NSBA's) support for NCLB and its objectives. NSBA supported reauthorization of the law and provided 42 recommendations to improve it, which were incorporated into H.R. 648, the No Child Left Behind Improvements Act of 2007.<sup>40</sup> Increased funding for SES was one of these recommendations, because NSBA believed not all eligible children were being served by NCLB. Mr. Felton also stated while the notification requirements of NCLB were being met, questions remained as to whether the parents of poor, bilingual, and not English-proficient children were being reached.<sup>41</sup>

Mr. Felton next stated that no conclusive evidence had been found that SES significantly improved student achievement. He referred to a report by the Hillsboro School District in Florida, that compared adequate yearly progress in reading and math between SES and non-SES students. According to him, the report suggested that even among students with a comparable economic status, a greater percentage of non-SES students were making adequate progress. As for providers, he continued, NSBA was troubled that under the current law, many school districts were impeded from providing SES if they were designated as in need of improvement. Such districts, he said, must use their limited financial resources to pay a private provider when they may have been able to provide SES at a lower cost using the same highly qualified teachers and the same facilities.<sup>42</sup> Furthermore, he stated, an amendment should be added to NCLB that would require states to consult with school districts about the quality of services offered by prospective providers. According to Mr. Felton, some providers that hire staff less qualified than district teachers have lobbied states to be placed on the SES provider list.<sup>43</sup>

Returning to notification of parents, Mr. Felton discussed the use of cable television advertising and Web sites. He warned that it was not safe to assume all parents had access to cable television and the Internet, or to think that radio and television advertisements would be sufficient. He suggested notification could be enhanced by developing partnerships between school districts and community based organizations.<sup>44</sup>

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<sup>39</sup> Ibid., pp. 152–53.

<sup>40</sup> Reginald Felton, e-mail sent to U.S. Commission on Civil Rights, Dec. 5, 2007.

<sup>41</sup> Reginald Felton, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 158–61, (hereafter cited as Felton Testimony, Briefing Transcript).

<sup>42</sup> Reginald Felton, e-mail sent to U.S. Commission on Civil Rights, Dec. 5, 2007.

<sup>43</sup> Felton Testimony, Briefing Transcript, pp. 161–63.

<sup>44</sup> Ibid., pp. 163–64. The Commission customarily requests panelists to review summaries of their respective presentations, the discussion summary, and panelist written statements, which may be edited for typographical errors and accuracy. In light of Dr. Fitts' situation, Dr. B. LeFra Young, Superintendent of Schools, Camden Public School District, and Ms. Deborah Polk, Supervisor, Grants Management and Development, responded to the Commission. Their response is summarized here and the response itself is included in the appendix of this report. According to Dr. Young and Ms. Polk, the Camden City Public School District lacked sufficient funding

## Leonard Fitts

Dr. Fitts, interim Superintendent of the Camden School District (CSD), stated that the district embraced NCLB as a valuable aid, and would comply fully with NCLB during implementation of the law. The district enhanced how it communicated with both parents and SES providers, Dr. Fitts stated, by incorporating best practices, delegating responsibility (for parents, principals, teachers, etc.), and having a strict system of accountability (with penalties and rewards). He claimed that these individuals and the union collaborated fully.<sup>45</sup>

Dr. Fitts recognized the contribution of service providers, but emphasized the importance of creating continuity between their efforts and how his staff taught students. Accordingly, he dedicated substantial funds to staff professional development. He noticed, also, that SES made some students lose interest in their regular classes, and was exploring ways in which teachers could better engage their students in the classroom. Dr. Fitts concluded, suggesting that the federal government be more specific as to expected results and how school districts should implement SES, and should examine whether the results justified costs.<sup>46</sup>

## Kimberly Hood

Ms. Hood, executive director of the District of Columbia Public Schools (DCPS) Office of Local Educational Agency Grants, stated that D.C. first implemented the SES provisions of NCLB in the 2002/03 school year. At that time, she said, the decision was made at the district level to offer SES at schools in the first year they needed improvement. When schools still needed improvement in the second year, she continued, aggressive action was taken to correct problems. Vigorously attacking problems as they appeared allowed DCPS to partner with parents in making decisions about the education of students. According to Ms. Hood, during the 2002/03 school year, approximately 4,800 students eligible for SES were attending 15 schools in need of improvement. At that time, the funding cap per pupil was around \$1,200. Ms. Hood stated that DCPS anticipated enrolling approximately 3,500 to 3,800 students in SES, with a per pupil funding cap of \$2,111.<sup>47</sup>

Ms. Hood reported that the district used a Web-based data management system called Webstars, which allowed it to support the operations of SES, track service delivery, ensure that providers work individually with students to develop unique service plans, and to

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to accommodate all of their students and schools in need of improvement. As a result, in the 2006–2007 school year, the district was able to help only 13 percent of all of the students that were eligible for SES. They also said that the demand for SES was great and that the school district had extensive outreach programs. Dr. Young and Ms Polk concluded that the “SES program is productive and valuable to the students.” See B. LeFra Young and Deborah Polk letter to Sock-Foon Chew MacDougall, Nov. 28, 2007, appendix C.

<sup>45</sup> Leonard Fitts, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 166–68, (hereafter cited as Fitts Testimony, Briefing Transcript).

<sup>46</sup> Fitts Testimony, Briefing Transcript, pp. 168–71. The panelist did not elaborate on the “things” that were acceptable for SES providers to do or on the “ways” the districts were exploring to help teachers engage students in the classroom.

<sup>47</sup> Kimberly Hood, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 171–72, (hereafter cited as Hood Testimony, Briefing Transcript).

monitor the execution of those plans at schools. She pointed out that one problem the district had encountered was a lack of coordination and teamwork between teachers and SES providers and their services. The district wanted to rectify this so that after-school tutoring would have a direct impact on student success in the classroom. DCPS was also trying to hold the providers accountable for their services and increase their performance. The district evaluated providers based on student performance on the SAT9 for the 2003/04 and 2004/05 school years.

According to Ms. Hood, results of the district's evaluation indicated that, as a component of a comprehensive improvement strategy at schools, use of SES correlated with progress in certain areas. However, it was not possible to state that SES was the only factor leading to overall improvement in student achievement. She concluded saying that SES—as an extension of the district's efforts to increase parental involvement, and as part of a partnership between families, schools, communities, and providers—was vital to DCPS's improvement model.<sup>48</sup>

### **Christine Krenicki**

Dr. Krenicki is supervisor of the Department of Testing, Research, and Evaluation at Passaic City Schools (PCS) in New Jersey. She briefly reviewed PCS's efforts to improve student performance, including how it monitored SES providers to ensure they met expectations. According to Dr. Krenicki, close monitoring was necessary because the programs were of average quality and providers had to be made to improve their services in order for SES to function as intended. PCS found success, she said, by requiring bilingual teachers for students not proficient in English, and insisting that vendors abide by Impact Aid Program accommodations in working with special education students.<sup>49</sup> She said PCS also provided child care, so that parents could meet and speak with SES providers. Dr. Krenicki observed that once parents met with vendors, they asked for assistance in dealing with them because they were supposedly overwhelmed by the number of providers, as well as their sales efforts.

According to Dr. Krenicki, NCLB required that only children who qualify for a free or reduced lunch were eligible for SES. While this meant that up to 90 percent of children at some PCS schools were eligible for SES, others were not because their parents earned a few dollars above the threshold for such aid. She asked the Commission to examine whether this could be changed.<sup>50</sup>

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<sup>48</sup> Hood Testimony, Briefing Transcript, pp. 174–75.

<sup>49</sup> Christine Krenicki, Testimony before the U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, pp. 176–80, (hereafter cited as Krenicki Testimony, Briefing Transcript).

<sup>50</sup> Krenicki Testimony, Briefing Transcript, pp. 183–84.

## **Discussion**

The discussion between the Commissioners and panelists focused on four themes: 1) parent notification about SES; 2) SES provider performance and improvement; 3) SES funding; and 4) impediments to SES providers.

### **Parental Notification**

Vice Chair Thernstrom, provided a general overview of the issues raised by the first panel, and commented that the account offered by Ms. Francies of Passaic's notification efforts differed markedly from that provided by the other parents. She asked the parents who had experienced notification problems what they believed to be the root of these difficulties.<sup>51</sup>

Ms. Lee responded that despite being very involved in her child's education, she did not believe NCLB worked. She explained that voucher programs did not assist children with mental health issues, and when such children were placed in inclusion classes, they stayed in them even if they had only behavioral problems. Vice Chair Thernstrom stated, however, that she was still looking for suggestions on how to improve failing school districts. Later, Ms. Woods indicated that she and other parents would have welcomed SES had they been made aware of it; however, she claimed the Detroit School District did not adequately alert parents to SES. Chairman Reynolds concurred and stated that parents cannot make these critical decisions for their children if they are not given the information. Consequently, school districts must improve communication with parents.<sup>52</sup>

Commissioner Kirsanow inquired further on the clarity of the SES information notices provided by districts. Ms. Fitzgerald replied that she understood the notice she received, but Ms. Woods and Mr. Granados indicated that their notices were incomprehensible. Ms. Lee complained that parents would not understand the jargon used by the district in these notices.

Turning to another point, Commissioner Kirsanow asked if the notices contained information on the teachers that would work in the SES program. Ms. Fitzgerald, Ms. Lee, and Ms. Woods answered that they did not. Commissioner Kirsanow then asked if the notices stated that the reason SES was being offered was because their child was attending a failing school. Ms. Woods responded that information about the AYP of failing schools, as well as schools requiring SES and Choice Transfer, and those entitled to Choice Transfer, was contained in the notice. Commissioner Kirsanow expanded his query by asking if the notices described the services that would be offered and identified the providers. Ms. Woods said her notice did not describe the services, and Mr. Granados stated that his notice's description of services indicated only that one's children could enroll in SES and that more information would be provided in the future. The notices received by Ms. Lee, Ms. Woods, and Mr. Granados identified the providers; however, Mr. Granados said he received the provider list late. Commissioner Kirsanow then inquired if the notices included performance measures or time-

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<sup>51</sup> U.S. Commission on Civil Rights, briefing, Supplemental Educational Services under the No Child Left Behind Act, Washington, DC, Jan. 26, 2007, transcript, p. 49, (hereafter SES-NCLB, Briefing Transcript).

<sup>52</sup> SES-NCLB, Briefing Transcript, pp. 50, 52, 61–62. 66–67.

lines for the SES programs. Ms. Lee responded that her notice did not contain this type of information.<sup>53</sup>

Later, Chairman Reynolds said that when districts return SES funding for lack of use, as discussed by Dr. Hickok, it meant their outreach programs were ineffective. Furthermore, he said that each school would have to identify and address the needs of its population in order to solve the notification problems. For example, schools that serviced a large percentage of Spanish-speaking students must address the language needs of that population. Chairman Reynolds also asked what actions school districts could take in order to inform parents of their rights under NCLB. Dr. Fitts replied that CSD used a customer satisfaction sheet that parents completed consistently. Ms. Bolden said that NPS had a liaison that contacted parents; however, it was also necessary to reach out to parent organizations for additional assistance. To increase parental involvement, NPS also partnered with the Urban League and visited parents at home. Ms. Bolden said that when parents saw that the Urban League cared about their children's welfare, they viewed school in a different light.<sup>54</sup>

Mr. Felton said that many municipalities were examining how they were structured so as to improve their interactions with parents. Dr. Krenicki stated that PCS had a district liaison at every school with whom parents could discuss their complaints, and that these complaints were addressed at all levels of the district.<sup>55</sup>

### **Provider Performance; Methods for Improving Service**

Numerous panelists, including Ms. Francies, Dr. Hickok, and Mr. Packer, addressed the performance of SES providers and how to improve services. Performance concerns included the use of tutors not qualified to teach the children, a lack of communication between affected parties, parents not being apprised of their child's progress consistently, and SES programs failing to meet the educational needs of students. Methods for resolving performance focused on ensuring that highly qualified individuals provided tutoring, close monitoring of providers, and careful implementation of SES.<sup>56</sup>

Commissioner Kirsanow, addressing the qualifications of tutors, asked members of the first panel if their notices indicated that SES classes would be taught by highly qualified teachers. Ms. Fitzgerald and Ms. Lee responded that the notices they received did not discuss the qualification of tutors. Later, Ms. Lee added that although SES provided tutoring to students that were failing, if an SES program did not work, no one was held accountable.<sup>57</sup>

Ms. Francies expanded on Commissioner Kirsanow's point, saying that despite being told private SES providers were training teachers on specific skills, she did not believe this was occurring. She also did not understand why a private SES provider was allowed to come in and hire PCS teachers when the district's past after-school programs also hired PCS teachers.

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<sup>53</sup> Ibid., pp. 45–46, 48–49.

<sup>54</sup> Ibid., pp. 185–86, 188–89.

<sup>55</sup> Ibid., pp. 190–91.

<sup>56</sup> Ibid., pp. 12, 25–26, 41, 94–95, 103, 151, 173–74, 178.

<sup>57</sup> Ibid., pp. 46, 59.

Ms. Lee added that she was disturbed that private SES providers hired instructors that did not successfully teach children nor assist them in meeting AYP during the school-day. Furthermore, Ms. Francies said, PBE would not know about the performance of private SES providers if not for having received complaints from parents. Conversely, Ms. Woods indicated that she did not believe SES had problems in Detroit.<sup>58</sup>

Commissioner Melendez, addressing the performance issue with panel three, asked what changes they would like to see that would give school districts more authority to establish rules for SES providers. Dr. Krenicki responded that PCS had established its own rules and that the contract providers must sign them. Commissioner Taylor requested a copy of the contract to review it. Following-up on Dr. Krenicki's reply, Dr. Fitts added that NCLB gave states the authority to establish rules for providers; however, although many states worked with school districts to establish rules, some districts had not been involved. Ms. Bolden stated that NPS also used a contract, but that the state decided which providers would offer SES. Standards were required, she continued, because a karate club had applied to provide SES and she believed the state would approve its application.<sup>59</sup>

Continuing his response to Commissioner Melendez's inquiry, Dr. Fitts added that CSD worked with providers to ensure that their services were in harmony with what CSD identified as its "immediate high priority targets": literacy and math.<sup>60</sup> CSD, Dr. Fitts continued, instructed providers to focus on these priority issues and requested that they support CSD's initiative. Dr. Krenicki added that if parents had complaints about vendors, PCS immediately contacted the vendors and addressed every complaint.<sup>61</sup>

### **Adequacy of SES Funding**

Vice Chair Thernstrom commented on the funding issue, saying that lack of money cannot be the cause of the SES problems, because all of the school districts discussed by the panelists had more than sufficient funds for education. Ms. Lee initially agreed that funding was adequate, but later changed her opinion. Vice Chair Thernstrom commented that Ms. Lee should be asking much more fundamental questions than those she had about SES notification and other issues.<sup>62</sup>

Echoing Ms. Lee's point concerning the availability of sufficient funds, Ms. Woods indicated that if the Detroit School District had adequate funding, she was not aware of it, because the district requested that parents provide basic supplies to their schools, including paper towels and soap. Vice Chair Thernstrom responded that the parochial schools Ms. Woods' children attended at one time, and in which they received a good education, did not have any more funds per child than Detroit public schools. She reiterated that the issues were much more fundamental than simply the implementation of SES.<sup>63</sup>

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<sup>58</sup> Ibid., 60–61.

<sup>59</sup> Ibid., pp. 186–87.

<sup>60</sup> Ibid., p. 187.

<sup>61</sup> Ibid., pp. 187–88.

<sup>62</sup> Ibid., pp. 50–53.

<sup>63</sup> Ibid., pp. 53–55.



Expanding on Vice Chair Thernstrom's point, Commissioner Kirsanow commented that Camden spent approximately \$15,600 and Newark \$17,600 per child, the latter being the highest of any school district in the nation, he believed. Mr. Blackmond commented that even when a community received large amounts of funding, improvement was unlikely if individuals running the programs were not committed. Later, Commissioner Yaki stated that despite the spending per student, school districts must accommodate other challenges. Consequently, he was concerned about funds being drawn from public schools for other purposes.<sup>64</sup>

### **Barriers to Current and Potential SES Providers from Offering Services**

Chairman Reynolds asked members of panel one if parents or school districts should determine what neighborhood school was best for a child. Ms. Lee replied that a parent should make that decision. Mr. Granados stated that to get parents involved in their children's education, school districts must face competition from private SES providers. Parental involvement would increase, he continued, because parents would have to learn why some students perform better at some schools than at others. Furthermore, he said, school districts fear losing the funding a transferring student draws away from the district. Consequently, school districts would improve in order to retain children and recoup those that transferred. Ms. Fitzgerald agreed that competition was optimal for alerting parents to the available school options.<sup>65</sup>

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<sup>64</sup> Ibid., pp. 68, 128–29. 137.

<sup>65</sup> Ibid., p. 70.



## Statements

[NOTE: Statements are unedited.]

### ***Panel One***

#### **Sakyibera Fitzgerald**

In the fall of 2003, I went to my eldest son's school, Malcolm X. Shabazz High School, and asked his teacher, in the presence of the principal, why he had not been issued a book. The teacher simply replied by saying, "Your son doesn't have a book because he didn't ask for one." This answer left me bewildered and disturbed. After all, what type of an education, I reasoned, could my son or his classmates be receiving at the hands of such a teacher. But that was not the end. That evening my son came to me and said, "Ma, I don't know why you made such a big deal about this. I'm the only child in the class that even has a book now." This was the spark that ignited my desire to find out what was wrong with the Newark Public School system and what could I do to change it. That is how I began my search for knowledge and an understanding of the subculture of the Newark Schools. What I learned was that aside from a few exceptional schools, our district was and still is, in a state of crisis. I began by first looking into the available data for my son's school. The information that I got out of the school report card painted a bleak picture because the achievement scores consistently seemed to be dropping year after year. This led me to find out whether or not this type of performance was widespread in the district. After going over the school report cards for the remaining high schools in the district, I became sadly aware that except for two or three exceptions, the majority of the 14 high schools in Newark were in need of improvement. I then began looking at the data for the elementary schools and found that the same was true. Except for a few success stories, the district was in trouble. It was then that I began to study the No Child Left Behind Act so that I could learn what my rights were as a parent. This is when I first became aware of the existence of Supplemental Educational Services. I want to take this moment to point out what was the first problem I recognized in this district. I would not have known about SES programs had I not taken the initiative to study the Act on my own. And while it is true that parents should keep themselves educated in such matters whenever possible, the responsibility still falls to Title 1 districts such as Newark to ensure that the parents of the district are notified of their rights. With this in mind I began to speak out in public. On June 15, 2004 I made a presentation concerning parental notification before the Newark Advisory Board. The letter, dated June 23, 2004 addressed to Marion Bolden, a copy of which you have before you, is a follow-up to the requests made at the June 15<sup>th</sup> meeting. In my letter, I left no room for doubt as to the nature of my request. I wanted the district to fulfill its requirements of parental notification in all areas including SES as outlined in No Child Left Behind. Since that time, the district has predictably maintained that letters of notification have indeed been sent out to parents. However, as of today's date, I can only confirm that one letter of notification was sent to and received by any Newark parents. And that did not occur until December of 2006. Coincidentally, this mailing immediately followed the announcement of a class action lawsuit naming the Newark Public Schools as the defendant. At the heart of the lawsuit is the issue of parental notification. Allow me to clarify something at this time. While uniform notifications did not go out to the

parents in the district, tutorial services were being offered. However, these services were often made known entirely by word of mouth between individual school staff and parents. Furthermore, since Newark was an approved provider, most of the tutorial services that were known to parents were services in locations run by the district. However, after making a personal visit to many of these sites, it was clear to me that little if any tutoring was actually being conducted. The most disturbing thing here is that there were other approved providers in the area. But their services were rarely taken advantage of due to the bullying tactics used by the district to encourage parents to send their children to Newark tutors. Please note two last things on this point. First of all, while services were provided, due to the lack of district wide notification, relatively few children received tutoring. Second, it is worth mentioning that many of these tutors were teachers that taught at some of the worst schools in the district.

The next thing I would like to discuss is the issue of school choice. Here again the district has fallen far short in terms of its responsibility. The district has repeatedly refused to notify parents of their rights to request that their children be transferred from failing schools to schools that have not been identified as being in need of improvement. In fact, to take this point one step further, there have been several parents, including myself, that have had to fight a tremendous battle to even persuade the district to grant us these rights once we have requested them. And let me add, that in my case, the change in school made an incredible difference in my child's education.

I want to thank the members of the Commission for giving me the opportunity to shed some light on this subject. The parents of Newark are working hard to improve the level of education available to our children. But we cannot do it alone. We need individuals such as yourselves to help us persuade districts such as Newark to fulfill their responsibilities to our children.

## Ernestine Francies

Passaic City is a small town located in Passaic County in the northeastern area of New Jersey. Our city is approximately 3.2 square miles; a population of about 78,000 residents of which 86 percent are Hispanic, 10 percent African American, and 4 percent other. Many of the families in our town deal with the harsh realities associated with the distinction of being an “urban district.

Nonetheless our school district is composed of 6 pre-school sites, 15 elementary schools, one middle school, and one high school. We are committed to ensuring that all of our children receive a quality education.

Meaningful parent/family involvement in the education process has been and remains a priority somewhat due to the requirements originally imposed through the Elementary and Secondary Education Act of 1965 continuing to the No Child Left Behind Act of 2002.

The Supplemental Educational Services program is administered through Title I. Office included within the Testing, Research, and Evaluation Department. Six schools have been identified as being “in need of improvement” (5 Elementary and the Middle School). This is the third year of implementation of the SES program. At this time the enrollment is at capacity, with a waiting list of eligible students that will possibly be receiving services for the 2006-2007 school year.

The Parent notification process is a key element in the process. In September the Superintendent of Schools writes a letter to parents explaining how and why the district and schools are in the status that they are and the role of parents. The Assistant Superintendent disseminates a letter regarding parents’ choice in the intradistrict options or supplemental services. These letters were mailed to the homes of parents with the appropriate contact information. All district communications are in English and Spanish.

The state approved providers’ list with the type of service offered in our geographical area by each was translated and mailed home. The Parents Guide to SES Services, What Parents Need to Know and What Questions To Ask (English and Spanish) was also mailed home with an invitation to come to a Vendor Fair at each SES school, usually held in the cafeteria or gymnasium.

Prior to parents questioning each vendor individually, a meeting is held to further give parents information and an overview of the SES process. After the parents choose the vendor, a contract for services is signed by both. The Title I administrators (2), secretaries (3), 11 Parent Liaisons and I assist at the Fairs.

Eligibility is determined by the lunch status of the student (**free or reduced**), which is then verified by my office through data received from the Food Services Department before submission of student names and parent information to each vendor. It then becomes the responsibility of the vendor to make direct contact with parents regarding when the service

begins and ends, time schedule, etc. Most of the services take place at the school sites, or in the home, or at a community-based agency.

If any parent has a concern/complaint/or question regarding SES or any issue they are strongly encouraged to call the provider or our office at any time. At the conclusion of the program parent and student evaluations are mailed home with a stamped return envelop enclosed.

The major concerns that parents have expressed are:

- lack of communication between the regular teacher and the tutor
- not receiving regular progress report from the providers
- skills they were teaching were too remedial
- doing homework instead of tutoring
- too many children in the class
- tutors absent and not notifying parents that classes were cancelled

The district has historically maintained a strong parental involvement component stressing collaboration between the home and school through Title I. District Parent Advisory Council and District Parent Resource Center. With the hiring of 11 Parent Liaisons for individual schools parent participation has significantly increased, especially in outreach efforts to families and sharing of pertinent information. Scheduled NCLB Parents' Rights Workshops also helps in communicating information to parents in a format and language that they understand.

I feel that some of the challenges we face in our district that will be addressed are:

- assuring the accuracy of data received from Food Services Department
- closer monitoring of delivery of services by tutors
- assuring that parents receive regular progress reports
- more communication between regular classroom teacher and tutor
- principals monitoring provider activities more closely

## Enrique Granados



### Is your child registered in a Title I School?

A school is recognize as Title 1 when 40% or more of the students attending the school received free or reduce lunch.

The federal government provides \$12 million dollars per year to implement programs in Title 1 schools.

#### # 1 Ask the following Questions:

Is my child is in a Title 1 School?

Schools can provide this information; ask your Principal, Administrators, or Teacher. If you don't understand this process or the information you can call us, we are here to help you.

Is my child register in a school designated as "Needs Improvement?"



#### # 2 Why is this Important?

With this information you will:

- a) Be able to transfer your children to a better school.
- b) Ask for free Tutoring also known as Supplemental Services.

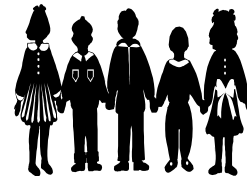
How can I transfer my child to a better school?

#### #3 Do your Homework

- ✓ Find out if your school receive Title 1 funds.
- ✓ Ask for your school's results, (AYP) Annual Yearly Progress Report
- ✓ Ask for help in understanding the AYP

Warning! Check if the school is classified as "Needs Improvement."

If your school has been classified as need improvement for 2 consecutive years; you can start looking for another public school. The "No child Left Behind" Law gives you the opportunity to transfer your child to another school with better AYP results.



Parents now have Public School Choice



How can your children receive free tutoring?

#### #4 Investigate

- a) If your child's school receives Title I money.
- b) If the school has been classified as "need improvement" for 3 consecutive years.

If the answers are yes, then you need to request a list of approved supplemental service providers for your school. If you need more information regarding supplemental services and the process, call the Project CREO's Field Organizer in your hometown.

Free Tutoring  
(Supplemental Services)

#### #5 Star your engine

- ✓ Ask questions
- ✓ Be an active parent
- ✓ Know your rights

- ✓ Work with other parents to share the information.

The *No Child Left Behind Law* is in your side.

We would like to invite you to our seminars and to help us inform more parents about their rights.

Project CREO is working for you.

For questions please call:

Austin (512) 680-1872  
 Dallas (469) 774-0276  
 Camden (856) 383-9823  
 Miami (954) 465-1357  
 San Antonio (210) 387-5332



#### PROJECT CREO

Working together for a better education



5 Steps to understanding Public School Choice and Supplemental Services under the "No Child Left Behind" Law.





¿Está tu hijo inscrito en una escuela conocida como Título I?

Una escuela es considerada Título 1, cuando el 40 % ó más de sus estudiantes reciben almuerzo gratuito ó reducido.

El gobierno federal proporciona \$12 mil millones de dólares al año para programas que se implementan en las escuelas de Título I.

### # 1 Pregunta

Si tu hijo (a) estudia en una escuela de Título I.

Tú director de escuela, administradores ó maestros pueden contestar esta pregunta. Si no entendiste éste proceso comunícate con nosotros, estamos aquí para ayudarte.

¿Está mi hijo inscrito en una escuela clasificada como “necesita mejoría”?



### # 2 ¿Porqué es esto importante?

- Para poder transferir a tus hijos a otra escuela que este cumpliendo con educar a los niños.
- Para solicitar tutoría gratuita conocida como servicios suplementarios

¿Cómo puedo transferir a mi hijo a otra escuela?

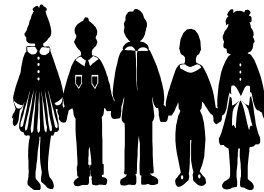
### # 3 Comienza tu tarea

- ✓ Investiga si tu escuela recibe fondos del Título I
- ✓ Pregunta sobre los resultados de la escuela.

¡Ojo! Busca si la escuela esta clasificada como “necesita mejoría”

Si tu escuela tiene 2 años clasificada como “necesita mejoría”, tu puedes comenzar a buscar otra escuela pública.

La ley “**Qué ningún niño se quede atrás**” le permite transferir a sus hijos a otra escuela que haya obtenido mejores resultados.



Los padres cuentan ahora con la opción pública de escuela.



¿Cómo obtener los servicios de tutoría gratuita?

**#4 Investiga**

- c) Si la escuela de tus hijos recibe fondos del Título I.
- d) Si la Escuela ha sido clasificada como “necesita mejoría” por 3 años.

Si estas respuestas son positivas, solicita la lista de proveedores autorizados en tu escuela. Si deseas conocer más información sobre tus proveedores y como funciona este servicio comunícate con el coordinador de Proyecto CREO de tu ciudad.

**Tutoría Gratuita  
(Servicios Suplementarios)**

**#5 Ponte las Pilas**

- ✓ Mantente Informado
- ✓ Participa en tu escuela
- ✓ Conoce tus derechos
- ✓ Comparte la información con otros padres

La ley “*Qué ningún niño se quede atrás*” está de su lado.

Te extendemos una invitación para que nos acompañes a nuestros seminarios y nos ayudes a difundir esta información.

Proyecto CREO esta trabajando para tí.

Ejerce tus derechos y los de tus hijos

Para mayor información:  
Austin (512) 680-1872  
Dallas (469) 774-0276  
Camden (856) 383-9823  
Miami (954) 465-1357  
San Antonio (210) 387-5332



**PROYECTO CREO**

Trabajando juntos por una educación mejor



5 pasos para entender la Opción Pública de Escuela y los Servicios de Tutoría gratuita bajo la Ley “*Qué ningún niño se quede atrás*”

## Nytasha Lee

I would like to begin by stating that it is an honor and a privilege to be here today. My name is Nytasha Lee and my experience and knowledge of SES programs have come through two channels. The first channel is through being a parent of a child that attended an Abbott District School in Camden, New Jersey named Cramer Elementary. The other channel is through being the PTA President of the school for school years 2004-2005 and 2005-2006. Before I begin with my experience I would like to give you a little background about the area and issues that the school that I was involved in is dealing with which would serve as an instrument in allowing one to see how important the SES programs are to this area. Like most of the elementary schools in the city of Camden the highest grade level is 4<sup>th</sup> Grade. The school consists of many different cultures and nationalities ranging from African-American, Caucasian, Hispanic and Vietnamese. Cramer Elementary also had several different class structures from general education to gifted and talented and even special education.

But unlike the majority of the schools in the state of New Jersey, according to the NJDOE (New Jersey Department of Education), testing in Camden City school district is unspeakably below average. In 2006 the Office of Compliance Investigation or OCI visited every single public school in the city of Camden to review their testing procedures. Through the visit at Cramer the following were found to be true about their testing scores: Cramer Elementary School showed a shift in fourth grade math scores from 2005 to 2006. In 2005, 66.7% of the students were proficient or above in mathematics. In 2006, only 50% of the students were proficient or above. The scale score dropped from 215.1 to 195.7. Whether or not this was due to some form of adult interference was difficult to determine. The cohort of students moving from third grade to fourth grade did not experience a dramatic change in results. Cramer Elementary remains a cause for concern, despite the fact that no accusations came from this school. The results are unusual, and it is unlikely that they reflect student performance accurately. The score discrepancies from 2005 to 2006 in this school were out of the ordinary and outside expectations, given the performance of schools across the state and DFG A. In light of the OCI's investigation the Camden School District was recommended to develop a 9-step corrective action plan that would aid in eliminating these issues.

In addition to the issues posed by the district the children are faced with the following obstacles found through the Abbott Indicator District Profile published by the Education Law Center:

### Community Context

- 49% have less than a high school diploma, compared to the state's average of only 17.9%
  - The unemployment rate is 15.9%, compared to the state's average of 5.8%
- The median household income is \$23,421, compared to the state's average of \$55,146
- Amount of people that account for the foreign born population is 8.9%, compared to the state's average of 17.5%
  - The violent crime rate is 21.1%, compared to the state's average of 3.6%

### Characteristics of K-12 Students

- 53% are African American, compared to the state's 16.9%
- 44.4% are Latino, compared to the state's 17.9%
- 1% are White, compared to the state's 57.4%
- 1.6% are Asian, compared to the state's 0.2%
- 0.1% are Native American, compared to the state's 0.2%

Of these children more than 80% are eligible for free or reduced lunch, more than 8% have limited English proficiency and more than 15% are students with disabilities.

In considering their performance only 64.5% graduate high school, compared to the state's 92.5%. As you can see there is a tremendous cry for help in the city of Camden.

In my experiences with the attempts to aid the Camden City School District, specifically Cramer Elementary I have witnessed the following:

- Lack of parent participation
- Ineffective communication from District/School to parents
- Lack of a timely response from district on correct filing procedures
- Lack of well-versed/experienced staff to assist with handling/organizing instrumental practices to be carried out annually by PTA.

For example, in my involvement with Cramer Elementary a lot of our challenges arose from lack of parent participation. Some parents had jobs that they could not leave or get time off from; others could not attend unless we provided space for younger siblings of the child attending Cramer and some wouldn't attend at all. There were times when we would get a nice turn out of parents but those times were when we made a commitment to offer some sort of prize or giveaways.

Not only are the children suffering from lack of parent participation, I believe the Camden School System is impeding the SES programs that are available to it. There are two specific instances that come to mind in supporting this fact. The first instance took place during the 2004-2005 school years; Cramer was being offered a tutoring program that would allow each child upon completion of the program to be given a Dell Computer. Though fliers went out to some parents, it was very short notice. Some complained about not getting fliers at all while still some parents were challenged with the ability to read the fliers. They were not sent home in the language most prominently spoken in the homes. The children were trying to interpret the letters for their parents. Moreover, we were told that the money that would be granted to the SES program to fund the project would have to be sent downtown to the Central Office only to be sent back to us to be used. It was explained that the Central Office had to know about all dollars spent on funding. We understood this part but were floored when we heard that the money would not be able to get back to us in time to fund the program. Needless to say, the children suffered and we could not have the program.

Another instance that took place concerning the ineffective communication displayed by the district is proven through the school choice program. The school choice fliers were not given out to all students within the school. Some parents were told by other parents that did receive the fliers of the option of sending their child to another school of better quality and that the

Camden Board of Education would fund the transportation. Of course many of us took advantage of this opportunity by following the steps on the flier and contacting the “Choice School” only to find out the Camden Board of Education would not be assisting us with transportation and if we wanted to still be a part of the program we would have to find our own means of transportation. We were told that we would receive a transportation allowance of up to approximately \$700 per school year for providing our own transportation. This money was supposed to be funded by the Camden Board of Education. I received only a partial payment from the “Choice School’s District” and was later told that Camden had not been reimbursing the amounts issued so we (the parents) would no longer be able to be reimbursed for transportation expenses. Not only were they doing a bad job in allowing our children to receive a decent education within the city but they also were now affecting the potential education that some would have received outside of the city.

Lastly, the Board has done a poor job in choosing SES programs that would fit the needs of the community and schools it is responsible for. The after school program that Cramer did have the opportunity to take part in was offered only to 3<sup>rd</sup> and 4<sup>th</sup> graders to assist with testing. This posed problems for two reasons. First, if children that were participating in the program had siblings in the same school the parents would have to come to the school twice to pick up children, once to get the younger sibling then again to get the child participating in the program. Last, it made a lot of sense to have the tutoring program but not to limit it to only two grades. If the program absolutely, positively had to be limited, it made more sense to limit it to the younger grade levels to allow a foundation to be set so better test taking and study habits would be a part of their normal behavior by the time the children reached 3<sup>rd</sup> and 4<sup>th</sup> grades. This once again displays how our children have not been set up for success.

In trying to incorporate everyone and a fun learning environment the PTA struggled with the ability to use the school for events. When times arose to file permits with the district that would allow us to use the school for PTA events, often we would not receive the permits back in time to sponsor events or had to call several times to the Central office to get feedback on the approval for the events. Amongst all of these issues it was very difficult to find an individual well –versed with anything concerning PTA procedures or that could direct us in the correct path.

Fortunately, there were quite a few teachers, administrators and parents that always were a part of the team in making efforts to change the situation for the better. With this determined group we were able to host a number of positive events for the children at Cramer. The following are some events held throughout my two years with Cramer:

- Art Flier Contest
- Essay Contest
- Parent Breakfast
- Breakfast with Santa
- Valentine Candy Grams
- Uniform Incentive Program
- Donations to each class from Book Fair
- Parent Computer Workshops
- American Education Week Program

Welcome Back Luncheon  
Fun Day

In hosting these events the children were allowed to have fun in a safe environment, as well as, incorporating there exciting activities into their education.

Most of us are aware that when children do not receive the proper education as a foundation in their lives there is a snowball effect that occurs. This is evident in the statistics that were given in the beginning. We all have a part that we could play in assuring that the children of Camden and other areas just like it can be successful. Overall, with steady progression in a positive direction the students at Cramer will have an awesome chance at performing well in all areas of life.

All statistical facts were found in the Camden City District Investigation and Review of Results for 2005 published by the NJDOE and through the Abbott Indicators District Profile published by the Education Law Center for 2006.

## Shelba Woods

As a mother, adoptive mother, foster care mother, and grandmother of a total of nine children attending the Detroit Public School District, all but three children were attending the Detroit School during the time when the “No Child Left Behind” Act of 2001 was implemented several years ago. Of the six children that attended the Detroit Public School District only one child participated in the Supplemental Education Services (SES) last year in 2006. This is because I was not aware of the SES providing free tutoring services for my children. During this time, my children were struggling academically to achieve satisfactory grades. I cannot recall my children’s teachers and counselors recommending these programs. Because of my lack of knowledge of the SES program, my children repeated the same grades over again. Ironically, these same teachers would contact me several times a week to discuss my children’s behavioral problems and academic failures, but never once did they express their knowledge of the SES providing assistance.

When I became aware of the SES program last fall, I immediately enrolled four of my children into the program. Only one of my children received a response from the school district. Shortly after, I received through the mail five large white envelopes containing information regarding various providers offering free tutorial services. I examined the contents carefully and decided to try the International After School Program.

The International After School Program I felt suited my child’s needs. The particular child faced great difficulty focusing and keeping still in the classroom. Spending 7 hours in the same classroom was more than this child could handle. I felt two extra hours of after school learning would not benefit my child because he would not have perceived it as being enrichment learning but a source of punishment for doing so poorly in the regular classroom. I made a wise choice when I chose the International After School Program provider. The courses were conducted on-line and at the child’s own learning pace. He was only required to spend two hours each day on his assignments. He enjoyed it so much that two hours of on-line lessons turned into several hours each day. I was pleased that I was able to monitor his lessons.

The International After School Program made a huge impact on my son’s life. My son was adopted when he was 4 years old. One of the things that I notice with him is that he lacks social skills. His mentor helped him to understand the importance of education and what it means to be a responsible adult.

Last year, I was not aware of the “No Child Left Behind Act of 2001,” my main objective for this year is to enroll all of my children in the SES program.

How could I have missed such a good program such as free tutoring for my children in their school district, especially, when my children needed it most? I racked my brain trying to remember if the school district mailed information out to parents interested in Supplemental Educational Service. I tried to remember if it was mailed out in a packet that may have been over looked by me. I tried to remember if I heard about these programs over my car radio as I drove my kids to school each morning. I even tried to reflect on the news media’s broadcasting of the Supplemental Educational Services offered by Detroit Public Schools

District. What I can recall are the endless broadcasts on the television and radio about how terrible the Detroit Public Schools had become. Among them were the possible mismanagement of school fund to educate the children, budget cuts, the lay-off of teachers, and the district's decision to close more than fifty schools, all frightening issues to say the least.

I have made it my mission this year to make parents of school-aged children aware of the benefits of the after school programs under SES. I am especially inviting my relatives whose children are struggling in school to participate in choice transfers if their child's school has not reached their Annual Progress.



## **Panel Two**

### **Derrell Bradford**

It is with great urgency that I submit this testimony on No Child Left Behind and its provisions regarding Schools in Need of Improvement, and the parental empowerment triggers, such as Supplemental Educational Services and School Choice, that are the Act's underpinnings. Indeed, out in "the world" of urban public education reform, where the rubber of this law meets the road, so to speak, there is an emergency; a crisis that demands the Commission's, and Washington's, immediate attention. It is my hope that this testimony will provide the clarity necessary for the Commission to act decisively, and in the interests of parents and students, not simply large, expensive, urban public education bureaucracies who are the arbiters of the success, or failure, of hundreds of thousands of minority and low-income children each year.

I am the Deputy Director of Excellent Education for Everyone, or E3, a non-profit with offices in the cities of Newark and Camden, New Jersey. E3 is an urban public school reform and advocacy group focused on parental choice in education as a way to spur innovation and accountability in urban public schools. I report to a broad coalition of Board members from across the political spectrum. The Executive Director of the state's Black Ministers' Council, the President of the state's largest Hispanic organization, the Latino Leadership Alliance, two former state Commissioners of Education, two former Attorneys General, and three former chairmen of the State Democratic Party, are all among my Board's members—indeed, there are few groups in the school choice movement generally, and in aggressive educational advocacy as a whole, with such strong, largely democratic, support and overriding social principles, like justice, fairness, and quality educational access for low-income and minority students. I submit this not as an agent of the schools status quo as it exists in Newark and Camden, and in many other urban districts in the country, but as an agent of change for the 42,000 students in Newark, and the 16,000 in Camden, who are being vastly underserved by their respective school systems. Action is urgent, as nothing short of the futures of the African American and Hispanic children who call these districts home, and their place in America at the tables of responsibility and freedom, are at issue.

At E3, we are great supporters of the No Child Left Behind Act. The Supplemental Educational Services, Parental Notification on School Status, and School Choice provisions of the law for children enrolled in schools that are either Persistently Dangerous or In Need of Improvement are laudable, and represent the first real leverage many low-income parents with children zoned into failing schools have ever had against the districts their children's enrollment funds. But as this testimony will detail in three separate instances, the Supplemental Educational Services provision has proven discretely, and the other provisions have shown as a whole, that there is a conflict in largely urban, largely failing school districts that has lain unnoticed for decades. The outcome of this conflict—which is ultimately a battle of wills between low-income parents trying desperately to ensure their children receive a quality education, and large, well-funded urban school districts, such as Newark and Camden—will determine the long-term sustainability of the key tenets of NCLB, assuming it is reauthorized, as well as the future of urban public education in this country. It is quite

simply all about whether or not school district interests trump the interests of parents forced to send their children to schools that, by all measure and metric, simply do not work.

As the members of the Commission may already be aware, the SES provision under NCLB is triggered when a given school fails to meet its Adequate Yearly Progress (AYP) targets, which are determined by each individual state, for a minimum of two years. According to the New Jersey Department of Education, 51 of Newark's 75 public schools, 68% of them, meet this criteria. In Camden, 21 of the district's 31 schools, 70% of them, are also in Year II or later. Arguably more startling is that eight of Camden's schools, and 15 of Newark's schools, have failed to meet these targets for at least five or six years and currently face Restructuring—the severest of sanctions under NCLB. These numbers are important as they indicate the vast majority of students in these cities attend schools that fail students not once, but repeatedly over a given duration. It is this reality—that schools that fail tend to continue to do so—that makes the SES provision vital.

When a child attends one of these schools, where there is a clear deprivation of quality educational progress or opportunity, they should be able to access extra help, in this case in math or language arts, from a trusted educational service or community based provider as the SES provision dictates. Additionally, those responsible for the failure—the teachers and administration at the site or, in the cases of Newark and Camden who have each been identified as Districts in Need of Improvement, the respective districts as a whole—should not be able to provide SES services.

There is, of course, a robust sector of educational providers ready to tutor well-to-do students in a variety of subjects, whether they need the help or not. The Princeton Review, Sylvan—these are companies with a substantial track record educating, in many cases, America's elite students on their way to the country's best colleges and universities. The SES provision aims to leverage existing Title I funds at the local level by allowing parents in “failing” schools to access tutoring with these same providers. In my experience, there isn't a parent on the street in Newark or Camden who, when asked if they want “free tutoring” for their child or children, doesn't jump at the opportunity.

In 2003, my colleague Dana Rone, then the senior member of the Newark Public School Advisory Board, and I saw this market rush for SES in Newark. A first-mover SES provider had developed an aggressive marketing plan that consisted of street teams approaching parents directly at their respective schools during drop-off and pick-up. They then proceeded to inform parents, who were near totally unaware, of their right to free tutoring under NCLB due to the school's status as “in need of improvement,” of which many of them were also unaware. In a few short weeks, the provider had signed up nearly 800 students. At what was then an SES per pupil rate of approximately \$1,200 per child, they had secured nearly \$1 million in potential revenue to be drawn against the Newark Public Schools' (NPS) Title I funds. Funds that, when unspent on tutoring, can be used for other expenditures.

NPS were caught unawares. They had done little if anything to publicize any of the mandatory NCLB notifications, such as school status, choice, or SES. As a later report done by the U.S. Department of Education's Office of Inspector General indicated, neither the

New Jersey State Department of Education, nor the districts of Newark or Camden “compl[ie]d with requirements for providing parental notification letters of both school choice and SES options.” Newark in particular, according to the report, only sent a “heads up” letter to parents, regardless of their children’s school’s respective Title I status, telling parents their children “may be” eligible for SES. However, Newark did not follow up with any letter to parents after the actual school status determinations were compiled.

NPS leadership proceeded to invalidate the sign-ups obtained by the provider in question, citing an improper form, though to my knowledge, and the knowledge of my school board member colleague, there was no unified form used by the district at that time. What ensued was, literally, a door-to-door scramble by the provider to re-canvass all of their existing sign-ups and have them re-sign their respective forms, hence reenrolling their children in SES with them for that school year. Ironically, during this time, the provider managed to bring almost 100 additional children into the fold.

A year later, however, NPS leadership engaged a plan meant to stifle outside competition, force out competitors, and become a provider itself, despite having been declared a district in need of improvement and, thus, being prohibited from being an SES provider as a school district. My colleague Ms. Rone, in a letter dated September 29, 2004, raised this issue with both the district’s Chief Legal Counsel, and the then NPS Advisory Board President.

It disheartens me that we can be an SES provider in this city, when the U.S. DOE clearly supports—and nearby school systems like New York have already adopted—policies preventing failing schools and school systems from providing SES. What’s apparent to me is that Newark Public Schools has thirty-seven (37) out of forty-three (43) elementary schools that failed to make Adequate Yearly Progress (AYP), and thirty-four (34) Title I schools eligible for Supplemental Educational Services. The District receives approximately 7 million dollars in SES support via Title I funding, and has 17,511 students who are eligible for SES tutorial services.

Newark Public Schools submitted a provider application to the State Department of Education, franchising itself under Abington Avenue, one of the few successful schools in the district. We were in receipt of the application and, as such, we contacted the U.S. Department of Education with our concern that NPS was, in fact, using Abington Avenue as a shell through which it could offer tutoring to large numbers of students, despite its status as a District in Need of Improvement. One needed only look to the number of children the program planned to serve, 4,000, to know that this was an umbrella application for a multi-site effort to ensure the District stopped the bleeding of eligible students to private providers. Correspondence from the U.S. DOE representative indicated that “Karen Campbell and Judy Alu in the NJ Department of Education [were informed] about the situation, and they felt like the school [Abington Avenue] did apply as a legitimate provider on behalf of itself. I think that since they are aware of the appearances of the situation, they will be monitoring the school a bit closer.”

The situation was never challenged again.

Decreased uptake of SES means, of course, there are fewer students drawing on the up-to 20% of Title I funds identified under NCLB to provide SES tutoring. We later received information from parents that NPS was, essentially, bundling their own after-school programs with the Abington Avenue tutoring franchise; in effect telling parents that there

was no after school programming available to them unless they chose Abington as their tutoring service. We even received an application from a parent after she noticed that Abington was already filled in as the first choice when she received her application.

More drastic still was NPS' collusion with the State Department of Education in June of 2006, when Ms. Rone, who at the time was a newly elected City Council representative, organized a summer door-to-door campaign meant to raise awareness on SES and the choice provisions under NCLB, while increasing sign-up for the undersubscribed service. Councilwoman Rone was told via e-mail from a representative in the office of Title I Planning & Accountability that "it is the responsibility of the district to distribute the enrolment form to eligible students." The DOE representative went on to write to Dr. Gayle Griffin, NPS Assistant Superintendent, "you may supply the Councilwoman with a sample copy of your form," and that "the enrollment form should not be copied and distributed to the general population as not all families in the school are eligible for SES."

This stands directly at odds with the District's previous policy as cited by the OIG report. A "heads up" letter informing parents their children might be eligible for SES has the same opportunity to hit or miss an eligible student as door-to-door sign-up. However, when three of every four students in Newark Public Schools are enrolled in schools where SES has been triggered (almost 30,000 of 42,000 students), it is clear that controlling the uptake, and the provider selection, for SES are the top-line items for NPS, and State DOE, leadership.

The tale in Camden plays out in a more anecdotal, but generally more sinister manner. With over 13,000 of its 16,000 students, 81%, attending schools deemed In Need of Improvement, Camden students are, en masse, eligible for SES in a similar fashion to Newark's students. However, recent developments surrounding a series of cheating scandals, deemed "adult interference" by the State Department of Education and finding their blame in pressure initiated by NCLB's state-defined progress targets, have left numerous students wanting for tutoring with no ability to access it.

In 2005, an analysis of the standardized test scores at U.S. Wiggins, and H.B. Wilson elementary schools in Camden revealed that their students had among the highest standardized test scores in the state, with results of 96.6%, 98.4%, 92.5%, and 100% proficient on their respective language arts and math assessments at each school. A year later, after the State DOE launched an investigation into testing practices at this and several other schools in Camden as a result of a *Philadelphia Inquirer* in-depth review of the scores, and a scandal surrounding Joseph Carruth, the whistle-blowing principal of the district's highest performing high school who alleged he was told to cheat on the state's proficiency assessments and was later fired for his assertions, the scores at U.S. Wiggins and H.B. Wilson dropped dramatically. With State monitors present during the testing, U.S. Wiggins saw its students' scores drop 41.6 points in Language Arts, and 42.7 points in math. H.B. Wilson saw more dramatic drops, with its language arts scores plummeting 66.3 points, and its math scores falling from 100% proficient to 23.2% proficient, a 76.8 point drop. The principals at both of these schools have since retired amidst these revelations.

In the wake of these events, *The Courier-Post* has reported that parents of children in these two schools are aggressively requesting SES tutoring. However, neither the district, nor the State DOE, will offer it to these students. As the *Philadelphia Inquirer* reported, the State DOE “has refused to invalidate the rigged 2005 scores at H.B. Wilson and U.S. Wiggins, which could have helped with eligibility for tutoring reserved for failing schools. The state says its hands are tied in instituting a tutoring program because of federal regulations.”

When questioned, Interim Superintendent Leonard Fitts said of the situation, “There’s a good possibility that they [the students] missed out on some opportunities.”

Even more telling, the State DOE has refused to invalidate the scores, which it describes as “suspicious,” later indicating that the “adult interference” that was catalytic in the score discrepancy does not qualify either of the schools for tutoring.

In recent days, yet another investigation of the cheating scandal was released. The \$90,000 report, commissioned by the Camden Board of Education, confirmed where the state had been unable to, that the “adult interference” was actually full-blown cheating, and cited the pressures of No Child Left Behind stating that:

*“Federal and State education officials are hardly blameless in this series of events. They have concocted a system under which enormous benefits flow to schools that satisfy arbitrary test score cutoffs and severe consequences flow to those that do not. They then express stern disdain when districts cross the line in achieving those scores. The NCLB structure places an absurd amount of emphasis on the results of a single test. While the district administrators’ actions are inexcusable, it is ultimately not surprising that investigations of test score manipulation are almost commonplace around the country.”*

Camden Interim Superintendent Leonard Fitts later endorsed a Board recommendation that called for revisions in NCLB because it “levies penalties against schools and administrators on the basis of test scores and creates a culture ripe for cheating.”

In Camden, and likely in many other places in the country, “NCLB made me do it,” is the rallying cry of administrators desperate to be unaccountable for the education they are charged with delivering to our students.

With over 13,000 students attending failing schools, Camden has allocated just \$2.6 million in Title I funds to SES tutoring, enough for 1,300 students, or less than 10% of those attending schools that are, by any measure, chronically failing. There are, indeed, few places in America where students are being robbed of a quality education as boldly as in Camden City.

Lastly, in an effort to broaden the range and quality of SES choices available to students in Newark, Camden, and other districts with high concentrations of failing schools, E3 partnered with the five Catholic Diocese of New Jersey in their effort to submit a unified application to be an SES provider. The Catholic Schools Network in New Jersey is the only widely deployed educational resource capable of leveraging its own infrastructure and

personnel to provide tutoring services in the affected districts. The schools have their own teachers and, more importantly, their own facilities, and hence they are the only credible, competitive alternative to district-level monopolies such as Newark and Camden, where there is little incentive to increase uptake or diversify the SES provider portfolio. The application was soundly rejected by the Office of Title I at the State Department of Education; the same department that prohibited the use of the original SES application by Councilwoman Rone's door-to-door sign-up effort during the summer of 2006. When an appeal was requested after a private review panel found the Catholic Schools SES application allegedly substandard, that too was rejected with the State DOE stipulating that "[t]here is no appeal process for SES applicants who do not meet minimum [State] requirements."

A petition was sent to U.S. Secretary of Education Margaret Spellings outlining what were clearly anti-competitive, child-last practices at the state level in the authorization process. The U.S. DOE's analysis revealed that the State DOE, in fact, had no written policy in place to process a complaint from an SES applicant so as to resolve a conflict under federal statute. In this case, the State DOE, likely recognizing the challenge it faced in the SES marketplace if the Catholic Schools Network were a provider, seemingly "made up" a reason to reject an application and deny an appeal. This, members of the Commission, is an everyday example of how the spirit of NCLB, and its data-and-results driven, students-first focus, is circumvented by state and local school districts. Offering tutoring to children who attend chronically failing schools through third-party providers may be incredibly beneficial to students, but it stands at direct odds with the financial interests of the school districts in question.

As indicated earlier, we have been great supporters of NCLB—a law that is perceived as largely republican—in a heavily democratic state. We have always supported the "spotlight" NCLB shines on achievement, and its mandate to disaggregate data so we could finally understand how minority children were being underserved in our public schools, both urban and suburban. Because we supported the law's core tenets, and the SES and Choice provisions in particular, we were also very aware of district level non-compliance as described in this testimony. Unfortunately, we found that the U.S. DOE was ultimately unwilling to enforce NCLB; unwilling to withhold funds or deliver on the remedies clearly set forth in the law. The Associated Press, in a story dated April 17, 2004, perhaps illustrated this best. The piece, titled "States omit minorities' school scores," described what amounted to collusion between state and local school districts to exclude traditionally low-performing groups from the test pool, while the U.S. DOE, essentially, turned a blind eye to these happenings.

*"States are helping public schools escape potential penalties by skirting the No Child Left Behind law's requirement that students of all races must show annual academic progress. With the federal government's permission, schools aren't counting the test scores of nearly 2 million students when they report progress by racial groups, an Associated Press computer analysis found.*

*Minorities—who historically haven't fared as well as whites in testing—make up the vast majority of students whose scores are being excluded, AP found. And the numbers have been rising.*

When questioned in an interview, Secretary Spellings told the AP “Is it too many? You bet. Are there things we need to do to look at that, batten down the hatches, make sure those kids are part of the system? You bet.” Unfortunately, the hatches have not closed, and school systems that are predominantly minority continue to drown these children beneath the ocean of inefficacy.

New Jersey elevates this kind of fraud to an art form with its alternate graduation assessment, the Special Review Assessment or S.R.A. Students are given the S.R.A. after failing the standard High School Proficiency Assessment (HSPA)—a test many believe only tests 8<sup>th</sup> grade skills—at least three times. In the state with the nation’s highest graduation rate, one-in-five graduates needs the S.R.A. to receive a diploma. In many urban districts, the rate is closer to 70% of students needing the S.R.A. to receive their diploma—the same diploma, mind you, that a student that passes the HSPA receives. In school year 2005, only 37% of Newark’s graduates were able to pass the standard High School Proficiency Assessment—just 752 students out of 2029. All others needed the “easier” S.R.A. *The Nation’s Highest Graduation Rate* in New Jersey is a fabrication at best—an untruth set forth by the education establishment to support its own objectives and interests, which clearly do not always overlap with those of students’, particularly when they are poor or minority. These lies, and the clear intent to obfuscate the reality of the failure from parents, students, and the country, is criminal.

Also complicit in this pattern of failure is the National Education Association, the country’s largest teacher union. NEA is vocal with its challenges to accountability and progress for the students in cities like Newark and Camden who have been underserved by their members in the teaching corps, even going as far as to sue the Federal Government to extricate certain school systems from NCLB’s regulatory framework. The NEA shies from accountability, and NCLB’s data provisions are a painful light on how many NEA members simply are not delivering the educational services our neediest students require. Indeed, NEA seems more concerned about increased funding for NCLB than increased achievement for low-income and minority students. Outcomes and timetables are antithetical to their existence as the bargaining unit for the majority of the country’s public school teachers. Only membership matters. It’s quantity, not quality. Much as how the highly qualified teacher provision of NCLB far from ensures that teachers are of high quality, NEA’s interests in NCLB are consistently at odds with the promise of a high quality education, and the drive to move schools forward toward proficiency in unison, that NCLB promises.

These conflicts generate E3’s core support for parental choice in education. In our experience supporting urban parents in failing public school systems, there is little if any help to be had from the traditional institutions charged with ensuring schools execute on their sacred charge—educating students so they have a place at the table of freedom and opportunity. Only the parent, empowered by choice, can be fully trusted to ensure that the child’s education—not jobs or pensions or contracts or other adult institutional interests—are the top priority. You need look no further than Camden to understand this; arguably America’s worst school district, racked by scandal, violence, and failure. There are 16,000 students trapped in those schools, lead by the same people who have lead them for years. To put it simply, the parents just don’t trust the schools to get the job done anymore.

It is important that the members of the Commission recognize that Newark and Camden, perhaps to the exclusion of any other urban districts outside of the state of New Jersey, do not have the property-tax driven resource issues of other urban districts. Newark and Camden are among the highest spending public school districts, urban or suburban, in America. A 2002-2003 U.S. Census Bureau study of per-pupil spending in school districts with over 10,000 students showed Newark as the highest spending district in America, spending \$17,652 per student. Camden was fifth on the same list at \$14,499 per pupil. The per-pupil expenditures in these cities has only increased since this report, as has the failure. For the current school year, the Newark Public School budget is nearly \$1 billion, almost as much as the GDP of some small countries. New Jersey has achieved, and surpassed, resource equity for urban students in a way that shames almost any other state in the country.

Yet the SES provision, as an exemplar, uncovers the sad reality of NCLB. No Child Left Behind largely represents rules and principals, but rarely consequences. The U.S. DOE has been seemingly unwilling to either confront bad actors in the form of self-interested State and Local Education Agencies, or withhold monies from Title I accounts as it is entitled to do, to ensure that school districts make the parental empowerment portions of the law realities for the low-income families being underserved in cities like Newark and Camden.

Availing parents and advocates with annual performance data, and a series of safety valves that are rarely, if ever, actually made available at the local level has made school districts increasingly difficult to deal with, and parents more frustrated than ever. Transfers, for instance, from either dangerous or failing schools are exceedingly difficult to access. Inter-district transfer arrangements, as U.S. DOE guidance suggests, are hardly, if ever, implemented, and when transfers are allowed, children often leave one failing school for another. In 2006, Camden Interim Superintendent Leonard Fitts, in responding to the concerns of a group of Hispanic students at Woodrow Wilson, one of Camden's two comprehensive high schools, who were victims of violence, devised a plan that would not allow students to transfer out of district to ensure their safety or their education. He did, however, make a transfer to Camden High, the city's other comprehensive high school, available. Camden High, currently in Year IV status, is far from an oasis for students, as it has been beset by violence in recent years, in addition to an inability to meet AYP targets for its students. In 2006, 74.8% of students failed the language arts, and 85.5% failed the math portion of the state's High School Proficiency Assessment. Woodrow Wilson, by contrast, saw 76% of its students fail the language arts portion, and 87.8% fail the math section on the same exams.

Members of the Committee: a choice between these two schools is no choice at all. Yet it is the only option District leadership will provide to students trapped in Camden or Newark. Many students want transfers to protect themselves from violence, as has too often been the case in Camden, or simply to try to maximize their access to a better education. Unfortunately, the caliber of these schools delivers on neither of these promises.

Many students in Camden are rejecting this farce entirely, instead opting to create small home-schooling enclaves where the students are safe and nurtured. This is the last, most aggressive vote on the failure of Camden public schools, and its unwillingness to cede power to parents in their pursuit of safety and academic opportunity for their children.



No Child Left Behind, SES, School Choice, and the other core provisions are, in practice, a rough outline to school districts. They are portions of a law seemingly without enforcement or penalties. It's clear that the political will has not existed to hold school districts accountable, or penalize them for their failure by allowing parents increased educational options. With this in mind, there are several recommendations the Commission may find helpful in adding teeth to the legislation, and ensuring that parents and students have access to the opportunities NCLB seeks to make available.

## **RECOMMENDATIONS**

- All schools in Year V or VI, Restructuring I or II, should be converted to charter schools and the teacher union contract abrogated. These schools have had more than enough time, even on a value added scale, to reform. They have clearly failed, and the leadership and staff should be removed and the school reconstituted immediately.
- Supplemental Educational Services uptake should no longer be regulated by the State or Local Department of Education. The regulatory relationship is much as if the FAA also ran an airline. It is inherently anti-competitive, and students lose out on opportunities in the clash of interests.
- Remove the "up to 20% cap" on Supplemental Educational Services that can be charged against Title I monies. The 20% guideline is seen as a ceiling, not a floor, Lift the maximum to 100% of Title I funds to both maximize the number of students that can access SES, and the district-level penalty for a consistently growing population eligible for the service.
- School districts should be disallowed from charging a rent or space-usage fee to third-party SES providers.
- Door-to-door sign-up should be allowed by community based organizations and third-party SES providers.
- Absolutely prohibit Districts in Need of Improvement from providing SES under any guise or umbrella.
- The U.S. DOE should withhold Title I funds when local school districts choose not to comply with state-based NCLB regulations. If there is one thing school districts understand, it's money.
- Allow any child whose test scores fail to meet state standards for two years or more in a row to take their per-pupil expenditure to a better performing public (in or out of district) or private school of their choice. Without improving access and options for the children in questions, we destroy the spirit of NCLB, and the lives of the children it is meant to service.

Thank you.

**Maite Arce**

Chairman Reynolds and Distinguished Members of the Commission:

I submit this testimony on No Child Left Behind and its provisions regarding Schools In Need of Improvement, Supplemental Educational Services, and School Choice. It's my hope that this testimony will assist the Commission to act in the best interests of parents and students in doing what is right to protect their rights under this law.

I am the Vice President of Operations of the Hispanic Council for Reform and Educational Options (Hispanic CREO). I am responsible for all operational aspects of core programs including membership, affiliates, communications and parental outreach. Our national headquarters is located in Washington, D.C.; we have an office in San Antonio and field representatives in Denver, Phoenix, Austin, Dallas, McAllen, and Houston.

Hispanic CREO is a D.C. based national membership organization whose mission is to improve educational outcomes for Hispanic children by empowering families through parental choice in education. Our purpose is to be a national voice for the right of Hispanic families to access *all* educational options and to be an agent for equity and quality in education.

The founding of Hispanic CREO in 2003 was a direct response to the long-standing and deepening crisis that exists in the United States today with respect to Latino educational underachievement. We are the only Latino constituency organization in the nation that is dedicated solely to the cause of empowering parents through school choice. We work largely with and through other Latino organizations in the accomplishment of our mission and purpose. Our membership and affiliates have a combined potential reach of more than 1.4 million Latino's nationwide.

Hispanic CREO supports the No Child Left Behind Act, specifically with regard to the Supplemental Services provisions. The Supplemental Educational Services, Parental Notification on School Status, and School Choice provisions of the law for children enrolled in schools that are either persistently dangerous or in need of improvement represents the first opportunity that low-income parents have ever had to take direct action in obtaining resources and services that can directly improve their children's academic performance. However, for the NCLB parent-focused provisions to have the intended impact on academic achievement, the current problems with implementation must be fixed now.

As the members of the Commission may already be aware, Latinos are the largest minority group in the United States and are far and away the fastest growing, *and the youngest*, segment of our national population. According to the 2002 Current Population Survey census, Hispanics number 38.8 million or 13.8% of the U.S. population, yet,

- 54% of Latinos in the U.S. cannot read adequately;
- Only 5.5% of the bachelor degrees in the U.S. are earned by Latinos;
- 30% of U.S. Hispanics do not have a high school degree;

- Hispanic high school drop rates are 2.5 times the rate of Blacks and 4 times the rate of whites; and,
- And if that is not urgent enough, then consider the Census Bureau's projections that;
- The Hispanic population increased by 57.9% from 1990 to 2000;
- While 25.7% of the U.S. population was under 18 years old in 2000, 35.0% of Hispanics were under 18;
- Hispanics will become the largest teen minority group within the next two years and by 2015 Hispanics will constitute 20% of the teens in the U.S.

From 2003 through 2004, Hispanic CREO conducted outreach to the parents of more than 18,000 high at-risk children in five critical urban communities, in three states, with high concentrations of Hispanics: Miami, Dallas, Austin, San Antonio, and Camden. This project had a special emphasis on families in which Spanish is the primary language. The main objective of this program, called Project CREO, was to promote the school choice and supplemental services provisions under the NCLB Act by building public awareness, knowledge, and understanding of--and participation in--the educational options and services made available through NCLB. It is through this parent and school awareness program that thousands of Latino children were in a position to realize their rights under the NCLB.

Project CREO parent organizers saw many successes in building parent awareness and knowledge of NCLB provisions. However, parents with children enrolled In Need of Improvement schools in every Hispanic CREO target city reported the difficulties of applying for and receiving SES services. In addition, private tutoring providers in some cases also reported that they too had difficulty in receiving information and assistance from the school districts to be able to adequately reach and serve eligible students.

Project CREO parent organizers received complaints from parents about the difficulties of applying for and receiving SES services. In most cases, Hispanic CREO parent organizers directly assisted parents in obtaining information and accessing services and experienced the lack of response from school administrators, unclear information about how to work with private providers, and lack of clarity about how providers would accommodate English Language Learners, and students with disabilities. Fortunately, the parent organizers were successful in obtaining services for students, but only after pressuring school districts to provide parents with access to services.

Most SES eligible parents who participated in the Project CREO program who reside in the Austin Independent School District (AISD) reported that they never received eligibility letters from the district. Some parents reported to have received an SES eligibility letter but with only one week notice to apply. In this case, the untimely manner in which this information was provided was not the only problem; parents also reported that the letter was not in the language that they could understand. The law makes it clear that information sent to parents must be "understandable and uniform format, and to the extent practicable, in a language the parent can understand." The first full year in which AISD schools designated as In Need of Improvement were required to provide eligible children with access to outside tutoring services, AISD reported to Hispanic CREO and parents that they had not the sufficient providers and were not yet prepared to offer the tutoring services to parents.

Providers reported poor communication with AISD. To say this was frustrating for parents, SES providers and Project CREO organizers is an understatement. This was seen as a lost opportunity by parents who felt that valuable time and resources were being lost, and more importantly, that their children were being victimized by a bureaucratic school system that didn't allow their children to exercise their basic rights under NCLB.

Camden, New Jersey was a target city for Project CREO from 2003 through 2004. Project CREO organizers trained 887 parents and as a result 77 families received outside tutoring services and 93 school transfers were obtained. This is good news, because the individual family stories were incredible and some changes happened that gave these parents hope for their children that they didn't have before. However, the Commission must understand the dire situation that Camden students and parents are facing, with 81% of students trapped in schools that are designated In Need of Improvement. The job of obtaining student transfers was extremely difficult. Hispanic CREO had to support Project CREO leaders in putting pressure on the Superintendent, Annette Knox, who had no choice but to take direct action by cutting through the bureaucratic red tape and approving the 93 school transfers. Most parents in the system did not have this kind of support and access to the Superintendent; this means that most families (those not involved in Project CREO) were unable to exercise their rights under NCLB. The dismal fact in this situation is that although the transfers for these students were obtained, Project CREO had to inform parents that their children were being transferred from one failing school to another because no other choice is available to them. A documentary that Hispanic CREO developed in 2004 that follows a Project CREO family, includes an interview with the former Camden Public Schools superintendent, Annette Knox, in which she says, *"Let's face it, school districts are a bureaucracy even though we don't want them to be and we try not to be, but sometimes you need somebody else to get the solution and get the answers that parents need."*

The District of Columbia Public Schools (DCPS), is an area that was not a Project CREO program focus, however, it lies in the backyard of Hispanic CREO's national headquarters and therefore, couldn't be overlooked. Hispanic CREO received reports from parents and community based organizations that DCPS failed to properly inform parents about their right to apply and receive SES services. It was reported that DCPS sent eligible parents a one page flyer on August 1<sup>st</sup>, 2004, inviting them to a parent meeting about SES services. The flyer was only in English and provided no information about the definition of SES or the provisions under NCLB. Parents reported that they ignored the flyer because they didn't understand it. DCPS reported to the local nonprofits, such as the DC Parent Information Center that they found little interest on behalf of parents to apply for and receive SES services. When parents learned that they missed a critical opportunity for their children to receive free outside tutoring services, they were outraged. Why was the information provided in such a vague manner, in one language only, and at such an untimely fashion, if not to try to deliberately avoid offering these options to the families?

The U.S. Commission on Civil Rights has tried to communicate with DCPS for this hearing and has not received any return calls.<sup>1</sup> What does it mean when a school district thinks they

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<sup>1</sup> This information was accurate when Ms. Arce prepared her statement. However, Commission staff subsequently contacted representatives of DCPS.

don't have to answer to the U.S. Commission on Civil Rights? Imagine what parents experience when they do their best to face a public school monopoly such as DCPS? It saddens us that this is affecting the lives of so many inner-city, at-risk children, who might have a chance if their school districts would only enforce the laws that legislators have enacted for their benefit.

In suburbs, such as Fairfax County, Virginia, NCLB parent provisions are being enforced with excellent results. This is helping many suburban children. However, the students who have the most need for NCLB provisions do not live in the suburbs, and this is where most of the problems with implementation of the law exist.

Hispanic CREO found major problems with implementation of SES, School Choice and Parent Notification of School Status under NCLB. Problems lie with communication between school districts and both parents and private service providers. We are particularly concerned about the service to at-risk students, including English Language Learners, and students with disabilities. NCLB SES, School Choice, and other provisions provide a critical opportunity for parents in their quest for academic success for their children. However, NCLB parent-focused provisions are not being enforced by many school districts because they are not held accountable for noncompliance. Hispanic CREO makes several recommendations to the Commission that may be helpful to ensure that families will truly benefit from the opportunities that NCLB offers.

## **RECOMMENDATIONS**

Communication to parents must be clear, understandable and offer the time needed for parents to act.

The U.S. Department of Education is proposing to require 30 days notice of SES provisions to parents in the reauthorization and that if a school district fails to abide by the law, they 'may' risk the forfeiture of funds. We recommend that parents be given at minimum 60 days notice, in a clear and understandable manner, and in a language they can understand. We recommend that school districts face automatic forfeiture of funds if more than 10 parents formally file complaints to the school district about inaccessibility to SES and other provisions.

Cooperation between city and state officials and private providers must dramatically improve.

We do not believe it is in the best interest of children to designate teachers from the same schools deemed In Needs of Improvement to serve as tutors under the NCLB SES provision. Families must have access to outside private providers. In addition, school districts must be required to cooperate and improve communication with outside providers in a uniform manner or also be required to forfeit funds for noncompliance. This continues to be a monopoly that must be addressed and is not in the best interest of students.

Services to the most at-risk users of SES, English Language Learners, and students with disabilities must be uniformly implemented in order for them to be properly served as required by NCLB.

Many of the providers reported that they did not have information about the populations that they were serving. One provider reported that the school district administrators were uninformed as to how and when they were to begin working with private providers and with regards to information about the population they would serve. Private providers should be informed in a uniformed manner about the composition of the students they will serve so they can ensure that they can accommodate all students.

I offer my thanks to the Commission for your attention to this important issue.

Thank you.

## Harrison Blackmond

Good morning. My name is Harrison Blackmond. I am a product of the separate, segregated schools in Alabama and the ghetto schools of Cincinnati, Ohio. I am the ninth of twelve children and was the first to graduate high school and the only one to attend college or get an advanced degree. I have an undergraduate degree and a graduate degree from the University of Cincinnati and a law degree from the University of Michigan Law School. My first job out of law school was with a labor law firm representing the largest teachers' union in Michigan. I subsequently worked directly for that union representing teachers and negotiating collective bargaining agreements.

I subsequently held positions as a prosecutor for Los Angeles County, as a business executive and leader of a statewide school reform initiative in Michigan. My personal mission is to do what I can to help eliminate the so-called achievement gap between children of color and their white counterparts. I have spent the last twenty years doing just that. I am currently semi-retired, however, for the last year I have worked full time as the President and CEO of the Detroit Chapter of the Black Alliance for Educational Options (BAEO). BAEO's mission is to actively support parental choice, empower families and increase quality educational options for Black children. For the last three years our work has included providing parents with low incomes information regarding their rights under the No Child Left Behind Act of 2001.

I am telling you about myself, not to brag or boast, but to let you know where my passion comes from. I tell you about myself to let you know that I can identify with the children and parents in the neighborhoods in Detroit. I was one of the lucky few who made it out, relatively unscathed and prepared to compete with anyone academically. Unless we address the issue of the achievement gap with some urgency, very few of the 100,000 children in the Detroit Public Schools will have an opportunity to live the American dream as I have.

I believe that the right to a quality education is the most important civil rights issue of this century and it is most appropriate that the US Commission on Civil Rights address this issue and I applaud you for doing so. Especially in light of the fact that the voters in Michigan, in their wisdom, have chosen to ban most forms of affirmative action in the state. As a result, entrance into the best college in the country, the University of Michigan, will be accessible only to those who can compete academically with children from suburban, private and parochial schools. Parents with low incomes, who, like their middle and upper income counterparts have the same hopes and dreams for their children, will need all the help they can get to help their children achieve academically given the lack of quality educational options that exist in their communities. A day does not go by during which I receive a call from a distressed parent seeking academic assistance for his or her son or daughter in high school or middle school and cannot read or write.

Under the No Child Left Behind Act, parents with low incomes whose children are attending Title I schools that have not met adequate yearly progress for three consecutive years, have two options: they can request a transfer to a better performing school or they can request supplemental educational services (SES), or tutoring. For most parents the option to transfer is either not available for a variety of reasons, or it is not desirable. So SES remains the only

real viable option for most of those parents and for those who can overcome the many barriers, both intended and unintended, it provides a valuable resource that they could not otherwise afford.

In 2003 when the program was first initiated in Detroit, the administrator provided as many opportunities as possible for parents to learn about the program and sign up. In addition to mailings directly to homes, there were enrollment fairs around the city, newspaper ads in the major papers, radio spots, cable television announcements, flyers delivered to schools, applications given to providers for distribution and meetings with school principals and providers. Efforts were made to make the process as “user-friendly” as possible. Between 2003 and 2005 approximately 10% of eligible students participated.

Sadly, starting with the 2005-2006 school year, SES in Detroit has become largely unavailable for most eligible parents and students. Seventy-four Detroit Public Schools are “in need of improvement” with approximately 70,000 eligible students and, based on the 2006-2007 Title I allocation, there are over 15,000 eligible slots. It is estimated that less than two percent of the slots will be filled during the 2006-2007 school year. Why, because the procedures and methods the Detroit Public Schools uses to notify parents and register eligible students is inadequate, places an undue burden on parents and because the district has not embraced after-school tutoring as a mechanism to help improve student performance. In addition, capable, qualified and committed SES providers find it difficult and degrading to provide services in Detroit.

Historically, Detroit parents have been put through considerable inconvenience in order to access services, thus reducing participation. The district generally uses only one form of communication with parents of eligible students: mailings. Detroit, like many urban districts, is characterized by transient families, lack of transportation and high levels of illiteracy. The district ignores other means of communicating with parents such as radio, newspaper, television and even the internet. Information is typically not available at local schools and parents have complained that local school officials know little about the program and therefore are unable to provide any information.

Parents receive a packet of information that is intimidating for many and incomprehensible to others. The applications are not sent in a timely manner and are only available from the central office. Providers are no longer allowed to distribute the applications and are discouraged from assisting parents in completing them. Some parents who sent their applications in on time were told that they were never received by DPS. Parents were told that they would have to wait until next year to apply.

The first full week of school for Detroit students began on September 25<sup>th</sup> due to a three week strike by teachers. Multiple “fairs” to inform parents regarding SES, typically poorly attended, were cancelled. Parents had been informed that the deadline to sign up for tutoring was October 2, 2006, however, no pre-printed forms or letters of notification had been sent nor had any change in the deadline been communicated. The District planned to only mail the forms to students’ homes and they were not available at the students’ schools. Eventually, the district changed the deadline for applying to November 18<sup>th</sup>; however, even as late as



November 11<sup>th</sup> many parents complained that they had not received the preprinted application. The district has restricted the distribution of the enrollment forms by prohibiting photocopying and distribution by SES providers and local school personnel. Parents are forced to travel to the school district administrative offices to obtain and/or submit applications if they are not able to do so by mail. No provision was made for contacting and enrolling children whose parents were homeless.

Even after numerous attempts to contact DPS officials, it is still unclear how many students are enrolled in SES. Even now some parents complain that eligible students have not been placed and are not receiving tutoring.

Parents and community leaders who support the program suspect the district is attempting to limit participation so that the funds allocated to SES can be used for other purposes. Others suspect that the district does not allocate adequate resources, both financial and personnel, to administer and market the program because it is simply not a priority. Parents who want to keep their children in Detroit Public Schools, those who are unable to leave or those who cannot transport their children to other districts see SES as one of the few opportunities they have to address their children's academic performance.

SES providers have also expressed concerns about SES implementation in Detroit. Their complaints include non-negotiable contracts, handling of contractual disputes and exorbitant rates for use of school facilities and favorable treatment for certain providers who have relationships with the district. In the beginning, the district assigned SES coordinators at each school so providers had a point of contact with the district to resolve problems and assist parents. The district has discontinued that practice. Providers complain of disrespectful treatment and lack of flexibility. Parents are required to sign certain documents before the providers can be paid. In some instances parents cannot be located in a timely manner and providers end up providing services for no pay. Other districts allow older students to sign attendance sheets when parents cannot be located.

Providers are required to submit bills within ten days after the end of the month in which the services are rendered. If they do not submit the invoices and attendance sheets on time (with parent signatures), they will not get paid. The district then has 75 days, two and one half months, to pay the provider.

Many parents and children in Detroit are not receiving the full benefits promised by the No Child Left Behind legislation. The Detroit Public Schools have not followed the recommendations from the GAO and the US Department of Education that the district provide open access and availability for parents to register their child in supplemental educational services. Districts should reduce and eliminate processes that can hinder participation and instead embrace a process that allows open access to maximize participation. The USDOE advises districts to make the applications "easily available ....and should widely distribute" them. The USDOE also advises districts to "not restrict the distribution of enrollment forms (including photocopying of forms) by non-LEA individuals." The Detroit Public School District has blatantly disregarded such guidance.

Finally, USDOE urged districts to “ensure that they have an open, adequate, and reasonable process for parents to submit application forms.”

The administration of the SES program in Detroit represents a blatant denial of the promise the federal government made to families with children attending schools that are not educating their children to the high standards that will allow them to compete in the new global economy. Denying these children the help they need and deserve condemns them to a future devoid of hope and any real chance to fulfill their dreams. They deserve an equal opportunity to succeed and as long as we continue to deny them the right to a quality education, we deny them an important civil right.

Thank you.

## Eugene W. Hickok

Thank you Chairmen Reynolds for the opportunity to appear before this Commission to discuss Supplemental Education Services under the federal No Child Left Behind Act.

I am Eugene Hickok. I am Senior Policy Director at Dutko Worldwide, a government relations and public policy firm headquartered in Washington, D.C. In addition, I am a Bradley Fellow in Education at the Heritage Foundation, also located here in Washington, D.C. Prior to these positions, I served as under secretary and then deputy secretary of education during President George W. Bush's first term. While serving in the Bush administration, I had overall responsibility for the implementation of the No Child Left Behind Act (NCLB).

As you know, the No Child Left Behind Act was President Bush's highest domestic priority during his first term. Passed with strong bipartisan support in both chambers of Congress, it represents a bold new step for the national government in American public education. Today, every State in the union has an accountability plan in place for its public schools. Every State has enacted academic standards and is testing students based on those standards. Every State has adopted policies for identifying schools that are not making adequate yearly progress toward ensuring all students achieve proficiency in reading and math. And every State has adopted policies regarding the provision of supplemental educational services (SES) for students enrolled in schools that chronically under perform.

I think it is fair to say that something of an education reformation is underway in the country. It is driven, in part, by the policies embraced in No Child Left Behind. And it is driven, in part, by education and political leadership at the State and local level by men and women who recognize the urgent need for serious and fundamental change in American education. I am hopeful that we are beginning to see that sort of change. But we have a long way to go.

I have been asked to comment upon the implementation of the Supplemental Educational Services (SES) provisions of the law. No Child Left Behind requires school districts to provide supplemental educational services -- tutoring -- to children from low-income families who are enrolled in Title I schools that have not made adequate yearly progress (AYP) for three years or more. It is the responsibility of the States to determine which schools and school districts are not making AYP. Schools and school districts that have not made AYP for more than two consecutive years are considered to be "in need of improvement" under the No Child Left Behind Act. Schools so identified are supposed to make public school choice available to students during the first year in which they are "in need of improvement" and both public school choice and SES available in their second year of "in need of improvement." The law also requires schools and school districts to make available funds equal to up to twenty percent of their Title I allocation for the provision of these services. The thinking that went into these provisions of the law is straightforward: Schools that chronically under perform need to be identified and need to improve and students enrolled in those schools should be able to take advantage of other, additional educational opportunities underwritten, at least in part, by federal taxpayer dollars. I should point out that this is the first time federal education policy "speaks" directly to students and their families. Before No

Child Left Behind, federal education dollars flowed only to States, school districts and schools. Now, while that continues to be the case, the law also requires states, school districts and schools to direct federal dollars to the provision of services for students directly.

It is important to note that the law places the responsibility for SES squarely on the shoulders of the States, school districts and schools. The States are supposed to develop policies governing the identification of appropriate SES providers within a State, and how school districts and schools might work with those providers. School districts and schools are supposed to develop policies governing the actual provision of SES locally. Such policies are supposed to ensure parents receive timely and adequate information regarding their children's eligibility for SES, about the range of services available, and how to select a SES provider and enroll their children. School districts and schools have the authority to decide who shall provide SES to their students, and policies governing the actual provision of those services, such as time, place, number of students, etc.

The law requires States to identify as potential providers of SES only those organizations that embrace "proven" methodologies of instruction and a record of success. The regulations governing SES do not require all providers to be certified teachers; although most providers do indeed employ certified teachers. SES providers may be non-profit or for-profit organizations, civic and community and faith-based organizations as well as educational organizations. The original regulations did not permit schools or school districts "in need of improvement" to provide SES. More recently, Secretary of Education Margaret Spellings has allowed a limited number of districts and schools in this status to provide SES under certain conditions.

According to the U.S. Department of Education, 1.4 million students were eligible to access SES during this most recent school year. Of these, only about 17%, or 233,000, actually took advantage of this opportunity. Clearly, if these numbers are accurate, SES represents a potentially valuable educational opportunity not fully realized under No Child Left Behind.

In your letter inviting me to testify before the Commission you asked that I respond to a number of issues.

### **The effectiveness of state/district implementation of SES**

The effectiveness with which states and school districts have implemented SES is spotty, at best. There are some districts, New York City comes to mind, where a real effort has been made to inform parents and enroll children in SES. In some others, Los Angeles comes to mind, SES providers have been denied access to school buildings and have had to run a veritable gauntlet of regulations in order to provide services.

A study released by the federal department of education looked at a sample of school districts in an attempt to get a sense of the implementation of SES. The study reported that a relatively small proportion of SES providers are school districts, but that where school districts provide SES they tend to enroll the lion's share of eligible students. The same study found districts adept at developing contracts with SES providers and informing parents of the availability of SES for their children.

If this report is reflective of where implementation of SES stands today, then there is reason to be optimistic. For I must tell you, it was my experience during my tenure at the department of education and working with SES providers since, that strong and organized opposition to the provision of SES led to limited implementation of it, limited participation by students and spotty effectiveness.

There might be a number of reasons for this, I should point out. SES is still a relatively new program, as is No Child Left Behind, and it is something most school officials are still grappling with. It takes time to administer a good SES program effectively. Many school officials probably see it as yet another administrative duty handed to them, on top of myriad others, and resent it somewhat. And there are those who argue that there isn't enough money provided to run SES – indeed to run public schools generally.

There may be more than a kernel of truth to these assertions. But I also think that the relatively spotty SES performance can be attributed to the fact that in far too many places school officials resent SES, feel they should be able to decide how to spend Title I funds, do not want outsiders, particularly for-profit outsiders to provide tutoring services to their students, and resent it (understandably) when their school is identified as “in need of improvement.” This resentment can be seen in the letters some parents receive informing them of the availability of SES services for their children, in the policies that limit the ability of providers to talk with principals, parents, or teachers, in policies that place unnecessary burdens on providers and unrealistic expectations on parents. In short, where school officials have embraced No Child Left Behind and the potential SES has to help kids, we see a somewhat robust implementation; where school officials oppose or resent the law, we find policies aimed at undermining the successful implementation of SES.

### **The current level of student participation in SES**

Obviously the participation rate in SES remains, in my view, unacceptably low. Participation rates with SES are better than with school choice, but not where they should be. I don't think this is due to a lack of adequate resources because far too many districts have not spent the twenty percent of Title I funds they are to allocate for SES. And while I am sure there are parents who decide not to take advantage of free tutoring for their children, I find it very hard to believe that that of the 1.4 million students eligible, the parents of more than a million of them have made such a decision. Rather, I am convinced the participation rate is due, in no small measure, to the way districts have gone about administering the law. There are those who are responsible for administering SES who do not think it is good policy, who feel the money would be spent better under their direction and who go out of their way to undermine the effective implementation of SES. They are not violating the law; they are merely not abiding by it.

In far too many places, parents are informed of SES opportunities under conditions that undermine their ability to take advantage of those opportunities. Sometimes the window for signing a child up for SES is very limited. Sometimes events supposedly created to inform parents of SES opportunities are scheduled at times and in places parents have difficulty attending. Sometimes the letters sent to parents informing them of SES opportunities are written in ways that discourage participation or are difficult for parents to understand.

Sometimes, providers are told they cannot provide services in the schools, or cannot talk to principals, or teachers or parents. There are a myriad of ways for district officials to discourage SES participation.

If the SES participation rates are improving, then there is reason to be hopeful that this very important provision of NCLB might have the impact its authors hoped it might. But there is reason to remain skeptical.

### **Recommendations regarding measuring the effectiveness of SES providers and reporting results to inform parents and policy makers**

In the end, results matter. This is the essential message of No Child Left Behind. The purpose behind SES, and No Child Left Behind generally, is improving student and school performance. To this end, a transparent accountability system that focuses on such indicators as SES participation rates, pre and post tests results for SES student participants, SES participation rates and student achievement relating to school AYP status, and other measures are important. There need to be adequate numbers of students participating to yield valid data and adequate time needs to transpire before drawing any conclusions regarding the educational impact of SES on students and schools. And it is very important that SES performance be reported in a way that is accessible to parents, the clients of SES and, indeed, the clients of American public education. In the end, the parents are the ones with the authority to decide whether their children shall take advantage of SES. They need to be informed consumers, be able to make wise decisions, and have realistic expectations. And SES providers need to be held accountable; as do public schools.

Perhaps the most fundamental challenge regarding the implementation of SES is the fact that the law puts the responsibility for that in the hands of those who have a very real interest in trying to keep as much money as they can within the school district and schools. Understandably, they might see SES as a distraction that takes away much needed money and may yield little by way of educational results. There is no doubt SES takes money away from the school officials. But it should be remembered that it isn't really their money to begin with. It is taxpayer money that is supposed to go to educating children. When that isn't happening at a school, it is taxpayer money going to SES. The goal is educating students, not running school districts or schools. Whether it is taxpayer money that is getting educational results is yet to be determined. We do know that there is precious little solid evidence that Title I has produced the sort of educational difference one might expect, given the amount of money that has been spent over the years!

There are those who argue that public school choice and SES have not worked under NCLB and therefore should be removed when the law comes up for reauthorization. I do not agree. Indeed, I think it would be a travesty to remove two provisions that have so much potential. Rather, I would seek to find ways to strengthen educational options and opportunities. Having said this, it is probably unrealistic to expect fundamental change in this area of the law. It might be worthwhile to consider some intermediate step – some “watchdog” organization at the state/local level to oversee the administration of the SES program, or some “outside/independent” entity authorized to administer SES instead of those with a vested interest in retaining control of the funds that go to SES. There are problems with such

an approach, of course. It may create bureaucratic headaches. But it is somewhat unrealistic to expect those who feel they are either competing with SES or threatened by it to do a great job administering SES.

It may be worthwhile to consider making SES available as soon as a school is identified as “in need of improvement.” Currently, such schools are supposed to make school choice available their first year on the “needs improvement” list and SES their second year, along with school choice. Making SES available earlier, along with choice, might increase participation and help schools improve quicker.

I am reluctant to recommend much in the way of additional federal legislation or regulation at the State or local level. Rather, I think it is desirable to work with State and local policy makers on legislation and regulations that might improve the way SES works within a State. Indeed, I would encourage Congress and the administration to consider broader grants of discretionary authority over education at the State level, perhaps in return for ensuring greater accountability and educational opportunity. I would encourage States to consider language to make sure parents receive timely and accurate and helpful information about SES opportunities and realistic timelines for enrolling students. In addition, I would encourage policy makers to remove the somewhat arbitrary enrollment periods some districts embrace. Enrollment in SES should be ongoing, as long as funds are available. Any unspent SES funds that might “carry over” to the next school year should remain committed to SES.

The No Child Left Behind Act held great promise for education in America. For the first time in our nation’s history, the focus is on results. We are confronting the terrible legacy of the achievement gap. The law is making it all-but-impossible to ignore educational failures, and easier to identify and emulate educational success. We should do everything we can to hold fast to the commitment No Child Left Behind makes to America’s children and families while considering bolder, more innovative ways of making good on that commitment. We must not back away from the need to expect more from our schools, our teachers, our students, our families, our nation. And we must not be afraid to explore new and innovative ways for our children to succeed. SES represents one of those new strategies. It has great potential. We need to work to make sure that potential is realized.

**Joel Packer**

Thank you for the opportunity to join you today and share the views of the 3.2 million members of the National Education Association (NEA).

NEA is the largest professional association in the country, representing an array of public school educators—teachers and education support professionals, higher education faculty, educators teaching in Department of Defense schools, students in colleges of teacher education, and retired educators across the country. While our membership is diverse, we have a common mission and values based on our belief that a great public school is a basic right for every child.

Our members go into education for two reasons—because they love children and they appreciate the importance of education in our society. We want all students to succeed. Our members show up at school every day to nurture children, to help them reach their full potential, to be anchors in children’s lives, and to help prepare them for the 21<sup>st</sup> century world that awaits them. It is our members’ passion and dedication that informs and guides NEA’s work as we advocate for sound public policy that will help them achieve their goals.

NEA and its members have long supported the Elementary and Secondary Education Act (ESEA). During the last reauthorization of ESEA, we supported the laudable goals of No Child Left Behind—closing achievement gaps, raising overall student achievement, and ensuring all students have a qualified teacher. We also supported a number of specific elements in the new law, including the targeting of Title I funds to the neediest schools and students; disaggregating test data by subgroup; and supporting programs for dropout prevention, afterschool learning opportunities, and math and science education. We continue to support all of these elements.

NEA did not at any time oppose annual testing nor did we oppose passage of the No Child Left Behind Act. We did, however, make clear to Congress our objection to accountability systems based solely upon test scores. We also made clear that any tests used in an accountability system had to be valid and reliable, aligned with the curriculum, and designed to inform instruction. We also insisted that the system had to allow for accurate and fair measurement of test results.

Our criticisms during initial debate and our continuing expressions of concern over implementation of the law are not rejections of the goals of No Child Left Behind. Nor do they reflect a desire to do away with the law. However, we do believe it’s time for a change in ESEA.

In fact, NEA has made closing the achievement gaps one of its highest priorities. It is not only something about which our members and I care deeply, but it is also the right thing to do. As we all know, effective change doesn’t happen overnight. But I also know that if we are to achieve the change we seek, we cannot ignore the experiences of those working in our classrooms every day. Rather, we must translate the lessons we learn from our nation’s educators into sound, workable policies that will help us meet our goals. As the stories from



the following members demonstrate, the approach outlined in the No Child Left Behind Act falls short of taking all of the necessary steps to close the gaps in student achievement:

...I have attended many state conferences on closing the gap. In each case, I have left with the idea that the only way to narrow that gap is to use instructional strategies that address the learning needs of my students—not give them another test.

**Gwendolyn Brown**, High School Teacher  
Wake County; Raleigh, North Carolina

I am a second-grade veteran teacher with a Master's degree....In order to reach all children, I believe that along with a rigorous reading and writing curriculum, students also need to experience the arts, the sciences, and physical education....

...In order to close the achievement gap in my diverse classroom, it is imperative that I receive funding and support for teaching a well-rounded curriculum.

**Theresa Nutt**, Elementary School Teacher  
Vallejo City Unified School District; Vacaville,  
California

In July, NEA held its annual meeting where nearly 9,000 delegates voted on NEA's priorities for ESEA reauthorization. They didn't vote to repeal or do away with NCLB. Instead, they voted to support a comprehensive set of proposals designed to fix what's wrong with the law and to add to it the kinds of initiatives that will make our common goals a reality. Our proposals address two main questions: What does it take to create a great public school in the 21<sup>st</sup> century? And what areas of No Child Left Behind should be amended to help create great public schools for every child? These two questions reflect our members' fundamental belief that education reform must include more than a measurement system and that it must include the essential programs, curricula, and supports that students need so they can, in fact, achieve and learn at higher levels. A copy of that report, *NEA's Positive Agenda for the ESEA Reauthorization*, is attached as an Appendix.

### **What are Supplemental Educational Services?**

The No Child Left Behind Act holds schools accountable for improving student achievement, measured on two statewide tests—one in reading and one in math—with the requirement that by the year 2014, 100 percent of all students score at the proficient or higher level. Each year, each state sets its own threshold, the percent of students who must be proficient on each test that year, with the bar rising to the 100 percent level by 2014. This accountability system that requires annual progress (called adequate yearly progress or AYP) also requires schools to ensure that various subgroups of students—identified by race, poverty, disability status, and English proficiency status—all meet the same yearly percent proficiency targets.

Currently, a typical school has to meet 37 criteria to make AYP. A school that falls short on a single one of the 37 is treated in the same manner as a school that fails all 37 criteria. (See tables below)

**Current AYP Failure School: Miss 1 of 37**

	<b>Reading</b>	<b>95%</b>	<b>Math</b>	<b>95%</b>	<b>Other indicator</b>
<b>All Students</b>	Yes	Yes	Yes	Yes	Yes
<b>Black/African American</b>	Yes	Yes	Yes	Yes	
<b>Hispanic</b>	Yes	Yes	Yes	Yes	
<b>Native American</b>	Yes	Yes	Yes	Yes	
<b>Asian</b>	Yes	Yes	Yes	Yes	
<b>White</b>	Yes	Yes	Yes	Yes	
<b>ELL</b>	Yes	Yes	Yes	Yes	
<b>Poverty</b>	Yes	Yes	Yes	Yes	
<b>Disability</b>	Yes	Yes	Yes	No	

**AYP Failure School: Miss All**

	<b>Reading</b>	<b>95%</b>	<b>Math</b>	<b>95%</b>	<b>Other Indicator</b>
<b>All Students</b>	No	No	No	No	No
<b>Black/African American</b>	No	No	No	No	
<b>Hispanic</b>	No	No	No	No	
<b>Native American</b>	No	No	No	No	
<b>Asian</b>	No	No	No	No	
<b>White</b>	No	No	No	No	
<b>LEP</b>	No	No	No	No	
<b>Poverty</b>	No	No	No	No	
<b>Disability</b>	No	No	No	No	

Making AYP is thus very challenging. Increasing numbers of schools have failed AYP and are subject to federal consequences. In the current school year (with data still missing on three states), there are 21,410 schools that have failed AYP (27.1%), with 11,420 having failed for at least two consecutive years (14.1%).

If a school that receives ESEA Title I funds fails AYP for two consecutive years, it is designated as a school “in need of improvement,” and all students in that school—regardless of income, whether the individual student was proficient on the tests, or whether the student

was in a group that did or did not make AYP—have a right to transfer to another public school in the same school district that did make AYP. The district must use at least 5 percent (and up to 15 percent) of its Title I funds to pay for transportation. Some schools have taken radical steps to avoid the transfer provisions, as illustrated by the story from the following NEA member from Wisconsin:

My school is no longer accepting Title I funds because we are afraid if the school does not make AYP a major portion of the money will need to be put in reserve to bus children to other schools. We are making AYP, but since NCLB's design means that eventually all schools will be failing schools, we know that it is only a matter of time until we will not make AYP.

**Debra Kadon**, LD Middle School Teacher  
Green Bay; Green Bay, Wisconsin

If the school fails AYP for a third consecutive year, it enters year two of school improvement and must also provide supplemental educational services (SES).

SES, or afterschool tutoring, must be offered to low-income students, and if funds are not available to pay for services for all low-income students, priority must be given to the lowest achieving students. The school district must spend an amount equal to between 5 percent and 15 percent of its Title I funds, but it is not required to spend more than an amount equal to 20 percent of its Title I funds, for choice transportation and supplemental services combined.

SES providers can be any type of entity—for-profit or non-profit, national or local, community-based or faith-based. Providers can be schools (public, private, or charter) or school districts, universities, or even local teacher organizations, including NEA affiliates. Each state approves every individual provider of SES in its state. The basic criteria that states must use to approve supplemental service providers are as follows:

- A demonstrated record of effectiveness in improving student academic achievement;
- Documentation that the instructional strategies used by the provider are high-quality, based upon research, and designed to increase student academic achievement;
- Assurance that services are consistent with the instructional program of the local education agency and with state academic achievement standards;
- Evidence that the provider is financially sound;
- Assurance by the provider that it will provide supplemental educational services consistent with applicable federal, state, and local health, safety, and civil rights laws;
- Assurance by the provider that all instruction and content involved in the supplemental services is secular, neutral and non-ideological; and
- Assurance by the provider that it will provide parents of children receiving supplemental services and the appropriate local education agency information regarding the progress of the children in increasing achievement in a form and, to the extent practicable, a language that their parents can understand.

In addition, states are responsible for compiling lists of approved SES providers by school districts, updating them annually, and monitoring the quality and effectiveness of SES providers.

These are the school districts' responsibilities:

- Inform eligible parents—describe services, provider qualifications, and evidence of effectiveness;
- Develop and monitor SES provider agreements;
- Include each student's achievement goals, noting how progress is measured and how parents and teachers are informed;
- Make sure SES providers do what they promise; and
- Do *not* impose programmatic requirements on SES providers.

### **Who uses SES and who are the providers?**

According to an August 2006 Government Accountability Office (GAO) report, *Education Actions Needed to Improve Local Implementation and State Evaluation of Supplemental Educational Services*, "Nationally, the participation rate increased substantially from 12 percent of eligible students receiving SES in 2003-2004 to 19 percent in 2004-2005. In addition, the number of students receiving services almost quadrupled between 2002-2003 and 2004-2005 from approximately 117,000 to 430,000 students nationwide, based on the best available national data...This increase may be due in part to the increase in the number of schools required to offer SES over that time period. Specifically, between 2004-2005 and 2005-2006 the number of schools required to offer SES increased from an estimated 4,509 to 6,584."

According to the most recent data from the U.S. Department of Education, the number of tutoring providers nearly tripled within a two-year period, to more than 2,700 in 2005. The majority of approved tutoring providers are private organizations and for-profit groups, accounting for 76 percent of the entire pool of tutors.

### **NEA Concerns About SES And Recommended Improvements**

There are eight specific areas we see as problems with the design and implementation of SES. Each of these areas, along with our proposed solutions, is summarized below.

1. *Funding for SES should be provided without taking funds from Title I.*  
As noted above, SES funding is taken directly from school districts' Title I funds, with up to 15 percent of funds being used for this purpose. Title I funding already falls far short of the amounts authorized in NCLB. Current funding for FY 06 is \$12.71 billion, while the authorized level is \$22.75 billion. Since 62 percent of all school districts this school year have less Title I money than they did last year, this 15 percent share is coming off of an already diminished level of resources. The result is that Title I classroom services to low-income students are being reduced and diluted. We propose instead that the Congress authorize and provide a separate funding stream for SES and school choice so that eligible children continue to receive the

- classroom-based assistance they need to improve their academic achievement.
2. *Ensure there is no discrimination in services or employment by holding SES providers responsible for complying with all civil rights laws.*  
The No Child Left Behind Act contains a critically important civil rights provision:

**SEC. 9534. CIVIL RIGHTS.**

- (a) IN GENERAL - Nothing in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act.

NEA strongly supported the inclusion of this provision, because SES, as well as other new provisions of NCLB, expanded eligibility for federal ESEA funds to a broad range of non-governmental entities, including faith-based providers. The Congress clearly intended through the inclusion of this provision to ensure that all entities receiving NCLB funds would be subjected to federal civil rights laws.

However, the U.S. Department of Education in its regulations implementing the law has stated that "...an SES provider, merely by being a provider, is not a recipient of Federal financial assistance. The regulations that define 'Federal financial assistance' do not contemplate that a school or other organization that receives a contract from an LEA procuring its services as a provider of SES is thereby a recipient of Federal financial assistance."

Based on that interpretation, which we believe is a complete misreading of the law, the Department has further stated that private SES providers are generally not covered by federal civil rights laws but that a school district, "on the other hand, is responsible for any discrimination that occurs in obtaining services through a procurement contract. ... However, the provider would have no direct nondiscrimination responsibilities under the civil rights statutes mentioned above, unless it otherwise receives Federal financial assistance for other purposes."

In addition, the Department has said that religious organizations that are SES providers may "limit employment to persons of a particular religion." We simply do not understand why an afterschool tutoring program would need to only employ someone of a particular religion to help students improve their math or reading skills.

Therefore, NEA proposes that the Department of Education revise its regulations to require that all SES providers be covered by all applicable civil rights laws, and that faith-based providers not be permitted to limit employment in their SES program to persons of a particular religion. If the Department refuses to do so, then Congress should amend NCLB to clarify that SES providers are indeed recipients of federal funds and thus covered by civil rights laws.

Doing otherwise is simply allowing federal funds—taxpayer dollars—to subsidize discrimination.

3. *SES providers must serve students with disabilities and English Language Learners.*  
In its regulations, the Department of Education also has determined that no individual private SES provider must serve eligible students who either have disabilities or are English Language Learners (ELLs). We see no reason why a provider should be relieved of its obligation to serve *all* eligible students. Public schools are required to do so. If the provider does not have the expertise or capacity to do so, it should not qualify to be a supplemental service provider at all.

If no providers within a school district's geographic area serve such students, then the school district is responsible for providing such services. However, as seen below, many school districts, again based on the Department's rules, are not eligible to be a SES provider. Thus, the combination of these two rules creates a situation where some districts have been deemed unqualified to provide afterschool tutoring to students in general but must provide such services to students with disabilities and ELL students.

Indeed, GAO found: "There were not enough providers to meet the needs of students with limited English proficiency in an estimated one-third of districts, and not enough providers to meet the needs of students with disabilities in an estimated one-quarter of districts."

This is simply an unconscionable (and perhaps illegal) double standard for these students. Again, the Department can correct these problems through a simple change to its own regulations. If it fails to do so, then again, Congress should correct this problem by mandating that all SES providers must provide services to all eligible children, without regard to disability or ELL status.

4. *States should be permitted to require SES providers to use only "highly qualified" teachers as instructors.*

The Department's regulations also create another area of inconsistency that concerns us. NCLB requires that all school districts, regardless of whether they receive federal ESEA funds, must ensure that 100 percent of all teachers meet a new federal definition of "highly qualified." The original deadline to meet this mandate was the end of the 2005-06 school year, but the Secretary has extended it until the end of the current 2006-07 school year.

Even though all public school teachers must meet this standard, SES providers are not covered by it. Not only has the Department chosen not to mandate that all providers meet the "highly qualified" standard, but it has also prohibited states from doing so on a state-by-state basis. The result is that there is little quality control over who can be an afterschool tutor. NEA believes that all SES providers should be held to the same "highly qualified" teacher standards as are public schools, but at a minimum

each state should be allowed to make this decision for itself.

5. *Strengthen the quality control mechanisms to ensure that SES programs are providing quality services to students.*

The GAO found that, “Approximately three-fourths of states reported that they are experiencing challenges evaluating SES, including designing methods for determining sufficient academic progress of students, having the time and knowledge to analyze SES data, and developing data systems to track SES information.” The result is that there is virtually no data to gauge the effectiveness of SES programs and to ascertain whether this federal mandate is actually meeting its purpose of improving student achievement and closing achievement gaps.

We propose that school districts be given greater authority to monitor the quality of providers, as opposed to the current rules which only allow states to do so.

6. *Target SES and choice to students in specific subgroups that fail AYP.*

Currently neither SES nor the public school choice provisions of NCLB target students based on their academic achievement. We propose to target eligibility for both of these programs to students in the specific subgroups that fail to meet AYP. Doing so would eliminate some of the logistical problems that currently exist and allow limited federal dollars to be used where the need is greatest.

7. *Allow school districts that have been identified as “in need of improvement” to serve as SES providers.*

Another Department ruling that does not stem from statutory language prohibits a school district that has failed to make AYP for two or more consecutive years from serving as an SES provider. These are the only entities that as a category are barred from being approved SES providers. NEA opposes this restriction, which actually works to limit parental choice of providers. This prohibition was not part of the statute and was not imposed in the initial stages of implementation. After the Department issued this ruling, a large number of school districts, in particular urban ones which had been providers, were forced out of the program, and parents whose children were receiving SES from the school district were forced to find another provider.

We believe that as long as the school district meets the overall criteria applicable to other providers, it should be eligible to be a SES provider. In the last year, the Secretary has waived this limitation for a small handful of districts, including Chicago, Anchorage, and Boston, but we believe the overall prohibition should be eliminated.

8. *Reverse the order of school choice and SES.*

As explained above, the first mandated consequence for schools that fail AYP is to provide public school choice to all students. The next step in the series of consequences is to provide SES. We strongly believe that the order of these sanctions should be reversed. It makes more educational sense to provide additional assistance

to students in the school they currently attend instead of sending them to other schools. In addition, SES is at least limited to low-income students while the choice provisions are open to all. Further, only 1 percent of students eligible for school choice have utilized it, while at least 19 percent of students eligible for SES tutoring are using such services.

Many states have requested permission from the Secretary to reverse this order but the requests generally have been denied. Last year, the Secretary allowed a total of only 19 school districts in seven states to experiment with offering SES prior to school choice. We believe the law should be amended to allow all states and districts this option.

Taken together, I believe that NEA's recommendations will improve the quality of supplemental services, ensure protection of civil rights for both students and employees, and provide more resources overall for improving student achievement and closing achievement gaps. Coupled with the broader recommendations for changes to ESEA in our *Positive Agenda*, they will result in great public schools for every child.

Thank you.



### **Panel Three**

#### **Marion A. Bolden**

Good morning to the members of the U. S. Commission on Civil Rights.

My name is Marion A. Bolden, Superintendent of the Newark Public Schools. I am pleased to have been invited to provide testimony to the Commission. Joining me are my colleagues, Mr. Perry Lattiboudere, Legal Counsel and Dr. Gayle W. Griffin, Assistant Superintendent of Teaching and Learning. The Newark Public Schools has had the unique privilege of participating in the United States Government Accountability Office Site Visit in January 2006, and to be favorably referenced in the **No Child Left Behind Act** Report on Education Actions Needed to Improve Implementation and Evaluation of Supplemental Educational Services Report, prepared by Cornelia Ashby.

We are pleased to provide testimony on the topic of Supplemental Education Services implementation in the Newark Public Schools: Our Successes and Challenges.

#### **The SES Implementation Process at NPS**

Supplemental Educational Services (“SES”) were first implemented in the Newark Public Schools (“NPS or District”) in the 2003–04 school year when the first cohort of schools reached the No Child Left Behind Act (“NCLB”) Year 3 status. The remedies under NCLB provide for early warning after year one, in-district school choice after year two, and SES after year three. From the beginning, goal of the Newark Public Schools was to ensure that every eligible child would receive tutoring services which is the consistent remedy that NCLB promotes.

Prior to NPS’ implementation of SES services, the District’s Title I Office attended a technical assistance workshop. We learned that the State of New Jersey Department of Education (“NJDOE”) solicited and approved providers through a RFP process, but the NJDOE failed to provide explicit direction to Districts such as ours. At the workshop, we were provided with the same sample applications, contracts and billing procedures as smaller districts. Although we studied the U S DOE Non-Regulatory Guidance, we found the information inadequate and vague. It also allowed for tutors who had only a high school diploma. The district decided to set a standard that all tutors must have a college degree. We also learned, for the first time, that entities within a school district could apply. During our review of the list of approved providers, we discovered that other districts/schools had applied and were approved to be providers.

After the workshop, the District invited representatives of the NJDOE and approved SES providers to a planning meeting. We engaged open discussion about issues such as contractual relationship, use of school buildings, use of degree-only tutors and alignment of the tutorial services to New Jersey Core Curriculum Content Standards (“NJCCCS”). We also discussed communication with parents, teachers, principals, payment for services, monthly and annual reports, etc. Based on the feedback from the provider meeting and reading information from other districts, as well as information gleaned from meetings at the

Council of the Great City Schools, we developed a plan to meet our goal with a timeline detailing steps. A key factor in our successful implementation was the fact that we trained our NPS Parent Liaisons to assist parents with registering for the services. A second factor in our success was that, although approved, many providers did not have space to conduct tutorial services and were allowed to use District facilities for a nominal fee (\$100 per student, annually).

We held a second meeting with providers at the end of summer of 2003 to share the finalized District plan. In terms of outreach, we conducted provider fairs in each ward of the City and used multiple venues to notify parents. We used our cable TV channel, mailings and provided information about SES at PTO meetings. In response, we received 1800 applications and served 1500 students during the 2003–04 school year. The 300 rejected applicants were not eligible for services. Most of the applicants were served by Platform Learning, an approved provider, that engaged in aggressive outreach efforts.

### **Year 2 — 2004–05**

A key feature of our second year of SES implementation was the fact that the District created its own approved SES provider the After School Youth Development Program (“ASYDP”). The success of this effort was immediately evident as the number of students applying for SES rose to 3400. We served 2800 students with the majority enrolled in ASYDP (1600). We again conducted two provider fairs with attendance enhanced by providing bus services. We again used our trained parent liaisons to assist parents with registration.

During the 2004–05 school year, the District was audited by United States Department of Education Inspector General’s Office (“USDOE”). Although the NJDOE was cited for not providing our state assessment scores on time, the District was applauded for launching our successful SES program. We were instructed to re-send information when the state data arrived.

Ironically, the NJDOE had been audited during the 2003–04 school year and violations of the Elementary and Secondary Education Act were found. Specifically, the USDOE found that NJDOE did not have an adequate monitoring process to determine whether all local education associations (“LEAs”) actually offered school choice and SES to all eligible students. NJDOE officials stated that their County Representatives were designated as the monitoring oversight of ESEA at the LEA levels but admitted that there were no procedures for them to carry out this responsibility. Based on NJDOE’s failure to provide clear and timely state academic assessment results in an acceptable format, the District was unable to determine Adequate Yearly Progress (“AYP”) status of its schools before the start of the 2004–2005 school year. NPS did send notification via mail advising parents that their child may be eligible for school choice prior to the school year. However, a follow up containing an actual determination of school status was never sent. The District did send the parents of all students a letter stating that their child may be eligible for SES. Subsequently, a SES parent handbook package was developed containing a SES letter and SES provider information was sent to all parents.

The District's ASYDP ended its tutoring program successfully at the end of school year 2004–05. However, we were advised by the NJDOE that, as a District in need of improvement, we could no longer be an approved provider. However, we were told that any of our high performing schools could apply to run a SES program.

### **Year 3 — 2005–2006**

The year began with the implementation of a state approved SES program operated through the Abington Avenue Elementary school, the District's most accomplished school. To ensure high implementation, this program added content specialists to monitor the Abington High Performing School model. We increased applications to highest enrollment with 5500 applications and 4400 students enrolled in twenty-three (23) SES providers. The Abington High Performing SES Model had the highest enrollment with 2,550 students, Platform Learning had 1,170 students, and other providers ranged from 1 student to 300 students. A key feature of the district's outreach efforts was recruitment of families in homeless shelters throughout the City. We also contracted with a provider who was willing to offer a SES program at City shelters.

The NJDOE also conducted its first evaluation of selected SES providers during the 2005-06 school year. A special evaluation team visited five Abington High Performing School sites. The NJDOE also developed and disseminated a SES Approved Provider Quality, Performance and Effectiveness Report form for districts to use as an evaluation tool.

The Abington SES program received a glowing report from the NJDOE audit stating that it was well organized, well operated, and providing excellent services to students in an efficient and cost effect program. The district also had a NJ Title I Program audit that again commended the district for servicing over 4,400 students with 23 SES providers including our high performing school as a provider. It cited the strong internal controls of the program through our web-based tracking and monitoring system.

The district was also asked to participate in US GAO research project visit. According to the GAO report, "The four districts—including Newark Public Schools—were selected because they had experience implementing SES in their schools and were recommended by stakeholders as having promising parent outreach and/or monitoring practices." The GAO review of SES looked at all aspects of our operations – from inception to notification to monitoring of providers to tutoring contractual agreements. We quote, "Further the Newark, NJ district officials told us...that the district provided transportation for parents to attend informational events and worked with a local community organization to increase awareness of SES."

In sum, we learned the following from our three year experience:

1. The need to inform parents of options though varied methods;
2. Follow-up to ensure that parents made the choice of SES provider;
3. Our experience with other types of providers such as those in the Abbott Preschool Programs assisted greatly;
4. A computerized tracking/management system would ensure more success.

Based on the above experiences, our 2006-07 SES implementation goals include the following:

- a) Pre-enrollment in Spring – enrollment in Fall;
- b) Multiple venues for information – Cable TV ads, US Mailing, School mailing, SES Fair, district web-site, PTO meetings, student flyers, vendors attend school PTO meetings [must have open to all vendors, not one so we promote choice];
- c) Continued use of trained Parent Liaisons to assist parents with registration;
- d) Outreach to homeless shelters in the city to inform parents and renew contract with a provider to offer services in shelters;
- e) Continue High performing school as provider – Abington;
- f) Implement computerized student management system for Individualized Assessment Plans, attendance, invoicing, monitoring
- g) Continue making NPS space available as a majority of SES vendors use district schools (90%);
- h) Continue to have NPS staff visit sites to monitor service;
- i) Serve all students who register currently 4,400 which reflects a steady increase every year (the only problem is that there is not enough funding to serve everyone).

### **Successes and Challenges**

#### **1. District Abington Model**

The District is pleased that NJDOE understood our need to provide a district-based SES program through our high performing school. If this option had not been available, fewer parents would have enrolled students because, generally, they prefer students staying in our school building for safety reasons. Our parents do not have access to provider sites, many of which are located in suburban areas. The Abington High Performing School Model also allowed us to service more students for tutoring. With the current per student allotment, we could only serve 2500 students. Because of the cost effectiveness of the Abington Model, we were able to provide tutoring to 4,400 students.

#### **2. Evaluation of Efficiency of Tutoring Programs**

The Newark Public Schools' Office of Planning Evaluation and Testing conducted a study of SES. They looked at two hypotheses: 1) Do students who participate in tutoring perform better on state assessments than students who do not participate in tutoring? and 2) Which providers' programs had the greatest impact on student achievement results? The results would also assist the district in advising parents about provider tutoring programs.

When we, as a district, are challenged to increase parental involvement, we must stress with parents and caregivers that involvement does not always mean a cause. It also means encouraging every parent to take advantage of this SES tutoring opportunity to address the educational and curricular needs of their child and increase student achievement.

All students who signed up for SES took a computerized pre-test prior to the start of tutoring programs last fall. A post-tutoring test was then administered and results revealed that:

1. Students who participate in tutoring performed higher on the tutoring post-test than their peers from the same school;
2. Students' scores in Literacy, while still not sufficient, were higher for students who were tutored in the Abington High Performing School model than other tutoring provider models. Scores were not significant but were slightly higher for these students;
3. Students' scores in Mathematics were significantly higher than students who did not participate in tutoring. Moreover, students tutored in the Abington High Performing School model scored significantly higher than students in other provider models.
4. Students who were tutored performed higher on the State Assessments in Literacy and performed significantly higher on the State Assessments in Mathematics.

The above impact study also provided recommendations on how to increase achievement levels in the Abington Program with tips to increase students' time on task, the monitoring of the computer-assisted instructional time, and strengthen program oversight to all Abington Program sites.

3. The District is also pleased that it has been able to serve all eligible students who sign up for tutoring and that the tutoring numbers continue to increase annually. This seems to indicate that more parents are aware that they are eligible for SES tutoring. We have had good responses to the use of the Cable TV ads and the mailings to the home.

4. We are also pleased to have begun an early enrollment process so we can better estimate participation. The introduction of a computerized student tracking system has expedited the processing of applications and streamlined invoicing, billing, and monitoring. We can efficiently communicate participating students to principals, monitor attendance and IAP development, and facilitate annual reports.

5. We do not have failures but we recognize that that the law does not allow enough resources for all students to be tutored and because poverty rates are based on return of lunch applications, very few of our high schools are designated Title I. In 2005-06, only one of our high schools was identified as eligible for SES and in 2006-07, a different high school was identified as eligible for SES. Therefore, while we have students who need tutoring at the high school level, they are not eligible for these resources. Instead, we had to find district resources for high school tutoring.

We also note that the SES regulations do not allow for administrative costs for the operation of SES. Districts are not permitted to use the funds for mailings, advertisements, and the necessary increased need for staff to process the thousands of applications received. The district has had to incur overtime costs for personnel to process the applications. The timeliness of completing the application process affects on when tutoring can begin.

6. Another effort to create a SES contact person for each school was not as successful as having the Parent Liaison available for parents.

### **The Success of the District-run SES Program**

The following details the success of the District run SES program:

- a. Enrollment- has increased number of students enrolled from year 1 to year 4;
- b. More cost effective – we are able to offer tutoring at lower rate so more students can participate. We would be able to serve only 2000 students if the district high performing school program were not available.
- c. The above results of our research study showed that students who participated in tutoring performed better on state assessments than students who did not enroll in tutoring and the district’s high performing school model had higher literacy and math scores than other tutoring programs.
- d. The teachers in the district model know the students’ curriculum deficiencies and were able to tutor them at their starting point rather than spending months learning what the student needed to work on. Teachers also can use the tutoring program as extra time to help a student in need. They also are familiar with the state standards and assessments and used appropriate materials to meet the needs of students. External providers were at a disadvantage because they are not as familiar with these aspects.

### **Facilitating the Provision of SES from Our Best Providers**

As outlined above, we have made District facilities and services (custodial, security) available to SES providers. However, we really do not know who the “best” providers are because, as demonstrated from the research study, the district’s high performing school program did the best. We expected that we would be able to use the study results to inform parents which providers seemed to produce good results in literacy or math. We also work collaboratively with providers by meeting twice a year. It is obvious that some providers are more responsible than others as parents will ask for changes if they are not satisfied.

Moreover, our District representatives stay current on the SES requirements by attending numerous regional conferences and meetings where US DOE and NJDOE Title I representatives explain procedures, distributed federal non-regulatory guidance, and Parent information booklets. Whenever there was a question/complaint from our providers, we conferred with state representatives for clarification and interpretation of the law. We have copies of every information booklet produced by US DOE on NCLB. We participate in a listserv and monthly conference call with urban districts throughout the country as part of our membership in Council of the Great City Schools. This information is shared with our providers.

### **Parent Notification**

The above responses and successes show that the District has successfully notified the parents of eligible students of their right to SES. The Inspector General’s monitoring letter stated, “The District did notify parents, prepared a SES Parent Handbook and mailed out letters, advertised on local cable channels, held fairs and provided transportation to those fairs. Any failure of timely notification can be attributed to the NJDOE’s failure to provide adequate data and a process. As a ‘heads up’, the District mailed notification to parents that their child may be eligible for school choice prior to the school year. The ‘heads up’ letter

was sent in a timely fashion. A SES parent handbook package was developed containing a SES letter and SES provider information.”

We were concerned, however, that the US DOE Inspector General cited the District for not providing providers’ qualifications and effectiveness which the district could not and would not have been able to do as the District did not have access to this information. The NJDOE website did not contain information on qualifications and since SES was in its first year, by NCLB regulations, effectiveness could not be assessed and was not a responsibility of the District. Clearly, the district should be applauded for being proactive and willing to comply with the letter of the law in the absence of express guidelines on how to accomplish the goal. The effect of the district’s actions was that, in the first year of SES, 1500 children were enrolled in SES and that number has increased ever since. Currently, one of the major recommendations of the NCLB Reauthorization Subcommittee of the NJDOE’s NCLB Advisory Council to the Commissioner of Education is that only **certified** teachers should be eligible to work for SES providers. To date, this is not the case.

From the inception of SES, the district recognized the need for multiple forms of notification for parents and every year, the district extended its outreach. Our efforts include:

1. Cable TV Ads – district produced public service announcements ran on Cable for 3 months;
2. Cable TV, “Focus on Education” express segments that addressed SES programs;
3. US mail notification of all parents in Title I Schools in Need of Improvement;
4. District level Saturday SES Fair was sponsored by the Office of Title I and transportation was provided for parents from the four SLT areas of the city;
5. School-level PTA and PTO meetings where multiple providers set up booths to recruit parents;
6. Providers mailed notices to parents and also had commercial television ads;
7. Students were given notices to take home in backpacks;
8. All the attached brochures, booklets, applications were developed and translated into four languages – English, Spanish, Portuguese, and French;
9. District website information explained how to apply and cited the state website with the list of approved providers;
10. District outreach initiative contacted Shelters for Homeless and arranged for after school tutoring by provider at four shelter sites;
11. The Cayen System was purchased and maintained, and has increased the efficiency of student identification and record keeping;
12. Parent Liaisons in each school were trained on SES procedures so they could assist with registration at the school level;
13. District produces an annual AYP bulletin distributed to parents annually;
14. District contacted a provider and arranged for summer tutoring for parents who applied for programs late in the school year when afterschool providers indicated that their programs had concluded for the year in March or April; and

15. District was selected by the US Congressional GAO office to participate in a study of NCLB SES practices.

The effectiveness of our parental notification effort was recognized in a NJDOE Title I Office Audit letter of March 16, 2006, which states, “Parental Notification – Your district was timely in sending out letters to the parents prior to the start of the school year.”

### **Conclusion**

The District’s goal is that every child who is eligible should receive tutoring services. The Newark Public Schools is one of the 32 “Abbott Districts” in New Jersey a designation which requires the NJDOE to provide equity funding to provide programs and services needed to supplement regular education for poor and minority children in the City. This is required in order to meet our State constitutional obligation that every child receive a “thorough and efficient” education. Recognizing that interventions are needed to attain this goal, the Newark Public Schools has developed and instituted the supplemental educational services our students based on the need to close the achievement gap. Therefore, the concept of providing tutoring is not a foreign idea for us. We have teacher tutors available for students in our schools; we have an US DOE recognized Afterschool Program for our students. The NCLB Supplemental Educational Services Program gives us one more opportunity to close the achievement gap and “wipeout” disadvantages for our students. Given the actions cited above, we believe the Newark Public Schools has an excellent record of providing SES tutoring for eligible children.

We thank you for the opportunity to share our successes and we welcome any questions on its implementation, successes, and challenges in the Newark Public Schools.



## Reginald Felton

### Introduction

The *No Child Left Behind (NCLB) Act* was signed into law on January 8, 2002 as a means of holding states, school districts and schools more accountable for improving the academic performance of each student regardless of economic status, race, ethnicity, proficiency in English or disability. The law requires states to:

- Establish rigorous academic standards.
- Conduct annual assessments at specific grade levels with at least a 95% participation rate.
- Implement a comprehensive accountability system that includes extensive data collection and public reporting on student and school performance.
- Direct formal sanctions against Title I schools and their school districts for failing to meet proficiency targets in reading and math.
- Establish new qualification requirements for teachers and paraprofessionals beyond the standards previously established by many states.

### NSBA Position

Local school boards across the nation continue to welcome the goals of NCLB – including increased accountability for student performance. However, almost from the beginning, local school boards voiced concerns regarding NCLB implementation. Many school boards believe that some of the current provisions in the law do not recognize the complex factors that influence student performance. Other local school boards continue to raise questions regarding the unintended consequences resulting from these provisions. Of major concern is the belief that the current accountability framework of the NCLB law does not accurately or fairly assess student, school or school district performance.

Unfortunately, what has evolved in the name of accountability is a measurement framework that bases its assessment of school quality on a student's performance on a single assessment; and mandates a series of overbroad sanctions not always targeted to the students needing services or research-based and, to date, not yet proven to have significant affects on improving student performance or school performance.

Local school boards are concerned that unnecessary blame will continue to be targeted against specific groups of students whose performance has resulted in the identification of schools as “in need of improvement” and subject to more severe sanctions – unless the federal law is improved.

### Supplemental Educational Services

The current law requires supplemental educational services to be provided to all Title I students in the second year in which their school has been identified as “in need of improvement”; i.e. failed to meet the adequate yearly progress targets.

### **Operational Requirements for Supplemental Educational Services**

- Services must be scheduled outside normal school day.
- Services must focus on reading, language arts, and math.
- Funding is based on per pupil spending under Title I, Part A (basic grants).
- Programs should be “research-based” not “scientifically research-based.”
- Required set-asides of 5% and 20% for supplemental services may not be used for transportation costs.
- States determine eligibility of service providers without consultation with local school boards.
- Although a school that is in improvement status cannot provide supplemental services, its teachers may be hired by outside providers.
- Supplemental services teachers do not have to be “highly qualified”.
- Disabled/Limited English Proficient (LEP) students must receive appropriate supplemental services – including accommodations, but not all providers have to offer accommodations.
- Priority for services must be given to lowest achievers/lowest income.
- Instruction must be secular, neutral, and non-ideological.
- Agreement must include a termination clause for failing to meet goals and timetables.

### **Parent/Family Involvement**

- Notification to parent must include description of services, qualification of personnel, performance goals, measures, and timelines.
- Parent has ultimate choice regarding participation.
- Parent selects type of service provider (private, nonprofit or for-profit).

### **Local School Districts Concerns**

- Competing successfully in the global market requires a system of rewards and sanctions that is research-based, and provides *positive* incentives for students, schools, and school districts.
- Supplemental services are funded through Title I while Congress only funds approximately 50% of what it promised; and what is available is insufficient to meet the needs of eligible students to become proficient or above.
- Local school districts meet the intent of the law by notifying parents regarding supplemental educational services and such notifications are normally combined with other state and federal notification requirements.
- The research is inconclusive that supplemental educational services have any real impact on improving academic performance; and some reports suggest that the percent of students making progress was greater for students not receiving supplemental educational services. In fact, one report suggests that the percent of students making adequate progress in both reading and math remained greater for non-participatory students even when their economic status was comparable. (*Hillsborough County School District, Florida, September 2006*)
- The current law restricts many school districts from offering supplemental services, resulting in higher costs often using the same facilities and personnel.

- The current law does not require states to consult with local school districts in designating service providers resulting in the designation of service providers that lack positive track records.
- The current law requires 20% set-asides for supplemental educational services, but does not permit the school district to release the funds to be reallocated for other Title I programs even if the school district knows that the remaining funds will not be used.

#### **Selected Actions Being taken by Local School Boards**

- Identify and contact community-based organizations that are willing to partner with local school districts to improve communications with parents/families.
- Seek support from the local media in the use of public service announcements regarding the availability of supplemental educational services.
- Fully engage school board sponsored committees already established.
- Establish and fully engage parent groups in targeted communities to assist with communications with parents/families of eligible students.
- Encourage parents/families to provide additional support in the education of their children.
- Fully utilize local school district community service learning programs to promote parent/family engagement.

*For additional information, please contact Reginald M. Felton, Director of Federal Relations at the National School Boards Association at 703-838-6782, or by e-mail, [rfelton@nsba.org](mailto:rfelton@nsba.org).*

**Leonard Fitts**

## Slide 1

## Closing the Majority-Minority Achievement Gap

Leonard Fitts, Ph.D.  
Interim Superintendent  
City of Camden Board of Education  
201 North Front Street  
Camden, New Jersey 08102

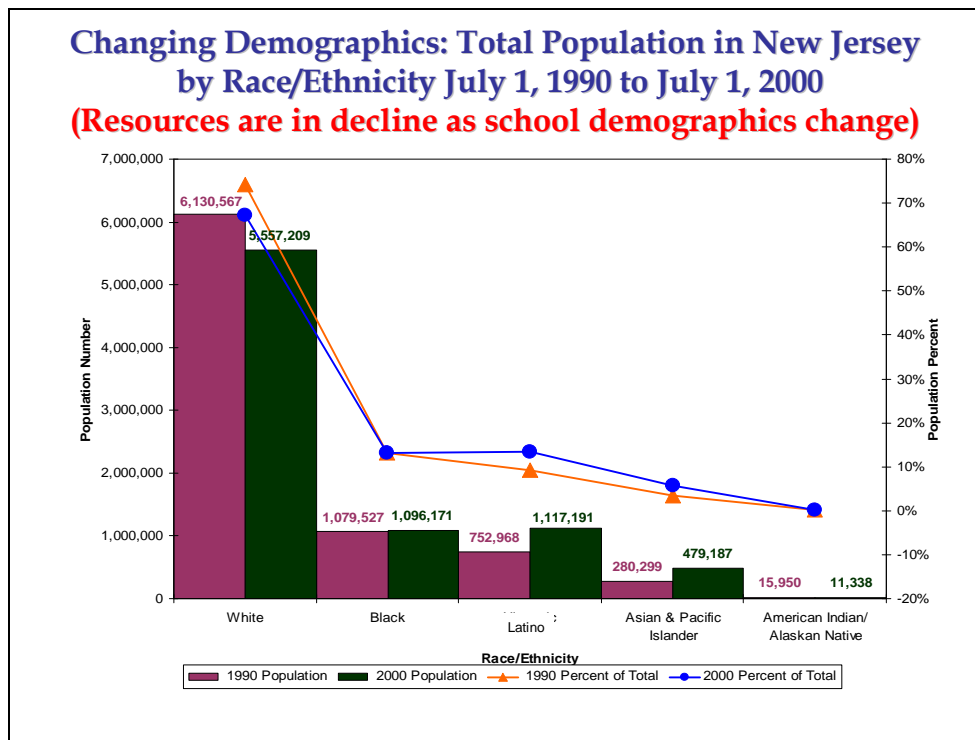
Deborah Polk, Supervisor  
Grants, Federal, and State Funds

## Slide 2

### Policy Background of Closing the Majority-Minority Achievement Gap

- The central challenge of “Closing the Majority-Minority Achievement Gap” is the lack of willingness to implement **POLICY** to provide **ADEQUATE RESOURCES** at the local, state and federal levels!
- **POLITICS!**

Slide 3



Slide 4

**Human Capital Needs to Close the Achievement Gap for At-Risk Children**

- *HEALTH – developmental integrity, nutrition*
- *SOCIAL – networks, norms, culture, values*
- *FINANCIAL – income, resources for education*
- *HUMAN – social competence, code switching*
- *POLITY – public commitment, political economy*
- *PERSONAL – disposition, attitudes, efficacy, aspirations*
- *INSTITUTIONAL – socializing structures' access*
- *PEDAGOGICAL – community, family, school supports*

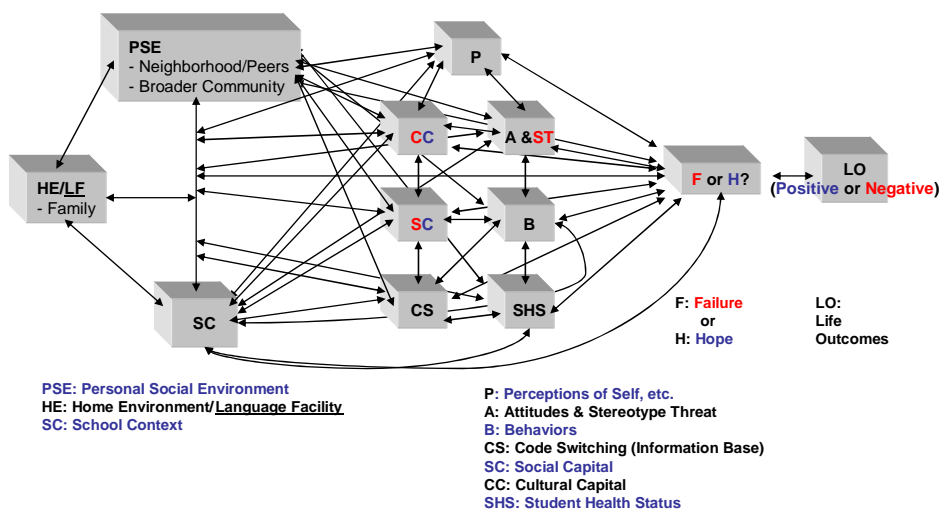
Slide 5

## School Obligations (with Parents) to Close the Gap: Conduct an Educational Audit!

- Assemble **“Comprehensive Knowledge”** of Students’ Overall Context
  - Students’ health status (physical and mental)
  - Family (Income, Occupation, Structure, etc.)
  - School Culture and fit for minority students
  - **Revise discipline policies and practices for minority students---reduce EXPULSIONS and SUSPENSIONS from pre-school to K-12!**
  - Know and understand student Peer Groups!

Slide 6

## MODEL OF FACTORS RELATED TO STUDENTS’ ACADEMIC FAILURE, HOPE, AND LIFE OUTCOMES



Slide 7

## Policymakers/Politicians Obligations

- Lobby for full-funding of *NCLB*. It has received only 44% to 53% of its \$23 billion annual budget since 2001 (\$13.5 billion in 2005 vs. \$23 billion Congress approved)
- Bush Administration has increased funding for vouchers and other public education privatization efforts
- Don't allow public schools to be solely blamed for society's social and economic ills (prison, crime, jobs...)
- Advocate **ACCOUNTABILITY** to *NCLB* for voucher, charter, and for-profit managed schools and their employees

Slide 8

## School Obligations to Close the Gap: Create "Effective Schools"

### The Elements of "Effective Schools"

- Safe school environment
- Clear school mission
- Principal as instructional leader
- Continuous measurement of performance
- High expectations by all school personnel!
- High parent involvement (redefined)
- Expand the definition of gifted
- Enhance special education services!

Slide 9

## Parent/Community Obligations to Close the Gap

- Promote and Honor Education Achievement
- Assemble Groups of “Surrogate Parents”
- Maintain Regular Contact with the Schools
- Advocate for Social and Economic Equity
- Bring Public Education Stakeholders Together
  - Fraternities, Sororities, Civic, and Service Groups
  - Business Leaders from the Community and City
  - Elected Officials at Every Level and Educators
  - Civil Rights Organizations and Faith Groups
  - Middle Class Professionals of Color

Slide 10

## Successful Closing the Gap Strategies

- ***Early intervention in the physical and social development of children born at risk:*** premature children, those born drug-addicted or with other medical problems, and those born in poor/dysfunctional teen families,
- Availability of vision, dental, hearing, asthma, lead testing, and general primary health services (***Abbott***)



Slide 11

## Successful Closing the Gap Strategies (*cont'd*)

- **High quality preschool for all children (*Abbott*). Several states are pursuing such an initiative, but the funding does not match the need**
- **Insure that all students read at grade level in 1<sup>st</sup> grade!**

Slide 12

## Successful Closing the Gap Strategies (*cont'd*)

- **Curricular materials that are culturally and social-class sensitive to the children attending today's public schools**
- **Adapt materials to their respective cultures to teach reading, English, math, etc. (e.g., place them in their experiential context)**

Slide 13

## Successful Closing the Gap Strategies (*cont'd*)

- **Programs that upgrade skills** for adults to get family supporting jobs
- Programs that teach parenting skills to **young, low-income parents**
- *Integration of public school students by socioeconomic class (e.g., Raleigh, NC, LaCrosse, WI) and supported INCLUSION!*

Slide 14

## Successful Closing the Gap Strategies (*cont'd*)

- **Design “pre-service and in-service” teacher education programs** to prepare teachers to teach the “students who sit in front of them!”
- **Reduce the number of *uncertified* teachers of low-income, minority students!**

Slide 15

## Successful Closing the Gap Strategies (*cont'd*)

- **INCREASE FUNDING FOR PUBLIC EDUCATION!** The claim that public schools receive “robust funding,” especially in urban areas, is largely **FALSE!**
- **“Basic school funding adjusted for inflation (not counting funding for special education students) has been essentially flat for decades” (e.g., Abbott)**

Slide 16

## Successful Closing the Gap Strategies (*cont'd*)

- **Full funding and adequate compensation for teachers** (given the demands we place on them)!
- That approach has shown success in public schools in the Netherlands, Sweden, and in **upscale private and public schools in the U.S.**

Slide 17

## Successful Closing the Gap Strategies (*cont'd*)

- **Reduce “class size” and “school size,”** in pre-K, elementary, middle, and high schools, respectively, so that the diverse and complex needs of individual students can be addressed
- **Reduce “student mobility,” (\$\$\$), especially in elementary schools!**

Slide 18

## Successful Closing the Gap Strategies (*cont'd*)

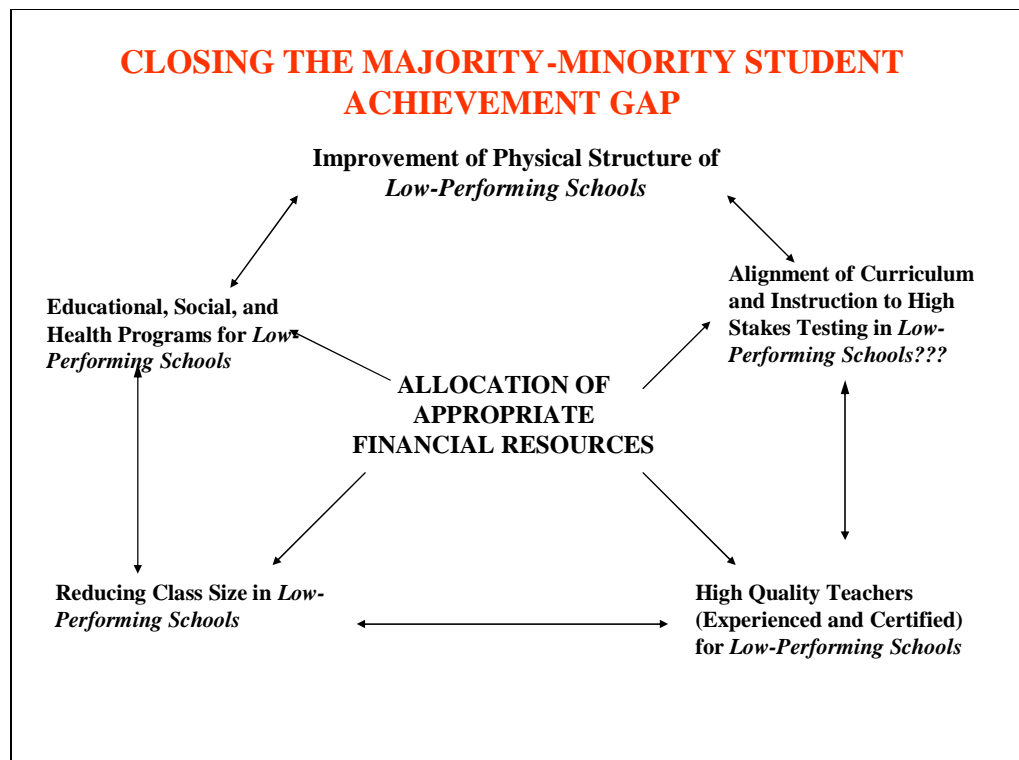
- **Flexible staffing patterns** for public school teachers and support personnel to balance “experienced” with “new” staff in schools serving low-income students
- **Reform preparation for TESTING PROCESS** to make it relevant to student populations
- **AFFIRMATIVE DEVELOPMENT OVERALL!**

Slide 19

## Successful Programs for closing the Gap for At-Risk Students

- **DURHAM SCHOLARS PROGRAM, 1995 TO PRESENT**—Enrolled 170 children and their parents, 6<sup>th</sup> grade thru college and/or other postsecondary education (Over \$20 million invested)
- **HARLEM CHILDREN’S ZONE, 1990 TO PRESENT**— Supports 7,000 children and their parents thru high school in a variety of social, enrichment, and development programs (Over \$200 million invested)
- **CHILDREN DEFENSE FUND “FREEDOM SCHOOLS,” 1993 TO PRESENT**—70 schools in 40 cities in 20 states offering enrichment, cultural awareness, and parental involvement (Over \$16 million invested) and AFTER-SCHOOL PROGRAMS??

Slide 20



Slide 21

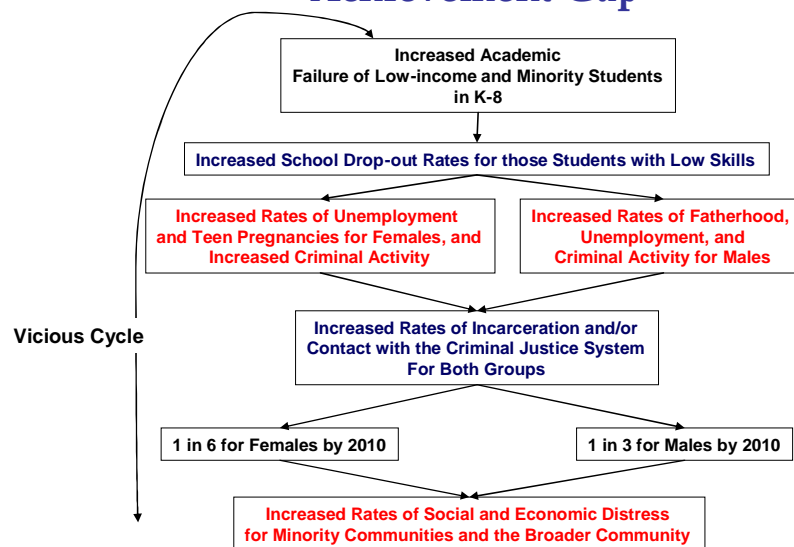
## Summary: Closing the Gap Strategies

- Small and Safe Schools
- Low Poverty Density in Schools
- All Educational Personnel on Same Page
- Opportunities for Remediation (After-School, etc.)
- Consistent Parent (or Surrogate) Involvement
- Safe Neighborhoods
- Identification of Health Challenges that Impact Learning (and Remediation)
- Adequately Feed Students
- Reduced Student Mobility
- Improved Teacher Compensation

School-Based  
Community/Policy-Based

Slide 22

## Model of Projected Consequences of Failing To Close The Majority-Minority Student Achievement Gap



Slide 23

## Concluding Observations

- Wisconsin, Ohio, Florida, and Washington, D. C. have approved, and groups in MI, New Jersey, NY, TX, AZ, CA, SC, GA, etc. are lobbying for vouchers to **close the achievement gap?**
- The Bush Administration attached “federally-funded vouchers” to relief efforts in the aftermath of Hurricane Katrina. The bill was passed in the House of Representatives
- **VOUCHERS ARE A CHEAPER RESPONSE TO “ALLEGEDLY CLOSING THE GAP!”**

Slide 24

Camden Board of Education  
**Supplemental Educational  
Services**

## Slide 25

### What Are Supplemental Educational Services

- The U.S. Department of Education (USDE) defines SES as additional academic assistance for low-income students who attend Title I schools that did not make AYP for two or more consecutive years in the same content area.
- This additional academic assistance is designed to ensure that students increase their level of academic achievement, particularly in language arts literacy and mathematics.
- SES includes tutoring or remedial services offered, before school, after school, on weekends and holidays, or during the summer. This instruction must take place outside the regular school day.

## Slide 26

## Eligible Students

- from low-income families, and
- attending Title I schools in the 2nd year of school improvement



Slide 27

## Role of the States

- Identify eligible providers
- Develop objective identification criteria
- Provide geographically relevant lists to LEAs
- Monitor the quality and effectiveness of the services offered by providers

Slide 28

### The District's Responsibility

- Districts must arrange for the provision of SES to eligible children from providers on the state-approved list. A provider is selected by the parents of the eligible child in consultation with the school district [NCLB, Section 1116(e)(1)]. Additionally, qualifying school districts are required to do the following:
  - Notify parents annually (in a clear and uniform format, and, to the extent practicable, in a language the parents can understand) of the following:
    - The availability of supplemental services.
    - The approved providers whose services are available within the school district or whose services are reasonably available in neighboring school districts or accessible through technology.
    - A brief description of the services, qualifications, and demonstrated effectiveness of each approved provider to assist the parent in selecting a provider.
  - Contact providers selected by the parents and enter into a contractual agreement on behalf of the student.
  - Monitor the responsibilities of the approved provider.
  - Monitor the progress of students receiving SES.

Slide 29

## Information for Parents

- LEAs must give parents accurate, easy-to-understand information
- Communication must occur at least annually
- Parents may select any provider from the State-approved list

Slide 30

## 2006/2007 SES Schools

1. Molina
2. Whitter
3. Camden High
4. Woodrow Wilson
5. Cramer
6. Cream
7. Davis
8. Yorkship
9. Coopers Poynt
10. Sharp
11. East Camden Middle
12. Pyne Poynt  
Veterans
13. Bonsall
14. Hatch Middle
15. Morgan Village
16. Veterans

Slide 31

## Choice Schools Offering SES for 2006/2007

- So. Camden Alternative
- Catto
- Dudley
- Lanning Square
- McGraw
- Creative and Performing Arts
- Sumner

Slide 32

## Provider Profile

- School or LEA
- Institution of higher education
- Educational service agency
- Nonprofit or for-profit entity
- Faith-based organization
- Add a strong statement that summarizes how you feel or think about this topic
- Summarize key points you want your audience to remember

Slide 33

## **Four Criteria for Providers**

- A demonstrated record of effectiveness
- High quality instructional strategies
- Services consistent with the LEA's instructional programs and the State's academic content standards
- Financially sound

Slide 34

## **Responsibilities of the Provider**

- Set specific achievement goals for the student
- Describe how the student's progress will be measured
- Establish a timetable for improving the student's achievement
- Summarize any actions required of your audience
- Summarize any follow up action items required of you

Slide 35

### **Length of Time for Providing Supplemental Services**

- Schools: When schools make AYP for two consecutive years, they are no longer required to provide services.
- Students: Students should be given services for an extended period of time, preferably the entire school year.

Slide 36

### **Funding for Supplemental Services (Part 1)**

- An LEA must spend the lesser of (1) the amount it receives in Title I funding per low-income child, or (2) the cost of the services themselves.
- An LEA must spend an amount equal to at least 5% of its Title I allocation (if needed), or up to 20%, depending upon the need for choice-related transportation.

## Slide 37

CAMDEN BOARD OF EDUCATION 2006/2007					
(Allocation \$2,661,294 per pupil \$2,070)					
School	# of Low Income	% of Total of Low Income	# Funded	\$ Amount	
1	Bonsall	555	0.06	73	\$151,174
2	Cooper's Poynt	536	0.05	71	\$145,998
3	Davis	595	0.06	78	\$162,069
4	East Camden Middle	501	0.05	66	\$136,465
5	Cramer	506	0.05	67	\$137,827
6	Hatch	479	0.05	63	\$130,472
7	Morgan Village	627	0.06	83	\$170,785
8	Pyne Poynt	393	0.04	52	\$107,047
9	Sharp	346	0.04	46	\$94,245
10	Veterans	490	0.05	64	\$133,469
11	Cream	526	0.05	69	\$143,275
12	Molina	558	0.06	73	\$151,991
13	Yorkship	522	0.05	69	\$142,185
14	Camden High School	779	0.08	103	\$212,188
15	Woodrow Wilson	634	0.06	83	\$172,692
16	Whitter	229	0.02	30	\$62,376
17	South Camden Alt	61	0.01	8	\$16,615
18	Catto	87	0.01	11	\$23,698
19	Dudley	206	0.02	27	\$56,111
20	Lanning Square	320	0.03	42	\$87,163
21	McGraw	354	0.04	47	\$96,424
22	Creative Arts	123	0.01	16	\$33,503
23	Summer	346	0.04	46	\$94,245
<b>TOTAL</b>	<b>9773</b>	<b>1.0</b>	<b>1286</b>	<b>\$2,662,020</b>	

## Slide 38

Camden Board of Education		
SUPPLEMENTAL SERVICES PROVIDERS		
2006/2007		
as of 1/22/07		
	Name	Amount
1	Arline Institute	\$621,000.00
2	Boys and Girls Club	\$22,770.00
3	Data Friendly	\$621,000.00
4	Education Advance Corp.	\$331,200.00
5	Education Station	\$269,100.00
6	Gensis School Of Business	\$6,280.00
7	Huntington Learning Center	\$2,070.00
8	Platform Learning	\$382,950.00
9	Regional Enrichment Learning Center	\$76,590.00
	<i>Total</i>	<b>\$2,332,960.00</b>

Slide 39

ARLINE INSTITUTE HRLY. RATE <b>\$50.00 (2006/2007)</b> CODE: 188		DATA FRIENDLY HRLY. RATE <b>\$75.00 (2006/2007)</b> CODE: 030		HUNTINGTON LEARNING HRLY. RATE <b>\$40.00</b> CODE: 052 (2006/2007)	
SCHOOLS	No. STUDENTS	SCHOOLS	No. STUDENTS	SCHOOLS	No. STUDENTS
BONSALL	9	BONSALL	15		
CRAMER	11	COOPERS POYNT	66		
DAVIS	30	ECMS	14		
HATCH	48	CRAMER	26		
PYNT POYNT	28	HATCH	10		
VETERANS	15	MORGAN VILLAGE	18		
CREAM	24	POYNT POYNT	30		
MOLINA	28	CREAM	40		
YORKSHIP	6	YORKSHIP	17		
CAMDEN HIGH	82	WHITTIER	17		
WOODROW WIL	111	SOUTH CAM. ALT.	8		
WHITTIER	5	DUDLEY	4		
MORGAN VILL.	30	CREATIVE ARTS	7		
ECMS	0	MCGRAW	32		
MCGRAW	3	SUMNER	45		
CREATIVE ARTS	3	LANNING SQ.	46		
LANNING SQ.	10	CAMDEN HIGH	23		
<b>TOTAL</b>	<b>443</b>	<b>TOTAL</b>	<b>418</b>	<b>TOTAL</b>	<b>1</b>

EDUCATION STATION HRLY. RATE <b>\$73.93</b> CODE: 034 (2006/2007)	
SCHOOLS	No. STUDENTS
DAVIS	12
ECMS	23
CRAMER	13
PYNE POYNT	7
SHARP	55
CREAM	1
MOLINA	28
WHITTIER	4
<b>TOTAL</b>	<b>143</b>

Slide 40

GENESIS SCH, OF BUS, HRLY. RATE <b>\$35.00 (2006/2007)</b> CODE: 041		PLATFORM LEARNING HRLY. RATE <b>\$62.72 (2006/2007)</b> CODE: 095		EDUCATION ADVANCE HRLY. RATE <b>\$45.00</b> CODE: 157 (2006/2007)	
SCHOOLS	No. STUDENTS	SCHOOLS	No. STUDENTS	SCHOOLS	No. STUDENTS
BONSALL	2	BONSALL	38	BONSALL	15
CREAM	2	ECMS	18	DAVIS	26
<b>TOTAL</b>	<b>4</b>	DAVIS	37	ECMS	3
<b>BOYS &amp; GIRLS CLUB</b>		CRAMER	33	CRAMER	4
HRLY. RATE <b>\$40.00 (2006/2007)</b>		HATCH	3	HATCH	8
CODE: 012		PYNE POYNT	8	MOLINA	19
SCHOOLS	No. STUDENTS	VETERANS	21	MORGAN VILLAGE	4
ECMS	1	YORKSHIP	30	SHARP	7
DUDLEY	6	DUDLEY	21	VETERANS	28
MCGRAW	4	MCGRAW	4	YORKSHIP	16
<b>TOTAL</b>	<b>11</b>	LANNING SQ.	4	PYNE POYNT	24
<b>REAL</b>		<b>TOTAL</b>	<b>217</b>	DUDLEY	23
HRLY. RATE <b>\$37.50 (2006/2007)</b>				MCGRAW	2
CODE: 185				CATTO	11
SCHOOLS	No. STUDENTS			<b>TOTAL</b>	<b>190</b>
DAVIS	14				
CRAMER	18				
POYNT POYNT	8				
<b>TOTAL</b>	<b>40</b>				

## **Kimberly Hood**

“Supplemental Educational Services” (SES) is defined by the United States Department of Education as “tutoring or extra help provided to students in reading, English/language arts, and math. This extra help can be provided before or after school, on weekends, or in the summer.” The No Child Left Behind Act states that these services must be of high quality, research-based, and specifically designed to increase the academic achievement of eligible children. The DCPS SEA Grants Office maintains a list of approved providers and uses a competitive process to determine eligibility for the list. It is the role of my office at the School District level to implement such services.

By law, the services are targeted to help students from low-income families attending schools that do not make adequate yearly progress (AYP), for three consecutive years. In recognition of the limited parental choice transfer options under NCLB for our senior high school students, DCPS offered SES to schools after failing to meet AYP for two consecutive years. Therefore, from the beginning of its implementation of the program in SY 2002–2003, DCPS has offered SES to first year Schools in Need of Improvement (SINI).

NCLB requires Districts to determine student eligibility based on income and a school AYP status. DCPS determines eligibility for our students based on free and reduced meal data and state test results compiled by the office of Assessment and Accountability. Under the SES program, one of our primary focus areas is to provide parents options and input in the education of their child. Although the District is mandated to enter into contracts with SES providers, it is the parent that makes the determination of the kind of services they want for their child. The District is also responsible for providing assistance to parents in making their selection of service providers. Beginning last year, DCPS created a marketing plan for recruiting families and providing assistance. Outside of mass mailings to potential families, we host vendor fairs, conduct radio interviews, distribute flyers and attend community events to get the information out to parents to assist them in identifying the best program for their child. We also serve as a support to schools in implementing and coordinating services.

DCPS recognized the need to better coordinate services and track student data. In SY 2004-2005, DCPS invested in a web-based management system to better coordinate our service delivery. The system, WebStars, is a SES management database that performs a variety of functions in support of the day-to-operations of the District’s SES program. Some of the major operational functions include 1) the verification of student eligibility; 2) development of Individual Student Service Plans (ISSP); 3) Service time entry; 4) Emergency Contact Information; 5) Finance; and 6) Administrative reports (i.e., Active Student Rosters). We believe we are pioneers in utilizing a online database system to manage SES and we have been praised on its innovation.

In school year 2003-04, the district launched its first SES program and during that year, 15 schools were identified as in need of improvement. Out of 15 schools combined, 4,827 students were eligible to take part in SES. The Title I allotment was \$3,631,720.00 and \$1,200.00 was the determined per pupil cap. Per pupil caps provide estimates to help the LEA communicate to parents the amount of tutorial hours they can receive for a particular



provider. This year, the per pupil cap is \$2,111 and we anticipate serving nearly 5,500 students.

We have, at the District level, reviewed the effectiveness of Supplemental Educational Services (SES) across schools. Our evaluation included services rendered in SY 2003–2004 and SY 2004–2005. Using the same measures of effectiveness, DC SAT 9, the report examines students receiving SES in comparison to those students not receiving services as well as comparing individual provider impact. The preliminary analysis suggests a significant positive correlation of these services on student academic achievement. In short, for the small Normal Curve Equivalent (NCE) gains reported in our District over the past two years, the largest gains were among those schools where services were provided. In addition, a sampling of 65% of the students receiving SES, the data suggests increases reading and math achievements in among the group. However, decreases among the group were also noted. Therefore, we conclude that the achievement was neither significantly better nor significantly worse than the achievement of students in non-SES programs within the school. Supplemental Educational Services is not the remedy for all, but can be an integral part of the District's overall plan for improvement.

We recognize that our District is in need of improvement and we have much work to do. However, in recent months, DCPS has developed and implemented new, rigorous standards, assessments, and curriculum. We have also implemented a District-wide benchmark assessment program. We firmly believe that many of the new developments, based on researched-best practices and models, will lead to the improvements we seek. We see SES as an extension of our parental involvement program and we rely heavily on the partnership between family, school, community, and provider. In doing so, we must continue to work to improve the delivery of services to participating students. Everyday is an opportunity to do things better and improve service deliverables. We apply best practices from other LEA's across the country and find creative ways to modify our current approach and improve upon services. To that end, we must continue to improve our monitoring and oversight of the implementation of these programs and its integration into the District's school improvement model.

## **Christine Krenicki**

The City of Passaic is located in the southeastern portion of Passaic County, New Jersey. Its 3.2 square miles of area contains mixed industrial, commercial, and residential land uses developed at a population density of 21,207 persons per square mile. According to the 2000 Census, the City has a population of 67,861. Tracing its development from the 19th Century, Passaic is a mature community which has experienced the in-and-out migration of several ethnic groups, and a slow but steady population growth over the last two decades. Currently, the City is almost totally developed. Neighboring municipalities include Clifton, Garfield, Wallington, and Rutherford.

The Passaic School District is a large urban school district in New Jersey. The district has an enrollment of 13,000+ students from pre-kindergarten to kindergarten. 86% of the student population is Hispanic. 84.8% of the students receive free/reduced lunch. There are 17 schools including one middle school and one high school.

In addition to supervising district testing/research/evaluation/NCLB/Title I, SES is one of the responsibilities of the Testing office. The district began implementing Supplemental Education Services three years ago. The district has 6 schools designated as schools in need of improvement (SINI) and the district is in year two of its designation as a district in need of improvement (DINI). The district began the program in 2004-2005 with 525 students and spent \$690,414. In 2005-2006 the district enrolled 726 students and spent \$984,429. This school year, 2006-2007, the district has 570 students in SES with 271 students on a waiting list. The district uses the services of 7 vendors and will have spent \$895,470 with the possibility of spending an additional \$270,000 on services. The allotment is \$1571 per student.

Implementing an SES program has been a challenge. The challenges are:

### **Intradistrict Choice**

This year the district had the greatest number of parents, 200, choosing the intra-district choice option. However, parents did not want to send their children to schools with 30+ students in the classroom. Funding for additional staff is not likely with a state mandated flat funding budget. Facilities are an issue and due to lack of funding the district building program has been delayed. The district asks parents to partner with their principal and school to help turn district schools in need of improvement into performing schools. Most parents do not want to take their child to another school due to the neighborhood, convenience and other siblings attending other schools.

Dr. Robert H. Holster, Superintendent of Schools, wrote letters to the surrounding communities asking them if they had space to take our children and the Superintendents of these districts refused. They did not want failing students to attend their schools.

### **Staffing**

The contract between the State Department of Education and vendors does not require that a certified staff member teach students. The district, however, requires that all vendors hire

certified staff. The rationale for the decision is obvious. If the district were to provide after school services it would use only certified staff. The district would never use non-certified staff to teach at risk children. The district encourages Providers to hire district staff since teachers benefit from the professional development activities and curriculum provided by some vendors. In addition, the district requires that all programs be housed in the respective schools and not at vendor sites. Programs run three days a week for an hour or 1 ½ hours. For the first time, providers have realized that an hour program is not sufficient since time is lost for students going from the day school program to the after school program. In addition, crossing guards are not on duty when programs end (funding issue) and parents must pick up their children. This is an enormous problem since staff must remain in buildings until all children are picked up. A provision is in the district contract with providers regarding this issue and the number of times this happens before a student is dropped from the program.

### Supervision

The State still has not supervised the programs in district. The responsibility of supervision rests with the district. The District holds meetings between the vendors and principals at the start of each school year. The agenda items for these meetings include the following:

- Staffing
- Student enrollment
- Contacting parents
- Communication with the home and school
- Room locations
- Start and end times
- Student Attendance sent to principals
- Inclement Weather
- Curriculum
- Monitoring and Evaluation of the program
- Project Managers

The district contract requires that each provider hires a supervisor for their program. This person ensures that curriculum is followed, substitute teachers provided in case of teacher absence and that plans are provided. Additional responsibilities include the monitoring of the program start and end times and ensuring that all children are picked up by parents or designated family members. The district visits sites to ensure that programs meet the district criteria. All concerns are discussed with vendors and plans made to ensure compliance.

### Vendors

The State Department of Education lists 161 vendors. The district speaks with vendors to determine their willingness to provide services by certified staff on site to general education, special education and limited English proficient students (LEP). In addition, the district requires vendors to hire bilingual staff for LEP students (in compliance with district Bilingual policy), to abide by a student:teacher ratio of 8:1 and to follow all IEP accommodations for special education students. Discussion with internet based programs includes the availability of staff and computer related issues, i.e., responsibility for non-

working computers, and provisions for laptops. Some vendors choose not to participate due to a student quota. They require a guaranteed number of students in order to run a program.

A vendor fair is held in September at every school receiving SES services. These fairs are tied to Back-to-School-Nights, when possible. Fairs were held at the end of the school year, however, more parents attended September fairs than June fairs. At the end of a vendor fair, parents and their eligible children choose a vendor and sign a parent-vendor agreement developed by the district. Lists of these students, their classifications and test scores are provided to vendors. Vendors contact parents. The district provides classroom space for the individual programs based on student:teacher ratios. All programs must start in September, no later than the first week of October.

Vendors are not allowed to visit schools soliciting students. They are not allowed to post fliers in schools. They must send all requests for staffing to the district office which then notifies schools and staff of teaching position availability in vendor after school programs.

The vendor, in addition to signing a Board adopted contract, must also agree to the District developed "Supplemental Educational Services Master Agreement" which covers the district responsibilities, vendor responsibilities (including project manager), student attendance, tutoring for absent students, curriculum, fees, billing and payment, confidentiality, compliance with laws, criminal background checks, terms of contract and termination of services and insurance liability.

The district may terminate contracted services with the Provider based on the following:

- Excessive student absences (more than 20% quarterly)
- Student Behavior-Disruptive
- Performance of Provider-Inconsistent delivery of services, no provisions for Special Education or Limited English Proficient instruction/instructional strategies.

### **Vendor Communication with Parents and Schools**

Vendors must inform the parent(s), or legal guardians of their eligible students' progress in tutoring at the beginning of, interim, and at the end of the provided service. Vendors must send a copy of this progress report to the school principal and student's classroom teacher. The vendor must also schedule parent-teacher conferences with the classroom teacher to discuss student progress in the program.

Complaints have been voiced by parents who do not receive any communication from vendors. All complaints are investigated and vendors who do not comply with this requirement are required to remediate the situation immediately.

### **Vendor Program**

The district requires vendors to use or incorporate district curriculum into their programs. All vendor programs must be reviewed by the district office. Vendors must be addressing the New Jersey Core Curriculum Content Standards (CCCS).

### Program Evaluation

The State Department of Education gathers state testing data on students receiving SES services. However, individual district results are not sent. The district has conducted its own evaluation of SES programs through parent, teacher and student surveys. The results of these surveys are reviewed with parents at meetings held on vendor fair nights and with the vendors. Test scores are currently being reviewed by the district.

### District Concerns

A major challenge faced by the district is principal acceptance or “buy-in” of the SES program. All the principals of the schools in need of improvement are resistant to outside vendors providing after school programs to their students. Many principals feel that given the same dollars as the individual vendors that they too would be able to run an effective after school program. Principal acceptance has only come about as a result of numerous meetings scheduled between vendors and principals by the district office. At these meetings principals are allowed to express their concerns and their expectations to vendors. Vendor agreement to principal requests has made communication between the two more open and friendly. The district office is notified if vendors do not comply with agreed practices. The district office contacts the vendors and is the mechanism for vendor compliance.

An equally important district concern is student eligibility. In schools where there is 50-100% poverty only eligible students receive services. These students must qualify for free/reduced lunch.

Recently, Dr. Robert H. Holster, Superintendent of Schools, was approached by an elected official regarding the eligibility of non-public students living in the attendance area of two public elementary schools. The parents of the non-public students living in these attendance areas chose not to complete the Income Survey. The Superintendent was asked by this official to implement *No Child Left Behind Act (NCLB) 1120; 20 USC 6320; 34 CFR 200.78 (letter C)* which allows a district to calculate the poverty of non-public students residing in a given attendance area based on the percentage of poor children in the respective public schools (Proportionality).

The students living in these attendance areas do not have the same level of poverty as the students in those two elementary schools. There are non-public schools in the district that do complete the income eligibility survey and do receive federal funds. If the district were to comply with this requirement it would reduce Title I funding by \$250,000+ (this would increase with additional non-public schools in these attendance areas) to public school students in those two schools, to district schools in need of improvement, and to professional development activities. In addition, it would reduce funding to those non-public eligible students who currently receive Title I services.

The district has always used income eligibility for determining Title I services, however, this “loophole” in the law has created much debate. If these non-public students were of low-income status then this means of determining eligibility for services would be appropriate. However, these students reside in a more affluent section of Passaic.

This issue is challenging because the district has students at the schools in need of improvement who do not qualify for services due to their lack of qualification for free/reduced lunch. These students are in dire need of services. If proportionality were allowed for public school students, then students who are denied SES services at a school in need of improvement because of their lunch status would be allowed to receive SES services.<sup>1</sup>

The district knows of only one other town in the state which has chosen to apply the proportionality rule. However, this town is affluent. The school district in this town qualifies as a district factor group (DFG) GH, whereas, Passaic is a district factor group A-the poorest of districts. The district asks the federal government, that in reauthorizing NCLB, that this “loophole” be reviewed based on equality of services for all children.

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<sup>1</sup> Christine Krenicki, “Re: US Commission on Civil Rights Briefing on Supplemental Educational Services under the No Child Left Behind Act, Jan. 26, 2007,” e-mail to Sock-Foon MacDougall, US Commission on Civil Rights, Nov. 21, 2007, 1:02 p.m.

## **Public Comments**

During its public comment period, the Commission received a comment from Steven Pines, the Executive Director of the Education Industry Association. In his letter, Mr. Pines indicated that the Education Industry Association (EIA), with over 500 members, was the leading professional organization for private providers of education services and suppliers/developers of educational content for students from pre-kindergarten through college. Mr. Pines was concerned that only 17 percent of eligible children were enrolled in SES programs and that only a fraction of the federal resources were being spent. Further, an EIA survey of providers, independently prepared by the American Institutes of Research, provided numerous findings. Among these:

- most SES providers were experienced tutoring organizations before the advent of NCLB;
- most providers offer tutoring in student-to-teacher ratios of often less than 10:1; and
- inadequate access to school facilities and lack of parent notification were often cited as barriers to implementation.

The survey, along with EIA's continuing work with providers, school districts, states, and the Department of Education, revealed three broad categories into which the main issues can be subsumed, according to Mr. Pines. The three categories were participation, accountability, and funding.

**Participation:** The low participation rates could be corrected if school districts were to follow the example of the Chicago Public Schools or New York City Public Schools, Mr. Pines wrote. Both of these locales routinely use the maximum SES funds to raise student achievement. Low participation, according to Mr. Pines, was also caused by school districts that erected barriers to providers that wished to use school facilities.

**Accountability:** Survey data from the Center for Education Policy, and other reports, indicate that parents were enthusiastic about tutoring and were, thus far, very content with the services being offered. Many states were also beginning to collect and evaluate complex data to examine whether SES was working and, thus, increased accountability. However, EIA members offering SES readily adopted high ethical standards early on.

**Funding:** EIA did not believe that SES currently required increased funding because school districts continued to under-enroll students in the program. Further, it appeared that school districts wanted more Title I funds to use at their discretion, and one way to accomplish this was to minimize the use of SES/Choice funds. EIA believed that these reserved funds should not be available for other uses without clear evidence that all SES eligible children had been served or had selected not to participate in SES.





## Statement of Commissioners

### *Arlan D. Melendez and Michael Yaki*

While voting to approve the body of this report, we have abstained from approval of these findings and recommendations. There were many procedural irregularities in the generation of this report that raise concerns for us about the accuracy and timeliness of these findings and recommendations.

First, readers should note that the underlying briefing on this matter was conducted in January 2007, nearly two and a half years ago. Since that time, there has been extensive debate of these issues at all levels of government and new federal regulations have been issued that directly address the concerns raised by briefing panelists (see page one of the Executive Summary). Unfortunately, the Commission has not received updated information from the agency speakers since these changes have taken place.

Second, it is unclear whether and to what extent these findings and recommendations are based on research by the Commission's experts or by others. The initial draft of this report that was circulated for comment to Commissioners had no findings and recommendations. It was highly irregular for staff not to provide findings and recommendations for comment and review. It was even more surprising to discover that the final version of the report submitted to Commissioners for a vote suddenly included extensive findings and recommendations that had apparently been adopted by the Staff Director based on his collaboration with certain individual Commissioners. These deviations from past practice have not been adequately explained. Without guarantees of thorough review by our staff experts or updated information from agency speakers, we cannot approve of these findings and recommendations at this time.

Ending the inequities in our educational system is one of the most critical civil rights issues facing our country. Fixing the No Child Left Behind Act is a necessary first step and we hope the best practices described by the speakers at the Commission's briefing will help.



## Speaker Biographies

### ***Sakyibera Fitzgerald***

Ms. Fitzgerald has been a resident of Newark, New Jersey for over 18 years, and has three children and three grandchildren. She has always played an active role in the education of her children, and is a member of The Secondary Parent Council of Newark, New Jersey, as well as a founding member of the grass roots organization, Concerned Parents of Newark.. Teachers and administrators knew that they could count on her to respond to any concerns that they expressed about the progress of her children. Likewise, she has worked tirelessly to advocate for not only her own children, but all the children of Newark. As the President of Concerned Parents of Newark she gave parent workshops throughout the community about their rights as set forth in the No Child Left Behind Act.

### ***Ernestine Francies***

Ms. Francies is a graduate of Passaic High School in Passaic, New Jersey, and received her bachelor's degree in Elementary Education from Fairleigh Dickinson University. She was the Basic Skills Parent Liaison for 16 years, and is currently the District Parent/Teacher Coordinator for Passaic City Schools. Her primary responsibilities include the organization and implementation of educational training programs for parents, students, teachers and community.

Through the Title I Department, Ms. Francies has developed: the District Parent Resource Center, the Parent Assistance in Reading program, the MegaSkills program, the Family Math program, the Family Science program, the Systematic Training and Effective Parenting (STEP) program, and the parental involvement activities of the Title I District Parents Advisory Council. She created and implemented a "Survival Spanish" course for English speaking parents and organized a Summer Institute for Parents. Since 1993, Ms. Francies has served as the Coordinator/Facilitator of the Passaic Community School located at Dr. Martin Luther King, Jr., School 6, in Passaic. She is also the facilitator, mentor, advisor, and trainer for the Parent Liaison staff of the district, and serves on various Board of Education committees.

### ***Enrique Granados***

Upon his arrival from Mexico in 1992, Mr. Granados continued his college education at El Centro College in Dallas, Texas. After three years of misdirection from his school counselors, he discovered that he had failed to gain any credits. This frustrating experience within the educational system impelled Granados to teach the community on how the system works and how important it was for parents to be involved in their children's education.

He later worked as the Director for Project CREO for Hispanic CREO, where he conducted numerous seminars and workshops about No Child Left Behind, Public School Choice, and Supplemental Education Services. He is also a member of Casa Guanajuato, Maestros de la

Comunidad, and The CARE Group, and is actively involved in the Hispanic communities in the Dallas-Ft. Worth area, particularly on school choice reform.

### ***Nytasha Lee***

Ms. Lee is from Southern New Jersey, where she is currently pursuing her Associate of Business Degree at Camden County College in Blackwood, NJ. Ms. Lee has a child, and is employed with Medco Health Solutions. Through Project C.O.P.E., she serves as a mentor to children who have one or both parents incarcerated. She is an active PTA member and has served as President of the Cramer Elementary PTA in Camden, NJ. She has been awarded several times for her civic participation and involvement.

### ***Shelba Woods***

Ms. Woods lives in Detroit, Michigan, is the single mother of several children, including foster and adoptive children, and is also a grandmother and caregiver for two small children. Because of her children, she has been active in Detroit Public Schools.

Ms. Woods has worked for the United Cerebral Palsy, Inc., an organization dealing with people with severe disabilities, and with the Child Care Coordinating Council (4 Cs), helping young mothers find suitable and safe child care for the Work First Program. She has also worked as a mental health worker in hospitals with young adults and adolescents with mental disorders. Presently, she is attending Wayne County Community College District working toward a Bachelors in Special Education.

### ***Derrell Bradford***

Mr. Bradford is the Deputy Director and Director of Communications for Excellent Education for Everyone (E3), New Jersey's largest school choice advocacy group, and serves as a Co-Director of the Center for Education Justice, a public interest law firm focused on protecting the education rights of parents and students in New Jersey school districts. A native of Baltimore, Maryland, Mr. Bradford graduated from the University of Pennsylvania with a B.A. in English and Creative Writing. He has an extensive background in editorial development, graphic and Web design, and publishing, and worked for Simon & Schuster and City Guide Publications in New York City before joining E3.

### ***Maite Arce***

Ms. Arce is Vice President of the Hispanic Council for Reform and Educational Options (Hispanic CREO). As such, she oversees the organization's core programs including membership, affiliates, communications, and parental outreach. In only two years, Hispanic CREO has developed robust affiliate's network of over 30 national and community based organizations and has trained more than 30,000 parents on issues such as parental involvement and the No Child Left Behind act. Ms. Arce has 15 years of experience in coalition building, program development, and community outreach to underserved populations. Prior to Hispanic CREO, Ms. Arce was the Deputy Director of the Self Reliance Foundation, a national nonprofit that develops social marketing campaigns and outreach

programs for the Latino community. She led the *Celebra la Ciencia (Celebrate Science)*, funded by the National Science Foundation, founded the *National Hispanic Resource Helpline*, and co-founded the Student Fellows Program, a national service learning and mentoring program for Latino college students.

### **Harrison Blackmond, Jr.**

Mr. Blackmond is a native of rural Alabama and Cincinnati, Ohio. After serving almost three years in the U.S. Army, he earned a Bachelor of Science degree in Speech Pathology and Audiology, and a Master of Arts degree in Audiology from the University of Cincinnati in 1971. That same year he began studying law at the University of Michigan Law School and was awarded a Juris Doctorate in 1974. He is a member of both the California and Michigan State Bars.

In 1994, Mr. Blackmond was appointed Chief Executive Officer of the Michigan Partnership for New Education (MPNE). The MPNE was a 50 million dollar collaboration of business, government, philanthropy, and education leaders, designed to create and sustain a statewide education innovation system in support of new teaching and learning for all Michigan children. In 2005, Mr. Blackmond was appointed President and CEO of the Detroit Chapter of the Black Alliance for Educational Options (DBAEO). DBAEO actively supports parental choice to empower families and increase quality educational options for black children.

He is a Life Member of the Black Alliance for Educational Options and has served on the Board of Directors of the Detroit Chapter. He currently serves on the Board of Trustees for Trillium Academy (a charter school), and as chair of the K-12 Education Council for the Detroit Regional Chamber of Commerce.

### **Eugene W. Hickok**

Mr. Hickok is Senior Policy Director at Dutko Worldwide, a government relations and public policy firm in Washington, DC, and is a Bradley Fellow in Education Policy at the Heritage Foundation, also in Washington. He served at the U.S. Deputy Secretary of Education under President George W. Bush. He also served as Undersecretary of Education for President Bush. During his tenure at the U.S. Department of Education, he had broad responsibility for the implementation of the No Child Left Behind Act and oversaw the reauthorization of the Individuals with Disabilities Education Act (IDEA). For six years, he was Secretary of Education for Pennsylvania. For many years, Mr. Hickok was on the political science faculty at Dickinson College in Carlisle, Pennsylvania, and the Dickinson School of Law. The recipient of numerous awards for his teaching, he has published articles and books on the Constitution, the Bill of Rights, the role of the judiciary in American society, and American politics and law. In 1986, he served in the Office of Legal Counsel at the U.S. Department of Justice. He became a Bradley Fellow at the Heritage Foundation in 1990. Mr. Hickok received his undergraduate degree from Hampden-Sydney College and his Masters Degree in Public Administration and Doctorate in Government from the University of Virginia. He resides in Richmond, Virginia.

**Joel Packer**

Mr. Packer currently serves as Director of Educational Policy and Practice (EPP) for the National Education Association. NEA represents 3.2 million public school teachers, educational support professionals, and higher education faculty. As director, Mr. Packer leads a staff of 20 and oversees NEA's primary policy center on elementary and secondary education issues. Department staff deal with issues such as school readiness, standards/curriculum, testing/accountability, teaching and learning conditions, quality educator workforce, parent/family involvement, education funding, special education, high school reform, 21st century skills/STEM issues, English Language Learners, and vouchers/charters.

Mr. Packer also oversees NEA's work on the reauthorization of ESEA. In addition, EPP serves as NEA's lead liaison with the U.S. Department of Education.

Mr. Packer has also served as President of the Committee for Education Funding a coalition of some 100 national education organizations, co-chair of the National Strategy Committee of Citizens For Sensible Safeguards, chair of the lobbying task force of the Family and Medical Leave coalition, co-chair of the Leadership Conference for Civil Rights' lobby task force on the Civil Rights Restoration Act, and co-chair of the lobby task force of the coalition opposing the Supreme Court nomination of Robert Bork. He worked on education policy issues for 28 years.

**Marion A. Bolden**

Ms. Bolden has served as Superintendent of the Newark Public Schools since 1999. Newark is the largest school district in the State of New Jersey, with an approximate enrollment of 44,000 students. Under her leadership, the district has made important strides forward, implementing numerous initiatives that affect on the district's instructional and financial programs, as well as the facilities. The district has the highest percentage statewide of 3 and 4 year olds enrolled in the Early Childhood Program.

Under Ms. Bolden's direction, the district was awarded the Certificate of Excellence in Financial Reporting by the International Association of School Business Officials for three of the last four years.

Prior to her appointment as superintendent, Ms. Bolden served as the Associate Superintendent of Teaching and Learning for the Newark Public Schools from 1996 through 1999. In that capacity, she was responsible for curriculum, instruction, and assessment. As Associate Superintendent, Ms. Bolden implemented the Core Curriculum Content Standards and was responsible for staff development.

**Reginald Felton**

Mr. Felton is the director of federal relations at the National School Boards Association, the nationwide advocacy organization that fosters equity and excellence in public elementary and secondary education through local school board leadership. He is responsible for developing

and implementing comprehensive legislative strategies and representing the interests of local school boards and NSBA at the federal level on a variety of critical issues affecting student achievement in public education. His program areas include No Child Left Behind, IDEA, FERPRA, labor, and emerging federal issues affecting the business operations of local school boards.

Mr. Felton holds a B.A. degree in sociology from Howard University; an M.S. degree in urban studies from Tulane University; and certificates from the Federal Executive Institute, the Brookings Institution, and the Harvard Graduate School of Education.

Mr. Felton has received numerous awards, including: the U.S. Department of the Navy Superior Civilian Service Award and Human Goals Award; a Montgomery County Executive Citation; Omega Psi Phi Fraternity Omega Man of the Year Award, the Superior Service Award, and the Founder's Award; the Highland Beach, Maryland Citizen's Award; the *Montgomery Times* Community Service Award; and the Alpha Phi Alpha Fraternity Community Service Award.

### **Leonard Fitts**

Mr. Fitts' leadership has included a long list of accomplishments, including a narrowing of the achievement gap among and between diverse populations and groups, a statewide school safety model for New Jersey, and a national partnership award from a Top 500 company for greater accountability and resource conservation.

A native off Alabama, Leonard Fitts holds a B.S. in Mathematics and Science; an M.Ed. in Counseling and Guidance from Tuskegee University; a Doctorate in Educational Psychology from the University of Pennsylvania; and a Post-Doctoral Masters of Business Administration (M.B.A.) from Drexel University.

Because of poor school performance and government investigations involving the Camden School District, the Camden Board of Education asked Dr. Fitts to return to the district, where she is currently serving as its interim superintendent.

### **Kimberly Hood**

Ms. Hood is the Executive Director of the District of Columbia Public Schools (DCPS) Office of Local Educational Agency (LEA) Grants. She has a background in grants administration and program management experience with the United Negro College Fund and the Archdiocese of Washington Catholic Schools Office. She came to DCPS with the charter school movement and served as the State Coordinator of the Public Charter School Grant Program, a start-up program to support the planning, development, and implementation of charter school programs. She currently serves as the Executive Director of Local Educational Agency Grants for the District of Columbia Public Schools. Her office is responsible for the implementation of several of the NCLB programs, to include Supplemental Educational Services, School Choice, Reading First, and Equitable Services to Private School Children. Ms. Hood brings to the forum extensive knowledge and expertise in

implementing Supplemental Educational Services at the District level. DCPS is in its fourth year of providing these services to its neediest students.

### ***Christine Krenicki***

Dr. Krenicki received a B.A. in English and M.A. in Reading from Montclair State University, and a Doctorate in Education from Seton Hall University. She holds a Teacher of English, Reading Specialist, Supervisor, and Supervisor/Principal certificates, and Chief School Eligibility Certification.

Dr. Krenicki has been with the Passaic School District for 34 years. She served as an English Teacher for 19 years and was awarded Teacher of the Year for the City of Passaic and Passaic County. She was appointed District Assistant for Title I and then appointed District Supervisor of Testing/Research/Evaluation.

Her current position is Supervisor of Testing/Research/Evaluation/No Child Left Behind (NCLB) for the Passaic School system. Her position involves administering state and district tests, collecting data, evaluating data and programs, and disseminating the results to curriculum supervisors, principals, teachers, parents, and the Board of Education. These data are used to monitor the effectiveness of instruction and programs, and to evaluate the district curricula. New programs are established based on the results of these data.

She is also responsible for the implementation of NCLB in her district. Her office provides supplemental remedial services for regular education, English Language Learners, and Special Education children at risk of failing state and district administered tests. She developed and managed the Supplemental Service Provider and IntraDistrict Choice options. She also provides the Adequate Yearly Progress (AYP) report to the Board of Education, administrators, schools, parents, and community. In addition to coordinating the development of the No Child Left Behind Grant, she developed and implemented the Title I grant and was responsible for the assessment and evaluation component of the Reading First Grant.



## Appendix A



**ESEA: IT'S TIME FOR A CHANGE!**

### ***NEA's Positive Agenda for the ESEA Reauthorization***

**July 2006**

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Great Public Schools Criteria	Pages 1–2
NEA's Priorities for ESEA Reauthorization	Pages 3–7
<b>NEA's Positive Agenda for ESEA Reauthorization</b>	Page 8
Great Public Schools Criteria	Pages 8–16
NEA's Priorities for ESEA Reauthorization	Pages 17–29

## Executive Summary

This Executive Summary of the Positive Agenda highlights the recommendations contained in the full report. The full report, starting on page 8, provides the rationale and additional background for each recommendation.

### Great Public Schools Criteria

All children have a basic right to a great public school. Our vision of what great public schools need and should provide acknowledges that the world is changing and public education is changing too. Meeting these Great Public Schools (GPS) criteria require not only the continued commitment of all educators, but the concerted efforts of policymakers at all levels of government. We believe these criteria will:

- Prepare all students for the future with 21<sup>st</sup> century skills
- Create enthusiasm for learning and engage all students in the classroom
- Close achievement gaps and raise achievement for all students
- Ensure that all educators have the resources and tools they need to get the job done

These criteria form a basis for NEA's priorities in offering Congress a framework for the 2007 reauthorization of the Elementary and Secondary Education Act (ESEA). The reauthorization process must involve all stakeholders, especially educators. Their knowledge and insights are key to developing sound policies.

- ✓ ***Quality programs and services that meet the full range of all children's needs so that they come to school every day ready and able to learn.***

Students must have access to programs such as public school pre-K and kindergarten programs; afterschool enrichment and intervention programs; nutrition, including school breakfast and lunch programs; school-based health care and related services; counseling and mentoring programs for students and families; safe and efficient transportation; and safe and drug-free schools programs.

[See ESEA Positive Agenda, pages 8–11]

- ✓ ***High expectations and standards with a rigorous and comprehensive curriculum for all students.***

All students should have access to a rigorous, comprehensive education that includes critical thinking, problem solving, high level communication and literacy skills, and a deep understanding of content. Curriculum must be aligned with standards and assessments, and should include more than what can be assessed on a paper and pencil multiple choice test.

[See ESEA Positive Agenda, page 12]

- ✓ ***Quality conditions for teaching and lifelong learning.***

Quality conditions for teaching and learning include smaller class sizes and optimal-sized learning communities; safe, healthy, modern, and orderly schools; up-to-date textbooks, technology, media centers, and materials; policies that encourage collaboration and shared decision-making among staff; and the providing of data in a timely manner with staff training in the use of data for decision-making. [See ESEA Positive Agenda, pages 12–13]

✓ ***A qualified, caring, diverse, and stable workforce.***

A qualified, caring, diverse, and stable workforce in our schools requires a pool of well prepared, highly skilled candidates for all vacancies; quality induction for new teachers with mentoring services from trained veteran teachers; opportunities for continual improvement and growth for all employees; working conditions in which they can be successful; and professional compensation and benefits. [See ESEA Positive Agenda, pages 13–14]

✓ ***Shared responsibility for appropriate school accountability by stakeholders at all levels.***

Appropriate accountability means using results to identify policies and programs that successfully improve student learning and to provide positive supports, including resources for improvement and technical assistance to schools needing help. Schools, districts, states, and the federal government should be financially accountable to the public, with policymakers accountable to provide the resources needed to produce positive results. Accountability systems should be transparent so that policies are determined and communicated in an open, consistent, and timely manner. [See ESEA Positive Agenda, page 14]

✓ ***Parental, family, and community involvement and engagement.***

Policies should assist and encourage parents, families, and communities to be actively involved and engaged in their public schools; require professional development programs for all educators to include the skills and knowledge needed for effective parental and community communication and engagement strategies; provide incentives or require employers to grant a reasonable amount of leave for parents to participate in their children's school activities. [See ESEA Positive Agenda, pages 14–15]

✓ ***Adequate, equitable, and sustainable funding.***

School funding systems must provide adequate, equitable and sustainable funding. Making taxes fair and eliminating inefficient and ineffective business subsidies are essential prerequisites to achieving adequacy, equity, and stability in school funding. ESEA programs should be fully funded at their authorized levels. [See ESEA Positive Agenda, pages 15–16]

**NEA's Priorities for ESEA Reauthorization**

[See ESEA Positive Agenda, pages 17–29]

**A great public school is a basic right of every child.** NEA's priorities for the 2007 reauthorization of ESEA focus on a broad range of policies to ensure every child access to a great public school.

*The current version of ESEA—the No Child Left Behind Act (NCLB)—is fundamentally flawed. It undermines existing state and school district structures and authority, and shifts public dollars to the private sector through supplemental educational services and takeovers of public schools by for-profit companies.*

*However, its stated goals—to improve student achievement and help close the achievement and skills gaps that exist in our country—are important to NEA and our society. We want to retain the positive provisions of ESEA, both those that existed prior to NCLB and those that were added by NCLB, in the 2007 reauthorization.*

*Congress must shift from the current focus that labels and punishes schools with a flawed one-size-fits-all accountability system and severely underfunded mandates to one that includes common-sense flexibility and supports educators in implementing programs that improve student learning, reward success, and provide meaningful assistance to schools most in need of help.*

*The following five priorities are crucial to realizing the goals of improving student achievement, closing the achievement gaps, and providing every child a quality teacher.*

➤ **Accountability That Rewards Success and Supports Educators to Help Students Learn**

[See ESEA Positive Agenda, pages 19–22]

- Accountability should be based upon multiple measures of student learning and school success.
- States should have the flexibility to design systems that produce results, including deciding in which grades to administer annual statewide tests.
- States should have the flexibility to utilize growth models and other measures of progress that assess student achievement over time, and recognize improvement on all points of the achievement scale.
- Growth model results should be used as a guide to revise instructional practices and curriculum, to provide individual assistance to students, and to provide appropriate professional development to teachers and other educators. They should not be used to penalize schools or teachers.
- Assessment systems must be appropriate, valid, and reliable for all groups of students, including students with disabilities and English Language Learners, and provide for common-sense flexibility for assessing these student subgroups.
- States, school districts, and schools should actively involve teachers and other educators in the planning, development, implementation, and refinement of standards, curriculum, assessments, accountability, and improvement plans.
- Accountability systems and the ensuing use of the results must respect the rights of school employees under federal, state, or local law, and collective bargaining agreements.

- Accountability systems should provide support and assistance, including financial support for improvement and technical assistance to those schools needing help, with targeted assistance to those schools and districts most in need of improvement.
- Assessment and accountability systems should be closely aligned with high standards and classroom curricula, provide timely data to help improve student learning, and be comprehensive and flexible so that they do not result in narrowing of the curricula.
- A federal grant program should be created to assist schools in ensuring all students access to a comprehensive curriculum.
- A comprehensive accountability system must appropriately apply to high schools without increasing dropout rates.
- Standards and assessments must incorporate the nature of work and civic life in the 21<sup>st</sup> century: high level thinking, learning, and global understanding skills, and sophisticated information, communication, and technology literacy competencies.
- Schools that fail to close achievement gaps after receiving additional financial resources, technical assistance, and other supports should be subject to supportive interventions.
- If certain elements of the current AYP system are maintained, specific flaws must be corrected. These corrections include: providing more than one year to implement improvement plans before subjecting schools or districts to additional sanctions; designating schools or districts as “in need of improvement” only when the same subgroup of students fails to make AYP in the same subject for at least two consecutive years; targeting school choice and supplemental educational services (SES) to the specific subgroups that fail to make AYP; providing SES prior to providing school choice; and ensuring that SES providers serve all eligible students and utilize only highly qualified teachers.

➤ **Smaller Class Sizes To Improve Student Achievement**

[See ESEA Positive Agenda, pages 22–23]

- Restore the Class Size Reduction program that existed prior to NCLB to provide an optimum class size of 15 students.
- Schools should receive federal support—through both direct grants and tax subsidies—for school modernization to accommodate smaller classes.

➤ **Quality Educators in Every Classroom and School**

[See ESEA Positive Agenda, pages 23–26]

- Provide states and school districts with the resources and technical assistance to create an effective program of professional development and professional accountability for all employees.
- Revise the ESEA Title II Teacher Quality State Grant program to ensure alignment of federally funded teacher professional development with the National Staff Development Council (NSDC) standards.
- Provide federally funded salary enhancements for teachers who achieve National Board Certification, with a smaller salary incentive for teachers who complete this rigorous process and receive a score, but do not achieve certification.
- Create a grant program that provides additional compensation for teachers with specific knowledge and skills who take on new roles to assist their colleagues.
- Expand opportunities for education support professionals to broaden and enhance their skills and knowledge, including compensation for taking additional courses or doing course work for advanced degrees.
- Provide federal grants that encourage districts and schools to assist new teachers by pairing them with an experienced mentor teacher in a shared classroom.
- Provide financial incentives—both direct federal subsidies and tax credits—for retention, relocation, and housing for teachers and support professionals who work in schools identified as “in need of improvement” or high-poverty schools, and stay in such schools for at least five years.
- Provide hard-to-staff schools with an adequate number of well trained administrators and support professionals, including paraeducators, counselors, social workers, school nurses, psychologists, and clerical support.
- Provide paraeducators who are involuntarily transferred to a Title I school and who have not met the *highly qualified* standard with adequate time to meet the requirement.
- Grant reciprocity for paraeducators who meet the *highly qualified* standard when they move to another state or district, with different qualifications.
- Revise the definition of *highly qualified* teachers to recognize state licensure/certification, eliminate nonessential requirements that create unnecessary obstacles, and eliminate loopholes in the scope of coverage.
- Provide teachers who may not meet the *highly qualified* standard by the current deadlines, due to significant implementation problems, with assistance and additional time to meet the requirement.

➤ **Students and Schools Supported By Active and Engaged Parents, Families, and Communities**

[See ESEA Positive Agenda, pages 26–27]

- Provide programs that encourage school-parent compacts, signed by parents, that provide a clearly defined list of parental expectations and opportunities.
- Provide programs and resources to assist in making schools the hub of the community.
- Expand funding for the Parent Information and Resource Centers (PIRC) program in ESEA.
- Include as a requirement for professional development programs funded through ESEA, training in the skills and knowledge needed for effective parental and family communication and engagement strategies.
- Provide incentives or require employers to provide parents a reasonable amount of leave to participate in their children’s school activities.

➤ **Resources to Ensure a Great Public School for Every Child**

[See ESEA Positive Agenda, pages 27–29]

- Fully fund ESEA programs at their authorized levels.
- Enforce Sec. 9527(a) of NCLB, which prevents the federal government from requiring states and school districts to spend their own funds—beyond what they receive from the federal government—to implement federal mandates.
- Protect essential ESEA programs by:
  - Providing a separate ESEA funding stream for school improvement programs to assist districts and schools
  - Providing adequate funding to develop and improve assessments that measure higher order thinking skills
  - Establishing a trigger whereby any consequences facing schools falling short of the new accountability system are implemented only when Title I is funded at its authorized level
  - Providing a separate ESEA funding stream for supplemental education services and school choice, if these mandates remain in the law
  - Providing adequate funding to develop and improve appropriate assessments for students with disabilities and English Language Learner students
  - Providing technical assistance to schools to help them use money more effectively
  - Providing adequate funding to assist state and local education agencies in administering assessments, and collecting and interpreting data in a timely manner so it can be useful to educators
- Important children’s and education programs outside of ESEA, including child nutrition, Head Start, IDEA, children’s health, child care, and related programs, must be adequately funded.

## NEA's Positive Agenda for the ESEA Reauthorization

### PART ONE: Great Public Schools Criteria

All children have a basic right to a great public school. Our vision of what great public schools need and should provide acknowledges that the world is changing and public education is changing too. Fulfilling these Great Public Schools (GPS) criteria require not only the continued commitment of all educators, but the concerted efforts of policymakers at all levels of government. We believe these criteria will:

- Prepare all students for the future with 21<sup>st</sup> century skills
- Create enthusiasm for learning and engaging all students in the classroom
- Close achievement gaps and increase achievement for all students
- Ensure that all educators have the resources and tools they need to get the job done

These criteria form a basis for NEA's priorities in offering Congress a framework for the 2007 reauthorization of the Elementary and Secondary Education Act. The reauthorization process must involve all stakeholders, especially educators. Genuine involvement taps a breadth of knowledge, insights, and experiences that form the basis of sound educational programs and fosters commitment and success.

- ✓ *Quality programs and services that meet the full range of all children's needs so that they come to school every day ready and able to learn.*
- ✓ *High expectations and standards with a rigorous and comprehensive curriculum for all students.*
- ✓ *Quality conditions for teaching and lifelong learning.*
- ✓ *A qualified, caring, diverse, and stable workforce.*
- ✓ *Shared responsibility for appropriate school accountability by stakeholders at all levels.*
- ✓ *Parental, family, and community involvement and engagement.*
- ✓ *Adequate, equitable, and sustainable funding.*

### The Details of the Great Public Schools Criteria

- ✓ *Quality programs and services that meet the full range of all children's needs so that they come to school every day ready and able to learn.*

Children need a broad array of programs so they are ready to learn every day they are in school. Students must have access to programs such as public school pre-K and kindergarten; afterschool enrichment and intervention; nutrition, including school



breakfast and lunch; school-based health care and related services; counseling and mentoring for students and families; safe and efficient transportation; and safe and drug-free schools.

Brief descriptions of each area follow:

### **Preschool**

Numerous studies have shown that high quality early care experiences, both classroom practices and teacher-child relationship, enhance children's abilities to take advantage of the learning opportunities in school.

A recent study by the National Academy of Sciences notes that much of the human brain develops in the first five years of life and a stimulating environment during this stage changes the very physiology of the brain. High quality early care leads to the development of more advanced learning skills in language and math, as well as social skills.

*NEA supports policies and resources for quality, voluntary, universal preschool and pre-K programs that provide a safe environment, well prepared teachers, small class size, interactive relationships among teachers and children, emphasis in both social and learning skills, and that involve parents.*

### **Kindergarten**

Kindergarten is a year of transition from home and early childhood education programs to formal school programs. At least a half-day of kindergarten is a near-universal experience for American children, with nearly 98 percent of youngsters attending. Some children have access to full-day, half-day, and alternate-day programs while others have access to only one of these options. Recent research has shown that children who attend full-day kindergarten are better prepared to succeed in the first grade and beyond.

*NEA supports policies and resources that provide high quality full-day kindergarten programs for all children.*

### **Afterschool**

Afterschool hours are the peak time for juvenile crime and risky behaviors such as alcohol and drug use. Most experts agree that afterschool programs offer a healthy and positive alternative. These programs keep kids safe, improve academic achievement and help relieve the stresses on today's working families. They can serve as important youth violence prevention and intervention strategies. Yet, every day, at least eight million children and youth are left alone and unsupervised once the school bell rings at the end of the school day.

*NEA supports policies and resources to ensure all children and youth access to high quality afterschool programs that both provide a safe environment and help improve student learning.*

### **Nutrition**

While the National School Lunch program provides nutritionally balanced, low-cost, or free lunches to more than 28 million children each school day, too many schoolchildren still lack access to a hot breakfast or other adequate nutrition. Malnourished children have impaired concentration and greater challenges in learning.

In addition, improving the nutritional quality of school lunches and other meals can promote healthy eating habits in children.

*NEA supports expanding child nutrition programs and enhancing their nutritional quality to ensure that all children have access to healthy, nutritious meals at school.*

### **Health Needs**

In response to a need for student health services, a number of communities have established school-based health centers (SBHCs). The more than 1,000 SBHCs nationwide are popular as providers of affordable, convenient, confidential, and comprehensive services at the school. These programs overcome barriers that discourage adolescents from utilizing health services (such as lack of confidentiality, inconvenient appointment times, prohibitive costs, and general apprehension about discussing personal health problems). Unfortunately too many children, especially children from low-income families, lack access to such services.

*NEA supports policies and resources that enable communities to expand the number and the quality of school-based health centers so that all children have access to medical care, counseling, health education, and preventive services provided in a familiar and “teen-friendly” setting on or near school grounds. Such services should be provided by health professionals who are experienced and trained to work with adolescents.*

### **Counseling**

Counseling programs staffed by professional school counselors, school psychologists, and school social workers help *all* students in the areas of student learning, personal/social development and career development, ensuring that students become productive, well-adjusted adults. Effective counseling programs are important to the school climate and in improving student achievement. Too often, however, these professionals have unreasonable caseloads, but counselors are expected to attend to the individual needs of students. In addition, many counselors are serving as testing coordinators, diverting their time away from meeting students’ needs. The American School Counselor Association recommends a counselor-to-student ratio of 1:250; the National Association of School Psychologists recommends a school psychologist-to-student ratio of 1:1,000; and the School Social Work Association of America recommends a social worker-to-student ratio of 1:400 for an effective program.

*NEA supports policies and resources to states and school districts enabling them to achieve this important goal.*

### **Mentoring Programs**

Mentoring programs for students are an important resource for students and their parents or guardians. Parents are the most important influence on their children’s lives. But parents often need help. Mentoring offers parents the support of a caring one-to-one relationship that fosters their child’s healthy growth.

Mentoring programs have been shown to contribute to better attitudes toward school, better school attendance, and a better chance of going on to higher education. They also show promise in preventing substance abuse and appear to reduce other negative youth behaviors.

*NEA supports policies and resources to expand programs, such as the mentoring program in Title IV of ESEA to provide mentoring services to all students who would benefit.*

### **Transportation**

Every school day, millions of parents and their children rely on the “yellow” school bus to provide safe and dependable transportation to and from school and school-related activities. In fact, according to the National Safety Council, school buses are the safest form of ground transportation—40 times safer than the family car.

Most states, except for the transportation of students with special needs, have no mandate to provide students with transportation to or from school. Even in states where transportation of students to and from school is required by law, distances set forth in the law fail to take account of hazardous pedestrian crossings, and funding shortfalls create problems in maintaining an adequate school transportation program.

As a result of budget constraints, many schools are seeking alternative transportation services for students. NEA agrees with the National Association of State Directors of Pupil Transportation Services that the safest way to transport children to and from school and school-related activities is in a school bus.

*NEA supports policies and resources that ensure all students have access to needed transportation in safe and modern school buses, and that all buses be provided with radios to ensure communication between drivers, schools, and other authorities in case of emergencies.*

### **School Climate**

A positive school climate encourages positive behaviors with rewards for meeting expectations and clear consequences for violating rules. Research shows that schools with a positive and welcoming school climate increase the likelihood that students succeed academically, while protecting them from engaging in high risk behaviors like substance abuse, sexual activities, and violence.

Most students and teachers report feeling safe in their schools, yet a 2002 study of school safety revealed that about one-fourth would avoid a specific place at school out of fear that someone might hurt or bully them. More than one-quarter (27%) of teachers in middle and high schools reported that the behavior of some students kept them from instructional activities during significant amounts of the school day.

*NEA supports policies and resources, including safe and drug-free schools programs, to assist all schools in creating and maintaining safe and disciplined school sites.*

### ✓ ***High expectations and standards with a rigorous and comprehensive curriculum for all students.***

*NEA supports policies and resources to ensure all students access to a rigorous, comprehensive education. A rigorous curriculum, as defined by NEA, means that critical thinking, problem solving, and high level communication and literacy skills are included, as well as deep understandings of content. Rigor includes life skills and dispositions that support lifelong learning, such as persistence and thoroughness. Rigor*

does not mean simply a certain number of courses, more difficult courses, more time in class, or more test preparation.

NEA is not alone in calling for a broader definition of rigor. The Partnership for 21<sup>st</sup> Century Skills, a broad-based coalition of education organizations and major businesses states: “Rigor must reflect *all* the results that matter for all high school graduates today. Today’s graduates need to be critical thinkers, problem solvers and effective communicators, who are proficient in both core subjects and new, 21st century content and skills.”

*A comprehensive curriculum includes social skills, arts, health, physical education, a range of content understandings, and opportunities to practice and develop creative and divergent thinking.*

*The curriculum must be aligned with standards and assessments, and should include more than what can be assessed on a paper and pencil multiple choice test.*

NEA continues to advocate the use of a variety of assessments aligned to the standards and appropriate to the purposes for which they are used. Assessment systems should include classroom assessments and multiple measures rather than a single standardized test. Increasingly, both educational researchers and the corporate world are concerned that teaching, focused on what is most conveniently tested, limits our students’ ability to succeed in school and life, and threatens our nation’s competitiveness globally.

Students held to high expectations need access to instructional systems, strategies, and programs that enable them to be successful learners. Teachers need flexibility in programs and a range of materials and tools to support their work in recognizing and addressing the diversity of students, and to enable them to reach all students.

✓ ***Quality conditions for teaching and lifelong learning.***

Quality conditions of teaching and learning include smaller class sizes; optimal-sized learning communities so that students can receive individualized attention; safe, healthy, modern, and orderly schools; up-to-date textbooks, technology, media centers, and materials; policies that encourage collaboration among staff, with increased planning time and shared decision-making; and the providing of data in a timely manner, with staff training in the use of data for decision-making about student instructional plans, educational programs, and resource allocations.

Class size has a direct impact on student achievement. The preponderance of research evidence indicates that achievement increases as class size is reduced. Smaller classes allow more time for teaching and more individualized attention for students. Studies have shown that smaller class size provides lasting benefits, especially for minority and low-income students, and for students with exceptional needs. Students in smaller classes in the early grades (such as K-3) continue to reap academic benefits through middle and high school.

*NEA supports policies and resources to achieve a maximum class size of 15 students in regular programs, and a proportionately lower number in programs for students with exceptional needs, including children with disabilities and English Language Learners.*

✓ ***A qualified, caring, diverse, and stable workforce.***

*NEA believes all newly hired teachers must have received strong preparation in both content and how to teach that content to children.*

A qualified, caring, diverse, and stable workforce in our schools requires a pool of well prepared, highly skilled candidates for all vacancies, and high quality opportunities for continual improvement and growth for all employees.

The federal government should fund programs that provide financial incentives for qualified individuals to enter the teaching profession, and for collaboratives between school districts, teacher unions and institutions of higher education for the development of programs that would facilitate the recruitment and retention of a qualified diverse group of teacher candidates.

*All newly hired teachers should receive quality induction and mentoring services from trained veteran teachers, to ensure a successful experience in the first years and decrease the turnover of new teachers.*

Veteran classroom teachers must be intimately involved in every phase of the training and preparation of teacher candidates. A high quality professional development program, designed by school-based practitioners and supported by higher education faculty, should be a right of all teachers and other educators, including paraeducators, pupil support personnel, and administrators. High quality and effective professional development should follow the guidelines and standards of the National Staff Development Council.

Additionally, there should be effective processes in place to identify and train teachers as leaders, so they can lead school improvement efforts, create collaborative teacher communities, and build momentum for change among their colleagues.

Peer assistance should be available to help struggling teachers improve professional practice, retain promising teachers, and build professional knowledge to improve student success.

*To attract, retain, and support the highest quality teachers, paraeducators, and other school employees, schools must have a healthy environment, supportive climate, and working conditions that support success, and provide professional compensation and benefits.*

Too many teachers leave the profession because of poor working conditions. All educators—teachers, paraeducators, and others—should have appropriate workloads/caseloads that enable them to provide the individual attention their students' diverse needs require. Additionally, programs should promote teacher collaboration and empowerment, and foster effective principal leadership.

✓ ***Shared responsibility for appropriate school accountability by stakeholders at all levels.***

*States and schools are accountable in how they educate children. Flawed accountability systems are destructive. Sound school accountability systems must be effective and fair; ensure high levels of student achievement, excellent teacher practices and continual improvement; be based on multiple measures of success; use multiple assessment tools and sources of data; reflect growth over time; and be appropriate,*

valid, and reliable for all groups of students, including students with disabilities and English Language Learners.

*Accountability results should be used to identify policies and programs that successfully improve student learning; surface and diagnose problem areas; and, provide positive supports, including resources for improvement and technical assistance to schools needing help.*

Teachers, other educators, and parents should have an active role in the development, implementation, and evaluation of accountability systems at all levels. Policymaking should incorporate existing processes, including collective bargaining. Improvements in instruction and quality can be better accomplished through bargaining and other forms of collective joint decision-making.

*We support financial accountability to the public from schools, districts, states, and the federal government, as well as accountability from policymakers to provide the resources needed for positive results.*

*Finally, we propose a transparent accountability system for policymakers so that policies are determined and communicated in a consistent and timely manner.*

Too often, especially at the federal level, how and why decisions affecting states and school districts are made is unclear. Critical policy decisions are often not made in a timely manner, and once decided are not always made public or readily available.

✓ ***Parental, family, and community involvement and engagement.***

*NEA supports policies to assist and encourage parents, families, and communities to be actively involved and engaged in their public schools.*

Research demonstrates that family education programs help to enhance the likelihood of parental involvement. For example, programs that illustrate to parents their role in helping their children learn to read encourage early and sustained literacy. In addition, for parents who are unfamiliar with the educational system in the United States, parental education helps to enhance their understanding of what is expected of them and their children in our public schools, how to access assistance, and how to become engaged in their children's schools.

Using schools as a community hub brings together public and private organizations to offer a range of services, assistance, and opportunities that strengthen and support schools, communities, families, and students—before, during, and after school.

*We support policies and resources to expand and improve such community schools.*

Positive relationships between families, communities, and schools are of central importance to students' success. Educators need opportunities to build the skills needed to cultivate these relationships.

*NEA supports policies encouraging the building of skills and knowledge needed for effective parental and community communication and engagement strategies in professional development programs for all educators.*

Time and availability are two obvious challenges to parental involvement. *Employers should receive incentives or be required by policymakers to allow parents to take a reasonable amount of leave to participate in their children's school activities.*

In addition, many parents have strong needs for leadership, communication, and decision-making skills. Employer and community-based organizations often have skill-building resources that can be tapped to help teach such skills to employees. Employers would see that engaged and knowledgeable parents are an asset to public education and be reminded that quality public education is an asset to business.

✓ ***Adequate, equitable, and sustainable funding.***

***Schools must have the necessary resources to fulfill their broad and growing responsibilities in a changing and increasingly complex society.***

Schools are held accountable for helping students to meet federal and state standards, while also fulfilling myriad other requirements and expectations placed on them by policymakers. To ensure that the necessary resources are available when and where needed, school funding systems must provide adequate, equitable and sustainable funding.

Adequate funding, at the very minimum, is the level of resources needed to ensure that all students have a realistic opportunity to meet federal and state performance standards, taking into account the varied needs of different types of students.

“Adequacy” requires a determination of the appropriate amount of resources needed to meet *all* students’ needs to obtain a quality education.

*NEA supports fully funding ESEA programs at their authorized levels, to ensure that states and schools have adequate funding for the programs and services needed to help close achievement gaps and improve student learning for all.*

While less than 10 percent of overall funding for K-12 public education comes from the federal government, ESEA funding for urban, rural, and other school districts with concentrated poverty and hard-to-staff schools that rely heavily on these supplemental federal funds, is especially crucial.

School funding that is merely adequate in the aggregate is insufficient. School funding formulas must also be equitable for both students and taxpayers. For students, equitable funding means that the quality of their education is not dependent on the wealth of the school district where a child lives and attends school. For taxpayers, equity in school funding means that the tax effort across all districts should be equal to produce the same level of funding. ESEA’s Title I program has built into its funding formulas incentives for states to increase their education funding effort and steer funds to where they are needed the most. Adequacy and equity can be accomplished with additional incentives to states and districts to reduce financial disparities.

To function efficiently, while also meeting the increased demands being placed on them, schools need funding streams that are stable and sustainable. Year-to-year fluctuations in available resources and last-minute uncertainties hamper school districts’ efforts to plan, to hire, and to retain highly qualified and experienced

educators, to keep class sizes small, and to provide other essential resources, ranging from curriculum materials to transportation.

*Making taxes fair and eliminating inefficient and ineffective business subsidies are essential prerequisites to achieving adequacy, equity, and stability in school funding.*

More than 90 percent of funding for public schools comes from state and local governments. Ultimately the most important questions regarding funding for schools are decided at the state and local levels. The best way to maintain America's competitive edge in this global, knowledge-based economy is to invest in our ability to produce and manage knowledge. That means investing in education. Economic models show clearly that, dollar for dollar, investing in public education increases the economy more than equal amounts of tax cuts and subsidies. To date, however, too many lawmakers and policymakers believe that tax cuts and development subsidies are the best way to step-up the economy. Thus we see state tax structures that are increasingly regressive and that produce structural deficits. Similarly, state economic development policies too often emphasize inefficient and ineffective corporate subsidies. Together, these undermine state and local capacity to invest adequately in public education. Should these trends continue, America's competitive edge in the global, knowledge-based economy will continue to erode.

## **PART TWO: NEA's Priorities for ESEA Reauthorization**

### **A Great Public School Is a Basic Right of Every Child**

NEA's priorities for the 2007 reauthorization of ESEA focus on a broad range of policies, as articulated in this report, to ensure every child access to a great public school.

ESEA, originally passed on April 9, 1965, was a key component of the "War on Poverty" launched by President Lyndon Johnson. Title I provided resources to meet the needs of educationally deprived children through compensatory education programs for the poor. President Johnson said it would help "five million children of poor families overcome their greatest barrier to progress: poverty."

The original ESEA was authorized through 1970. Congress has since rewritten—or reauthorized—this landmark law eight times. The No Child Left Behind Act (NCLB) of 2001 is the most recent version. Since the law's inception in 1965, NEA has strongly supported ESEA and its programs: Title I; professional development; afterschool; safe and drug-free schools; bilingual education; and others.

The 1994 ESEA reauthorization—called the Improving America's Schools Act (IASA)—shifted the focus of Title I from providing financial support to schools with high concentrations of children in poverty, to standards-based reform. (For a more detailed history of ESEA see Appendix 1.)

*The current version of ESEA—the No Child Left Behind Act (NCLB)—is fundamentally flawed. It undermines existing state and school district structures and authority, and shifts*



*public dollars to the private sector through supplemental educational services and takeovers of public schools by for-profit companies.*

*However, its stated goals—to improve student achievement and help close the achievement and skills gaps which exist in our country—are important to NEA and our society. NCLB represents a fundamental shift in ESEA that greatly expanded the federal role in education. The 1994 ESEA required all states to develop content and performance standards in reading and math and to measure the progress of student achievement in Title I schools through adequate yearly progress reports. NCLB, however, expanded the law’s requirements to all schools, regardless of whether they received federal funds, and thus affects every public school in America.*

It dictates to states how they measure student achievement and the timelines they must use; establishes the requirement that 100 percent of all students be proficient in reading and math by the 2013–14 school year; mandates certain consequences or sanctions for failure to meet AYP; and for the first time, requires that both teachers and paraeducators meet a federally defined standard of *highly qualified*. Under Title I alone, it establishes 588 federal requirements for states and schools.

The law’s principal flaws revolve around its one-size-fits-all system for measuring student achievement and school system success, and its rigid definitions of highly qualified teachers and paraprofessionals. Further, the law is incomplete because it fails to provide the additional tools and supports educators and students need to accomplish the law’s stated goals of improving student achievement and closing the achievement gaps. To address the law’s stated goals, Congress must: 1) substantially improve the measurement system for adequate yearly progress to reduce reliance on statewide paper and pencil tests and to recognize growth and progress over time; and 2) provide states, schools, and students with programs and resources to support their work in improving the level and quality of all students’ skills and knowledge.

We want to retain the positive provisions of ESEA—both those that existed prior to NCLB and those that were added by NCLB—in the 2007 reauthorization. These positive provisions include: targeting funds in both Title I and other programs to schools with the highest concentrations of students in poverty; an increased focus on closing achievement gaps through disaggregated student achievement data; grants for school improvement; strengthened rights of homeless children to access public education; protection of school employees’ rights during school improvement, corrective action, or restructuring; strengthened parental involvement requirements in Title I; requirements for high quality professional development for teachers; help for small, high-poverty rural schools; and programs for dropout prevention, math-science education, safe and drug-free schools, mentoring, school counseling, and school libraries. Unfortunately, while written into the law, virtually all of these programs are severely underfunded.

*Congress must shift from the current focus, that labels and punishes schools with a flawed one-size-fits-all accountability system and severely underfunded mandates to one that includes common-sense flexibility and supports educators in implementing programs that improve student learning, reward success, and provide meaningful assistance to schools most in need of help.*

*The following five priorities are crucial to realizing the goals of improving student achievement, closing the achievement gaps, and providing every child a quality teacher.*

- **Accountability That Rewards Success And Supports Educators To Help Students Learn**
- **Smaller Class Sizes To Improve Student Achievement**
- **Quality Educators In Every Classroom And School**
- **Students And Schools Supported By Active And Engaged Parents, Families, And Communities**
- **Resources To Ensure A Great Public School For Every Child**

A growing chorus of voices is calling for corrections to this law. An alliance of 75 national organizations—including the NAACP, the Children’s Defense Fund, the American Association of School Administrators, the National Council of Churches, the League of United Latin American Citizens (LULAC), and the Council for Exceptional Children—representing education, civil rights, special education, various religions, children, and citizens have joined together through the Forum on Educational Accountability in proposing 14 specific changes to the law. Other education groups that have issued policy proposals for amendments to the law include the National School Boards Association, the American Federation of Teachers, and the National Association of Secondary School Principals.

The National Governors Association (NGA) in March 2006 issued its proposals for change. The NGA statement notes that, “Maximum flexibility in designing state accountability systems, including testing, is critical to preserve the amalgamation of federal funding, local control of education, and state responsibility for system-wide reform.”

The National Conference of State Legislatures in February 2005 issued a report calling on Congress to make substantial changes to the law. The report states:

“Administrators at the state, local and school levels are overwhelmed by AYP because it holds schools to overly prescriptive expectations, does not acknowledge differences in individual performance, does not recognize significant academic progress because it relies on absolute achievement targets, and inappropriately increases the likelihood of failure for diverse schools.”

## **I. Accountability That Rewards Success and Supports Educators To Help Students Learn**

*The current Adequate Yearly Progress (AYP) model is a fundamentally flawed system that fails to accurately measure student learning and school success. Schools are held accountable based solely on a one-day snapshot of student performance on a standardized reading test and a standardized math test.*

The law's AYP model uses overly narrow measures and contains unrealistic timelines for school improvement. It results in improperly labeling many schools as low-performing and imposing punishments on them. AYP holds all schools accountable based solely on how many students reach a specific point on the achievement scale on one standardized test in each of two subjects—reading and math.

It fails to account for a school's results in improving student achievement over time. Instead of measuring each individual student's growth over time, it compares, for example, the snapshot of test scores for this year's fourth-grade class to the snapshot of test scores for last year's fourth-grade class, a different group of students with different strengths and different weaknesses.

It fails to recognize that all children can learn, but all children do not learn at the same rate. It fails to include fair, valid, and reliable measures for students with special needs, including students with disabilities and English Language Learners. It fails to differentiate between those schools that are truly struggling to close achievement gaps and those that fall short on only one of 37 federally mandated criteria. Finally, it fails to include a comprehensive set of measures for school quality and student learning, focusing only on one statewide standardized test in two subjects.

Consequently, it overidentifies thousands of schools as low-performing. Several studies project that well over 90 percent of public schools will eventually fail to meet federal standards and be subjected to severe sanctions. This overidentification hampers efforts to target limited resources to the neediest schools and students. Further, the focus on overidentification and accompanying sanctions diverts attention from assistance to states, districts, and schools that need to develop systemic improvement plans. Finally, NCLB's mandated sanctions are not research-based, divert money away from classroom services, and generally have not improved student achievement.

*NEA supports the following policies that would meet the Great Public Schools criteria for stakeholders at all levels to share appropriate accountability and for high expectations and standards with a rigorous and comprehensive curriculum for all students:*

***School accountability should be a measurement beyond just scores on statewide assessments.***

Accountability systems should be based upon multiple measures, including: local assessments, teacher-designed classroom assessments collected over time, portfolios and other measures of student learning, graduation/dropout rates, in-grade retention, percent of students taking honors/advanced classes and Advanced Placement exams, and college enrollment rates. *States should have the flexibility to design systems that produce results, including deciding in which grades to administer annual statewide tests, rather than being subject to a rigid federal one-size-fits-all system.*

An improved accountability system should allow states the flexibility to utilize growth models and other measures of progress that assess student learning over time, and recognize improvement on all points of the achievement scale. Growth models should use measurement results as a guide to revise instructional practices and curriculum, to provide individual assistance to students, and to provide appropriate professional development to teachers and other educators. They should not be used to penalize teachers or schools.

NEA is working with the Forum on Educational Accountability and a panel of experts in assessment to develop in greater detail models of effective systems that utilize multiple measures and growth models.

***Assessment systems must be appropriate, valid, and reliable for all groups of students, including students with disabilities and English Language Learners.***

Appropriate systems provide for common-sense flexibility in assessing these student subgroups, including more closely aligning ESEA assessment requirements with students' Individualized Education Programs (IEPs) under IDEA, and eliminating arbitrary federal limits on the number of students who may be given assessments based on alternate or modified achievement standards. For ELL students, we propose exempting from AYP their scores on reading and math tests not given in their native language for at least their first two years in the United States, while continuing to require that their progress in reaching English language proficiency be measured through annual assessments.

Policies should ensure that states, school districts, and schools actively involve teachers and other educators in the planning, development, implementation, and refinement of standards, curriculum, assessments, accountability, and improvement plans. Their training and experience represent a valuable resource in designing programs that work for students. Accountability systems and the use of the ensuing results must also respect the rights of school employees under federal, state, or local law, and collective bargaining agreements.

***Accountability systems should provide support and assistance, including financial support for improvement and technical assistance to schools needing help, target assistance to schools and districts most in need of improvement, and provide realistic timelines for making improvements.***

In addition, accountability systems must be sensitive to the specific needs of rural and urban schools.

***Assessment and accountability systems should be closely aligned with high standards and classroom curricula, provide timely data to guide teaching strategies and help improve student learning, and be comprehensive and flexible so that they do not result in narrowing of the curricula.***

As a result of the growing emphasis on achieving AYP and the need to reallocate resources toward accomplishing that, many school districts have de-emphasized and even eliminated courses in the liberal arts, humanities, and performing arts. We deplore this tendency that limits a child. These subjects create the appropriate context to develop the whole child. Redefining the art of teaching so narrowly significantly reduces creativity and critical thinking and diminishes a child's enthusiasm and motivation to explore and to learn.

*NEA advocates the creation of a federal grant program to assist schools in ensuring all students access to a comprehensive curriculum that provides a broad range of subjects and*

*deep knowledge in each subject.* Students in high-poverty schools must not be limited to an instructional program that is narrowly focused on basic skills, as is happening too often under NCLB.

*A comprehensive accountability system must appropriately apply to high schools without increasing dropout rates. High schools need programs and resources for adolescent literacy, dropout prevention, counseling, smaller learning communities, and expansion of AP and IB courses if they are to meet the diverse needs of all of their students. In order to measure high school graduation rates meaningfully, all states and school districts should report such data on a disaggregated basis, using the definition proposed by the National Governors Association and supported by many groups, including NEA.*

***Standards and assessments must incorporate the nature of work and civic life in the 21<sup>st</sup> century: high-level thinking, learning, and global understanding skills, as well as sophisticated information, communication, and technology literacy competencies.***

Corporate America is telling us that a total focus on the most basic of skills is threatening our education system and our economic viability. Meaningfully assessing 21<sup>st</sup> century skills will require tests that measure higher-order thinking and problem solving, utilizing more than multiple choice questions. Too often we are holding students to obsolete standards that don't reflect contemporary challenges.

***If a school, after receiving additional financial assistance, technical assistance and other supports, fails to demonstrate that it is closing the achievement gaps, supportive interventions need to occur.***

The most successful learning strategies are grounded on advice and coaching. School improvement teams, which include teachers and other educators from similar schools that have been successful, can function as mentors and examples. These teams should provide assistance based on the fact that profound, long-term, and sustained improvement of schools is the result of efforts that recognize essential principles:

- ✓ *Incentives are better than mandates in producing change.*
- ✓ *Increased student achievement should encompass more than just increased test scores. It should also reflect deep and broad learning.*
- ✓ *Teachers must play a central role in school reform efforts because of their firsthand knowledge of their students and how their schools work.*
- ✓ *Rather than starting from scratch in reinventing schools, it makes most sense to graft thoughtful reforms onto what is healthy in the present system.*

*NEA is proposing a new and improved system of accountability. If certain elements of the current AYP system are maintained, specific flaws must be corrected.* Necessary corrections include: providing more than one year to implement improvement plans before subjecting schools or districts to additional sanctions; designating schools or districts as "in need of improvement" only when the same subgroup of students fails to make AYP in the same subject for at least two consecutive years; targeting school choice and supplemental educational services (SES) to the specific subgroups that fail to make AYP; allowing schools to provide SES prior to providing school choice; and improving the quality of supplemental education services, ensuring that SES providers serve all eligible students and utilize only highly qualified teachers.

## II. Smaller Class Sizes To Improve Student Achievement

*Smaller class size is a key element to achieving the Great Public Schools criterion of quality conditions for teaching and lifelong learning.*

The classroom is the nexus of student learning and class size has a direct impact on student achievement. Smaller classes allow more time for teaching and more individualized attention for students. The preponderance of research evidence indicates that learning increases as class size is reduced, especially in the early grades. Studies have shown that smaller class size provides lasting benefits for students, especially for minority and low-income students, and for students with exceptional needs. Even in the upper grades teachers can be more successful in increasing student learning when they can provide more individualized attention.

*NEA recommends an optimum class size of 15 students in regular programs, especially in the early grades, and a proportionately lower number in programs for students with exceptional needs including children with disabilities and English Language Learners.*

Fewer than 15 students is an optimal class size, especially in kindergarten (K) and grade 1. Researchers have documented benefits from class size of 15–18 students in K and of fewer than 20 students in grades 1–3. Students in smaller classes in the early grades (such as K-3) continue to reap academic benefits through middle and high school, especially if they are minority or low-income students.

*NEA supports restoring the Class Size Reduction program that existed prior to NCLB.*

Closing the achievement gaps requires that teachers have more opportunities to work with students who need greater assistance. ESEA should provide a dedicated funding stream to complete the job of hiring 100,000 highly qualified teachers to reduce class size.

An innovative way to ensure that students receive more individualized assistance is pairing two teachers in the same classroom. This strategy is discussed in more detail in the next section.

*We support a combination of federal programs—through both direct grants and tax subsidies to states and school districts—for school modernization to accommodate smaller classes.*

## III. Quality Educators In Every Classroom and School

A growing body of research confirms what school-based personnel have known—that the skills and knowledge of teachers and support professionals are the greatest factor in how well students learn. The credibility of each and every educator is damaged when one of us is unprofessional or unprepared.

*Our proposals would help meet the Great Public Schools criteria of quality conditions for teaching and lifelong learning; and a qualified, caring, diverse, and stable workforce.*

Our policies are focused on maximizing the knowledge, skills, and abilities of school-based personnel, creating the conditions to allow educators to do their best work, and making sure that the right people are in the right place to meet the needs of all students. In addition to teachers, many other educators and school staff, including paraeducators, administrators,

counselors, school nurses, librarians and media specialists, bus drivers, food service workers, school maintenance staff, security personnel, and secretaries all play an important role in improving student learning by meeting the educational and other needs of students.

*Our specific proposals for increasing the knowledge and skills of teachers are focused on professional development and on National Board Certification.* Federal policy should be directed toward providing states and school districts with the resources and technical assistance to create an effective program of professional development and professional accountability for all employees. Effective professional development should promote continuing growth. It should create opportunities to acquire new knowledge and apply the best pedagogical practices consistent with the school's goals.

Specifically, we propose revision of the ESEA Title II—Teacher Quality State Grant program—by refining the program criteria and ensuring alignment of federally funded teacher professional development with the National Staff Development Council (NSDC) standards. We also propose federally funded salary enhancements for teachers who achieve National Board Certification, with a smaller salary incentive for teachers who complete this rigorous process and receive a score, but do not achieve certification.

*Our second set of proposals is focused on creating the conditions in which teachers and education support professionals can apply their knowledge and skills most effectively to help children learn.*

We propose a grant program to states willing to encourage skills- and knowledge-based staffing arrangements in schools. This program should encourage collaboration between the school administration and the local organization representing teachers and other educators, as well as increased collaboration among teachers and between teachers and other education staff, to promote innovation in the way teachers' and support professionals' roles and responsibilities are defined. The development and implementation of such programs must respect existing collective bargaining agreements. Teachers with specific knowledge and skills should be encouraged to assist their colleagues to become better at what they do, and should receive additional compensation for taking on new roles

However, we remain opposed to pay systems that directly link teacher compensation to student test scores. Such merit pay systems fail to recognize that teaching is not an individual, isolated profession. Rather, it is a profession dependent on the entire network of teaching professionals, where the foundation for student achievement is built over time from each of the student's educators. Further merit pay undermines the collegiality and teamwork that create a high-performing learning institution.

Education support professionals should be afforded every opportunity to broaden and enhance their skills and knowledge through training/professional development offerings, mentoring, and programs designed to support them as they assist the classroom teacher. They should be compensated for taking additional courses or doing course work for advanced degrees to assist in the classroom and to support student learning.

*We propose federal grants that support innovation in addressing teacher workload issues, especially in struggling schools.*

These grants should allow districts and schools to experiment with proposals such as assisting new teachers by pairing them in a classroom with an experienced teacher, and compensating the experienced teacher to induct and mentor the new teacher. Co-teaching—two qualified teachers in one classroom—can benefit students by effectively reducing the class size per teacher allowing for more individual attention. Co-teaching also allows increased mentoring opportunities for teachers, can reduce the need for less qualified substitute teachers, and can enhance parental involvement and communication.

Hard-to-staff schools should be provided with an adequate number of well trained administrators and support professionals, including paraeducators, counselors, social workers, psychologists, and clerical support. Teachers and support professionals in these schools should have access to targeted professional development focused on the specific needs of the school and community. These proposals would reduce the costly and disruptive turnover common in struggling schools.

Paraeducators who are involuntarily transferred to a Title I school and who had not met the highly qualified standard required under NCLB in Title I schools, should be given adequate time to meet the requirement. The school district should be responsible for any remuneration required for meeting the standard (i.e., taking an assessment or taking continuing or higher education courses).

*The third set of proposals focuses on distribution of the educator workforce—ways to ensure that all schools, no matter how challenging, are staffed by high quality education professionals.*

We propose that teachers and support professionals who work in schools identified as “in need of improvement” or high-poverty schools, and stay in such schools for at least five years, be eligible for financial incentives—both direct federal subsidies and tax credits—for retention, relocation, and housing.

*We also propose that the definition of “highly qualified” teachers be revised to respect state licensure and certification systems, and eliminate nonessential requirements that create unnecessary obstacles for talented and skilled teachers and loopholes in the scope of coverage for some charter school teachers, alternative route teachers, and supplemental education service provider instructors.*

Specifically, we propose that all fully licensed special education teachers be designated as highly qualified; that broad-based social studies certification count as meeting the highly qualified requirements for any social studies discipline; and that additional flexibility be provided for middle school teachers, including accepting an academic minor to demonstrate subject matter competence. We also propose expanding the definition of “rural schools” used in the current rural school timeline extension. Finally, we propose that all teachers employed in programs authorized and/or funded through the Elementary and Secondary Education Act, including those in charter schools and supplemental education service providers, be required to meet the same definition regarding qualifications.

Due to numerous rules and guidance changes by the U.S. Department of Education (DOE), as well as DOE’s recent notification to some states that their definitions were not in compliance, some teachers will have an extremely limited amount of time to meet the new definitions imposed upon their state, or may still not know the exact rules they must meet. In several states, teachers were told by their state that they met the highly qualified rules but



now, years after the fact in some cases, the federal government is ruling their states' definitions out of compliance. As a result, tens of thousands of teachers have already been notified they were highly qualified and may suddenly find themselves classified as not highly qualified. DOE appears to believe that content knowledge trumps all other forms of knowledge and skills (including decades of successful teaching).

*Teachers who may not meet the highly qualified standard by the end of the current deadlines due to these significant implementation problems should not be penalized, but instead should be provided with assistance and additional time to meet the requirement.*

Additionally, we propose that paraeducators who meet the highly qualified standard be granted reciprocity if they move to another state or district, where assessment scores or qualifications are different. Paraeducators should be able to provide documentation that they have met the requirements from a previous state or district to the receiving state or district. Documentation should be provided within 12 months of their hiring.

#### **IV. Students and Schools Supported By Active and Engaged Parents, Families, and Communities**

*NEA supports inclusion of programs in ESEA that help to enhance family and community involvement.*

Adult and family literacy programs encourage parents to model reading, which promotes early and sustained literacy, and enable parents to be more involved in their children's education, particularly with homework. Parenting classes can explain the significance of adequate sleep, appropriate nutrition, and other factors, so that children come to school ready to learn and can help parents understand their role as partners in their children's education.

An engaged community is a supportive community. Community engagement programs can expand the stakeholders in public education to include community organizations. Parent leaders can bring greater awareness of school issues to review boards, panels, oversight committees, and public officials.

Language barriers serve as an obstacle to school/family partnerships in growing numbers of communities. Strategies that have worked well include providing a bilingual teacher or other translator for parent conferences and other parent involvement activities, and multilingual school-to-home communications. In addition, for parents who are unfamiliar with the U.S. educational system, parent education helps to enhance their understanding of what is expected of them and their children in their public schools.

*All schools should be encouraged to institute school-parent compacts—signed by parents—that provide a clearly defined list of parental expectations and opportunities for involvement.*

*NEA supports policies and resources that assist communities in making schools the hub of the community.*

Community schools bring together public and private organizations to offer a range of services, programs, and opportunities—before, during, and afterschool—that strengthen and support schools, communities, families, and students. Community schools improve the coordination, delivery, effectiveness, and efficiency of services provided to children and families. These schools and communities develop reciprocal and mutually supportive relationships. In addition to building strong connections between schools and families and

enhancing student learning, community schools help to make schools and communities safer and more supportive places; and they use scarce public, private, and community resources more efficiently.

*As an essential component of a highly qualified workforce, NEA supports including training in the skills and knowledge needed for effective parental and family communication and engagement strategies as a requirement for professional development programs funded through ESEA.*

The case for the importance of parent and community engagement in bolstering public education is well documented. However, the research base could be strengthened by supporting more research designs that would enable firmer conclusions to be drawn about the specific effects of different types of programs.

Parent and community engagement can also be bolstered by more effective implementation of the parent and community engagement requirements in Title I of ESEA. Technical assistance to schools and financial rewards for exemplary involvement or improvement in involvement would help broaden the ethnic, language, and racial diversity of those involved in planning parent involvement and would help ensure that the full community is represented.

*We also support expanded funding for the Parent Information and Resource Centers (PIRC) program in ESEA.* The PIRC program supports school-based and school-linked parental information and resource centers that help implement effective parental involvement policies, programs, and activities; develop and strengthen partnerships among parents, teachers, principals, administrators, and other school personnel in meeting the educational needs of children; and develop and strengthen the relationship between parents and their children's school.

Time and availability are two obvious challenges to parental involvement. *Employers should receive incentives or be required to provide parents a reasonable amount of leave to participate in their children's school activities.*

## **V. Resources To Ensure a Great Public School For Every Child**

When NCLB was enacted, Congress promised to provide the resources necessary to meet the many mandates contained in the law, provide school improvement funds to schools that failed AYP, and provide increased resources especially for Title I and Title II Teacher Quality to help close achievement gaps, improve overall student achievement, and ensure all students have a quality teacher. NCLB has never been funded at the authorized levels. And, after an increase in funding in the first year (FY 2002), funding for NCLB programs is on the decline, with most states and school districts facing unfunded mandates, real cuts in resources, and no federal funds to turn around low-performing schools. Note the following illustration of ever-diminishing resources:

- In the 2005–06 school year, two-thirds of all schools districts are receiving less Title I money than they did the previous year. In the 2006–07 school year, an additional 62 percent of school districts will have their Title I funding cut—most for the second consecutive year—because Congress reduced overall Title I funding.
- Up to 20 percent of school districts' Title I money must be diverted from classroom services to pay for transportation for school choice and supplemental services. This

mandatory set-aside compounds the impact of continued reductions in funding. Thus, many districts are experiencing severe reductions in Title I funds available for classroom services to help our neediest students improve their learning, and even districts slated for an increase in Title I funding have less money available for classroom services after this set-aside.

- Under the President's proposed budget for FY 07, 29 states will receive less Title I money than they did in FY 06, with some states actually receiving less money than they did three, four, or even five years ago.
- NO money has ever been provided for the school improvement state grants program. The only money available for school improvement comes off the top of states' Title I allocations, taking funds from the few school districts that have not yet had their Title I funding cut.
- Funding for teacher quality state grants in FY 06 is less than the level provided three years ago. The President's budget proposes to continue funding in FY 07 at this reduced level.
- Overall, Title I funding proposed for FY 07 is only roughly half of the authorized level promised when NCLB was passed, leaving almost 4.6 million low-income students denied Title I services.

*To help meet all the Great Public Schools criteria, and in particular adequate, equitable, and sustainable funding, NEA supports the following:*

- Fully funding ESEA programs at their authorized levels so that states and schools have adequate funding for programs, including professional development for teachers and paraeducators, needed to help close achievement gaps.
- Enforcing Sec. 9527(a) of NCLB, which prevents the federal government from requiring states and school districts to spend their own funds—beyond what they receive from the federal government—to implement federal mandates. NEA is joined in this position by school districts, several states, the American Association of School Administrators, and other state and local officials.
- Protecting essential ESEA programs by:
  - Providing a separate ESEA funding stream for school improvement programs to assist districts and schools
  - Providing adequate funding to develop and improve assessments that measure higher order thinking skills
  - Establishing a trigger whereby any consequences facing schools falling short of the new accountability system are implemented only when Title I is funded at its authorized level
  - Providing a separate ESEA funding stream for supplemental education services and school choice, if these mandates remain in the law
  - Providing adequate funding to develop and improve appropriate assessments for students with disabilities and English Language Learners
  - Providing technical assistance to schools to help them use funds more effectively
- Adequately funding important children's and education programs outside of ESEA, including child nutrition, Head Start, IDEA, children's health, child care, and

related programs. Each of these programs makes an important contribution to a child's ability to learn. Further, reduced federal funding for social services programs erodes funding for education by pitting funding for education against health care and other needs at the state level, undermining the states' ability to adequately fund their public schools.

## Appendix B



*Great Public Schools for Every Child*

### ***NEA: The Elementary and Secondary Education Act of 1965: From the War on Poverty to No Child Left Behind***

The largest source of federal support for K-12 education is the Elementary and Secondary Education Act (ESEA). Passed in 1965 as part of Lyndon Johnson’s War on Poverty, ESEA has provided federal funding to the neediest students and schools for over 40 years. It has been reauthorized eight times—usually every five or six years—since 1965. In announcing his plan to construct a “Great Society,” President Johnson stated, “Poverty must not be a bar to learning, and learning must offer an escape from poverty.”<sup>68</sup> Bolstered by the passage of the Civil Rights Act of 1964, elections yielding an increase in the number of Congressmen from northern, more urban areas, and his own landslide election victory, Johnson quickly won passage of ESEA. Representative John Brademas summarized the congressional sentiment behind Johnson’s legislation, stating, “Many of us in Congress and some presidents of both parties perceived that there were indeed genuine needs—in housing, health, and education—to which state and city governments were simply not responding. It was this inattention by state and local political leaders, therefore, that prompted us at the federal level to say, ‘We’re going to do something about these problems.’ And we did.”<sup>69</sup>

ESEA created for the first time a partnership among federal, state, and local governments to address part of the larger national agenda of confronting poverty and its damaging effects by targeting federal aid to poor students and schools. It also was based on a “grand” compromise concerning federal aid to private and parochial schools. To avoid directly sending public dollars to parochial schools, ESEA instead directed public school districts to use a portion of their Title I funds to provide services to low-income students enrolled in private schools. This provision—known as equitable participation—has stood for over 40 years.

Since then, ESEA has evolved in three major phases. From 1965 to 1980, the reauthorizations of ESEA focused on whether Title I (providing the bulk of ESEA funds for targeted help to poor students and high-poverty schools) was to be considered truly targeted

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<sup>68</sup> Public Papers of the Presidents of the United States, *U.S. Government Printing Office 1965*, Lyndon B. Johnson, Book I (1963–1964): 704–707.

<sup>69</sup> John Brademas, *The Politics of Education: Conflict and Consensus on Capitol Hill*, Norman: University of Oklahoma Press (1987), p. 77.

funding or whether it was cleverly disguised as general aid to education (today over 90 percent of school districts receive Title I funding). This period was also marked by evolving lists of “allowable uses” of Title I funds, from equipment to professional development to health services.<sup>70</sup>

The second phase of ESEA—from about 1980 to 1990—saw no significant increases (when adjusted for inflation) in funding for the Act, and President Reagan block-granted and consolidated several ESEA programs. Also during this time, *A Nation at Risk*—a Reagan Administration commission report—was released and catapulted education onto the national political scene as an important issue to voters. The report clearly linked the state of America’s schools to the nation’s economic productivity. In the 1988 reauthorization of ESEA, the first significant shift in the distribution of Title I dollars occurred, conditioning the states’ receipt of the funds upon some accountability for improved outcomes. Congress allowed Title I funds to be used for schoolwide programs (to support systemic improvement in schools where 75 percent of students were in poverty) as a way to respond to the urgent call for more wide-sweeping reform outlined in *Nation at Risk*.

Finally, from 1990 to the present, the education debate has been dominated by the desire of policymakers to see evidence that federal investments in education programs yield tangible, measurable results in terms of student achievement and success. The two main examples of this approach occurred in 1994 and in 2001, with the passage of President Clinton’s Goals 2000 and the Improving America’s Schools Act (IASA) and President George W. Bush’s No Child Left Behind Act (NCLB).

Not surprisingly, the Clinton reauthorization built upon the standards-based reform initiatives of many governors, including many who in 1989 attended President Bush’s first-ever education summit of the nation’s governors to discuss national standards or goals. Goals 2000, passed in 1993, required all states to develop challenging standards for all students in reading and math, as well as issue school report cards. IASA went a step further and required states to develop and administer statewide assessments to all low-income students at least once in elementary school, once in middle school, and once in high school and to develop plans to improve their educational outcomes. While this policy movement occurred, congressional Republicans adopted a platform called the “Contract with America,” which called for, among other things, the abolition of the U.S. Department of Education. By early 1999, however, only 36 states issued school report cards, 19 provided assistance to low-performing schools, and 16 had the authority to close down persistently low-performing schools.<sup>71</sup> Ironically, President Clinton’s Assistant Secretary for Elementary and Secondary Education, Tom Payzant, remarked later, “The underlying policy direction of NCLB is consistent with the 1994 reauthorization, but there’s a level of prescriptions with respect to implementation that [Democrats] would have been soundly criticized for trying to accomplish, had we done so.”<sup>72</sup>

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<sup>70</sup> Elizabeth DeBray, *Politics, Ideology, and Education: Federal Policy During the Clinton and Bush Administrations*, Teachers College Press (2006), p. 7.

<sup>71</sup> Ibid.

<sup>72</sup> Frederick Hess and Michael Petrilli, *No Child Left Behind*, Peter Lang Publishing (2006), p. 15.

In May of 1999, the Clinton Administration forwarded its ESEA reauthorization proposal to Congress (a proposal that called for more funding, particularly for class size reduction, school modernization, and after school programs). A group of centrist Democrats, led by Senators Joe Lieberman (D-CT) and Evan Bayh (D-IN) developed an alternative proposal. At the same time, conservative Republicans authored the “Straight A’s” plan, which would have block-granted most federal education programs, shifting power and money to the state level. Due to these fractures, ESEA was not reauthorized in 1999. During the 2000 Presidential campaign, Governor George W. Bush and Vice President Al Gore both embraced continued emphasis on standards-based reform, but it was Bush who grabbed the Lieberman/Bayh blueprint, attached a large voucher proposal to it, and campaigned to “leave no child behind.”

In February of 2001, shortly after Bush assumed office, Senator Diane Feinstein (D-CA) sent a letter on behalf of several centrist Democratic Senators to the President indicating their support for the basic thrust of the Bush accountability proposal. Senator Ted Kennedy (D-MA), knowing that Democrats were not united around a common ESEA reauthorization plan, met shortly thereafter with the White House to begin negotiating a compromise. Throughout the spring of 2001, Senator Kennedy and Representative George Miller (D-CA) had ongoing discussions with the White House in which the Administration agreed to abandon quietly the fight for its voucher plan (helped tremendously by 5 Republicans voting with all Democrats on the House Education and Workforce Committee to strike voucher provisions from the Committee bill) in exchange for supplemental services and significantly more funding. By the summer, however, negotiations had slowed tremendously due to the difficulty in crafting an Adequate Yearly Progress (AYP) definition that did not over-identify schools. White House advisor Sandy Kress (a Texas Democrat who had helped Bush usher in an NCLB-like accountability system in Texas) met with an NEA-led task force of several major education groups to discuss the AYP definition. Kress stated that the White House did not wish to identify as low-performing so many schools that it would become impossible to target help to the schools most in need. Despite this expressed goal, the White House’s involvement in actual negotiations began to lessen.

In August, congressional staff had begun conference negotiations on the House and Senate bills. Following the September 11<sup>th</sup> terrorist attacks and the receipt in Senator Daschle’s office of an anthrax-laced letter, most congressional buildings were locked down for intensive cleaning. As a result, the “Big Four”—Senator Judd Gregg (R-NH), Senator Kennedy, Representative John Boehner (R-OH), and Representative Miller—began intensive, private negotiations and drafting sessions. By the time they concluded, ESEA’s reauthorization, the “No Child Left Behind Act,” was 1,100 pages long. Members of both parties literally had a few days to review all of its contents before votes on the final legislation. In December 2001, the Senate voted 87-10 to approve the legislation, and the House approved it by a vote of 381-41.

### The ESEA in Historical Context

Year	Public Law #	Title
2002	107-110	No Child Left Behind Act of 2001 (Public Law 107-110) requires annual testing in reading and math in grades 3-8 and at least once in high school, requires science standards and assessments in at least three grades, requires that teachers and education support professionals meet new quality requirements, and sanctions schools that do not make adequate yearly progress.
1998	105-277	The 1999 Omnibus Appropriations Bill, including the FY 99 Budget for the Department of Education. The Reading Excellence Act and legislation authorizing the class size reduction initiative were also included.
1997	105-17	The Individuals with Disabilities Education Act (IDEA), to reauthorize and make improvements to that Act, which is designed to improve access to education for those with disabilities.
1994	103-382	Improving America's Schools Act of 1994, reauthorized the Elementary and Secondary Education Act [ESEA]. Covers Title I, Safe and Drug-Free Schools, Eisenhower Professional Development, bilingual education, impact aid, charter schools, education technology and many other programs; also reauthorized the National Center for Education Statistics, amended General Education Provisions Act [GEPA] and several other acts.
1994	103-239	School-to-Work Opportunities Act of 1994
1993	103-227	GOALS 2000: Educate America Act, also included reauthorization of the Office of Educational Research and Improvement [OERI]). Passed in 1993.
1993	103-33	To authorize the conduct and development of NAEP (National Assessment of Educational Progress) assessments for fiscal year 1994.
1991	102-119	Individuals with Disabilities Education Act Amendments of 1991 (IDEA)
1990	101-476	Education of the Handicapped Act Amendments of 1990
1989		President George Bush convened the first education summit of the nation's governors. This summit led to the creation of the first-ever national goals for education: every child would come to kindergarten "ready to learn," America would have a 90% graduation rate, students would master five core subjects before advancing past grades 4, 8, and 12; America's students would lead the world in math and science; all adults would be literate and



Year	Public Law #	Title
		prepared for the workforce; and every school would be safe and drug-free.
1988	100-297	ESEA reauthorized as the “Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988”—major change was allowing Title I funds to be used for “schoolwide” programs in schools where at least 75% of the students were at or below the poverty level.
1987		Gallup poll reported that 87% of Americans believed that the federal government should require states and localities to meet some minimum national standards with respect to education.
1984	98-211	Education emerged as a top issue in the Presidential campaign; however, the Administration’s political platform remained opposed to expanding federal involvement in education. ESEA reauthorized with rather technical changes. (Education Amendments of 1984).
1981		President Reagan’s Secretary of Education, Terrel Bell, appointed the commission that issued the widely publicized report, “A Nation at Risk.” The report, which characterized America’s public schools as mediocre at best, called for increased salaries and professional development for teachers, tougher standards and graduation requirements, and a more rigorous curriculum.
1981	97-35	ESEA reauthorized as the Education Consolidation and Improvement Act – block-granted several programs.
1980	96-88	Department of Education Organization Act, creating the USED. NEA helped author this legislation and promoted it as a top organization priority.
1978	95-561	Education Amendments of 1978
1975	94-142	Education for All Handicapped Children Act, the origin of today’s IDEA.
1974	93-380	Education Amendments of 1974. Adds the Family Education Rights and Privacy Act (FERPA, also often called the Buckley Amendment).
1972	92-318	Education Amendments of 1972 (Title IX). Prohibits sex discrimination in education.
1967	90-247	Elementary and Secondary Education Amendments of 1967. Title IV of this act is known as the General Education Provisions Act [GEPA].
1966	89-750	Elementary and Secondary Amendments of 1966. Adult Education

<b>Year</b>	<b>Public Law #</b>	<b>Title</b>
		Act is Title III.
1965	89-10 89-329	Elementary and Secondary Education Act of 1965 Higher Education Act of 1965
1964	88-352	Civil Rights Act of 1964. Title IV covers education.

## Appendix C

### *Dr. Young's Response to Dr. Fitts' Presentation*



**Dr. B. LeFra Young, Superintendent of Schools**

Camden City Public School District, 201 N. Front Street, Camden, New Jersey 08102 - 856-966-2000

November 28, 2007

Sock-Foon Chew-MacDougall, Ph.D.  
Social Scientist, Office of Civil Rights Evaluation  
U.S. Commission on Civil Rights  
624 Ninth Street, NW  
Washington, DC 20405

Dear Dr. Chew-MacDougall:

Thank you for providing a summary of the proceedings attended by Dr. Fitts on January 26, 2007. That summary was received on November 26 in my office.

As Dr. Fitts is no longer Interim Superintendent of the Camden City Schools, I have thoroughly reviewed the document and I would like to render some clarity of the contents with regards to the Camden City Board of Education.

It should be noted, first and foremost, that the school district is not provided with sufficient funding to accommodate all of the schools in need of improvement and their students. For example, during the 06-07 school year, the Camden City School District has 9,773 students eligible to participate in the Supplemental Education Services (SES) program. Yet the total allocation of \$2,661,294 (which is based on a fixed percentage of total Title I monies for each district), with a per pupil allowance of \$2,070, permitted the school district to provide only 1,266 students with these services. Consequently, we were able to help 13% of those students eligible for services. Perhaps it is more graphic to indicate that we were unable to provide services to 87% of students eligible for such assistance. You can see on Dr. Fitts' Slide 37 in the back of the summary a better explanation of this: for example - Morgan Village Middle School had 627 eligible students but only 83 slots were funded; Lanning Square Elementary School had 320 eligible students but only 42 slots were funded. You will see similar statistics for each school.

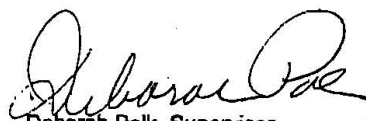
The demands are great for SES services and the district has extensive outreach programs. For example, there is a district-wide provider fair at the beginning of each year, the parents receive mail which identifies all of the providers offering services in the district, all SES providers are invited to each school's 'Back-To-School' Night to present their programs to the parents.

The district makes videos of each of the SES providers explaining their program and runs those tapes on the school district's public broadcast station (Channel 19).

The SES program is productive and valuable to the students, and it is important to their educational program. I suspect that the Camden City Schools are not alone in that assessment of the program. I suspect also that all of us plead for further funding so that a greater amount of eligible students, if not all, are offered assistance and services by this program.

Yours truly,

  
B. LeFra Young, Ph.D.  
Superintendent

  
Deborah Polk, Supervisor  
Grants Management and Development